

NIBA

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March 15, 2019

Commodity Futures Trading Commission
Christopher Kirkpatrick, Secretary
1155 21st Street, N.W.
Washington, D.C. 20581

Re: RIN 3038-AE2: Swap Execution Facilities and Trade Execution Requirement, 83 Fed. Reg. 61946 (November 30, 2018)

Mr. Kirkpatrick:

The NIBA appreciates the opportunity to comment on the Commodity Futures Trading Commission's ("Commission" or "CFTC") Notice of Proposed Rulemaking on Swap Execution Facilities ("SEFs") and the Trade Execution Requirement ("TER").

NIBA, founded in 1991, is a trade association of registered derivatives professionals whose membership is made up primarily of Introducing Brokers (IBs) and Commodity Trading Advisors (CTAs). Membership also includes ten Futures Commission Merchants and various industry service providers. Our mission is to provide education for the professional community which will help to keep them in compliance, support their service to their customers and grow their businesses. NIBA supports transparent and competitive markets, and the regulatory structures and rule-making that support those objectives.

Several NIBA member IBs transact swaps activity as National Futures Association (NFA) members. The regulatory framework that has allowed for these transactions has been in place for many years, and their activities are aligned to the activities of Associated Persons (APs) of IBs -- most specifically those engaged in block futures trades. The conduct the Commission has cited as discretion and has cited for at least a partial reason for this change in regulation, is the conduct of APs of IBs and FCMs when executing block futures trades. In particular, taking factors into account which include the needs of the client, size and nature of the order, price and cost of execution and current market conditions, is what the IB does -- an IB who is already registered with the NFA.

NIBA emphasizes that the current regulatory structure has worked well for several years, and that IB registration with the NFA ensures that firms' activities are subject to regulatory standards that the NFA oversees. While the existing Commission and NFA requirements for IBs were created prior to any expanded current authority, NFA rules are principles based, and therefore flexible enough to cover the range of activities that IBs are currently engaged in.

NIBA agrees with NFA that individuals engaged in virtually identical conduct as registered APs of an IB engaged in futures transactions should be subject to the same registration requirements and regulatory oversight by the the CFTC and NFA. Utilizing the current registration scheme should achieve the CFTC's goal of enhancing professionalism and market integrity. The current NFA registration requirement helps to achieve accountability and

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consistent oversight, and allows the NFA to regulate the activities of member individuals as well as firms, and take any appropriate enforcement actions.

Further NIBA wishes to point out that the Commission's proposal has the potential of creating a two-tiered market which favors trading on one platform over another -- something NIBA has opposed for many years.

NIBA strongly urges the Commission to maintain the current regulatory structure involving registered IBs. We are particularly concerned that the effect of the proposed changes will result in lessening the standards that ensure customer protection and market integrity for all participants. We encourage the Commission to carefully consider the concerns and comments received from industry professionals, and we look forward to continuing to work with the CFTC and others on these very important decisions and on crafting of these rules.

Melinda Schramm
Founder & Chairman
NIBA