

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

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

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

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

- A. By order approve such proposed rule change, or
- B. Institute proceedings to determine whether the proposed rule change should be disapproved.

**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-ISE-2007-71 on the subject line.

*Paper Comments*

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

All submissions should refer to File Number SR-ISE-2007-71. 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 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-ISE-2007-71 and should be submitted on or before November 13, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>8</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

[FR Doc. E7-20783 Filed 10-19-07; 8:45 am]

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**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-56667; File No. SR-NFA-2007-04]

**Self-Regulatory Organizations; National Futures Association; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Regarding Compliance Rule 2-4: Misuse of Trade Secrets and Proprietary Information**

October 17, 2007.

Pursuant to section 19(b)(7) of the Securities Exchange Act of 1934 ("Exchange Act"),<sup>1</sup> and Rule 19b-7 under the Exchange Act,<sup>2</sup> notice is hereby given that on August 20, 2007, National Futures Association ("NFA") filed with the Securities and Exchange Commission ("Commission") the proposed rule change described in Items I, II, and III below, which Items have been substantially prepared by NFA. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons. NFA also has filed the proposed rule change with the

Commodity Futures Trading Commission ("CFTC").

NFA, on August 17, 2007, submitted the proposed rule change to the CFTC for approval and invoked the "ten-day" provision of section 17(j) of the Commodity Exchange Act ("CEA").<sup>3</sup> By letter dated September 5, 2007, the CFTC notified NFA of its determination not to review the proposed rule change.<sup>4</sup>

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

*Text of Proposed Rule Changes Interpretive Notice NFA Compliance Rule 2-4: Misuse of Trade Secrets And Proprietary Information*

National Futures Association ("NFA") Compliance Rule 2-4 provides that Members and Associates shall observe high standards of commercial honor and just and equitable principles of trade in the conduct of their commodity futures business. Over the years, NFA's Board of Directors ("Board") has provided guidance on certain issues to ensure that Members and Associates understand their responsibilities to observe just and equitable principles of trade and to act honestly, fairly, and in the best interests of customers.

Compliance Rule 2-4 prohibits Members and Associates from knowingly obtaining or seeking to obtain another Member's or Associate's confidential information or trade secrets without that person's permission. It also prohibits Members and Associates from knowingly or recklessly misusing confidential information or trade secrets in their possession. Although that rule does not seek to regulate business disputes between Members or to extend beyond commodity futures activities, it does reach conduct that could potentially harm customers.

Conduct that may violate Compliance Rule 2-4 includes:

- Misusing customer information, such as misappropriating social security numbers or purposefully violating the firm's privacy statement;
- Disclosing customer orders prior to execution (except as permitted by exchange rules); or
- Obtaining or attempting to obtain information disclosing a CTA's historical trading positions without the CTA's permission.

These are merely examples of conduct that could potentially harm customers. Any Member or Associate that knowingly obtains or seeks to obtain

<sup>3</sup> 7 U.S.C. 21(j).

<sup>4</sup> See letter from Lawrence B. Patent, Deputy Director, CFTC, to Thomas W. Sexton, III, General Counsel, NFA ("Letter").

<sup>8</sup> 17 CFR 200.30-3(a)(12).

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

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

confidential information or trade secrets of another Member or Associate without that person's permission or that knowingly or recklessly misuses trade secrets and/or proprietary information in the conduct of its commodity futures business violates Compliance Rule 2-4.

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

In its filing with the Commission, NFA has prepared statements concerning the purpose of, and basis for, the proposed rule change, burdens on competition, and comments received from members, participants, and others. The text of these 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 aspects 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 Exchange Act<sup>5</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 in security futures products under section 15(b)(11) of the Exchange Act.<sup>6</sup> The new interpretive notice applies to all Members, including those who are registered as security futures brokers or dealers under section 15(b)(11).

