the Act,[11] which requires, among other things, that the Association's rules must be 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. NASD Regulation believes that the proposed rule change is designed to accomplish these ends by disclosing to investors certain key risks associated with subordination agreements.

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

NASD Regulation does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

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

Written comments were neither solicited nor received. The proposed rule change was not noticed for comment by the NASD through its Notice to Members process.

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 Exchange 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, as amended, is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. 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. Copies of such filings will also be available for inspection and copying at the principal office of the Association. All submissions should refer to File No. SR–NASD–2002–12 and should be submitted by May 7, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

Margaret H. McFarland,

Secretary.

[FR Doc. 02–9193 Filed 4–15–02; 8:45 am]

BILLING CODE 8010–01–P

[11] 15 U.S.C. 78*o*–3(b)(5).

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45720; File No. SR–NFA–2002–02]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by National Futures Association Regarding Broker-Dealer Registration, Fair Commissions, and Best Execution Obligations with Respect to Security Futures Products

April 10, 2002.

Pursuant to section 19(b)(7) of the Securities Exchange Act of 1934 (''Exchange Act''),[1] and Rule 19b–7 under the Exchange Act,[2] notice is hereby given that on March 20, 2002, National Futures Association (''NFA'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule changes described in Items I, II, and III below, which Items have been prepared by NFA. The Commission is publishing this notice to solicit comments on the proposed rule changes from interested persons.

On March 19, 2002, NFA submitted the proposed rule change to the Commodity Futures Trading Commission (''CFTC'') for approval. Under section 19(b)(7)(B) of the Act,[3] the proposed rule change may take effect upon approval by the CFTC.

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

Section 15A(k) of the Exchange Act[4] makes NFA a national securities association for the limited purpose of regulating the activities of members who are registered as brokers or dealers in security futures products under section 15(b)(11) of the Exchange Act.[5] The proposed ''Interpretive Notice to NFA Compliance Rule 2–4 Regarding the Registration Requirements for Trading Security Futures Products' clarifies that it is a violation of NFA rules for an NFA member to act as a broker-dealer for security futures products unless the member is properly registered as a broker-dealer. Proposed NFA Compliance Rule 2–37(g) and the proposed interpretive notices regarding fair commissions and best execution are in keeping with the SEC's August 21, 2001 Order, which requires NFA to adopt customer protection rules comparable to the rules of the National Association of Securities Dealers, Inc. (''NASD'').[6] Proposed NFA Compliance Rule 2–37(g) and its ''Interpretive Notice Regarding Fair Commissions'' specifically require notice-registered broker-dealers to charge fair commissions. The proposed ''Interpretive Notice to NFA Compliance Rule 2–4 Regarding Best Execution'' sets forth a notice-registered broker-dealer's best execution obligation for security futures orders.

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

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. These statements are set forth in Sections A, B, and C below. The text of the proposed rule change is available for inspection at the Office of the Secretary, the NFA, the Commission's Public Reference Room, and on the Commission's Web site (*http://www.sec.gov*).

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

1. Purpose

Proposed Interpretive Notice to NFA Compliance Rule 2–4 Regarding the Registration Requirements for Trading Security Futures Products

The CFMA provides that security futures products are securities as well as futures and therefore are subject to

[1] 15 U.S.C. 78s(b)(7).

[2] 17 CFR 240.19b–7.

[3] 15 U.S.C. 78s(b)(7)(B).

[4] 15 U.S.C. 78o–3(k).

[5] 15 U.S.C. 78o(b)(11).

[6] *See* Securities Exchange Act Release No. 44729.

regulation in both the futures and securities industries. As a result, NFA members that solicit or accept orders or carry accounts for security futures products are also required to be registered as broker-dealers under the Exchange Act. Any NFA member that is not currently registered as a full broker-dealer under the Exchange Act may notice-register as a broker-dealer by filing form BD–N with NFA. The proposed interpretive notice clarifies that it is a violation of NFA rules for an NFA member to solicit or accept orders, carry accounts or otherwise act as a broker-dealer for security futures products unless the Member is properly registered as a broker-dealer under the Exchange Act.

