

## Corporate & Financial Weekly Digest

Posted at 1:03 PM on January 21, 2011 by [Kenneth M. Rosenzweig](#)

### **Amendments to NFA Financial Requirements for Forex Dealer Members**

*Co-authored by [Kevin M. Foley](#) and [Vanessa L. Colman](#)*

The National Futures Association (NFA) has amended NFA Financial Requirements (FR) Sections 11(b), 14(c) and 14(d), effective February 1. Under FR Section 11, a Forex Dealer Member is prohibited from including assets held at an “unregulated person” in its determination of current assets for purposes of calculating its adjusted net capital. The amendments will revise the list of persons that are “unregulated” by (1) deleting “a financial institution regulated by a U.S. banking regulator” and “an insurance company regulated by any U.S. state”; (2) adding “a bank or trust company regulated by a U.S. banking regulator”; and (3) adding foreign banks and trust companies “regulated in a money center country” that maintain regulatory capital of more than \$1 billion. NFA may still, on a case-by-case basis, approve the use of certain foreign equivalent entities that are appropriately regulated and capitalized.

FR Section 14 defines foreign institutions that are qualified to hold assets covering liabilities to retail Forex customers. Amendments to this section include (1) removal of foreign equivalent broker-dealers and foreign equivalent futures commission merchants as “qualifying institutions”; and (2) deletion of banks or trust companies regulated in the money center country whose, or whose holding company’s, “commercial paper or long-term debt instrument... is rated in one of the two highest rating categories by at least one nationally recognized statistical rating organization” from the list of “qualifying institutions.”

NFA’s submission letter to the Commodity Futures Trading Commission, dated December 6, 2010, can be found [here](#).

Katten Muchin Rosenman LLP  
Charlotte Chicago Irving London Los Angeles New York Washington, DC