NFA Compliance Rule 2-4 requires Members and Associates to observe high standards of commercial honor and just and equitable principles of trade in the conduct of their commodity futures business. The proposed notice makes clear that Members and Associates violate NFA Compliance Rule 2-4 if they knowingly obtain or seek to obtain another Member's or Associate's confidential information or trade secrets without that person's permission or knowingly or recklessly misuse confidential information or trade secrets in their possession when these activities may harm futures customers. It also clarifies that this prohibition is limited to a Member's commodity futures business and does not reach into areas beyond NFA's normal jurisdiction.

The notice is narrowly drawn, focusing on behaviors that could harm customers. It gives three examples of behavior that violates the rule: (1)

Misusing customer information, (2) disclosing customer orders, and (3) obtaining or attempting to obtain confidential information disclosing a CTA's historical trading positions.

#### 2. Statutory Basis

The rule change is authorized by, and consistent with, Section 15A(k) of the Exchange Act.<sup>7</sup> This Section requires NFA to have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest in connection with security futures products. The proposed rule change accomplishes this by prohibiting the misuse of nonpublic information.

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

The rule change will not impose any burden on legitimate competition. It should, however, prevent Members from using illegitimate means to gain a competitive advantage when those means could harm customers.

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

NFA did not publish the rule change to the membership for comment but did discuss it with NFA's FCM, IB, and CPO/CTA Advisory Committees, which generally supported it. NFA did not receive comment letters concerning the rule change.

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

NFA, on August 17, 2007, submitted the proposed Interpretive Notice entitled "NFA Compliance Rule 2-4: Misuse of Trade Secrets and Proprietary Information" to the CFTC for approval and invoked the "ten-day" provision of section 17(j) of the CEA.<sup>8</sup> The CFTC notified NFA of its determination not to review the proposed rule change.<sup>9</sup> The proposed rule change has become effective on September 5, 2007.

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 refiled in accordance with the provisions of section 19(b)(1) of the Exchange Act.<sup>10</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 Exchange 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-2007-04 on the subject line.

#### Paper Comments

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

All submissions should refer to File Number SR-NFA-2007-04. 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 NFA. 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-2007-04 and should be submitted on or before November 13, 2007.

<sup>7</sup> 15 U.S.C. 78o-3(k).

<sup>8</sup> 7 U.S.C. 21(j).

<sup>9</sup> See Letter, *supra* note 4.

<sup>10</sup> 15 U.S.C. 78s(b)(1).

<sup>5</sup> 15 U.S.C. 78o-3(k).

<sup>6</sup> 15 U.S.C. 78o(b)(11).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>11</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

[FR Doc. E7-20784 Filed 10-19-07; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

[Docket No. FAA-2007-29320]

#### Operating Limitations at New York's John F. Kennedy International Airport, Notice of Meeting and Request for Information

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of scheduling reduction meeting and request for information.

**SUMMARY:** The FAA will conduct a meeting to discuss flight restrictions at New York's John F. Kennedy International Airport (JFK) to reduce overscheduling and flight delays during peak hours of operation at that airport. This meeting is open to all scheduled air carriers, regardless of whether they currently provide scheduled service to JFK, and to the Port Authority of New York and New Jersey, which is the airport operator of JFK. Registration in advance of the meeting is requested. In addition, the FAA invites interested persons to submit written information on such schedule reductions. The FAA plans to issue its decision on scheduling limitations in a final order.

**DATES:** *Scheduling reduction meeting.* The FAA will hold the scheduling reduction meeting on October 23-24, 2007, beginning at 9 a.m., and the meeting may continue, if necessary, until adjourned by the Administrator.

*Written information:* Any written information on the subject of schedule reductions at JFK, including data and views, must be submitted by November 6, 2007. To the extent possible, the FAA will consider late-filled submissions in making its determination in its final order.

**ADDRESSES:** *Scheduling reduction meeting.* The meeting will be held in the Bessie Coleman Room at the Orville Wright Building of the FAA, 800 Independence Ave., SW., Washington, DC.

