

Other materials submitted by the CME in support of the applications for contract market designation may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR Part 145 (1987)), except to the extent they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9. Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Act Compliance Staff of the Office of the Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views, or arguments on the proposed terms and conditions, or with respect to other materials submitted by the CME, should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581 by the specified date.

Issued in Washington, DC, on July 5, 1995.

**Blake Imel,**

*Acting Director.*

[FR Doc. 95-16908 Filed 7-10-95; 8:45 am]

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### **New York Mercantile Exchange Proposed Futures Contract in New York Harbor Conventional Gasoline**

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Notice of availability of the terms and conditions of proposed commodity futures contract.

**SUMMARY:** The New York Mercantile Exchange (NYMEX or Exchange) has applied for designation as a contract market in New York Harbor conventional gasoline futures. The Director of the Division of Economic Analysis (Division) of the Commission, acting pursuant to the authority delegated by Commission Regulation 140.96, has determined that publication of the proposal for comment is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purposes of the Commodity Exchange Act.

**DATES:** Comments must be received on or before August 10, 1995.

**ADDRESSES:** Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581. Reference should be made to the NYMEX conventional gasoline futures contract.

**FOR FURTHER INFORMATION CONTACT:** Please contact John Forkkio of the Division of Economic Analysis, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581, telephone 202-254-7303.

**SUPPLEMENTARY INFORMATION:** Copies of the terms and conditions will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581. Copies of the terms and conditions can be obtained through the Office of the Secretariat by mail at the above address or by phone at (202) 254-6314.

Other materials submitted by the NYMEX in support of the application for contract market designation may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR part 145 (1987)), except to the extent they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9. Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Act Compliance Staff of the Office of the Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views, or arguments on the proposed terms and conditions, or with respect to other materials submitted by the NYMEX, should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581 by the specified date.

Issued in Washington, DC, on July 5, 1995.

**Blake Imel,**

*Acting Director.*

[FR Doc. 95-16911 Filed 7-10-95; 8:45 am]

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### **The National Futures Association's Proposed Requirements for the Supervision of Telemarketing Activities**

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Notice of proposed registered futures association rule changes.

**SUMMARY:** The Commodity Futures Trading Commission ("Commission") has determined pursuant to Section 17(j) of the Commodity Exchange Act ("Act") to review the National Futures Association's ("NFA's") proposed amendment to its Interpretive Notice to Compliance Rule 2-9. The proposal

would revise NFA requirements regarding the supervisory procedures which certain NFA members must use with respect to their telemarketing activities. The Commission has determined that publication of NFA's proposal is in the public interest, will assist the Commission in considering the views of interested persons and is consistent with the purposes of the Act.

**DATES:** Comments must be received by August 10, 1995.

**ADDRESSES:** Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581. Telephone: (202) 254-6314.

**FOR FURTHER INFORMATION CONTACT:** David P. Van Wagner, Special Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581. Telephone: (202) 254-8955.

**SUPPLEMENTARY INFORMATION:**

#### **I. Introduction**

By letter dated March 15, 1995, and received March 20, 1995, the NFA submitted to the Commission for its approval, pursuant to Section 17(j) of the Act, a proposed amendment to its Interpretive Notice to Compliance Rule 2-9. NFA's submission indicates that NFA intends to make the proposed amendment effective upon notice of Commission approval.

#### **II. Description of NFA's Proposal**

NFA Compliance Rule 2-9 requires each NFA member<sup>1</sup> to supervise diligently its employees and agents in all aspects of their futures activities. NFA Compliance Rule 2-9 generally was designed to, among other things, prevent abusive sales practices. On January 19, 1993, the Commission approved an amendment and Interpretive Notice to NFA Compliance Rule 2-9 which required NFA member firms which met prescribed criteria to adopt specific supervisory procedures designed to prevent abusive telemarketing sales practices.<sup>2</sup>

<sup>1</sup> NFA Compliance Rule 1-1 defines the term "member" to mean all Commission registrants except floor brokers and floor traders.

<sup>2</sup> NFA's telemarketing supervision requirements responded to a 1992 amendment of Section 17(p)(4) to the Act which required NFA to establish special supervisory guidelines for telephone solicitation of new futures and options accounts and to make the guidelines applicable to those members determined to require such procedures in accordance with standards established by the Commission consistent with the Act. § 204 of the Futures Trading Practices Act of 1992 ("FTPA"), Pub. L. No. 102-546, 106 Stat. 3590 (1992) (codified at Section 17(p) of the Act, 7 U.S.C. § 21(p)).