Proposed NFA Compliance Rule 2–37(g) and Its Proposed Interpretive Notice Relating to Fair Commissions for Security Futures Products

NFA believes that NFA Compliance Rule 2–37(g) is almost identical to the provisions of NASD Rule 2440 relating to agency transactions. Its proposed interpretive notice discusses these provisions in more detail and reassures NFA members that most members' current commission practices already comply with these requirements. For example, the interpretive notice explicitly notes that the following practices are acceptable under Compliance Rule 2–37(g): charging commissions based on costs plus a reasonable profit, taking the services provided by the member into consideration when setting commissions, and negotiating commissions with institutional customers based on volume or similar measures. NFA represents that the interpretive notice is also consistent with NFA's traditional approach, which requires full disclosure of fees and commissions.

As with most of the other security futures rules, NFA states that proposed Compliance Rule 2–37(g) and its interpretive notice would apply only to FCMs and IBs who notice-register as broker-dealers under section 15(b)(11) of the Exchange Act.[7] According to NFA, dual registrants would presumably be subject to the NASD's requirements (*i.e.,* NASD Rule 2440 and NASD IM–2440).

Proposed Interpretive Notice to NFA Compliance Rule 2–4 Regarding the Best Execution Obligation of NFA Members Registered as Broker-Dealers Under section 15(b)(11) of the Securities Exchange Act of 1934

The SEC's August 21, 2001 Order also requires NFA to adopt a best execution rule. Given the complexity of the issues relating to best execution, NFA staff formed a working group with representatives from the futures exchanges, FCMs, end users, a securities options exchange, and an alternative trading system to help formulate a best execution interpretive notice. In formulating NFA's approach to best execution, NFA states that the working group analyzed NASD Rule 2320's terms, how best execution works in the equity options markets, and the SEC's rules relating to order execution and routing. From the outset, the working group felt that NFA's approach to best execution should be an interpretation of NFA Compliance Rule 2–4, which imposes an obligation upon members to put their customers' interests before their own when soliciting and executing futures transactions.

The proposed interpretive notice is designed to set forth a member's best execution obligation yet provide members with flexibility in meeting this obligation. The interpretive notice reiterates NFA Compliance Rule 2–4's obligation of all members and associates to put their customers' interests before their own when soliciting and executing futures transactions. In those cases where a customer's order may be executed on two or more markets trading security futures contracts that are not materially different, members and associates have an obligation to use reasonable diligence to ascertain the market in which the customer's security futures order will receive the most favorable terms and, in particular, the best price available under prevailing market conditions. The interpretive notice provides guidance on how to fulfill that obligation.

First, the interpretive notice makes clear that if a customer or customer's designee requests that a security futures order be directed to a particular market, then the member or associate is required to follow the customer's or designee's instructions. However, in the absence of customer instructions, a member or associate must consider the relevant facts and circumstances including, at a minimum, the following factors in discharging its obligation to use reasonable diligence in ascertaining where a customer's security futures order would receive the most favorable execution available:

- The character of the market including, but not limited to, price, volatility, liquidity, depth, speed of execution, and pressure on available communications;
- The size and type of transaction, including the type of order; and
- The location, reliability and accessibility to the customer's intermediary of primary markets and quotation sources.

Members and associates must also consider differences in the fees and costs to customers (*e.g.,* transaction fees, clearing costs and expenses) associated with executing transactions in each market. Unless specifically instructed by a customer or customer's designee or necessary to obtain the execution of an order, a member shall not channel an order through a third party unless the member can show that by doing so the total cost or proceeds of the transaction were better than if the member decided not to channel the order through the third party.

The interpretive notice also recognizes that it may be impracticable for members and associates to make order routing decisions for retail orders on an order-by-order basis. Members and associates that do not make order routing decisions for retail orders on an order-by-order basis should, at a minimum, consider the above factors and the materiality of any differences among contracts traded on different markets when establishing their retail order-routing practices and perform a regular and rigorous review of those practices to ensure that their best execution obligation is fulfilled.

As with most of the other security futures rules, NFA represents that the proposed interpretive notice would apply only to FCMs and IBs who notice-register as broker-dealers under section 15(b)(11) of the Exchange Act.[8] Dual registrants would presumably be subject to the NASD's requirements (*i.e.,* NASD Rule 2320).

2. Statutory Basis

The rule change is authorized by, and consistent with, section 15A(k) of the Exchange Act.[9]

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

The rule change will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Exchange Act and the CEA. Any burdens imposed are

[7] 15 U.S.C. 78o(b)(11).

[8] 15 U.S.C. 78o(b)(11).

