

NFA Announces Launch of Swaps Proficiency Requirements

January 13, 2020

On January 7, 2020, the National Futures Association (“NFA”) issued its Notice to Members I-20-01, announcing the launch of new swaps proficiency requirements that take effect January 31, 2020 and must be satisfied on or before January 31, 2021.

The new swaps proficiency requirements will apply to each individual who: (i) is registered as an associated person (“AP”) at a registered futures commission merchant (“FCM”), introducing broker (“IB”), commodity pool operator (“CPO”) or commodity trading advisor (“CTA”) and engages in swaps activity subject to the jurisdiction of the Commodity Futures Trading Commission (“CFTC”) or (ii) is acting as an AP at a registered swap dealer (“SD”) or major swap participant (“MSP”).¹

Such individuals must satisfy the swaps proficiency requirements on or before January 31, 2021 in order to continue to act in such capacity after such date. Subsequent to January 31, 2021, any individual who wants to engage in swaps activity will need to satisfy the swaps proficiency requirements prior to being approved as a swap AP (of a FCM, IB, CPO or CTA) or acting as an AP at a SD or MSP. Once an AP has taken and passed the swaps proficiency requirements, the AP will not be required to re-take them unless a period of two consecutive years passes during which such individual has not been approved as a swap AP of a FCM, IB, CPO or CTA, approved as a swap firm that is a member of the NFA or employed by a SD that is a member of the NFA (or an affiliated entity of such a SD).

The swaps proficiency requirements are intended to test both market knowledge and knowledge of regulatory requirements. They will be administered on the internet through a number of modules covering specific topic areas, each containing a training component and a testing component.

The NFA has developed two proficiency tracks. The Long Track must be completed by individuals designated by SDs or MSPs as APs in the sales and trading areas who

¹ Under CFTC Regulation 1.3, subsection (6) of the Associated Person definition, an individual acts as an AP of a SD or MSP if the person solicits or accepts swaps (other than in a clerical or ministerial capacity) or supervises any person engaged in those activities.

negotiate, price or execute swaps with counterparties on behalf of the SD or MSP or who manage the SD's or MSP's swaps related risks, and by designated APs who are responsible for supervising APs acting in such capacity. A SD or MSP that has designated APs who perform other functions has the option of permitting those individuals (and their supervisors) to satisfy either the Long Track or the Short Track. However, if the responsibilities of an AP who has satisfied the Short Track expand to sales and trading areas, the SD or MSP must ensure that the AP satisfies the remaining modules in the Long Track before engaging in these new activities. Swap APs at a FCM, IB, CPO or CTA (and their supervisors) must satisfy the Short Track.

Individuals acting as APs at SDs or MSPs located outside of the United States (including non-U.S. branch offices of a U.S. SD) who solely solicit or accept swaps with counterparties that are non-U.S. persons and/or non-U.S. branches of U.S. SDs are excluded from the swaps proficiency requirements.

Each NFA member firm subject to NFA's swaps proficiency requirements will be required to have a Swaps Proficiency Requirements Administrator. Such administrator will facilitate enrollment of individuals into either the Long Track or the Short Track.

Individuals who wish to take NFA's swaps proficiency requirements but who are not associated with a NFA member firm may create an account in the NFA's system starting January 31, 2020. Such individuals are required to pay a \$100 fee to take either the Long Track or Short Track.

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Please do not hesitate to contact us with any questions.



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