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## Registration Rules

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### Part 100. Definitions

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## Rule 101. Definitions.

*[Adopted effective April 4, 1988. Effective dates of amendments: January 1, 1990; September 21, 1993; August 1, 1994; November 17, 2001; May 31, 2002; September 30, 2010; July 18, 2012; October 21, 2013 and September 15, 2017.]*

As used in these Registration Rules:

(a) **"Acknowledgement of Conditioned Registration"**-means a sponsor's or guarantor's representation that it meets the requirements set forth in Rule 509(b)(5) to sponsor a conditioned registrant; that it has reviewed the conditions contained in any current NFA or Commission order imposing conditions on the registration of the person; and that it will supervise the person in accordance with the conditions contained in the order. Acknowledgement of Conditioned Registration shall include any Supplemental Guarantor Certification Statement or Supplemental Sponsor Certification Statement that is required by the order.

(b) **"Act"**-means the Commodity Exchange Act, which is contained in Title 7 of the United States Code.

(c) **"Applicant"**-means a person seeking registration under the Act as an FCM, RFED, IB, CPO, CTA or LTM; an associated person of any of the foregoing; SD; MSP; a floor trader firm ("FTF"); or floor broker ("FB") or floor trader ("FT") who is an individual.

(d) **"Associated Person"** or **"AP"**-means an associated person as that term is used in the Act and the regulations thereunder who is required to be registered as such under the Act.

(e) **"Commission"** or **"CFTC"**-means the Commodity Futures Trading Commission.

(f) **"Commodity Interest"**-means: (1) any contract for the purchase or sale of a commodity for future delivery regulated under the Act and rules promulgated thereunder; and (2) any contract, agreement or transaction subject to Commission regulation under Sections 4c or 19 of the Act.

(g) **"Current Active Status"**- a person has a current active status if, subsequent to the filing of a previous Form 7-R or Form 8-R and continuously thereafter, the person has been either pending, registered, temporarily licensed or affiliated with a registrant as a principal.

(h) **"Foreign Futures Authority"**-means any foreign government or any department, agency, governmental body or regulatory organization empowered by a foreign government to administer or enforce a law, rule or regulation as it relates to a futures or options matter.

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- (i) **"Forex"** - has the same meaning as in NFA Bylaw 1507(b).
- (j) **"Form 7-R"**-means the entire Form 7-R or any portions of the Form 7-R that NFA requires an applicant to file to obtain registration as an FCM, RFED, SD, MSP, IB, CPO, CTA , FTF or LTM.
- (k) **"Form 8-R"**-means the entire Form 8-R or any portions of the Form 8-R that NFA requires to be filed for an individual to obtain registration as an AP, FB or FT or because an individual is a principal of an applicant or registrant or is a Floor Trader Order Enterer.
- (l) **"Form 3-R"**-Reserved.
- (m) **"Form 7-W"**-means the entire Form 7-W or any portions of the Form 7-W that NFA requires a registrant to file to withdraw from registration or to withdraw an application for registration as an FCM, RFED, SD, MSP, IB, CPO, CTA, FTF or LTM.
- (n) **"Form 8-T"**-means the entire Form 8-T or any portions of the Form 8-T that NFA requires an applicant or registrant to file to notify NFA that an individual did not become or is no longer associated or affiliated with it as an AP, Branch Office Manager or principal.
- (o) **"Form 8-W"**-means the entire Form 8-W or any portions of the Form 8-W that NFA requires a registrant to file to withdraw from registration as a FB or FT.
- (p) **"Membership Committee"**-means an NFA Committee formed pursuant to NFA Bylaw 701.
- (q) **"NFA"**-means National Futures Association.
- (r) **"NFA Requirements"**-means NFA Bylaws, Compliance Rules, Registration Rules, Financial Requirements, Code of Arbitration and Member Arbitration Rules.
- (s) **"Person"**-means an individual, association, partnership, corporation, trust or any other form of business organization.
- (t) **"Principal"**-means, with respect to an applicant, a registrant, or a person required to be registered under the Act:
- (1) an individual who is:
    - (A) a proprietor of a sole proprietorship;
    - (B) a general partner of a partnership;
    - (C) a director, president, chief executive officer, chief operating officer, chief financial officer or a person in charge of a business unit, division or function

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subject to regulation by the Commission of a corporation, limited liability company or limited liability partnership;

(D) a manager, managing member or a member vested with the management authority for a limited liability company or limited liability partnership; or

(E) a chief compliance officer; or

(2) an individual who directly or indirectly, through agreement, holding companies, nominees, trusts or otherwise:

(A) is the owner of 10% or more of the outstanding shares of any class of an applicant or registrant's equity securities, other than non-voting securities;

(B) is entitled to vote 10% or more of the outstanding shares of any class of an applicant or registrant's equity securities, other than non-voting securities;

(C) has the power to sell or direct the sale of 10% or more of the outstanding shares of any class of an applicant or registrant's equity securities, other than non-voting securities;

(D) is entitled to receive 10% or more of an applicant or registrant's net profits;

(E) or has the power to exercise a controlling influence over an applicant or registrant's activities that are subject to regulation by the Commission; or

(3) an entity that:

(A) is a general partner of a partnership; or

(B) is the direct owner of 10% or more of the outstanding shares of any class of an applicant or registrant's equity securities, other than non-voting securities; or

(4) an individual who or entity that:

(A) has contributed 10% or more of an applicant's or registrant's capital unless such capital consists of subordinated debt contributed by:

(i) an unaffiliated bank insured by the Federal Deposit Insurance Corporation;

(ii) an unaffiliated "foreign bank," as defined in 12 CFR 211.21(n) that currently operates an "office of a foreign bank," as defined in 12 CFR 211.21(t), which is licensed under 12 CFR 211.24(a);

(iii) such office of an unaffiliated, licensed foreign bank; or

(iv) an insurance company subject to regulation by any State,

provided such debt is not guaranteed by an individual who or entity that is not a principal of the applicant or registrant.

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(u) **"Registrant"**-means a person registered under the Act as an FCM, RFED, IB, CPO, CTA, LTM, an AP of any of the foregoing, SD, MSP, FTF, FB or FT.

(v) **"Rules"**-means NFA Registration Rules.

(w) **"Swap AP"**-means an associated person of an SD or MSP as defined in the Act and the regulations thereunder.

(x) **"Sponsor"**-means the applicant or registrant FCM, RFED, SD, MSP, IB, CPO, CTA, FTF or LTM that files a Form 8-R for an individual associated with it to become registered as an AP, for an individual principal or for an FTOE.

(y) **"Supplemental Guarantor Certification Statement ("SGCS")"**-means a statement executed by an IB's guarantor wherein the guarantor indicates that it meets the requirements set forth in Rule 509(b)(5) to sponsor a conditioned IB and its willingness to supervise the IB subject to certain conditions imposed by NFA's President or its Membership Committee under these Rules or by the Commission.

(z) **"Supplemental Sponsor Certification Statement ("SSCS")"**-means a statement executed by an AP's, FB's or FT's sponsor wherein the sponsor indicates that it meets the requirements set forth in Rule 509(b)(5) to sponsor a conditioned AP, FB or FT and its willingness to supervise the AP, FB or FT subject to certain conditions imposed by NFA's President or its Membership Committee under these Rules or by the Commission.

(aa) **"Floor Trader Firm"** or **"FTF"**-means an applicant that files or registrant that filed a Form 7-R to apply for registration as a floor trader.

(bb) **"Floor Trader Order Enterer"** or **"FTOE"**-means an individual responsible for entry of orders from an FTF's own account.

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## Part 200. Registration Requirements and Procedures

### RULE 201. REGISTRATION REQUIREMENTS AND PROCEDURES.

*[Adopted effective April 4, 1988. Effective dates of amendments: August 3, 1990; April 26, 1993; September 21, 1993; August 1, 1994; June 30, 1998; September 7, 1998; January 6, 1999; September 17, 1999; May 31, 2002; July 18, 2012; July 9, 2013; March 21, 2014 and September 15, 2017.]*

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Except as otherwise provided in the Rules, NFA shall perform registration functions in accordance with the provisions set forth in these Rules for all persons, except Swap Dealers (SD) and Major Swap Participants (MSP) and principals of SDs and MSPs for whom it has been granted registration responsibilities pursuant to Section 8a(10) or Section 17(o) of the Act. Except as provided below, NFA shall perform registration functions with respect to SDs and MSPs and principals of SDs and MSPs in accordance with all of the Regulations governing the registration contained in Part 3 of the Commission's Regulations.

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### **RULE 202. REGISTRATION PROCESSING AND NOTIFICATION OF REGISTRATION OR CONFIRMATION OF EXEMPTION FROM REGISTRATION.**

*[Adopted effective April 4, 1988. Effective dates of amendments: September 21, 1993; May 31, 2002; July 21, 2003; and July 18, 2012.]*

(a) If registration has been granted or a temporary license issued under the Act, NFA shall notify the applicant, or the sponsor in the case of an applicant for registration as an AP, and each board of trade designated as a contact market by the Commission that has granted the applicant trading privileges in the case of an applicant for registration as an FB or FT. If an exemption from registration pursuant to CFTC Regulation 30.5 has been confirmed, NFA shall notify the applicant accordingly.

(b) NFA may provide any notice required by these Rules electronically unless written notice is specifically required. Notices provided electronically shall be complete upon display in NFA's Online Registration System. Notices provided in writing shall be complete upon mailing.

(c) Any registration form, schedule or supplement thereto, fingerprint card, or other document required by these Rules to be filed with NFA, whether electronically or in hardcopy format, shall be deemed for all purposes to have been filed with, and to be the official record of, the Commission. Part 700 of these Rules governs access to and certification of all such registration records maintained by NFA.

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### **RULE 203. REGISTRATION FEES.**

*[Adopted effective April 4, 1988. Effective dates of amendments: June 8, 1988; January 1, 1990; November 1, 1990; July 1, 1992; April 26, 1993; September 21, 1993; August 1, 1994; January 30, 1997; June 30, 1998; July 1, 2001; May 31, 2002; July 21, 2003; August 1, 2007; January 1, 2008; September 30, 2010; July 18, 2012; July 9, 2013; March 21, 2014; June 1, 2014 and September 15, 2017]*

(a) **Amount.** The following fees shall apply:

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- (1) **Associated Person and Floor Trader Order Enterer:** \$85 for each Form 8-R filed for registration as an AP, except that the fee shall be \$65 for each Form 8-R filed in accordance with Rule 209, and for each Form 8-R filed for a floor trader order enterer.
- (2) **Futures Commission Merchant:** \$500 for each Form 7-R filed for registration as an FCM, except a Notice Form 7-R filed pursuant to Rule 204(a)(4)(A).
- (3) **Introducing Broker:** \$200 for each Form 7-R filed for registration as an IB, except a Notice Form 7-R filed pursuant to Rule 204(a)(4)(A).
- (4) **Commodity Pool Operator and Commodity Trading Advisor:** \$200 for each Form 7-R filed for registration as a CPO or CTA.
- (5) **Leverage Transaction Merchant:** \$500 for each Form 7-R filed for registration as an LTM.
- (6) **Floor Broker:** \$85 for each Form 8-R filed for registration as a FB.
- (7) **Floor Trader:** \$85 for each Form 8-R filed for registration by an individual as a FT and \$200 for each Form 7-R filed by an FTF.
- (8) **Principal:** \$85 for each Form 8-R filed by a principal of an applicant or registrant, except that the fee shall be \$65 for each Form 8-R filed by a principal in accordance with Rule 209. If the principal is also applying for registration as an AP of the applicant or registrant, only the fee required in paragraph (a)(1) of this Rule shall be paid.
- (9) **Annual Registration Records Maintenance Fee:** \$100 for each registration category as an FCM, RFED, SD, MSP, FTF, IB, CPO, CTA or LTM.
- (10) **Late Termination Notice:** \$100 for each notice required by Rule 214(a) which is filed more than 30 days after the occurrence of the event requiring the notice.
- (11) **Disqualification Fee:** \$1,000 for the first written submission to the Membership Committee or a designated Subcommittee filed under Rule 504. The fee shall be refunded if the Membership Committee or a designated Subcommittee finds that the applicant or registrant is not subject to a statutory disqualification.
- (12) **Late Disciplinary History Disclosure Fee:** \$1,000 for non-disclosure of disciplinary history matters on a Form 7-R in accordance with Registration Rule 210(c)(1) and \$1,000 for non-disclosure of disciplinary history matters on a Form 8-R in accordance with Registration Rule 210(c)(2) and (3).

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(13) **Exempt Foreign Introducing Broker, Commodity Pool Operator or Commodity Trading Advisor:** \$100 for each Form 7-R filed for exemption from registration as an IB, CPO or CTA pursuant to Commission Regulation 30.5.

(14) **Reinstatement Fee:** \$500.

(15) **Retail Foreign Exchange Dealer:** \$500 for each Form 7-R filed for registration as an RFED.

(16) **Swap Dealer:** \$15,000 for each Form 7-R filed for registration as an SD.

(17) **Major Swap Participant:** \$15,000 for each Form 7-R filed for registration as an MSP.

(b) **Form of Remittance.** Registration fees must be remitted by check, bank draft or money order payable to NFA or by using NFA's Online Registration System Online Deposit function. All registration fees are non-refundable.