Under the current Interpretive Notice, an NFA member firm is required to adopt enhanced supervisory procedures over its telemarketing activities if the member: (1) Has at least five but less than ten associated persons ("APs") and 50% or more of those APs have been employed by one or more member firms which have been disciplined by the NFA or the Commission for sales practice fraud; (2) has at least ten but less than 20 APs and five or more of those APs have been employed by one or more member firms which have been disciplined by the NFA or the Commission for sales practice fraud; or (3) has 20 or more APs and 25% or more of those APs have been employed by one or more members which have been disciplined by the NFA or the Commission for sales practice fraud.<sup>3</sup>

Currently, an NFA member firm which meets the above-described criteria is required to tape-record all of its APs' sales solicitations which occur prior to the receipt of a customer's initial deposit and until the first order is received and entered for the customer's account. Firms meeting the criteria must tape-record such solicitations for a one-year period and retain the tapes up until six months after the one-year recording period ends.<sup>4</sup>

Based upon its experience overseeing the current telemarketing supervision requirements, NFA believes that the requirements have reduced the occurrence of widespread telemarketing fraud and have facilitated the gathering of evidence in enforcement actions related to deceptive telemarketing sales practices.

NFA's subject proposal would revise three different aspects of its current telemarketing supervision requirements. NFA contends that its proposed adjustments should increase the effectiveness of these requirements.

First, NFA's proposal would lower the thresholds at which NFA member firms would be required to adopt enhanced telemarketing supervision measures. Under the proposal, a firm would have to implement the enhanced procedures if it: (1) had at least five but less than ten APs and 40% or more of the APs had been previously employed by a

disciplined firm (the current threshold is 50%); (2) had at least ten but less than 20 APs and four or more of the APs had been previously employed by a disciplined firm (the current threshold is five or more APs); and, (3) had 20 or more APs and 20% or more of the APs had previously been employed by a disciplined firm (the current threshold is 25% or more).<sup>5</sup> The NFA contends that lowering the threshold at which member firms must implement telemarketing supervision measures should offer increased protection from fraudulent telemarketing practices.

Second, NFA's proposal would revise the telemarketing supervision measures for those member firms which met the amended thresholds. Specifically, the proposal would require that such firms tape record all telephone conversations which occurred between their APs and any potential or existing customers. Currently, NFA does not have any taping requirement after a customer's first order is received and entered into the customer's account. NFA has found, however, that in many cases sales practice violations occur after the customer already has begun trading. In order to address this problem, NFA's proposal would expand the taping requirement to all AP-customer conversations.

Third, NFA's proposal would require that firms which were subject to the telemarketing supervision measures must submit their promotional material<sup>6</sup> to the NFA for approval at least ten days before the marketing material was used.<sup>7</sup> In support of this measure NFA contends that it has found that member firms which have lax supervisory requirements relating to

<sup>5</sup> Under NFA's proposal, member firms with fewer than five APs would continue to be exempt from any enhanced telemarketing supervision requirements.

<sup>6</sup> NFA Compliance Rule 2-29(g) defines "promotional material" to include:

(1) Any text of a standardized oral presentation, or any communication for publication in any newspaper, magazine or similar medium, or for broadcast over television, radio, or other electronic medium, which is disseminated or directed to the public concerning a futures account, agreement or transaction; (2) any standardized form of report, letter, circular, memorandum, or publication which is disseminated or directed to the public for the purpose of soliciting a futures account, agreement or transaction \* \* \*

<sup>7</sup> It should be noted that NFA already has a "pre-review" program whereby members may voluntarily submit promotional material to NFA staff for review prior to its first use. NFA staff reviews material for consistency with the requirements of Compliance Rule 2-29 and provides its comments to submitting members. Given that NFA staff is not able to review material for factual accuracy, a member who submits promotional material to NFA under the pre-review program does not receive any safe harbor protection with respect to those materials.

telemarketing often have similar lax requirements with respect to the review and use of promotional material.

The Commission also notes that on August 16, 1994, the President signed into law the Telemarketing and Consumer Fraud and Abuse Prevention Act ("Telemarketing Act"), Public Law No. 103-297, which requires that the Federal Trade Commission ("FTC") adopt rules prohibiting various deceptive and abusive telemarketing practices within one year of the enactment of the Telemarketing Act. The Telemarketing Act also added a new Section 6(f) to the Commodity Exchange Act<sup>8</sup> requiring, subject to certain exceptions, that the Commission "promulgate, or require each registered futures association to promulgate, rules substantially similar" to the FTC rules implementing the Telemarketing Act within six months of the effective date of those rules, unless the Commission determines otherwise.<sup>9</sup>

On February 14, 1995, the FTC published its proposed telemarketing rules.<sup>10</sup> The proposed rules generally prohibit certain deceptive and abusive telemarketing activities as well as establishing various requirements with respect to the time and frequency of telephone solicitations. The FTC published a revised notice of its proposed rules on June 8, 1995.<sup>11</sup>

Currently, the Commission is reviewing the FTC's proposed rules. The Commission will continue to monitor the FTC's efforts to promulgate telemarketing rules in order to determine whether the Commission's and the NFA's rules provide substantially similar protections.

### III. Request for Comments

The Commission requests general comment on NFA's proposed amendment to its Interpretive Notice to Compliance Rule 2-9. The Commission

<sup>8</sup> § 6(f) of the Act and § 3(e) of the Telemarketing Act.

