

CFTC/NFA REGULATORY UPDATE

I. Registrants Required to Complete Annual Online Registration Review

Beginning in October 2007, National Futures Association member firms and other Commodity Futures Trading Commission registrants must complete an annual online information update *at the time they renew their CFTC registrations*. CFTC Rule 3.10 now requires CFTC-registered futures commission merchants (“FCMs”), introducing brokers (“IBs”), commodity pool operators (“CPOs”), commodity trading advisors (“CTAs”) and leverage transaction merchants (“LTMs”) to complete, via the NFA’s Online Registration System (“ORS”), an annual review of the firm’s registration information maintained with the NFA. The new requirement is intended to ensure that the NFA will have accurate and current information regarding, among other things, registrants’ contact details, principals, associated persons and disciplinary history.

Review and Update Process. The NFA will notify each firm 45 days prior to the firm’s registration renewal date of the firm’s responsibility to review and update its registration information. Upon logging on to ORS, the firm’s Form 7-R information will be displayed. Any necessary changes can be made immediately, with two exceptions. To *add* a principal or associated person (“AP”), a Form 8-R must be filed. Similarly, to *withdraw* a principal or AP, a Form 8-T must be filed. Titles of principals and their percentage ownership, however, can be changed during the ORS review.

Deemed Withdrawal Request. **If a firm fails to complete its online update within 30 days following its registration renewal date, the firm will be deemed to have requested withdrawal from registration pursuant to CFTC Rule 3.33(f).** To avoid being deemed to have submitted a request for withdrawal, each firm should complete its online review and update and correct any deficiencies or inaccuracies contained therein promptly upon notification from the NFA.

II. CFTC Proposes to Extend Form 8-T Filing Date to 30 days

The CFTC has also recently proposed to amend Rules 3.12 and 3.31 to extend the period of time for a registered FCM, IB, CPO, CTA or LTM to notify the NFA of the termination of a principal or AP. The proposal would change to 30 days, from 20 days, the period of time within which a Form 8-T must be filed to report the termination of a principal or AP. The CFTC noted that NASD rules require such filings to be made within 30 days of termination. The proposal is intended to streamline requirements and ease regulatory burdens applicable to dually registered entities. The comment period for this rule proposal closes on September 13, 2007.

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If you have any questions regarding this memorandum, please contact Rita M. Molesworth (212-728-8727, rmolesworth@willkie.com), Gabriel Acri (212-728-8833, gacri@willkie.com) or the attorney with whom you regularly work.

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