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### **RULE 204. REGISTRATION OF FUTURES COMMISSION MERCHANTS, NOTICE FUTURES COMMISSION MERCHANTS, RETAIL FOREIGN EXCHANGE DEALERS, FLOOR TRADER FIRMS, INTRODUCING BROKERS, NOTICE INTRODUCING BROKERS, COMMODITY POOL OPERATORS, COMMODITY TRADING ADVISORS AND LEVERAGE TRANSACTION MERCHANTS AND CONFIRMATION OF EXEMPTION FROM REGISTRATION PURSUANT TO COMMISSION REGULATION 30.5.**

*[Adopted effective April 4, 1998. Effective dates of amendments: June 8, 1988; September 29, 1989; January 1, 1990; July 1, 1992; September 21, 1993; October 5, 1994; June 7, 1996; September 17, 2001; November 17, 2001; May 31, 2002; July 21, 2003; December 15, 2003; August 1, 2007; September 30, 2010; September 19, 2016 and September 15, 2017.]*

(a) Application for Registration or Exemption from Registration.

(1)(A) Each person applying for registration as an FCM, RFED, FTF, SD, MSP, IB, CPO, CTA or LTM must:

(i) file a Form 7-R, completed and filed in accordance with all pertinent instructions;

(ii) pay the fee required by Rule 203(a); and

(iii) file an Acknowledgement of Conditioned Registration executed by the sponsor if the applicant is subject to a Commission or NFA order imposing conditions on its registration.

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(B) Each application for registration as an FCM or an IB also must be completed and filed in accordance with CFTC Regulation 1.10.

(C) Each application for registration as a CPO also must be completed and filed in accordance with CFTC Regulation 4.13(c).

(D) Each application for registration as an LTM also must be completed and filed in accordance with CFTC Regulation 31.13.

(E) Each application for registration as an RFED also must be completed and filed in accordance with CFTC Regulation 5.12.

(F) Each application for registration as an FTF also must be completed in accordance with CFTC Regulation 3.11(a).

(G) Each application for registration as an SD or MSP also must be completed in accordance with CFTC Regulation 3.10(a)(v).

(2)(A) Each applicant for registration as an FCM, RFED, FTF, SD, MSP, IB, CPO, CTA or LTM must have at least one individual principal affiliated with it and for each of its individual principals must:

(i) file a Form 8-R completed and filed in accordance with all pertinent instructions;

(ii) pay the fee required by Rule 203(a); and

(iii) file the fingerprints of each individual principal on a fingerprint card provided by NFA for that purpose, unless the principal qualifies for an exemption from the fingerprinting requirement pursuant to Rule 209.

(B) Each individual principal must verify the completeness and accuracy of the information contained in his Form 8-R.

(C) The provisions of paragraphs (a)(2)(A)(ii) and (a)(2)(B) do not apply to an individual principal who has a Current Active Status at the time the applicant files the individual principal's Form 8-R.

(3) When NFA determines that an applicant for registration as an FCM, RFED, IB, CPO, CTA or LTM and all of its principals appear fit for registration, NFA will provide notification to the applicant that the applicant's registration is granted.

(4)(A) A broker or dealer that is registered with the Securities and Exchange Commission (SEC) shall be registered as an FCM or IB upon the filing of a written Notice Form 7-R, completed and filed with NFA in accordance with all pertinent

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instructions, if: the broker or dealer limits its solicitation of orders, acceptance of orders, or execution of orders, or placing of orders on behalf of others involving any contracts of sale of any commodity for future delivery, on or subject to the rules of any contract market, to security futures products as defined in Section 1a(45) of the Act; the registration of the broker or dealer is not suspended pursuant to an order of the SEC; and the broker or dealer is a member of a national securities association registered pursuant to Section 15A of the Securities Exchange Act of 1934 and that membership is not suspended.

(B) Such registration shall be terminated immediately if any of the above-stated conditions set for registration in this paragraph are no longer satisfied. The provisions of paragraphs (a)(1)-(3) of this Rule do not apply to applicants filing a Notice Form 7-R in accordance with this paragraph.

(5)(A) Each person applying for exemption from registration as a IB, CPO or CTA pursuant to the provisions of CFTC Regulation 30.5 must:

(i) file a Form 7-R, completed and filed in accordance with all pertinent instructions;

(ii) file the written agreement in the form specified in CFTC Regulation 30.5(a), provided that if the agreement is between the applicant and NFA, the agreement shall be an electronic agreement; and

(iii) pay the fee required by Rule 203(a)(13).

(B) Each IB, CPO or CTA applying for exemption or confirmed as exempt from registration pursuant to CFTC Regulation 30.5 shall promptly notify NFA in the event that the agreement in paragraph (a)(5)(A) of this Rule is terminated. Each IB, CPO or CTA confirmed as exempt from registration pursuant to CFTC Regulation 30.5 will be deemed to have requested a withdrawal of its confirmation of exemption from registration pursuant to CFTC Regulation 30.5 effective 30 days after the termination of such agreement unless it files a new agreement in accordance with paragraph (a)(5)(A), and NFA shall notify the IB, CPO or CTA confirmed as exempt from registration pursuant to CFTC Regulation 30.5 accordingly.

(b) Withdrawal of Application. Failure of an applicant to respond to a written or electronic request by NFA for clarification of application information, to resubmit fingerprints of a principal in accordance with such request, or to pay the required registration fees pursuant to Rule 203(a) shall be deemed to constitute a withdrawal of the applicant's Form 7-R and shall result in the immediate termination of an IB applicant's temporary license, and NFA shall notify the applicant accordingly.

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### (c) Duration of Registration.

(1) A person who becomes registered as an FCM, RFED, SD, MSP, IB, CPO, CTA or LTM in accordance with this Rule shall continue to be so registered until the effective date of any revocation or withdrawal of such registration. Such person is prohibited from engaging in activities requiring registration under the Act or from representing himself to be a registrant under the Act or the representative or agent of a registrant during the pendency of any suspension of such registration.

(2) A person registered as an IB who was a party to a guarantee agreement with an FCM or an RFED in accordance with CFTC Regulation 1.10(j) will be deemed to have requested a withdrawal of its registration effective 30 days after the termination of such guarantee agreement unless the procedures set forth in CFTC Regulation 1.10(j)(8) are followed.

(3) A person who becomes registered as an FTF in accordance with this section, and whose registration has neither been revoked nor withdrawn, will continue to be so registered unless such person's trading privileges on all contract markets or SEFs have ceased: Provided, that if an FTF whose trading privileges on all contract markets or SEFs have ceased for reasons unrelated to any Commission action or any contract market or SEF disciplinary proceeding and whose registration is not revoked, suspended or withdrawn is granted trading privileges as an FTF by any contract market or SEF where the FTF held such privileges within the preceding sixty days, such registration as an FTF shall be deemed to continue and no new application or update need be filed solely on the basis of the resumption of trading privileges. An FTF is prohibited from engaging in activities requiring registration under the Act or from representing himself to be a registrant under the Act or the representative or agent of any registrant during the pendency of any suspension of such registration or of all such trading privileges. In accordance with Commission Regulation 3.31(d), each contract market or SEF that has granted trading privileges to a person who is registered, or has applied for registration, as an FTF, must notify NFA within 60 days after such person's trading privileges on such contract market or SEF have ceased.

### (d) Annual Filing and Registration Records Maintenance Fees.

(1) On an annual basis, NFA shall send a notice to each registered FCM, RFED, FTF, SD, MSP, IB, CPO, CTA, and LTM advising each that it must electronically file an Annual Registration Update by a specified date. NFA shall also send an invoice to each registered FCM, RFED, FTF, SD, MSP, IB, CPO, CTA, and LTM or confirmed as exempt from registration in accordance with paragraph (a)(5) of this Rule or pursuant to CFTC Regulation 30.10 requesting payment of the annual registration records

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maintenance fee set forth in Rule 203(a) and any other outstanding registration fees. NFA shall deem the failure to file the Annual Registration Update or to pay the required annual registration records maintenance fee and any other outstanding registration fees within 30 days following the specified date a request to withdraw from registration or to withdraw the confirmation of the exemption pursuant to CFTC Regulation 30.5 or CFTC Regulation 30.10, and shall notify the registrant or IB, CPO or CTA confirmed as exempt from registration pursuant to CFTC Regulation 30.5 or CFTC Regulation 30.10 accordingly.

(2) Each registered FCM, RFED, FTF, SD, MSP, IB, CPO, CTA, and LTM or confirmed as exempt from registration in accordance with paragraph (a)(5) of this Rule or pursuant to CFTC Regulation 30.10 whose registration or confirmation of exemption is withdrawn pursuant to this Rule may request, within 60 days of the withdrawal date, to have its registration or confirmation of exemption reinstated. Reinstatement requests received between 30 and 60 days from the withdrawal date are subject to the Reinstatement Fee as set forth in Rule 203(a). Provided that NFA receives all fees, including the required reinstatement fee and the annual registration records maintenance fee as set forth in Rule 203(a), and any other outstanding registration fees within 60 days of the withdrawal date, NFA shall reinstate the registration or confirmation of exemption. If the withdrawal was due in whole or in part to the failure to file the Annual Registration Update, the registration will be reinstated but will be subject to a deemed request to withdraw such registration. The failure to file the Annual Registration Update within 30 days following the reinstatement date shall result in the withdrawal of registration. Only one request for reinstatement may be made annually.

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### **Rule 205. REGISTRATION OF FLOOR BROKERS AND FLOOR TRADERS.**

*[Adopted effective May 31, 2002. Effective dates of amendments: July 18, 2012 and September 19, 2017.]*

(a) Application for Registration.

(1) (A) Each individual applying for registration as a FB or FT must:

- (i) file a Form 8-R, completed and filed in accordance with all pertinent instructions;
- (ii) pay the registration fee required by Rule 203(a);
- (iii) file the fingerprints of the applicant on a fingerprint card provided by NFA for that purpose, unless the applicant qualifies for an exemption from the fingerprinting requirement pursuant to Rule 209; and

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(iv) file an Acknowledgement of Conditioned Registration executed by the sponsor if the applicant is subject to a Commission or NFA order imposing conditions on the applicant's registration.

(B) The provisions of paragraphs (a)(1)(A)(ii) shall not apply to any applicant for registration as a FB or FT who has a current active status at the time the Form 8-R is filed.

(2) When NFA determines that an applicant for registration as an FB or FT appears fit for registration and receives satisfactory evidence that a board of trade designated as a contract market or a SEF registered by the Commission has granted the applicant trading privileges, NFA will provide notification to the applicant and to each contract market or SEF that has granted the applicant trading privileges that the applicant's registration as an FB or FT is granted.

(b) Withdrawal of Application. Failure of an applicant to respond to a written or electronic request by NFA for clarification of application information, to submit or resubmit fingerprints in accordance with such request, or to pay the required registration fee pursuant to Rule 203(a) shall be deemed to constitute a withdrawal of the applicant's Form 8-R and shall result in the immediate termination of the applicant's temporary license, and NFA shall notify the applicant accordingly and each contract market or SEF that has granted the applicant trading privileges.

(c) Duration of Registration. A person registered as a FB or FT in accordance with this section, and whose registration has neither been revoked nor withdrawn, will continue to be so registered unless such person's trading privileges on all contract markets or SEFs have ceased: Provided, that if a FB or FT whose trading privileges on all contract markets or SEFs have ceased for reasons unrelated to any Commission action or any contract market or SEF disciplinary proceeding and whose registration is not revoked, suspended or withdrawn is granted trading privileges as a FB or FT, respectively, by any contract market or SEF where he held such privileges within the preceding sixty days, such registration as a FB or FT, respectively, shall be deemed to continue and no new application or update need be filed solely on the basis of the resumption of trading privileges. A FB or FT is prohibited from engaging in activities requiring registration under the Act or from representing himself to be a registrant under the Act or the representative or agent of any registrant during the pendency of any suspension of such registration or of all such trading privileges. In accordance with Commission Regulation 3.31(d), each contract market or SEF that has granted trading privileges to a person who is registered, or has applied for registration, as a FB or FT, must notify NFA within 60 days after such person's trading privileges on such contract market or SEF have ceased.

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## **RULE 206. REGISTRATION OF ASSOCIATED PERSONS OF FUTURES COMMISSION MERCHANTS, INTRODUCING BROKERS, COMMODITY POOL OPERATORS, COMMODITY TRADING ADVISORS AND LEVERAGE TRANSACTION MERCHANTS.**

*[Adopted effective April 4, 1988. Effective dates of amendments: January 1, 1990; September 21, 1993; June 7, 1996; May 31, 2002; September 30, 2010; November 7, 2010 and September 15, 2017.]*

### **(a) Application for Registration.**

(1) (A) Except as provided in Rule 207, the sponsor of each individual applying for registration as an AP of that sponsor must:

- (i) file a Form 8-R on behalf of the applicant, completed and filed in accordance with all pertinent instructions;
- (ii) pay the registration fee required by Rule 203(a); and
- (iii) file the fingerprints of the applicant on a fingerprint card provided by NFA for that purpose, unless the applicant qualifies for an exemption from the fingerprinting requirement pursuant to Rule 209.

(B) The applicant must verify the completeness and accuracy of information contained in the application that the sponsor files on his behalf.

(2) The provisions of paragraphs (a)(1)(A) (ii) and (a)(1)(B) of this Rule shall not apply to an applicant who has a Current Active Status at the time the sponsor files his Form 8-R.

(3) When NFA determines that an applicant for registration as an AP appears fit for such registration and receives satisfactory evidence that the applicant satisfies the proficiency requirements set forth in Part 400 of these Rules, NFA will provide notification to the applicant's sponsor that the applicant's registration as an AP is granted contingent upon the sponsor hiring or otherwise employing the applicant as an AP within 30 days.

