

February 13, 2012

Mr. David A. Stawick
Secretary of the Commission
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, N.W.
Washington, DC 20581

Re: Retail Commodity Transactions Under the Commodity Exchange Act
RIN 3038-AD64

Dear Mr. Stawick:

National Futures Association (NFA) appreciates the opportunity to respond to the Commodity Futures Trading Commission's (Commission) request for comment on its proposed interpretation of the term "actual delivery" as used in Section 2(c)(2)(D)(ii)(III)(aa) of the Commodity Exchange Act (the Act) with respect to retail commodity transactions. NFA fully supports the Commission's proposed interpretation of the term and believes that it is consistent with the statutory language. As discussed below, NFA also requests that the Commission apply the same rationale with respect to the term "actual delivery" in Section 2(c)(2)(C)(i)(II)(bb)(AA) of the Act regarding retail foreign exchange transactions and adopt a similar interpretation.

The provisions in the Act relating to retail commodity transactions and retail foreign exchange transactions except from the Commission's jurisdiction certain agreements, contracts or transactions that result in actual delivery within specified time frames – 28 days for retail commodity transactions and 2 days for retail foreign exchange transactions. NFA has encountered instances where the meaning of the term "actual delivery" has not been clear with respect to retail foreign exchange transactions, and we believe that the public would benefit from the Commission guidance on this term's meaning with respect to those transactions. NFA also believes that the rationale behind the Commission's interpretation with respect to retail commodity transactions applies equally to retail foreign exchange transactions. Therefore, NFA requests that the Commission issue the same guidance regarding the use of the term "actual delivery" in Section 2(c)(2)(C)(i)(II)(bb)(AA) with the appropriate changes reflecting the number of days (i.e., 2) provided for in the statute.

Mr. David A. Stawick

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Thank you for providing NFA with the opportunity to comment on this proposed interpretation. If you have any questions concerning this letter, please do not hesitate to contact the undersigned at (312) 781-1413 or tsexton@nfa.futures.org or Carol Wooding at (312) 781-1409 or cwooding@nfa.futures.org.

Sincerely,

Thomas W. Sexton, III
Senior Vice President and
General Counsel

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