*Written information.* You may submit written information, identified by docket number FAA-2007-29320, by any of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov> and follow the instructions for submitting your information or comments electronically.

- *Fax:* Fax comments to the Docket Management Facility at 1-202-493-2251.

- *Mail:* Send information or comments to the Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12-140, Washington, DC 20590.

- *Hand Delivery:* Bring information or comments to the Docket Management Facility in Room W12-140 of the West Building Ground Floor at the Department of Transportation, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

- *Instructions:* You must include the agency name and docket number FAA-2007-29320 for this notice at the beginning of the information that you submit. Note that the information received will be posted without change to <http://www.regulations.gov>, including any personal information provided. Submissions to the docket that include trade secrets, confidential, commercial, or financial information, or sensitive security information will not be posted in the public docket. Such information will be placed in a separate file to which the public does not have access, and a note will be placed in the public docket to state that the agency has received such materials from the submitter.

*Privacy:* We will post all comments we receive, without change, including any personal information you provide. Using the search function of the docket Web site, anyone can find and read the electronic form of all comments received into any of our dockets, including the name of the individual sending or signing the comment. You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477-78).

*Docket:* To read background documents or comments received, go to <http://www.regulations.gov> at any time and follow the online instructions for accessing the docket. Alternatively, you may visit the Docket Management Facility in Room W12-140 of the West Building Ground Floor of the Department of Transportation at 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

*Registration:* To register for attendance, contact Gerry Shakley at the numbers provided in the **FOR FURTHER**

**INFORMATION CONTACT** section of this notice.

**FOR FURTHER INFORMATION CONTACT:**

Gerry Shakley, System Operations Services, Air Traffic Organization; telephone—(202) 267-9424; facsimile—(202) 267-7277; e-mail—[gerry.shakly@faa.gov](mailto:gerry.shakly@faa.gov). Registration must occur on or before October 19, 2007.

**SUPPLEMENTARY INFORMATION:** The Federal Aviation Act (the Act) at 49 U.S.C. 41722, authorizes the Secretary of Transportation to request air carriers to attend a meeting with the FAA Administrator to discuss flight schedule reductions at any severely congested airport during peak operating hours.

Until relatively recently, the FAA managed congestion at JFK through the High Density Rule (HDR), 14 CFR part 93, subpart K, which limited aircraft operations at JFK during the five hours of peak transatlantic demands—3 p.m. through 7:59 p.m. local time.

The HDR is an air traffic rule that establishes limited on the number of arrivals and departures that can occur from certain airports during specific, identified hours. The HDR limits flights in order to manage congestion and delays. Currently, only Washington's Reagan National Airport is regulated under the HDR. The HDR was formerly effective at Chicago O'Hare International Airport (O'Hare), New York's JFK New York's LaGuardia airport (LaGuardia), and Newark's Liberty International Airport (Newark).

In 2000, Congress, under the aviation Investment and Reform Act for the 21st Century (AIR-21), called for the phase out of the HDR program at O'Hare, LaGuardia and JFK.<sup>1</sup>

The HDR was phased out at JFK as of January 1, 2007, permitting increased scheduling at JFK during the afternoon hours.<sup>2</sup> In addition, since the spring of 2006, JFK has evolved from its traditionally international role, as U.S. air carriers have significantly increased their domestic scheduled operations throughout the day. Most of the increase has come from the two largest operators at the airport, Delta airlines and JetBlue Airways.

As a result of the increase in scheduled operations at JFK, demand exceeds the airport's capacity during some periods of the day. During the morning hours, JFK routinely incurs volume-related delays during the 7 a.m. through 9 a.m. hours. The afternoon and evening demand at JFK now exceeds the

<sup>1</sup> Newark has not been impacted by the HDR since the early days of its inception.

<sup>2</sup> Since the expiration of the HDR, the FAA reinstated caps at O'Hare, by rule, and at LaGuardia, by FAA order.