### **(b) Special Registration Procedures When Previous Sponsor's Registration Ceases.**

(1) Any person whose registration as an AP in any capacity was terminated within the preceding 60 days because the previous sponsor's registration was revoked or withdrawn, and who becomes associated with a new sponsor, will be registered as an AP of such new sponsor upon the mailing by that new sponsor to NFA of an Acknowledgement of Conditioned Registration, if applicable, and written certifications stating:

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(A) that such person has been hired or is otherwise employed by that sponsor;

(B) that such person's registration as an AP in any capacity is not suspended or revoked;

(C) that such person is eligible to be registered in accordance with this paragraph (b);

(D) whether there is pending against such person an adjudicatory proceeding brought under: (i) Sections 6(c), 6(d), 6c, 6d, 8a or 9 of the Act; (ii) CFTC Regulations 3.55 or 3.60; or (iii) NFA or exchange rules or, if within the preceding 12 months, the Commission or NFA has permitted the withdrawal of an application for registration in any capacity after instituting the procedures provided in CFTC Regulation 3.51 or Part 500 of these Rules and, if so, that the sponsor has been given a copy of the notice of the institution of a proceeding in connection therewith;

(E) that the new sponsor has received a copy of the notice of the institution of a proceeding if the applicant for registration has certified, in accordance with paragraph (b)(1)(D) of this Rule, that there is a proceeding pending against him as described in that paragraph or that the Commission or NFA has permitted the withdrawal of an application for registration as described in that paragraph;

(F) that the Disciplinary Information section of such person's registration application contains no "yes" answers, or none except those arising from a matter which already has been disclosed in connection with a previous application for registration in any capacity if such registration was granted, or which was disclosed more than 30 days previously in an amendment to such application; and

(G) that the new sponsor will be responsible for supervising all activities of the person in connection with the sponsor's business as a registrant under the Act.

(2) The certifications required by paragraphs (b)(1)(A), (E) and (G) of this Rule must be signed and dated by an officer of the sponsoring corporation, a general partner of the sponsoring partnership or the sponsoring sole proprietor. The certifications required by paragraphs (b)(1)(B), (C), (D) and (F) of this Rule must be signed and dated by the applicant for registration as an AP.

(3) Upon receipt of notice from NFA, a person who is registered in accordance with the provisions of paragraph (b)(1) of this Rule shall be required to file with NFA his fingerprints on a fingerprint card provided by NFA for that purpose as well as such other information as NFA may require. NFA may require such a filing every two years

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or at such greater period of time as it may deem appropriate, after the AP has become associated with a new sponsor in connection with the requirements of paragraph (b) (1) of this Rule.

**(c) Withdrawal of Application.** Failure of an applicant or of a sponsor of an applicant to respond to a written or electronic request by NFA for clarification of application information, to submit or resubmit fingerprints in accordance with such request, or to pay the required registration fee pursuant to Rule 203(a)(1) shall be deemed to constitute a withdrawal of the applicant's Form 8-R and shall result in the immediate termination of the applicant's temporary license, and NFA shall notify the sponsor accordingly.

**(d) Duration of Registration.** A person registered in accordance with paragraphs (a) or (b) of this Rule, Rule 207 or Rule 301(e) and whose registration has not been revoked, shall continue to be so registered until the revocation or withdrawal of the registration of each of the registrant's sponsors, or until the cessation of the association of the registrant with each of his sponsors. Such person will be prohibited from engaging in activities requiring registration under the Act or from representing himself to be a registrant under the Act or the representative or agent of any registrant during the pendency of any suspension of his or his sponsor's registration. Each of the registrant's sponsors must file a notice in accordance with Rule 214 reporting the termination of the association of the AP.

**(e) Reserved.**

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### RULE 207. MULTIPLE ASSOCIATIONS.

*[Adopted effective April 4, 1988. Effective dates of amendments: January 1, 1990; September 21, 1993; June 7, 1996; May 31, 2002; September 30, 2010; and July 18, 2012.]*

(a) Except as otherwise provided for in paragraph (d) of this Rule, any person whose application for registration as an AP is pending or who is temporarily licensed or registered as an AP and whose registration is not subject to conditions may become registered as an AP of another sponsor ("new sponsor") if the new sponsor (who must meet the requirements set forth in Rule 509(b)(5)) files a Form 8-R on behalf of the applicant with NFA in accordance with all pertinent instructions.

(b) (1) The applicant will be registered as an AP of the new sponsor upon the filing of the Form 8-R by the new sponsor in accordance with paragraph (a) of this Rule if the applicant is currently registered as an AP with another sponsor and if:

(A) the applicant has satisfied the applicable proficiency requirements in Part 400 of

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these Rules; or

(B) the Form 8-R filed by the new sponsor contains the representation that the applicant has taken one of the examinations to satisfy the applicable proficiency requirements in Part 400 of these Rules.

(2) NFA shall notify each of the current sponsors of the AP that the AP is applying for registration as an AP with a new sponsor.

(3) Each sponsor is responsible for supervising the AP. In addition, the new sponsor and each sponsor to whom NFA provides notice of the AP's application for registration with multiple sponsors shall be jointly and severally liable for the conduct of the AP with respect to any customers common to it and any other sponsor of the AP for the:

(A) solicitation or acceptance of customer orders; solicitation of funds, securities or property for a participation in a commodity pool;

(B) solicitation of a client's or prospective client's discretionary account;

(C) solicitation or acceptance of leverage customer orders for leverage transactions; and

(D) AP's supervision of any person or persons engaged in any of the foregoing solicitations or acceptances.

(4) Each sponsor shall remain jointly responsible in accordance with paragraph (b)(3) of this Rule until the individual is no longer associated with the sponsor as an AP and the sponsor files the Form 8-T required by Rule 206(d) and Rule 214 or the individual is no longer associated with multiple sponsors as an AP.

(c) Upon receipt of notice from NFA, an individual who is simultaneously associated with more than one sponsor in accordance with the provisions of paragraphs (a) and (b) of this Rule shall be required to file with NFA his fingerprints on a fingerprint card provided by NFA for that purpose, as well as such other information as may be required. Such a filing may be required every two years or at such greater period of time as NFA deems appropriate after the AP has become associated with a new sponsor in accordance with the requirements of paragraphs (a) and (b) of this Rule.

(d) If an individual is associated with an FCM, RFED, or an IB and he directs customers seeking a managed account to use the services of a CTA(s) approved by the FCM, RFED, or IB and all such customers' accounts solicited or accepted by that AP are carried by the FCM

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or RFED or introduced by the IB with which the AP is associated, such individual shall be deemed to be associated solely with the FCM, RFED, or IB and may not also register as an AP of the CTA(s).

(e) Any individual seeking an exemption from the requirements of this Rule must file a petition with the Commission in accordance with Commission Regulation 3.12.

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### **RULE 208. REPORTING OF PRINCIPALS.**

*[Adopted effective April 4, 1988. Effective dates of amendments: June 8, 1988; January 1, 1990; September 21, 1993; November 17, 2001; May 31, 2002; September 30, 2010; July 18, 2012 and September 15, 2017.]*

(a) Unless otherwise provided in this Rule:

(1) an applicant for registration as an FCM, RFED, FTF, SD, MSP, IB, CPO, CTA or LTM must comply with the provisions of Rule 204(a)(2) for each individual who is a principal of the applicant at the time the applicant files its application for registration; and

(2) within 20 days after any person becomes a principal of an applicant or registrant subsequent to the filing of Form 7-R in accordance with Rule 204 ("new principal"), the applicant or registrant must:

(A) if the new principal is an entity, update the Form 7-R to add the new principal; or

(B) if the new principal is an individual, comply with the provisions of Rule 204 (a)(2) for each new principal.

(b) After a registrant updates its Form 7-R or files a Form 8-R in accordance with paragraph (a) of this Rule, NFA may notify the registrant that the new principal may be disqualified from registration under Sections 8a(2) through 8a(4) of the Act and that the registrant shall be suspended at such time as NFA issues a notice pursuant to Rule 504 that the registrant is disqualified from registration pursuant to Section 8a(2)(H) or Section 8a(3)(N) and Section 8a(4) of the Act and that its registration may be revoked thereunder. The registrant shall remain suspended pending: (1) a determination by the Membership Committee or its designated Subcommittee that the new principal appears fit to act as a principal of the registrant; or (2) the issuance by the Membership Committee of a Withdrawal of Notice of Intent. However, in no event shall the registrant be suspended pursuant to the provisions of this paragraph for a period exceeding six months.

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(c) If the registrant updates its Form 7-R or files a Form 8-R for a new principal prior to the new principal becoming affiliated with the registrant in the capacity which requires the listing of such new principal, then any notice issued by NFA pursuant to the provisions of paragraph (b) of this Rule shall not operate to suspend the registrant's registration. The new principal may not become so affiliated with the registrant until: (1) NFA provides notice to the registrant that the new principal appears fit to act as a principal of the registrant; or (2) the Membership Committee or its designated Subcommittee determines that the new principal appears fit to act as a principal of the registrant.

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### **RULE 209. ALTERNATIVE TO THE FINGERPRINT FILING REQUIREMENT IN CERTAIN CASES.**

*[Adopted effective April 4, 1988. Effective dates of amendments: January 1, 1990; September 21, 1993; May 31, 2002; December 17, 2007; September 30, 2010; July 18, 2012 and September 15, 2017.]*

(a) Any individual who is required by these Rules to submit a fingerprint card is exempt from that requirement if NFA has received a report, record or notation from the Federal Bureau of Investigation within 90 days preceding the date the individual's Form 8-R is filed with NFA or if the individual has a Current Active Status on the date the Form 8-R is filed.

(b) Reserved.

(c) Any FCM, RFED, SD, MSP, IB, CTA, CPO, FTF or LTM, in lieu of submitting a fingerprint card for a principal who is a director but is not also an officer or employee of the firm ("outside director"), may file with NFA a Notice Pursuant to CFTC Regulation 3.21(c). A firm that has filed a Notice Pursuant to CFTC Regulation 3.21(c) with respect to an outside director described therein must file with NFA on behalf of such outside director a Form 8-R completed in accordance with all pertinent instructions and verified by the outside director. The exemption provided for by this paragraph is limited solely to the outside director's fingerprint requirement and does not affect any other duties or responsibilities of the firm or the outside directors under these Rules. In appropriate cases, NFA may require additional information from the firm with respect to any outside director referred to in the Notice Pursuant to CFTC Regulation 3.21(c).

(d) Any sponsor that is registered as a Broker/Dealer that files a Form 8-R on behalf of an AP applicant or a principal may, in lieu of submitting a fingerprint card for the applicant or principal, represent in the Form 8-R that, within the last 90 days, an application for registration as a General Securities Representative has been filed on behalf of the applicant with the Financial Industry Regulatory Authority and that a fingerprint card containing the applicant's or principal's fingerprints accompanied the application.

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(e) Any FCM, RFED, SD, MSP, IB, CTA, CPO, FTF or LTM, in lieu of submitting a fingerprint card for a principal, an associated person or an FTOE who is a natural person who has not resided in the United States since reaching the age of 18 years (foreign natural person) or any FB or FT who is foreign natural person, may certify that:

- 1) such certifying FCM, RFED, SD, MSP, IB, CTA, CPO, FTF, LTM, FB or FT has caused a criminal history background check of such foreign natural person to be performed; and
- (2) the criminal history background check:
  - (A) was of a type that would reveal all matters listed under Sections 8a(2)(D) or 8a(3)(D), (E) or (H) of the Act relating to such foreign natural person;
  - (B) Did not reveal any matters that constitute a disqualification under Sections 8a(2) or 8a(3) of the Act, other than those disclosed to NFA; and
  - (C) was completed not more than one calendar year prior to the date of certification described in paragraphs (e)(1) and (2) of this Rule.

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### **RULE 210. DEFICIENCIES, INACCURACIES AND CHANGES TO APPLICATION INFORMATION MUST BE REPORTED.**

*[Adopted effective April 4, 1988. Effective dates of amendments: January 1, 1990; January 22, 1993; September 21, 1993; May 31, 2002; September 30, 2010; July 18, 2012; June 1, 2014 and September 15, 2017.]*

(a) Each applicant or registrant as an FCM, RFED, SD, MSP, IB, CPO, CTA, FTF or LTM must promptly correct any deficiency or inaccuracy in a Form 7-R which no longer renders accurate the information contained therein. Each such correction must be made by updating the Form 7-R in accordance with all pertinent instructions. Except when changing to or from a sole proprietorship, an applicant or registrant may update its Form 7-R for purposes of reporting a change in its form of organization. If an applicant or registrant updates its Form 7-R to report a change in the applicant's or registrant's form of organization, the newly formed organization will be liable for all obligations of the pre-existing organization which arose out of the Act or the Regulations thereunder. A registrant or applicant that is changing form of organization to or from a sole proprietorship must file a Form 7-R for the newly formed organization and a Form 7-W for the pre-existing organization.

(b) Each applicant or registrant as an AP, FB or FT and each principal of an applicant or registrant must promptly correct any deficiency or inaccuracy in the Form 8-R which no longer renders current and accurate the information contained therein. Each AP applicant or registrant and each principal must promptly notify his sponsor of any deficiency or

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inaccuracy and the information necessary to correct it. Each applicant or registrant must promptly correct any deficiency or inaccuracy in its APs' or principals' registration information of which it is or should be aware. Each such correction must be made by updating the Form 8-R in accordance with all pertinent instructions.

