

days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>11</sup> and Rule 19b-4(f)(6) thereunder.<sup>12</sup>

A proposed rule change filed under Rule 19b-4(f)(6) normally may not become operative prior to 30 days after the date of filing.<sup>13</sup> However, Rule 19b-4(f)(6)(iii)<sup>14</sup> permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. ISE has requested that the Commission waive the 30-day operative delay. The Commission notes that waiver of the operative delay will permit the pilot to continue until January 31, 2010 without further delay, and will provide all market participants with the opportunity to receive ISE's broadcast message with information about the terms of new AON orders. The Commission also notes that no comments were received to date on the existing pilot. For these reasons, the Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest, and designates the proposed rule change to be operative upon filing with the Commission.<sup>15</sup>

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

#### IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

<sup>11</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>12</sup> 17 CFR 240.19b-4(f)(6).

<sup>13</sup> 17 CFR 240.19b-4(f)(6)(iii). In addition, Rule 19b-4(f)(6)(iii) requires that a self-regulatory organization submit to the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange satisfied this requirement.

<sup>14</sup> *Id.*

<sup>15</sup> For the purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

#### Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File No. SR-ISE-2009-112 on the subject line.

#### Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File No. SR-ISE-2009-112. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of ISE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR-ISE-2009-112 and should be submitted on or before February 1, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>16</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

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<sup>16</sup> 17 CFR 200.30-3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-61284; File No. SR-NFA-2009-02]

### Self-Regulatory Organizations; National Futures Association; Notice of Filing and Immediate Effectiveness of a Proposed Change to the Interpretive Notice Regarding Security Futures Products Proficiency Training

January 4, 2010.

Pursuant to Section 19(b)(7) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-7 under the Act<sup>2</sup> notice is hereby given that on December 11, 2009, National Futures Association ("NFA") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons. NFA concurrently filed the proposed rule change with the Commodity Futures Trading Commission ("CFTC").<sup>3</sup>

#### I. Self-Regulatory Organization's Description of the Proposed Rule Change

The amendments to the Interpretive Notice titled "NFA Compliance Rules 2-7 and 2-24 and Registration Rule 401: Proficiency Requirements for Security Futures Products" extend the relief from having to take a proficiency exam to engage in security futures activities from December 31, 2009 to December 31, 2012.

A copy of this filing is available on the Exchange's Web site at <http://www.nfa.futures.org>, on the Commission's Web site at <http://www.sec.gov>, the Exchange's principal office and at the Commission's Public Reference Room.

#### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received

<sup>1</sup> 15 U.S.C. 78s(b)(7).

<sup>2</sup> 17 CFR 240.19b-7.

<sup>3</sup> On December 31, 2009, NFA filed an update to the proposed rule change to indicate that the CFTC, by letter dated December 28, 2009, advised NFA that the CFTC had determined not to review the proposal and that NFA was permitted to make the proposal effective as of December 28, 2009.

on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. NFA has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

**1. Purpose**

Section 15A(k) of the Act<sup>4</sup> makes NFA a national securities association for the limited purpose of regulating the activities of NFA Members ("Members") who are registered as brokers or dealers under Section 15(b)(11) of the Act.<sup>5</sup>

The Commodity Futures Modernization Act of 2000 amended the Securities Exchange Act of 1934 to require NFA to "have rules that ensure that members and natural persons associated with members meet such standards of training, experience, and competence necessary to effect transactions in security futures products ("SFPs") and are tested for their knowledge of securities and securities futures products."<sup>6</sup> In 2001 NFA and FINRA (then NASD) adopted temporary relief allowing registrants to qualify to engage in security futures activities by completing a training program rather than by taking an exam. The relief was extended twice and is currently set to expire on December 31, 2009.

At its November 19, 2009 meeting, the Board approved amendments to the Interpretive Notice regarding proficiency requirements for security futures products. At that meeting, the Board also gave the Executive Committee authority to make any changes requested by the CFTC or the SEC. The CFTC and SEC have asked that the proposal adopted by the Board be modified and the Executive Committee has approved the modified proposal.

NFA and FINRA proposed the two prior extensions, and the CFTC and SEC agreed to them, because of the low trading volume in SFPs and the relatively few registrants engaging in security futures activities. These characteristics continue to make the imposition of a qualifications exam an inefficient option today. Accordingly, the proposal revises the Interpretive Notice to extend the relief from having to take an exam from December 31, 2009 to December 31, 2012.<sup>7</sup>

Amendments to the Interpretive Notice regarding Security Futures Products Proficiency Training were previously filed in SR-NFA-2002-04, SR-NFA-2003-03, SR-NFA-2006-04 and SR-NFA-2007-07.

**2. Statutory Basis**

The rule change is authorized by, and consistent with, Section 15A(k)(2)(D) of the Act.<sup>8</sup> That Section requires NFA to "have rules that ensure that members and natural persons associated with members meet such standards of training, experience, and competence necessary to effect transactions in SFPs and are tested for their knowledge of securities and securities futures products." Although the proposal extends relief from having to take an exam to engage in security futures activities, it still requires that training be completed before entering into such activities.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

NFA does not believe that the proposed rule change will have an impact on competition.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

Comments on the NFA proposed rule change have not been solicited and none have been received.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The proposed rule change will become effective on December 28, 2009. At any time within 60 days of the date of effectiveness of the proposed rule change, the Commission, after consultation with the CFTC, may summarily abrogate the proposed rule change and require that the proposed rule change be refilled in accordance with the provisions of Section 19(b)(1) of the Act.<sup>9</sup>

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NFA-2009-02 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-NFA-2009-02. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NFA-2009-02 and should be submitted on or before February 1, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>10</sup>

**Florence E. Harmon,**  
Deputy Secretary.

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<sup>4</sup> 15 U.S.C. 78o-3(k).

<sup>5</sup> 15 U.S.C. 78o(b)(11).

<sup>6</sup> Section 15A(k)(2)(D) of the Exchange Act.

<sup>7</sup> FINRA recently amended its rules to incorporate the same three-year extension. See Securities

Exchange Act Release. No. 61231 (December 23, 2009), 74 FR 691731 (December 30, 2009) (SR-FINRA-2009-092).

<sup>8</sup> 15 U.S.C. 78o-3(k)(2)(D).

<sup>9</sup> 15 U.S.C. 78s(b)(1).

<sup>10</sup> 17 CFR 200.30-3(a)(12).