[9] 15 U.S.C. 78o–3(k).

necessary and appropriate in order to protect customers.

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

NFA worked with industry representatives in developing the rule changes. NFA did not, however, publish the rule changes to the membership for comment. NFA did not receive comment letters concerning the rule changes.

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

The proposed rule change will become effective upon approval by the CFTC. 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.[10]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change conflicts with the Exchange Act. Persons making written submissions should file nine copies of the submission with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Comments also may be submitted electronically to the following e-mail address: *rule-comments@sec.gov.* 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. Copies of these filings also will be available for inspection and copying at the principal office of NFA. Electronically submitted comments will be posted on the Commission's Web site (*http://www.sec.gov*). All submissions should refer to File No. SR–NFA–2002–02 and should be submitted by May 7, 2002.

[10] 15 U.S.C. 78s(b)(1).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–9192 Filed 4–15–02; 8:45 am]

BILLING CODE 8010–01–P

[11] 17 CFR 200.30–3(a)(75).

DEPARTMENT OF STATE

[Public Notice 3959]

U.S. Advisory Commission on Public Diplomacy; Notice of Meeting

The Department of State announces the meeting of the U.S. Advisory Commission on Public Diplomacy on Thursday, April 25, 2002, in Room 600, 301 4th St., SW., Washington, DC from 8:30 a.m. to 10:30 a.m.

The Commission, reauthorized pursuant to Public Law 106–113 (H.R. 3194, Consolidated Appropriations Act, 2000), will provide a general update on the effectiveness of public diplomacy initiatives as well as discuss potential areas of examination for the remainder of the Commissioners' terms of office.

Members of the general public may attend the meeting, though attendance of public members will be limited to the seating available. Access to the building is controlled, and individual building passes are required for all attendees.

The U.S. Advisory Commission on Public Diplomacy is a bipartisan, Presidentially-appointed panel created by Congress in 1948 to provide oversight of U.S. Government activities intended to understand, inform and influence foreign publics. The Commission reports its findings and recommendations to the President, the Congress and the Secretary of State and the American people. Current commission members include Harold Pachios of Maine, who is the chairman; Charles Dolan of Virginia, who is the vice chairman; Penne Percy Korth of Washington, DC, Lewis Manilow of Illinois and Maria Elena Torano of Florida.

For more information, please contact Matt Lauer at (202) 619–4463.

Dated: April 10, 2002.

Matthew Lauer,

Executive Director, U.S. Advisory Commission on Public Diplomacy, Department of State.

[FR Doc. 02–9227 Filed 4–15–02; 8:45 am]

BILLING CODE 4710–11–P

DEPARTMENT OF STATE

Office of the Spokesman

[Public Notice 3964]

U.S. Advisory Commission on Public Diplomacy Endorses Freedom Protection Act of 2002

To promote a stronger communications effort abroad to educate and inform foreign publics, the U.S. Advisory Commission on Public Diplomacy announced on April 8, 2002, its support for the Freedom Promotion Act of 2002 (H.R. 3969). The bill has been introduced by Rep. Henry Hyde (R–Il), chairman of the House International Relations Committee.

The Commission specifically endorsed Section 105 of the bill, which significantly enhances the consultative and reporting roles of the Commission through specific new requirements, which include collaboration with the Government Accounting Office and mandated support to the Commission from the Department of State, International Broadcasting Agency and other agencies.

''The Hyde bill enables the Commission to fulfill its mission as an oversight authority of the activities that inform and influence foreign publics,'' said Harold C. Pachios, chairman of the Commission. ''In order to properly develop the reports and the insight necessary to support American public diplomacy efforts, the Commission needs the strong collaboration of the agencies that it helps to oversee.''

Section 105 of the bill also requires that at least four of the seven Commission members have substantial experience in the field of public diplomacy.

''To enable our nation to effectively connect with foreign audiences, we need the best minds in opinion research, public relations, diplomacy and advertising,'' said Pachios. ''By requiring that at least a majority of the Commission members have substantial experience communicating with mass audiences, we will ensure that the Commission will always have the necessary expertise to cast the critical, yet helpful, eye on our public diplomacy initiatives.''

The U.S. Advisory Commission on Public Diplomacy is a bipartisan Presidentially appointed panel created by Congress in 1948 to provide oversight of U.S. Government activities intended to understand, inform and influence foreign publics. The Commission reports its findings and recommendations to the President, the Congress and the Secretary of State and