(c)(1) Each applicant or registrant as an FCM, RFED, FTF, SD, MSP, IB, CPO, CTA or LTM shall pay the fee specified in Rule 203(a)(12) for non-disclosure of disciplinary matters on such applicant's Form 7-R and for such registrant's failure to update the Form 7-R to disclose disciplinary matters.

(2) The sponsor of each AP applicant or principal shall pay the fee specified in Rule 203(a)(12) for non-disclosure of disciplinary matters on such AP applicant's or principal's verified Form 8-R and for such sponsor's failure to update the Form 8-R to disclose disciplinary matters related to such AP or principal.

(3) Each applicant as an FB or FT shall pay the fee specified in Rule 203(a)(12) for non-disclosure of disciplinary matters on such applicant's Form 8-R and for such registrant's failure to update the Form 8-R to disclose disciplinary matters.

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### **RULE 211. SUPPLEMENTAL FILING REQUIREMENTS.**

*[Adopted effective April 4, 1988. Effective dates of amendments: December 10, 1993 and May 31, 2002.]*

Notwithstanding any other provisions of these Rules, NFA may, at any time, give notice to any applicant, registrant or person required to be registered:

(a)

(1) that information has come to the attention of NFA's staff which, if true, could constitute grounds upon which to base a determination that the person is unfit to become or to remain registered in accordance with the Act, the Regulations thereunder, or NFA Rules and which sets forth such information and requests the person to provide evidence mitigating the seriousness of the statutory disqualification set forth in the notice and evidence that the person has undergone rehabilitation; or

(2) that NFA has undertaken a routine or periodic review of the registrant's fitness to remain so registered; and

(b) that such person, or any individual who based upon his relationship with that person is required to file a Form 8-R in accordance with the requirements of these Rules, must, within five days of receipt thereof, or such shorter period of time as NFA may specify, file or

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cause to be filed a current Form 8-R, completed and filed in accordance with all pertinent instructions, and file or cause to be filed that individual's fingerprints on a fingerprint card provided by NFA for that purpose. Failure to provide the requested information pursuant to this paragraph is a violation of these Rules which in itself constitutes grounds upon which to base a determination that the person is unfit to become or to remain so registered.

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### **RULE 212. REGISTRATION IN ONE CAPACITY DOES NOT INCLUDE REGISTRATION IN ANY OTHER CAPACITY.**

*[Adopted effective April 4, 1988. Effective dates of amendments: January 1, 1990; May 31, 2002; September 30, 2010; July 18, 2012 and September 15, 2017.]*

(a) Except as may be otherwise provided in the Act or in any Rule, Regulation, or order of the Commission, each AP, FB, FT, FCM, RFED, FTF, SD, MSP, IB, CPO, CTA and LTM must register as such under the Act. Registration in one capacity under the Act shall not include registration in any other capacity.

(b) Except as may be provided in the Act or in any Rule, Regulation or order of the Commission, registration as an AP in one capacity shall not include registration as an AP in any other capacity. An AP sponsored by a registrant which is registered in more than one capacity need register only once to act as an AP of the registrant and shall be deemed to be an AP of such registrant in each such capacity.

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### **RULE 213. CURRENT ADDRESS FOR PURPOSE OF DELIVERY OF COMMUNICATIONS**

*[Adopted effective April 4, 1988. Effective dates of amendments: September 21, 1993 and May 31, 2002.]*

(a) The address of each applicant, registrant and principal, as filed on the Form 7-R or Form 8-R, shall be deemed to be the address for delivery to the applicant, registrant or principal for any communications from the Commission or NFA, including any summons, complaint, reparations claim, arbitration demand, order, subpoena, special call, request for information, notice and other written document or correspondence, unless the applicant, registrant or principal specifies another address for this purpose: Provided, however, that the Commission or NFA may address any correspondence relating to a Form 8-R submitted for or on behalf of a principal to the sponsor with which the principal is affiliated and may address any correspondence relating to the registration of an AP to the sponsor with which the AP or the applicant is or will be associated.

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(b) Each registrant, while registered and for two years after the termination of registration, and each principal, while affiliated with a registrant and for two years after the termination of affiliation, must notify NFA of any change of any of the addresses provided on the Form 7-R or Form 8-R or other address filed with NFA for the purpose of receiving written or electronic communications from the Commission or NFA. Failure to file a required response to any communication sent to the latest such address(es) filed with NFA which is caused by a failure to notify NFA of an address change may result in an order of default and award of claimed monetary damages or other appropriate order in any NFA or Commission proceeding, including a reparations proceeding brought under Part 12 of the Commission's Regulations.

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### **RULE 214. TERMINATION OF ASSOCIATED PERSON REGISTRATION AND PRINCIPAL AFFILIATION.**

*[Adopted effective September 21, 1993. Effective dates of amendments: May 31, 2002; and January 1, 2008.]*

(a) After the filing of a Form 8-R on behalf of any individual for the purpose of permitting that individual to be an AP of a sponsor or a principal affiliated with a sponsor, that sponsor must notify NFA within 30 days after the occurrence of either:

(1) the failure of that person to become associated with the sponsor as an AP or affiliated with the sponsor as a principal and, if required, the reasons therefore; or

(2) the termination of the association of the AP or the affiliation as a principal with the sponsor and, if required, the reasons therefore.

(b) Any notice required by paragraph (a) of this Rule must be filed on a Form 8-T. The sponsor must promptly provide a copy of the Form 8-T to the individual whose association or affiliation has been terminated.

(c) If the notice required by paragraph (a) of this Rule is filed more than 30 days after the occurrence of the event requiring the notice, such notice shall be accompanied by the fee specified in Rule 203(a).

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### **RULE 215. [RESERVED]**

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## **Part 300. Temporary Licenses**

### **RULE 301. TEMPORARY LICENSING OF ASSOCIATED PERSONS.**

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*[Adopted effective April 4, 1988. Effective dates of amendments: June 8, 1988; June 30, 1992; September 21, 1993; June 7, 1996; January 6, 1999; May 31, 2002 and September 15, 2017.]*

## **(a) Qualifications.**

(1) Notwithstanding any other provisions of these Rules, and pursuant to the terms and conditions of this Rule, NFA may grant a temporary license ("TL") to any applicant for registration as an AP whose registration is not suspended or revoked upon the filing with NFA of a properly completed Form 8-R.

(2) Temporary Licensing Upon Transfer of Associated Person Registration. Except as provided in Rule 207, NFA shall grant a TL to any applicant for registration as an AP upon the filing of a Form 8-R if as of the date the Form 8-R is filed:

(A) the applicant has been hired or is otherwise employed by the sponsor;

(B) the applicant's registration with a previous sponsor as an AP has terminated no more than 60 days prior to the date the sponsor files the Form 8-R;

(C) the applicant's registration is not revoked or suspended;

(D) the new sponsor has received a copy of the notice of the institution of:

(i) any pending proceeding that was brought against the applicant under: Sections 6(c), 6(d), 6c, 6d, 8a or 9 of the Act; CFTC Regulations 3.55 or 3.60; or NFA or exchange rules; or

(ii) any proceeding that was instituted in accordance with the procedures provided in CFTC Regulation 3.51 or Part 500 of these Rules and, within the prior 12 months, resulted in the Commission or NFA permitting the withdrawal of such person's application for registration in any capacity;

(E) if the applicant is subject to a Commission or NFA Order imposing conditions on the applicant's registration, the sponsor meets the requirements set forth in Rule 509(b)(5); and

(F) (1) the applicant has satisfied the applicable proficiency requirements in Part 400 of these Rules; or

(2) the Form 8-R contains the representation that the applicant has taken one of the examinations to satisfy the applicable proficiency requirements in Part 400 of these Rules.

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## **(b) Reserved.**

## **(c) Restrictions Upon Activities.**

An applicant for registration as an AP who has received notification that a TL has been granted may act in the capacity of an AP subject to all CFTC rules, regulations, orders and all NFA requirements.

## **(d) Termination of a TL.**

(1) A TL shall terminate:

(A) immediately upon notice to the applicant's sponsor that, within 20 days following the date the TL is issued:

(1) NFA has not received the applicant's fingerprint card, if required;

(2) the sponsor does not meet the requirements regarding sponsorship of a registrant subject to conditions set forth in Rule 509(b)(5), if applicable;

(3) NFA has not received the required registration fee pursuant to Rule 203(a), if required;

(4) NFA has not received satisfactory evidence that the applicant has satisfied the applicable proficiency requirements in Part 400 of these Rules, if required; or

(5) the applicant has failed to verify the information contained in the Form 8-R, if required;

(B) immediately upon termination of the association of the applicant with the registrant which filed the Form 8-R;

(C) upon failure of an applicant's sponsor or an applicant to respond to NFA's written or electronic request for clarification of application information or to submit or resubmit fingerprints in accordance with such request;

(D) upon the revocation or withdrawal of the registration of the applicant's sponsor; or

(E) upon notice to the applicant's sponsor that:

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- (i) the applicant failed to comply with an award in an arbitration proceeding conducted pursuant to CFTC Rule 166.5 within the time permitted for such compliance as specified in Section 10(g) of NFA's Code of Arbitration or the comparable time period specified in the rules of a contract market, SEF or other appropriate arbitration forum;
- (ii) the applicant failed to pay the full amount of a reparations order within the time permitted under Section 14(f) of the Act;
- (iii) the applicant failed to comply with an order to pay a civil monetary penalty, restitution or disgorgement within the time permitted under Sections 6(e), 6b or 6c(d) of the Act;
- (iv) the applicant failed to disclose relevant disciplinary information in response to the disciplinary information questions on the Form 8-R; or
- (v) subsequent to the filing of the Form 8-R, an event has occurred that requires an affirmative response by the applicant to the disciplinary information questions in the Form 8-R; or

(F) five days after service upon the applicant of a notice by NFA pursuant to Rule 504 that the applicant may be disqualified from registration under Sections 8a(2) through 8a(4) of the Act.

- (1) Upon termination of a TL, the applicant may not engage in any activity which requires registration with the Commission as an AP.

### **(e) Relationship to Registration and Membership.**

(1) A TL shall not be deemed to be a registration or to confer any right to such registration.

(2) The granting of a TL shall constitute the granting of NFA associate membership if the applicant's sponsor is an NFA Member.

(3) Termination of a TL will affect NFA membership as described in Bylaw 301(h).

(4) Unless a TL has been terminated, a TL shall become a registration with the Commission upon the earlier of:

(A) a determination by NFA that the applicant is qualified for registration as an AP; or

(B) the expiration of six months from the date of its issuance unless NFA has issued a notice pursuant to Rule 504 that the applicant may be disqualified from registration under Sections 8a(2) through 8a(4) of the Act.

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## **RULE 302. TEMPORARY LICENSING FOR GUARANTEED INTRODUCING BROKERS.**

*[Adopted effective April 4, 1988. Effective dates of amendments: June 8, 1988; June 30, 1992; September 21, 1993; June 7, 1996; April 1, 1997; January 6, 1999; November 17, 2001; May 31, 2002; September 30, 2010 and September 15, 2017.]*

**(a) Qualifications.** Notwithstanding any other provisions of these Rules, and pursuant to the terms and conditions of this Rule, NFA may grant a TL to any applicant for registration as an IB. To be eligible for a TL:

(1) the IB must file with NFA:

(A) A Form 7-R completed and filed in accordance with all pertinent instructions;

(B) For each individual principal:

(i) a Form 8-R completed and filed in accordance with all pertinent instructions;

(ii) Legible fingerprints of the applicant, if a sole proprietor, and of each individual principal of the applicant on a fingerprint card provided by NFA for that purpose, unless the sole proprietor or principal qualifies for an exemption from the fingerprinting requirement pursuant to Rule 209;

(iii) the registration fees required by Rule 203(a) for the applicant and, if applicable, its individual principals; and

(C) All other properly completed forms and documents that are required to become registered as an IB and to become an NFA Member.

(2) If an FCM will be the guarantor it:

(A) must be eligible in accordance with all NFA Requirements to enter into such an agreement;

(B) must file with NFA:

(i) a properly completed guarantee agreement (Form 1-FR Part B);

(ii) a certification stating that to the best of the FCM's knowledge, information, and belief, all of the publicly available information supplied by the applicant and its principals on the Forms 7-R and 8-R is accurate and complete;

(iii) and if the IB's registration is subject to conditions, an

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Acknowledgement of Conditioned Registration signed by the FCM (who must meet the requirements set forth in Rule 509(b)(5)) that contains all of the conditions required by the order imposing them;

(3) If an RFED will be the guarantor it:

(A) must be eligible in accordance with all NFA Requirements to enter into such an agreement;

(B) must file with NFA:

(i) a properly completed guarantee agreement (Form 1-FR Part B);

(ii) a certification stating that to the best of the RFED's knowledge, information, and belief, all of the publicly available information supplied by the applicant and its principals on the Forms 7-R and 8-R is accurate and complete;

(iii) and if the IB's registration is subject to conditions, an Acknowledgement of Conditioned Registration signed by the RFED (who must meet the requirements set forth in Rule 509(b)(5)) that contains all of the conditions required by the order imposing them;

(4) At least one principal of the IB is an applicant for registration as an AP of the IB or is a registered FB;

(5) Each principal who is an individual must meet the eligibility requirements for a TL in any capacity; and

(6) NFA has received satisfactory evidence that each principal who is applying for registration as an AP of the IB satisfies the proficiency requirements contained in Part 400 of these Rules.

(b) A guarantee agreement filed in connection with paragraph (a)(2)(B)(i) or (a)(3)(B)(i) of this Rule shall become effective upon the granting of the TL.

