



NATIONAL FUTURES ASSOCIATION

July 15, 2008

Via e-mail to pubcom@finra.org

Ms. Marcia E. Asquith
Office of the Corporate Secretary
FINRA
1735 K Street, NW
Washington, DC 20006-1500

Re: FINRA Regulatory Notice 08-24
Supervision and Supervisory Controls

Dear Ms. Asquith:

National Futures Association (NFA) appreciates the opportunity to comment on FINRA's proposal relating to supervision and supervisory controls and will limit its comments to the amendments relating to existing NASD Rule 3010(a)(2). As you are aware, NASD Rule 3010(a)(2) currently requires FINRA member firms to designate a principal to supervise each type of business that requires registration as a broker-dealer. Proposed FINRA Rule 3110(a)(2) significantly expands the existing Rule's requirements to require member firms to designate an appropriately registered principal(s) to supervise each type of business in which the firm engages, regardless of whether registration as a broker-dealer is required. Since many NFA Member firms are also registered as broker-dealers, this amendment would appear to require those NFA Member firms to designate a securities principal to oversee their futures business thereby imposing duplicative and unnecessary regulatory requirements upon NFA Member firms without providing any regulatory benefit.

FINRA Regulatory Notice 08-24 states, in pertinent part, that the proposed language in FINRA Rule 3110(a)(2) is "consistent with NASD Rule 3010(b)." Yet NFA disagrees with this assertion. NASD Rule 3010(b) currently requires a FINRA member firm to establish written procedures to supervise the types of businesses in which it engages and to supervise the activities of its registered associated persons that are reasonably designed to achieve compliance with applicable securities laws and regulations. By deleting current Rule 3010 (a)(2)'s limitation on a business "for which registration as a broker/dealer is required," the proposed amendment is broader than NASD Rule 3010(b)'s language that requires written supervisory procedures over various types of businesses to be reasonably designed to achieve compliance with **applicable securities laws and regulations.**



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As a registered futures association under the Commodity Exchange Act and as a self-regulatory organization in the futures industry, NFA requires all its Members to diligently supervise their commodity futures activities. This requirement applies equally to firms that are also registered as broker-dealers. FINRA's proposed amendment to the language in current NASD Rule 3010 (a)(2) would simply add another layer of regulatory requirements to an area that is already well regulated and certainly is not necessary or appropriate to further the purposes of the securities laws.

Clearly, the supervision of a firm's futures business requires expertise in the futures industry. NFA requires that an individual exercising supervisory authority over a firm's futures business be a listed principal and registered associated person who is Series 3 licensed (has taken and passed the National Commodity Futures Examination). It is unclear from FINRA's proposal what proficiency requirements a principal supervising non-securities related areas would be required to have, but certainly none of the broker-dealer licenses required by FINRA would ensure that these principals possess the necessary expertise to supervise a firm's futures business.

Supervision of a particular line of business is best left to the individuals and regulatory organizations that have the expertise in that area. NFA has developed and enforces a strong regulatory program over a firm's futures business and there is no regulatory need for FINRA to impose duplicative supervisory requirements. The proposed wording of FINRA Rule 3110(a)(2) places an unnecessary onus on NFA Member firms that are also registered as broker-dealers without providing any corresponding benefit to those firms, investors, or to the securities markets. Therefore, NFA strongly encourages FINRA to retain the language from existing NASD Rule 3010(a)(2), which requires a supervisory person over lines of business **for which registration as a broker-dealer is required**.

Thank you for consideration of NFA's comments on this proposal. If you have any questions or would like to discuss this matter further, please do not hesitate to contact me at 312-781-1413.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Tom Sexton", is written over a circular blue ink stamp.

Thomas W. Sexton
Vice President and General Counsel