<sup>9</sup> Section 6(f)(2) of the Act provides that the Commission is not required to promulgate rules if it determines that:

(1) its rules provide protection from deceptive and abusive telemarketing by persons subject to its jurisdiction substantially similar to that provided by the FTC's rules under the Telemarketing Act; or,

(2) such a rule promulgated by the Commission is not necessary or appropriate in the public interest, or for the protection of customers in the futures and options markets, or would be inconsistent with the maintenance of fair and orderly markets.

If the Commission determines that either of these exceptions applies, it must publish the reasons for its determination in the **Federal Register**.

<sup>10</sup> 60 FR 8313.

<sup>11</sup> 60 FR 30406. The FTC's proposed rules generally were revised to address various concerns raised by commenters regarding the original proposed rules.

<sup>3</sup> For these purposes, the Interpretive Notice to Compliance Rule 2-9 defines "disciplined member firm" as a firm which: (1) has been formally charged by either the Commission or the NFA with deceptive telemarketing practices; (2) has had those charges resolved; and (3) has been closed down and permanently barred from the futures industry as a result of those charges.

<sup>4</sup> NFA can grant waivers from these requirements upon a satisfactory showing that a member firm's supervisory procedures provide effective supervision over its employees.

also requests specific comment on two particular aspects of NFA's proposal. First, comment is requested concerning whether the NFA's proposed revisions to the Interpretive Notice's "triggering thresholds" are appropriate. Second, comment is requested concerning whether the NFA has adequate measures to ensure compliance with the taping requirements of the current and proposed Interpretive Notice. In addition, the Commission also requests specific comment on NFA's proposal in the context of the Telemarketing Act and the FTC's implementing rules.

Copies of NFA's proposed Interpretive Notice amendment will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581, except to the extent that the proposal may be entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9 (1994). Copies also may be obtained through the Office of the Secretariat at the above address or by telephoning (202) 254-6314.

Any person interested in submitting written data, views or arguments on NFA's proposed amendment to its Interpretive Notice to Compliance Rule 2-9 or with respect to other materials submitted by the NFA in support of the proposal should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581, by the specified date.

Issued in Washington, D.C. on July 5, 1995.

**Alan L. Seifert,**

*Deputy Director, Division of Trading and Markets.*

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## DEPARTMENT OF EDUCATION

### Notice of Proposed Information Collection Requests

**AGENCY:** Department of Education.

**ACTION:** Notice of proposed information collection requests.

**SUMMARY:** The Director, Information Resources Group, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1980.

**DATES:** Interested persons are invited to submit comments on or before August 10, 1995.

**ADDRESSES:** Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Dan Chenok: Desk Officer, Department of Education, Office of

Management and Budget, 725 17th Street NW., Room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 600 Independence Avenue SW., Room 5624, Regional Office Building 3, Washington, DC 20202-4651.

**FOR FURTHER INFORMATION CONTACT:**

Patrick J. Sherrill, (202) 708-9915. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

**SUPPLEMENTARY INFORMATION:** Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Director of the Information Resources Group, publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Frequency of collection; (4) The affected public; (5) Reporting burden; and/or (6) Recordkeeping burden; and (7) Abstract. OMB invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

Dated: July 6, 1995.

**Gloria Parker,**

*Director, Information Resources Group.*

### Office of Educational Research and Improvement

*Type of Review:* Revision

*Title:* Private School Survey

*Frequency:* Biennially

*Affected Public:* Business or other for-profit; Not for profit institutions

*Reporting Burden:*

Responses: 28,000

Burden Hours: 14,417

*Recordkeeping Burden:*

Recordkeepers: 0

Burden Hours: 0

*Abstract:* Private School Survey collected every two years of the

universe of approximately 28,000 schools. Information includes types of schools, length of school year and school day, number of students and teachers, number of high school graduates, and race/ethnic distribution of students. Data are used to 1) build and NCES private school universe; and 2) generate biennial data on total number of and characteristics of private schools.

### Office of Educational Research and Improvement

*Type of Review:* Reinstatement

*Title:* Fund for the Improvement of Education

*Frequency:* Annually

*Affected Public:* Not for profit institutions; State, Local or Tribal Government

*Reporting Burden:*

Responses: 600

Burden Hours: 24

*Recordkeeping Burden:*

Recordkeepers: 0

Burden Hours: 0

*Abstract:* This form will be used by State Educational agencies, Local Educational agencies, IHEs, and other public and private agencies, organizations and institutions to apply for funding under the Fund for the Improvement of Education. The Department will use the information to make grant awards.

### Office of the Under Secretary

*Type of Review:* Revision

*Title:* Even Start Information System

*Frequency:* Annually

*Affected Public:* Individual or households

*Reporting Burden:*

Responses: 91,040

Burden Hours: 57,035

*Recordkeeping Burden:*

Recordkeepers: 0

Burden Hours: 0

*Abstract:* The Even Start Information System involves the refinement and maintenance of a data collection system, collection and analysis of additional outcome data from a sample of Even Start projects, training of local Even Start project directors in data collection and technical assistance to them, and preparation of final reports. The Department will use the information to provide Congress, state program administrators, and local grantees with the types of information that can be used to manage the program at the federal, state, and local levels.

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