### **(c) Restrictions Upon Activities.**

(1) An applicant for registration as an IB who has received notification from NFA that a TL has been granted may act in the capacity of an IB, subject to all CFTC rules, regulations, orders, and all NFA requirements.

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(2) An applicant for registration as an IB who has received a TL may be guaranteed by an FCM or RFED other than the FCM or RFED which provided the initial guarantee agreement described in paragraph (a)(2)(B)(i) or (a)(3)(B)(i) of this Rule if the IB submits to NFA:

- (i) written notice of the termination of the initial guarantee agreement; and
- (ii) a properly completed new guarantee agreement (Form 1-FR Part B) which will become effective the day following the last effective date of the initial guarantee agreement.

Such written notice and new guarantee agreement must be submitted to NFA 10 days prior to the termination of the initial guarantee agreement or within such other period of time as NFA may allow for good cause shown, in accordance with NFA Requirements and CFTC Regulations 1.10(j)(4)(ii), (j)(6).

### **(d) Termination of a Temporary License.**

(1) A TL shall terminate:

(A) five (5) days after service upon the applicant of a notice by NFA pursuant to Rule 504 that the applicant may be disqualified from registration under Sections 8a(2) through 8a(4) of the Act;

(B) upon the revocation or withdrawal of the guarantor FCM's or RFED's registration;

(C) immediately upon termination of the applicant's guarantee agreement in accordance with NFA Requirements and CFTC Regulations 1.10(j)(4)(ii), (j)(6) unless a new guarantee agreement is filed in accordance with paragraph (c)(2) of this Rule;

(D) upon failure of an applicant:

- (i) to respond to NFA's request for clarification of application information;
- (ii) to pay the registration fees pursuant to Rule 203(a) for the applicant or, if required, its principals; or
- (iii) to submit or resubmit fingerprints in accordance with such request;

(E) whenever a person not listed as a principal on the applicant's registration application becomes a principal of the applicant after the TL is granted if the TL would not have been granted to the applicant had the applicant filed a Form 8-R for the principal prior to the TL being granted; or

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(F) upon notice to the applicant and its guarantor FCM or RFED that:

- (i) the applicant failed to comply with an award in an arbitration proceeding conducted pursuant to CFTC Rule 166.5 within the time permitted for such compliance as specified in Section 10(g) of NFA's Code of Arbitration or the comparable time period specified in the rules of a contract market, SEF or other appropriate arbitration forum;
- (ii) the applicant failed to pay the full amount of a reparations order within the time permitted under Section 14(f) of the Act;
- (iii) the applicant failed to comply with an order to pay a civil monetary penalty, restitution or disgorgement within the time permitted under Sections 6(e), 6b or 6c(d) of the Act;
- (iv) the applicant failed to disclose relevant disciplinary information in response to the disciplinary information questions on the Form 7-R;
- (v) any principal of the applicant failed to disclose relevant disciplinary information in response to the disciplinary information questions on the Form 8-R; or
- (vi) subsequent to the filing of the applicant's Form 7-R or any principal's Form 8-R, an event has occurred leading to an affirmative response to the disciplinary information questions on the applicant's Form 7-R or on any principal's Form 8-R.

(2) Upon termination of a TL, the applicant may not engage in any activity which requires registration with the Commission as an IB.

### **(e) Relationship to Registration and Membership.**

(1) A TL shall not be deemed to be a registration or to confer any right to such registration.

(2) The granting of a TL shall constitute the granting of NFA membership.

(3) Termination of a TL will affect NFA membership as described in Bylaw 301(h).

(4) Unless a TL has been terminated, a TL shall become a registration with the Commission upon the earlier of:

- (A) a determination by NFA that the applicant is qualified for registration as an IB; or

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(B) the expiration of six months from the date of its issuance unless NFA has issued a notice pursuant to Rule 504 that the applicant may be disqualified from registration under Sections 8a(2) through 8a(4) of the Act.

**(f) Retention of Records.** In accordance with Commission Regulation 1.31, the guarantor FCM or RFED must retain such records as are necessary to support the certification required by this Rule.

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### **RULE 303. TEMPORARY LICENSING FOR FLOOR BROKERS AND FLOOR TRADERS**

*[Adopted effective January 6, 1999. Effective dates of amendments: May 31, 2002; July 18, 2012 and September 15, 2017.]*

**(a) Qualifications.** Notwithstanding any other provision of these Rules, and pursuant to the terms and conditions of this Rule, NFA may grant a TL to any applicant for registration as a FB or FT upon the filing with or receipt by NFA of:

- (1) a Form 8-R completed and filed in accordance with all pertinent instructions;
- (2) the fingerprints of the applicant on a fingerprint card provided by NFA for that purpose, if required;
- (3) the registration fee by Rule 203(a), if applicable;
- (4) if the applicant is subject to a Commission or NFA order imposing conditions on the applicant's registration, an Acknowledgement of Conditioned Registration executed by a sponsor that meets the requirements contained in Rule 509(b)(5); and
- (5) satisfactory evidence that the applicant has been granted trading privileges by a contract market or SEF that has filed with NFA a certification signed by its chief operating officer with respect to the review of an applicant's employment, credit and other history in connection with the granting of trading privileges.

**(b) Reserved.**

**(c) Restrictions Upon Activities.** An applicant for registration as a FB who has received notification that a TL has been granted may act in the capacity of a FB. An applicant for registration as a FT who has received notification that a TL has been granted may act in the capacity of a FT. Any temporarily licensed applicant acting in the capacity of a FT or FB shall be subject to all Commission rules, regulations and orders.

**(d) Termination of a Temporary License.**

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(1) A TL shall terminate:

(A) five days after service of a notice by NFA pursuant to Rule 504 that the applicant may be disqualified from registration under Sections 8a(2) through 8a(4) of the Act;

(B) immediately upon notification to the temporarily licensed applicant that the sponsor who filed the Acknowledgement of Conditioned Registration described in paragraph (a)(1)(D) of this Rule has terminated the sponsorship relationship;

(C) upon failure of an applicant's sponsor or an applicant to respond to NFA's request for clarification of application information, to pay the required fee pursuant to Rule 203(a) or to submit or resubmit fingerprints in accordance with such request;

(D) immediately upon revocation or withdrawal of the applicant's sponsor;

(E) immediately upon loss of trading privileges on all contract markets or SEFs that filed the certification described in Commission Regulation 3.40(a)(2)(iv) that granted such privileges;

(F) upon notice to the applicant or the contract market or SEF that has granted the applicant trading privileges that:

(i) the applicant has failed to comply with an award in an arbitration proceeding conducted pursuant to Commission Rule 166.5 within the time permitted for such compliance as specified in Section 10(g) of NFA's Code of Arbitration or the comparable time period specified in the rules of a contract market, SEF or other appropriate arbitration forum;

(ii) the applicant failed to pay the full amount of a reparations order within the time permitted under Section 14(f) of the Act;

(iii) the applicant failed to comply with an order to pay a civil monetary penalty, restitution or disgorgement within the time permitted under Sections 6(e), 6b or 6c(d) of the Act;

(iv) the applicant failed to disclose relevant disciplinary information in response to the disciplinary information questions on the Form 8-R; or

(v) subsequent to the filing of the Form 8-R, an event has occurred leading to an affirmative response to the disciplinary information questions on the applicant's Form 8-R.

(2) Upon termination of a TL, the applicant may not engage in any activity that requires registration with the Commission as a FB or FT.

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## (e) Relationship to Registration.

(1) A TL shall not be deemed to be a registration or to confer any right to such registration.

(2) Unless a TL has been terminated, a TL shall become a registration with the Commission upon the earlier of:

(A) a determination by NFA that the applicant is qualified for registration as a FB or FT; or

(B) the expiration of six months from the date of its issuance unless NFA has issued a notice pursuant to Rule 504 that the applicant may be disqualified from registration under Sections 8a(2) through 8a(4) of the Act.

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## Part 400. Proficiency Requirements

### RULE 401. QUALIFICATION TESTING REQUIREMENT.

*[Adopted effective April 4, 1988. Effective dates of amendments: January 1, 1990; August 11, 1993; September 21, 1993; May 4, 1994; July 28, 1995; October 6, 1997; May 31, 2002; September 9, 2002; December 31, 2005; December 17, 2007; September 30, 2010; October 3, 2012; February 21, 2013 and September 15, 2017.]*

(a) Except as provided elsewhere in this Rule, any individual applying to become a Member of NFA as an FCM, an RFED, an IB, a CPO, a CTA, an LTM, or for registration under the Act as an AP of any of the foregoing, or applying for registration with NFA as an Associate pursuant to NFA Bylaw 301(b) shall not be granted NFA membership, registered under the Act as an AP, or registered as an Associate Member of NFA unless:

(1) NFA has received satisfactory evidence that the applicant has taken and passed the National Commodity Futures Examination (Series 3) on a date which is no more than two years prior to the date the application is received by NFA; or

(2) NFA has received satisfactory evidence that the applicant has taken and passed the National Commodity Futures Examination (Series 3) and since the date the applicant last passed such examination, there has been no period of two consecutive years during which the applicant has not been either registered as a FB or AP or FCM, RFED, IB, CTA, CPO or LTM that is a Member of NFA.

(b) Notwithstanding the provisions of Rule 401(a), a person applying to be registered as an AP will satisfy the proficiency requirements of this Rule if:

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(1) the applicant currently is registered with the Financial Industry Regulatory Authority, as a General Securities Representative ("GSR") of the sponsor; and

(2) the applicant's sole activities, subject to regulation by the Commission, are and will continue to be limited to referring clients to an AP of the sponsor who has satisfied the proficiency requirements set forth in this Rule, provided that the applicant's referral of clients is solely incidental to his business as a GSR of the sponsor; or the supervision on behalf of the sponsor of persons whose activities are so limited.

(c) Notwithstanding the provisions of Rule 401(a), a person applying to be registered as an AP will satisfy the proficiency requirements of this Rule if:

(1) NFA receives satisfactory evidence the applicant has taken and passed the Futures Managed Funds Examination (Series 31) on a date which is no more than two years prior to the date the application is received by NFA; or

(2) NFA has received satisfactory evidence that the applicant has taken and passed the Futures Managed Fund Examination (Series 31) and since the date the applicant last passed such examination, there has been no period of two consecutive years during which the applicant has not been either registered as an FB or AP or FCM, IB, CTA, CPO or LTM that is a Member of NFA; and

(3) the applicant currently is registered with the Financial Industry Regulatory Authority, as a GSR of the sponsor; and

(4) the applicant's sole activities, subject to regulation by the Commission, are and will continue to be limited to the solicitation on behalf of the sponsor of funds, securities, or property for participation in a commodity pool, the solicitation on behalf of the sponsor of clients to open discretionary accounts to be managed by registered CTAs, or the supervision on behalf of the sponsor of persons whose activities are so limited.

(d) Reserved.

(e) Notwithstanding the provisions of Rule 401(a), a person applying to be registered as an AP will satisfy the proficiency requirements of this Rule if the applicant's sole activities, subject to regulation by the Commission, are and will continue to be limited to:

(1) the solicitation or acceptance on behalf of the sponsor of orders for swaps subject to the jurisdiction of the CFTC;

(2) solicitation on behalf of the sponsor of funds, securities, or property for participation in a commodity pool that:

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- (i) exclusively trades swaps subject to the jurisdiction of the CFTC; or
  - (ii) trades swaps subject to the jurisdiction of the CFTC in a commodity pool and the sponsor has been granted or is seeking a waiver from the Series 3 for its APs on the basis that but for the trading of swaps it would be eligible for the exclusion under CFTC Regulation 4.5(c)(2)(iii)(A) or (B) or the exemption under CFTC Regulation 4.13(a)(3).
- (3) the solicitation on behalf of the sponsor of clients to open discretionary accounts that exclusively trade swaps subject to the jurisdiction of the CFTC to be managed by registered CTAs or providing advice on behalf of the sponsor to a commodity pool described in subsection 2(i) or (ii) above; or
- (4) the supervision on behalf of the sponsor of persons whose activities are so limited.
- (f) Notwithstanding the provisions of Rule 401(a), any individual applying to become a Member of NFA as an FCM, an RFED, an IB, a CPO, a CTA, an LTM, or for registration under the Act as an AP of any of the foregoing, or applying for registration with NFA as an Associate pursuant to NFA Bylaw 301(b), will satisfy the proficiency requirements of this Rule if:
- (1) the applicant is or within the past two years has been registered or licensed in a jurisdiction outside the United States;
  - (2) the applicant has satisfied the proficiency requirements in that foreign jurisdiction and the Board of Directors has designated those proficiency requirements as an appropriate substitute for the market fundamentals portion of the National Commodity Futures Examination (Series 3); and
  - (3) NFA has received satisfactory evidence that the applicant has taken and passed the Limited Futures Examination-Regulation (Series 32) on a date which is no more than two years prior to the date the application is received by NFA; or
  - (4) NFA has received satisfactory evidence that the applicant has taken and passed the Limited Futures Examination-Regulation (Series 32) and since the date the applicant last passed such examination, there has been no period of two consecutive years during which the applicant has not been either registered as a FB or AP or FCM, RFED, IB, CTA, CPO or LTM that is a Member of NFA.
- (g) The applicant's sponsor must supervise the applicant's compliance with the limitations on the applicant's activities set forth in paragraphs (b)(e) of this Rule. Any failure of the applicant to adhere to such limitations may be cause for, among other things, disciplinary

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action by NFA against the sponsor for violation of NFA Compliance Rule 2-9. The limitations set forth in paragraphs (b)(e) of this Rule shall remain in effect until the applicant or the applicant's sponsor submits to NFA satisfactory evidence of having taken and passed the National Commodity Futures Examination (Series 3).

