

# **NFA Proposes Amendments Incorporating Swaps into Compliance Rules and Interpretive Notices; NFA Proposes Interpretive Notice Regarding CPO Internal Controls Systems**

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## **NFA Proposes Amendments Incorporating Swaps into Compliance Rules and Interpretive Notices**

On December 10, the National Futures Association (NFA) submitted to the Commodity Futures Trading Commission for review and approval proposed amendments to various NFA Compliance Rules and four NFA Interpretive Notices to incorporate swaps into these rules and notices.

### **Specifically, the NFA proposal would amend the following Compliance Rules:**

- NFA Compliance Rule 1-1 (Definitions) to add related definitions;
- NFA Compliance Rules 2-2 (Fraud and Related Matters) to include references to swaps, counterparties and related concepts, including with respect to anti-fraud, anti-manipulation and other prohibitions;
- NFA Compliance Rule 2-3 (Sharing in Profits) to expand the rule to cover all commodity interests;
- NFA Compliance Rule 2-6 (Expelled or Suspended Member or Associate) to expand the rule to apply to all commodity interests and clarify the scope of the rule.
- NFA Compliance Rule 2-10 (Recordkeeping) to clarify that the requirements relating to English records and fluency apply to swap dealer members (among others);
- NFA Compliance Rules 2-38 (Business Continuity and Disaster Recovery) to clarify the Member categories subject to their coverage;
- NFA Compliance Rule 3-1 (Department of Compliance) to remove the limited purpose

definition of commodity interest; and

- NFA Compliance Rule 3-15 (Member or Associate Responsibility Actions) to incorporate references to commodity interests and counterparties.

The Board also approved amendments to four Interpretive Notices to integrate the applicable rule amendments.

A copy of the proposed amendments is available [here](#).

## **NFA Proposes Interpretive Notice Regarding CPO Internal Controls Systems**

On December 10, the National Futures Association (NFA) submitted to the Commodity Futures Trading Commission a proposed Interpretive Notice to NFA Compliance Rule 2-9, which would provide commodity pool operators (CPOs) with guidance on designing and implementing an adequate system of internal controls. Specifically, the Interpretive Notice requires CPOs to implement an internal controls system that is designed to protect customer funds and ensure the reliability of the CPO's books and records and compliance with CFTC and NFA requirements. This includes adopting and implementing written policies and procedures that fully explain the CPO's internal controls system and maintain records that support the implementation and effectiveness of that system.

In particular, the Interpretive Notice identifies certain key components for all CPO internal controls systems, relating to:

1. separation of duties (including the separation of custody and financial reporting functions and separation of responsibilities for initiating, approving, recording and reconciling transactions); and
2. risk assessment (including assessing risks related to pool subscriptions, redemptions and transfers, risk management, valuation and use of fund administrators).

NFA submitted the proposed Interpretive Notice under the "10-day" effectiveness provision, meaning that, absent objection from the CFTC, it will become effective 10 days after its submission.

A copy of the NFA submission is available [here](#).

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