(h) An individual may contemporaneously engage in any activity permitted pursuant to the provisions of paragraphs (b)(2), (c)(4) and (e) provided that the individual meets the other pertinent requirements of paragraphs (b)(e).

(i) Willfully making any materially false or misleading statement or willfully omitting to state any material fact in any part of the application for registration, including information concerning the requirements of this Rule, is cause for denial, suspension, or revocation of registration and criminal prosecution.

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### **RULE 402. WAIVER OF TESTING REQUIREMENT.**

*[Adopted effective August 1, 1992. Effective dates of amendments: September 21, 1993; May 31, 2002; December 15, 2004; and October 3, 2012.]*

The Vice-President of Registration and Membership may waive the requirements of Rule 401 under circumstances approved by the Board of Directors. The decision of the Vice-President of Registration and Membership shall be final. Any sponsor which has been granted a waiver with respect to its APs that becomes ineligible for such waiver shall promptly notify the Vice-President of Registration and Membership in writing of such ineligibility.

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## **Part 500. Proceedings to Deny, Condition, Suspend and Revoke Registration**

### **RULE 501. AUTHORITY TO DENY, CONDITION, SUSPEND AND REVOKE REGISTRATION.**

*[Adopted effective April 4, 1988. Effective dates of amendments: January 1, 1990; September 30, 1992; December 10, 1993; August 1, 1994; September 7, 1998; March 12, 1999; July 1, 2001, December 15, 2004; November 18, 2009; September 30, 2010; November 7, 2010; July 18, 2012; July 9, 2013 and September 15, 2017.]*

NFA may refuse to register or register conditionally any person registered or applying for registration as an FCM, RFED, IB, CPO, CTA, LTM, as an AP of any of the foregoing, as an SD or MSP, as an FTF or as a floor broker or floor trader, or suspend or revoke the registration of any registrant in those categories, based upon the standards of fitness set

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forth in the Act. Interim Orders and Final Orders denying, revoking, conditioning, or suspending registration shall be made by the Membership Committee or a designated Subcommittee in accordance with the procedures set forth in Part 500 of these Rules. Such designated Subcommittee shall consist of one member of the Membership Committee and two members of NFA's Hearing Committee for all categories except floor brokers and floor traders and SDs or MSPs. The designated Subcommittee for floor brokers/floor traders shall consist of three persons, one of whom is a member of the Membership Committee, one of whom is a member of NFA's Hearing Committee and one of whom is a registered floor broker or floor trader approved by NFA's Board of Directors to be a member of such Subcommittee. The designated Subcommittee for SDs or MSPs shall consist of one member of the Membership Committee and two members of NFA's Hearing Committee, one of whom is an employee of an SD or MSP Member of NFA. The member of the Membership Committee sitting on each designated Subcommittee shall serve as the Chairman of the designated Subcommittee. At least one of the members on each designated Subcommittee shall not be an NFA Member or an Associate or an employee of an NFA Member. In cases submitted by the President to the Membership Committee or a designated Subcommittee, registration shall not be granted pending a final determination by the Membership Committee or a designated Subcommittee. No member of the Membership Committee or a designated Subcommittee shall either review a registration matter or participate in a registration action if the member, or any person with whom the member is connected, has a financial, personal or other direct interest in the matter under consideration or is disqualified under Bylaw 708(c).

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### **RULE 502. GENERAL PROVISIONS.**

*[Adopted effective April 4, 1988. Effective dates of amendments: December 10, 1993; August 1, 1994; July 1, 2001; June 8, 2007; December 10, 2007; September 30, 2010 and September 15, 2017.]*

(a) For purposes of any proceeding to deny, condition, suspend, or revoke registration, service upon an applicant or registrant will be sufficient if mailed by certified mail return receipt requested, delivered to a generally recognized overnight courier service or delivered to a messenger service, properly addressed to the applicant or registrant at the address shown on his most recent registration application or any amendment thereto. Service will be complete upon mailing, delivery to a generally recognized overnight courier service or delivery to a messenger service. Where a party effects service by mail, the time within which the person served may respond thereto shall be increased by three days.

(b) A copy of any notice served in accordance with paragraph (a)(1) of this Rule shall also be served upon:

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(1) any sponsor of the applicant or registrant, if the applicant or registrant is an individual registered as or applying for registration as an AP and such sponsor's guarantor, if any; or

(2) any FCM which has entered into a guarantee agreement pursuant to CFTC Regulation 1.10(j) with an applicant or registrant applying for registration as or registered as an IB; or

(3) any RFED which has entered into a guarantee agreement pursuant to CFTC Regulation 1.10(j) with an applicant or registrant applying for registration as, or registered as, an IB; or

(4) any contract market or SEF that has granted or is reviewing an application for trading privileges if the applicant or registrant is an FTF, FB or FT.

(c) Documents served by an applicant or registrant upon NFA under this Part 500 shall be considered served or filed only upon actual receipt by the Legal Docketing Department of National Futures Association, 300 South Riverside Plaza, Chicago, Illinois 60606.

(d) Documents may also be served by facsimile to the attention of the Legal Docketing Department or by email to [Docketing@nfa.futures.org](mailto:Docketing@nfa.futures.org). Parties who file documents by electronic means thereby consent to accept service of pleadings in the proceedings by the same method and waive any objection based on authenticity and genuineness to the use and admissibility into evidence in the proceeding of any document that they file by electronic means. The first document that a party files by electronic means must identify that party's e-mail address or facsimile number at which NFA may serve pleadings in the proceeding. Parties who provide an e-mail address or facsimile number must advise Legal Docketing of any change to the e-mail address or facsimile number.

(e) Except as otherwise provided by law or these Rules, for good cause shown, the Membership Committee or a designated Subcommittee before whom a proceeding brought under these Part 500 Rules is then pending, on their own motion or motion of a party, may at any time extend or shorten the time limit prescribed by such Rules for filing any document. In any instance in which a time limit is not prescribed for an action to be taken concerning any matter, the Membership Committee or a designated Subcommittee may set a time limit for that action.

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### **RULE 503. WITHDRAWAL OF APPLICATION FOR REGISTRATION.**

*[Adopted effective April 4, 1988. Effective dates of amendments: December 10, 1993 and December 15, 2004.]*

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(a) Whenever information comes to the attention of NFA that an applicant for registration in any capacity may be disqualified from registration under Section 8a(2), 8a(3) or 8a(4) of the Act, the Vice President of Registration and Membership or the Vice President's designee may serve written notice upon the applicant which shall specify the statutory disqualifications to which the applicant may be subject and notify the applicant that:

(1) the information, if true, is a basis upon which the applicant's registration may be denied;

(2) unless the applicant voluntarily withdraws his application, it may be necessary to institute the denial procedures described in Part 500 of these Rules; and

(3) if the applicant does not confirm in writing that he wishes to have his application given further consideration, his application will be deemed to have been withdrawn.

(b) The applicant must serve the written confirmation referred to in paragraph (a)(3) of this Rule upon NFA's Legal Docketing Department within 20 days of the date the written notice from NFA was served.

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### **RULE 504. PROCEDURES GOVERNING APPLICANTS AND REGISTRANTS DISQUALIFIED FROM REGISTRATION UNDER SECTION 8a(2), 8a(3) OR 8a(4) OF THE ACT.**

*[Adopted effective April 4, 1988. Effective dates of amendments: January 1, 1990; December 10, 1993; August 1, 1994; July 1, 2001; April 2, 2004; December 15, 2004; March 6, 2009; and November 7, 2010.]*

**(a) Notice of Intent.** On the basis of information which NFA has obtained, the President of NFA may at any time serve a Notice of Intent upon any person registered or applying for registration in any capacity, stating that:

(1) NFA alleges and is prepared to prove that the applicant or registrant is subject to one or more of the statutory disqualifications set forth in Section 8a(2), 8a(3) or 8a(4) of the Act;

(2) the allegations set forth in the Notice of Intent, if true, constitute a basis upon which registration can be denied, conditioned, suspended or revoked (if the Notice of Intent proposes conditioning registration, the Notice shall specify the proposed conditions );

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(3) the applicant or registrant is entitled to have the Membership Committee or a designated Subcommittee considers written evidence of the type set forth in paragraph (f) of this Rule. The Notice of Intent shall inform the applicant or registrant of the procedures which will be followed if no written submission is made in accordance with this Rule; and

(4) if an applicant for registration has been granted a temporary license, such temporary license shall terminate five days after service on the applicant of the Notice of Intent.

### **(b) Written Response to the Notice of Intent.**

(1) In response to a Notice of Intent alleging a disqualification from registration set forth in Section 8a(2), 8a(3) or 8a(4) of the Act, the applicant or registrant may submit a written response challenging the accuracy of the allegations establishing the statutory disqualification, including evidence as to:

- (A) the applicant's or registrant's identity;
- (B) the existence of a clerical error in any record documenting the statutory disqualification;
- (C) the nature or date of the statutory disqualification;
- (D) the post-conviction modification of any record of conviction; or
- (E) the favorable disposition of any appeal.

(2) The applicant or registrant shall state the nature of each challenge in the response and submit an affidavit to support facts material to each challenge. In the response, the applicant or registrant also shall state whether he intends to show that, notwithstanding the accuracy of the allegations set forth in the Notice of Intent, his registration would pose no substantial risk to the public.

(3) Time for Filing of Response. A written response to the Notice of Intent must be served upon NFA's Legal Docketing Department within 20 days of the date of the service of the Notice of Intent upon the applicant or registrant. All applicants and registrants must include the disqualification fee required by Rule 203(a)(11) with their response.

(4) Default of Applicant or Registrant to Notice of Intent. If the applicant or registrant fails to file a timely written response to the Notice of Intent, the applicant or registrant shall be deemed to have waived his right to submit such written response, and the

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facts stated in the Notice of Intent shall be deemed to be true for the purpose of finding that the applicant or registrant is disqualified from registration under Section 8a(2), 8a(3) or 8a(4) of the Act. The Membership Committee or a designated Subcommittee shall thereafter, after a finding that service was properly effected in accordance with Rule 502, enter a Final Order denying, conditioning, suspending or revoking the registration. Such finding shall be based upon the evidence of the statutory disqualification and the Notice of Intent with proof of service. In order to prevent injustice and on such conditions as may be appropriate, the Membership Committee or a designated Subcommittee may set aside a default order. Any motion to set aside a default shall be made within a reasonable time, shall state the reasons for the failure to file and shall specify the nature of the proposed defense.

**(c) Reply to Response of a Registrant Subject to an 8a(2) Disqualification.** If a registrant who is alleged to be subject to an 8a(2) disqualification submits a written response, challenging the accuracy of the allegations establishing the statutory disqualification, the Vice President of Registration and Membership may submit a written reply to the Membership Committee or a designated Subcommittee and serve such reply upon the registrant within 10 days of the date of such written response. The reply shall include evidence establishing the existence of the statutory disqualification.

**(d) Interim Order.** After the receipt of a registrant's written response to the Notice of Intent and any reply thereto from the Vice President of Registration and Membership, the Membership Committee or a designated Subcommittee shall determine whether the registrant is disqualified from registration under Section 8a(2) of the Act.

(1) If the Membership Committee or a designated Subcommittee determines that the registrant is disqualified under Section 8a(2) of the Act, the Membership Committee or a designated Subcommittee, within 30 days after receipt of the registrant's written response, if any, and any reply thereto, shall issue an interim order suspending the registration of the registrant. The interim order shall inform the registrant that the registration of the registrant shall be suspended, effective five days after the interim order is served upon the registrant, and such suspension shall remain in effect until a Final Order has been issued. In no event shall the registrant be suspended for a period to exceed six months.

(2) If the Membership Committee or a designated Subcommittee determines that the registrant is not disqualified from registration under Section 8a(2) of the Act, the Membership Committee or a designated Subcommittee shall, within 30 days after receipt of the registrant's written response and any reply thereto, either issue a Withdrawal of Notice of Intent or, if the Membership Committee or a designated Subcommittee determines that the disqualification constitutes a Section 8a(3)

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disqualification, it may grant the Vice President leave to file an Amended Notice of Intent within thirty days. In either event, the Membership Committee or a designated Subcommittee shall make a finding that the registrant is not disqualified under Section 8a(2) of the Act.

(3) If the Membership Committee or a designated Subcommittee determines that there is not enough evidence in the written record to decide whether the registrant should be disqualified from registration under Section 8a(2) of the Act, the Membership Committee or a designated Subcommittee may, within 30 days after receipt of the registrant's written response and any reply thereto, either decline to make a finding or issue an order for an oral hearing. The Membership Committee or a designated Subcommittee shall rely upon any evidence produced at an oral hearing and any written submissions to make the determination required in paragraphs (d)(1) or (d)(2) of this Rule.

**(e) Oral Hearing.** Within 30 days of the date the applicant or registrant files its response to the Notice of Intent, NFA shall notify the applicant or registrant of the time and place of a hearing. At such hearing, the parties shall be limited in their case-in-chief to presentation of witnesses and documents listed in their submissions as described in (f) and (g) below, except for good cause shown.

**(f) Respondent's Witnesses and Evidence.** If, in response to the Notice of Intent, the applicant or registrant states that he intends to make the showing referred to in paragraph (b)(2) of this Rule, he shall, at least 30 days before the date of the hearing, file with NFA's Legal Docketing Department a statement of the applicant or registrant or his attorney identifying and summarizing the testimony of each witness whom the applicant or registrant intends to have testify in support of facts material to his showing. Such submission also must include copies of all documents which the applicant or registrant intends to introduce to support facts material to his showing. In making a showing pursuant to paragraph (b)(2) of this Rule, the applicant or registrant may present:

(1) mitigating evidence relating to the facts and circumstances surrounding the disqualifying conduct;

(2) evidence of rehabilitation since the disqualifying conduct; and

(3) evidence that the applicant's or registrant's registration would be subject to supervisory controls, including proposed conditions likely to detect future wrongdoing by the applicant or registrant and protect the public from any harm arising from such future wrongdoing.

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**(g) NFA's Witnesses and Evidence.** At least 15 days before the date of the hearing the Vice President of Registration and Membership shall serve, on the applicant or registrant a description of the factual issues raised in the applicant's or registrant's response and further submission, if any, that NFA regards as material and disputed. Such reply also shall include the identity and a summary of the expected testimony of each witness whom NFA intends to have testify at its case-in-chief and copies of all documents which NFA intends to introduce at such hearing.

**(h) Termination.** In the event that an applicant or registrant's pending or current registration is terminated after the issuance of a Notice of Intent but prior to the effective date of a Final Order, the Membership Committee or a designated Subcommittee may issue a Withdrawal of Notice of Intent indicating that because the applicant or registrant is no longer registered or pending registration, further proceedings are not warranted.

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### **RULE 505. MOTIONS.**

*[Adopted effective July 1, 2001.]*

(a) All motions shall be in writing and served in accordance with these Rules. The Chairman of the Subcommittee may decide all pre-hearing motions concerning deadlines, location of the hearing, continuances, and requests for telephonic or video testimony. All other motions shall be decided by the full Subcommittee.

(b) NFA may, at any time, make a motion for summary judgment stating that, based upon the respondent's response and further submission, if any, and any other materials that are attached to the response, there are no issues of material fact to be determined and that registration should be denied or revoked.

(c) Both NFA and the respondent have a right to respond to any motion within ten days of service of the motion.

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### **RULE 506. HEARING PROCEDURES.**

*[Adopted effective April 4, 1988. Effective dates of amendments: December 10, 1993 and August 1, 1994.]*

(a) When a hearing is held before the Membership Committee or a designated Subcommittee, a record of the hearing shall be kept. At such hearing, the applicant or registrant may be represented by counsel, submit evidence, call and examine witnesses, examine the evidence upon which the Membership Committee or a designated

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Subcommittee made a determination as well as any documentary evidence which NFA intends to present at the hearing and, at the discretion of the Membership Committee or a designated Subcommittee, present oral or written argument.

(b) Upon notice of the time and place of an oral hearing, the parties may elect to participate by telephone. To effect such an election, a party shall file a notice with NFA's Legal Docketing Department and serve a copy on all opposing parties within 15 days of the date such notice is served. The filing of an election to participate by telephone will be deemed a waiver of the party's right to a full oral hearing on the parties' material disputes of fact. The Membership Committee or a designated Subcommittee shall order a telephonic hearing only if all parties to the proceeding elect such a procedure. Such telephonic hearing shall be held in accordance with the procedures set forth in the order. Following the telephonic hearing, the Membership Committee or a designated Subcommittee shall issue a written decision in accordance with the standards set forth in paragraphs (a) and (b) of Rule 507.

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### **RULE 507. DECISION OF MEMBERSHIP COMMITTEE OR A DESIGNATED SUBCOMMITTEE.**

*[Adopted effective December 10, 1993. Effective dates of amendments: August 1, 1994 and July 1, 2001.]*

**(a) Standards of Proof.** The written decision of the Membership Committee or its designated Subcommittee shall specifically consider whether NFA has shown by a preponderance of the evidence that the applicant or registrant is subject to the statutory disqualification from registration set forth in the Notice of Intent and, where appropriate:

(1) in actions involving statutory disqualifications set forth in Section 8a(2) of the Act, whether the applicant or registrant has made a clear and convincing showing that, notwithstanding the existence of the statutory disqualification, full or conditioned registration would not pose a substantial risk to the public; or

(2) in actions involving statutory disqualifications set forth in Sections 8a(3) or 8a(4) of the Act, whether the applicant or registrant has shown by a preponderance of the evidence that, notwithstanding the existence of the statutory disqualification, full or conditioned registration would not pose a substantial risk to the public.

**(b) Findings.** In making its written decision, the Membership Committee or a designated Subcommittee shall set forth facts material to its finding that the applicant or registrant is, or is not, disqualified as alleged in the Notice of Intent and, where appropriate, its findings regarding:

(1) evidence mitigating the seriousness of the wrongdoing underlying the applicant's

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or registrant's statutory disqualification;

(2) evidence that the applicant or registrant has undergone rehabilitation since the time of the wrongful conduct underlying the statutory disqualification; and

(3) evidence that the applicant's or registrant's registration on a conditional basis would be subject to supervisory controls likely both to detect future wrongful conduct by the applicant or registrant and protect the public from any harm arising from such conduct. Such decision shall describe the specific conditions being imposed and provide that any sponsor or guarantor of applicant or registrant must be "eligible" as that term is defined in Rule 509(b)(5). It shall also fix a time period after which the applicant or registrant may petition to lift or modify the conditions in accordance with Rule 510.

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### **RULE 508. ORDERS.**

*[Adopted effective April 4, 1988. Effective dates of amendments: October 29, 1991; December 10, 1993; August 1, 1994 and July 1, 2001.]*

**(a) Final Orders and Withdrawals of Notice of Intent.** All orders granting, denying, conditioning, suspending or revoking registration under this Part 500 (except an interim order suspending registration pursuant to Rule 504(b)) and all orders denying motions to vacate default orders under this Part 500 shall become a Final Order of NFA on the date of service upon the applicant or registrant. All Withdrawals of Notice of Intent shall become final on the date of service upon the applicant or registrant. A copy of each Final Order and Withdrawal of Notice of Intent issued by NFA shall be served upon the Commission at the same time it is served upon the applicant or registrant. All Final Orders shall inform the applicant or registrant of his right to petition the Commission for review under Section 17(o) of the Act and applicable Commission Regulations and of the right to petition the Commission for a stay of the effective date of the Final Order in accordance with Commission Regulation 171.22.

**(b) Effective Date.** Any Final Order of NFA or Withdrawal of Notice of Intent issued under this Part 500 shall become effective 30 days after the date of service of the order on the applicant or registrant, except as otherwise directed by the Commission pursuant to CFTC Regulations, Part 171.

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### **RULE 509. SETTLEMENTS.**

*[Adopted effective December 10, 1993. Effective dates of amendments: August 1, 1994; July 1, 2001; May 31, 2002 and April 2, 2004.]*

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**(a) When Offers May be Made.** Parties may propose offers of settlement at any time during the course of the proceeding. All offers of settlement shall be in writing.

**(b) Content of Offer.** Each offer of settlement made by a respondent shall:

- (1) acknowledge service of the Notice of Intent;
- (2) admit the jurisdiction of NFA with respect to the matters set forth in the Notice of Intent;
- (3) include a waiver of:
  - (A) a hearing;
  - (B) all post-hearing procedures;
  - (C) Commission and judicial review;
  - (D) any objection to NFA staff's participation in the consideration of the offer by the Membership Committee or a designated Subcommittee;
- (4) stipulate the basis in the record on which a Final Order may be entered, which basis may consist solely of the Notice of Intent and any findings contained in the order of settlement;
- (5) in a case where a respondent is offering to be registered subject to conditions, contain representations by the firm or the individual, if the individual is sponsoring a FB or FT applicant or registrant, that will be sponsoring the respondent that the sponsor will abide by any conditions imposed on the applicant's or registrant's registration and that the sponsor is eligible to sponsor a registrant whose registration is subject to conditions. A firm or individual is eligible to sponsor a registrant whose registration is subject to conditions if the sponsor is not:
  - (A) subject to a pending adjudicatory proceeding brought by or before the Commission pursuant to the provisions of Sections 6(b), 6(c), 6c, 6d, 8a or 9 of the Act; or
  - (B) subject to a pending adjudicatory proceeding brought by or before NFA alleging fraud or failure to supervise; or
  - (C) subject to any special supervisory obligations imposed by the Commission or NFA or agreed to by such sponsor or guarantor; or
  - (D) subject to the reporting requirements of NFA Financial Requirements

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Section 6 or CFTC Regulation 31.7(b); or

(E) subject to a finding within the last five years, in an action by the Commission or NFA, that the firm or any of its current principals have engaged in fraud or have failed to supervise its APs;

(F) subject to a pending adjudicatory proceeding brought by or before NFA, against any of the firm's current principals, alleging fraud or failure to supervise; and

(6) consent to the entry of a Final Order reflecting the terms of settlement agreed upon, including where appropriate:

(A) findings that the respondent is disqualified from registration under Section 8a(2), 8a(3) or 8a(4) of the Act; and

(B) the revocation, suspension, denial or granting of full registration or imposition of conditioned registration.

**(c) Submission of Offer.** Offers of settlement made by a respondent shall be submitted in writing to NFA staff, which shall present them to the Membership Committee or a designated Subcommittee with staff's recommendation. NFA staff shall inform the respondent if the recommendation will be unfavorable, in which case the offer will not be presented to the Membership Committee or a designated Subcommittee unless the respondent so requests. Any offer of settlement not presented to the Membership Committee or a designated Subcommittee shall be null and void with respect to any acknowledgment, admission, waiver, stipulation or consent contained therein and shall not be used in any manner in the proceeding by any party thereto.

**(d) Acceptance of Offer.** The offer of settlement will only be deemed accepted upon issuance by the Membership Committee or a designated Subcommittee of a Final Order based on the offer. Upon issuance of the Final Order, the proceeding shall be terminated as to the respondent involved.

**(e) Rejection of Offer.** When an offer of settlement is rejected by the Membership Committee or a designated Subcommittee, the party making the offer shall be notified by NFA staff and the offer of settlement shall be deemed withdrawn. A rejected offer of settlement and any documents relating thereto shall not constitute a part of the record in the proceeding. The offer will be null and void with respect to any acknowledgment, admission, waiver, stipulation or consent contained therein and shall not be used in any manner in the proceeding by any party thereto.

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## **RULE 510. PROCEDURES TO LIFT OR MODIFY CONDITIONS.**

*[Adopted effective December 10, 1993. Effective dates of amendments: August 1, 1994 and July 1, 2001.]*

**(a) Petition.** The registrant and, when applicable, his sponsor or guarantor may file a petition to lift or modify the conditions on the registrant's registration.

(1) The petition may be filed after the period specified in the Final Order imposing the conditioned registration.

(2) In the petition, the registrant and, when applicable, his sponsor or guarantor shall be limited to a showing by affidavit that the applicant or registrant has not violated the Act or Regulations, or NFA Rules, since the time of his application and that the conditions set forth in the Final Order have been satisfied. The affidavit of a sponsor or guarantor must be sworn to on behalf of the sponsor or guarantor by a person with actual knowledge of the registrant's activities.

**(b) Response.**

(1) Within 30 days of the date of receipt of the petition pursuant to paragraph (a) of this Rule, NFA staff shall file a response. The response shall include a recommendation by staff as to whether to continue the conditions, modify the conditions or allow for a full registration.

(2) If NFA staff agrees with the petitioner's request to lift or modify conditions on the petitioner's registration, it shall so recommend to the Membership Committee or a designated Subcommittee. Such recommendation will only be deemed accepted upon issuance by the Membership Committee or a designated Subcommittee of an order lifting or modifying the conditions on the petitioner's registration.

**(c) Oral Hearing.** If NFA staff requests a continuation or a modification of the conditions on the registration other than in accordance with the terms of the petition, the Membership Committee or a designated Subcommittee shall, within 30 days of the date that the response is filed pursuant to paragraph (b) of this Rule, determine whether an oral hearing is appropriate to the resolution of the registrant's petition.

(1) If the Membership Committee or a designated Subcommittee determines that an oral hearing is appropriate, it shall notify the parties of its determination and shall schedule and conduct an oral hearing in accordance with Rule 506. Following the hearing, the Membership Committee or a designated Subcommittee shall issue a written decision or an order.

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(2) If the Membership Committee or a designated Subcommittee concludes that an oral hearing is unnecessary, it shall notify the parties and issue a written decision or an order.

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## Part 600. Withdrawal from Registration

### RULE 601. WITHDRAWAL FROM REGISTRATION.

*[Adopted effective April 4, 1988. Effective dates of amendments: June 8, 1988; September 29, 1989; September 21, 1993; May 31, 2002; September 30, 2010; July 18, 2012 and September 15, 2017.]*

(a) An FCM, RFED, SD, MSP, FTF, IB, CTA, CPO, LTM, FB or FT may request that its registration be withdrawn in accordance with the requirements of this Rule if:

- (1) the registrant has ceased, or has not commenced, engaging in activities requiring registration in such capacity; or
- (2) the registrant is exempt from registration in such capacity; or
- (3) the registrant is excluded from the persons or any class of persons required to be registered in such capacity. Provided, that NFA may consider separately each capacity for which withdrawal is requested in acting upon such a request.

(b) An FCM, RFED, FTF, SD, MSP, IB, CPO, CTA or LTM requesting withdrawal from registration under this Rule must file a Form 7-W completed and filed with NFA in accordance with all pertinent instructions. A FB or FT requesting withdrawal from registration under this Rule must file a Form 8-W completed and filed with NFA in accordance with all pertinent instructions. In addition, any FB or FT requesting withdrawal from registration must file a copy of his Form 8-W with each contract market or SEF that has granted him trading privileges and any FTF requesting withdrawal must file a copy of its Form 7-W with each contract market or SEF that has granted it trading privileges.

(c) A request for withdrawal from registration will become effective on the 30th day after receipt of such request by NFA, or earlier upon notice from NFA of the granting of such request, unless prior to the effective date:

- (1) the Commission or NFA has instituted a proceeding to suspend or revoke such registration;
- (2) the Commission or NFA imposes or gives notice that it intends to impose terms or conditions upon such withdrawal from registration;

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(3) the registrant is given notice that it is currently the subject of an investigation to determine, among other things, whether such registrant has violated, is violating, or is about to violate the Act, rules, regulations, or orders adopted thereunder;

(4) NFA requests from the registrant further information pertaining to its request for withdrawal from registration; or

(5) NFA determines that it would be contrary to the requirements of the Act or of any rule, regulation or order thereunder, or to the public interest to permit such withdrawal from registration.

(d) Withdrawal from registration in one capacity does not constitute withdrawal from registration in any other capacity.

(e) Withdrawal from registration does not constitute a release from liability for any violation of the Act or of any rule, regulation or order thereunder, which occurred while a person was registered.

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### **Part 700. Procedures Governing Access to and Certification of Registration Records Maintained by NFA**

#### **RULE 701. DISCLOSURE OF INFORMATION FROM REGISTRATION RECORDS MAINTAINED BY NFA.**

*[Adopted effective April 4, 1988. Effective dates of amendments: June 8, 1988; July 29, 1988; September 21, 1993; May 31, 2002; September 9, 2002; September 30, 2010; July 18, 2012 and September 15, 2017.]*

##### **(a) Definitions.**

(1) **Registration Records.** For purposes of Rules 701 and 702, the term registration records shall be defined to include only the following types of records which are in the custody of or maintained by NFA because such records were transferred from the Commission to NFA or because such records have been received, generated, or compiled by NFA in performance of registration functions which NFA is authorized or required by the Commission to perform pursuant to Sections 8a(10) or 17(o) of the Act:

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(A) any application forms required to be filed to obtain registration, including any Form 8-R with respect to FTOEs or with respect to principals of an applicant or registrant, any schedules or supplements related to such forms, any fingerprint cards, any financial reports, statements and agreements required to be filed in connection with initial applications for registration;

(B) any supplemental statement or filings to correct or update any registration information submitted in a previous filing or to give notice of termination of association of an AP or affiliation of a principal;

(C) any written or electronic correspondence relating to registration between the Commission or NFA and an applicant or registrant;

(D) reports reflecting information developed from sources outside the Commission or NFA compiled or generated in connection with determining fitness for registration or affiliation as a principal; and

(E) reports from foreign governments and self-regulatory organizations and agreements appointing an agent for service of process if such reports and agreements are filed with NFA for the purpose of obtaining an exemption from registration, and any transmittal forms, cover letters or supplemental materials relating to such filings.

(2) **Registration Information.** For purposes of Rules 701 and 702, the term registration information shall be defined as any information contained in, compiled from or related to registration records.

### **(b) Disclosure of Public Information.**

(1) If any member of the public requests access to registration records, or portions thereof, and the requested record, or portion, is "public" or "publicly available" under CFTC Regulations 1.10(g), 145.0(c) or 145.6(b), then NFA will release that record or portion to the requester.

(2) NFA may charge any member of the public a copying fee, not to exceed the fee charged by the Commission, for any copies of registration records provided by NFA directly to the requester.

**(c) Disclosure of Non-Public Information.** Requests for access to registration records, or portions thereof, not subject to disclosure as public or publicly available under paragraph (b) (1) of this Rule shall be referred or transmitted to the Commission for response; except that, NFA will disclose such records or portion thereof:

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(1) to any person with whom an applicant or registrant is or plans to be associated as an AP or affiliated as a principal or with whom an individual is or plans on being associated as a Swap AP: Provided, however, that the person requesting the information makes an appropriate showing to NFA that the requester is the employer or prospective employer of the particular applicant, registrant, or principal;

(2) to any FCM or RFED with whom an IB, whether an applicant or registrant, has or plans to enter into a guarantee agreement under CFTC Regulation 1.10: Provided, however, that the FCM or RFED makes an appropriate showing as to its status as the IB's guarantor or proposed guarantor;

(3) to boards of trade designated as contract markets or registered as SEFs to any other futures associations registered with the Commission to assist those organizations in carrying out their responsibilities under the Act, or to national securities exchanges or national securities associations registered with the SEC to assist those organizations in carrying out their responsibilities under the Securities Exchange Act of 1934: Provided, however, that if a request is made in connection with a formal or apparent investigation or proceeding, NFA will notify the Commission of the request;

(4) to federal, state or local law enforcement or regulatory agencies acting within the scope of their jurisdiction or for their use in meeting responsibilities assigned to them under law (to the same extent that the Commission may disclose such registration information under Sections 8(e) and 8(g) of the Act): Provided, however, that if a request is made in connection with a formal or apparent investigation or proceeding, NFA will notify the Commission of the request;

(5) pursuant to an order of a court of competent jurisdiction; except that, subpoenas and summonses covering non-public portions of registration records and copies of the non-public records shall be promptly forwarded to the Commission to enable the Commission to consult with NFA on how to proceed;

(6) otherwise with the authorization of the Assistant Secretary of the Commission for FOI, Privacy and Sunshine Act Compliance or his or her designee, or the General Counsel of the Commission or his or her designee, in accordance with CFTC Regulations 145.7(b), (h) and (i); the Freedom of Information Act, 5 U.S.C. § 552; and the Privacy Act, 5 U.S.C. § 552a; and

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(7) to any individual or firm, or person acting on behalf of the individual or firm, who seeks access to registration records, excluding any records defined under Section (a) (1)(D) above, in connection with that individual's or firm's application for registration: Provided, however, that NFA receives proper verification of the identity and authority of the party requesting the records.

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### **RULE 702. CERTIFICATION OF THE AUTHENTICITY OF REGISTRATION RECORDS MAINTAINED BY NFA.**

*[Adopted effective April 4, 1988. Effective dates of amendments: September 21, 1993 and May 31, 2002.]*

**(a) Designation of Custodian and Deputies.** The President shall designate an NFA employee to serve as the NFA Record Custodian ("Custodian"). The President also may designate one or more NFA employees to serve as Deputy NFA Record Custodians ("Deputies"). The Custodian and the Deputies shall be responsible for maintaining all registration records in NFA's possession and shall be the legal custodians of these registration records.

**(b) Authority of Custodian and Deputies.** The Custodian, each of the Deputies, or in their absence, any NFA employee designated by the President, the Custodian or one of the Deputies, is authorized to certify in writing the authenticity of registration records in NFA's possession for purposes of any judicial or administrative proceeding. The Custodian, each of the Deputies or any designated employee also is authorized to certify in writing as to the maintenance and completeness of the registration records in NFA's possession, as well as the thoroughness of NFA's search for requested documents, for purposes of any judicial or administrative proceeding.

**(c) Effectiveness of Certification.** This written certification shall be effective when executed by the Custodian, one of the Deputies or any designated employee.

**(d) Content of Certification.** The written certification shall include that, pursuant to Commission authorization, the Custodian has and maintains legal custody of the official registration records that are the subject of the certification.

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## **Part 800. Electronic Filing of Registration Forms**

### **RULE 801. ELECTRONIC FILING OF FORMS 7-R, 8-R, 7-W AND 8-T.**

*[Adopted effective December 16, 1992. Effective dates of amendments: May 31, 2002; July 21, 2003; September 30, 2010; July 18, 2012 and September 15, 2017.]*

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(a) Unless otherwise provided by these Rules, registrants which are FCMs, RFEDs, SDs, MSPs, IBs, CPOs, CTAs, FTFs, FBs and FTs and IBs, CPOs and CTAs which are confirmed as exempt from registration pursuant to CFTC Regulation 30.5 and applicants for registration in such categories or for exemption from registration as an IB, CPO or CTA pursuant to CFTC Regulation 30.5 must file their Form 7-Rs and Form 8-Rs; Form 8-Rs for their principals, APs and FTOEs; Form 7-Ws; and Form 8-Ts; and must update such Forms 7-Rs and Form 8-Rs electronically by accessing NFA's registration and membership database in the manner provided by NFA. FCM, RFED, SD, MSP, IB, CPO, CTA and FTF registrants or applicants, IBs and CPOs and CTAs that are confirmed as exempt from registration pursuant to CFTC Regulation 30.5 or applicants for exemption from registration as an IB, CPO or CTA pursuant to CFTC Regulation 30.5 may authorize any person to make electronic registration filings on their behalf. FB and FT registrants and applicants may authorize any other person to electronically update their Form 8-Rs on their behalf but may not authorize any other person to file Form 8-Rs on their behalf. Any electronic registration filing that such an authorized person makes on behalf of the FCM, RFED, SD, MSP, IB, CPO, CTA, FTF, FB or FT registrant or applicant or IB, CPO or CTA confirmed as exempt from registration pursuant to CFTC Regulation 30.5 or applicant for exemption from registration pursuant to CFTC Regulation 30.5 shall be deemed to have been made by the FCM, RFED, SD, MSP, IB, CPO, CTA, FTF, FB or FT registrant or applicant or IB, CPO or CTA confirmed as exempt from registration pursuant to CFTC Regulation 30.5 or applicant for exemption from registration pursuant to CFTC Regulation 30.5 granting the authorization to such person.

(b) Individuals for whom a sponsor has filed a Form 8-R must, if required by these Rules to do so, verify the information electronically by accessing NFA's registration and membership database in the manner provided by NFA. Individuals may not authorize any other person to make such verification on their behalf.

(c) No applicant, applicant for exemption from registration as an IB, CPO or CTA pursuant to CFTC Regulation 30.5, registrant, IB, CPO or CTA confirmed as exempt from registration pursuant to CFTC Regulation 30.5, principal or FTOE may access NFA's electronic registration and membership database until NFA has assigned it a unique identifying code and password.

(d) Each applicant, applicant for exemption from registration as an IB, CPO or CTA pursuant to CFTC Regulation 30.5, registrant, IB, CPO or CTA confirmed as exempt from registration pursuant to CFTC Regulation 30.5, principal and FTOE is responsible for maintaining the security and confidentiality of its identifying code and password and those of the persons whom it authorizes to make electronic registration filings on its behalf. NFA's electronic registration and membership database shall record and store the identifying code of each

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person accessing the database and shall logically associate in the database such identifying code with any electronic filing made by the person using such identifying code. The person whose identifying code is used to make an electronic filing will be deemed to have made such filing.

(e) Each registrant or applicant FCM, RFED, SD, MSP, IB, CPO, CTA, FTF, FB or FT or IB, CPO or CTA confirmed as exempt from registration pursuant to CFTC Regulation 30.5 or applicant for exemption from registration as an IB, CPO or CTA pursuant to CFTC Regulation 30.5 shall make available any person it has authorized to make or actually performing duties related to electronic filings, for testimony in court or before the Commission, NFA, any contract market or SEF regarding the authentication, integrity or accuracy of any electronic filing.

(f) The ability to electronically access NFA's registration and membership database is a privilege and not a right. NFA may disable any person's identifying code and password and terminate the person's ability to electronically file forms at any time, without notice or a hearing, in NFA's sole discretion, if NFA believes that the person has not complied with this Rule or any procedures that NFA establishes to implement this Rule.

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### **RULE 802. CERTIFICATIONS, ACKNOWLEDGEMENTS, AGREEMENTS AND REPRESENTATIONS.**

*[Adopted effective May 31, 2002. Effective dates of amendments: September 9, 2002; July 21, 2003; December 15, 2003; September 30, 2010; July 18, 2012; and December 15, 2017.]*

(a) The electronic filing of a Form 7-R for registration as an FCM, RFED, SD, MSP, IB, CPO and CTA or for exemption from registration as an IB, CPO and CTA pursuant to CFTC Regulation 30.5 is deemed to constitute the applicant's applicable certifications, representations, acknowledgements, authorizations and agreements contained in the Form 7-R;

(b) The electronic filing of a Form 8-R for registration as an FB or FT is deemed to constitute the applicant's applicable certifications, acknowledgements, authorizations and agreements contained in the Form 8-R;

(c) The electronic filing of a Form 8-R for an AP, Forex AP, Swap AP, principal or FTOE is deemed to constitute the sponsor's applicable certifications, acknowledgements and agreements contained in the Form 8-R;

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(d) The electronic verification by an individual of the information contained in the Form 8-R constitutes the applicant's, principal's or FTOE's applicable certifications, acknowledgements, authorizations and agreements contained in the Form 8-R; and

(e) The electronic filing of a Form 8-T, 7-W or an update to the Form 7-R or 8-R is deemed to constitute the sponsor's, applicant's or registrant's applicable certifications, and acknowledgements contained in the Form 8-T, 7-W or an update to the Form 7-R or 8-R.

(f) Retention of Records. In accordance with Commission Regulation 1.31, FCM, RFED, SD, MSP, IB, CTA, CPO, LTM, FB and FT applicants and registrants and their sponsors, if applicable, applicants for exemption from registration as an IB, CPO or CTA pursuant to CFTC Regulation 30.5 and IBs, CPOs and CTAs confirmed as exempt from registration pursuant to CFTC Regulation 30.5 must retain such records as are necessary to support the certifications required by this Rule.

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