

**GUIDELINES AND REQUIREMENTS FOR
AGENCY AGREEMENTS FILED WITH NFA
UNDER CFTC REGULATIONS 30.5 and 30.10**

Authorized Agent

CFTC Regulation 30.5 (17 C.F.R. § 30.5) sets out the requirements and procedures for appointing a U.S. agent for service of process. Among other things, § 30.5(a) generally limits the person who may act as agent to 1) a registered futures commission merchant through whom the foreign entity conducts business, 2) a registered futures association (i.e., NFA) or 3) any other person located in the United States in the business of acting as agent for service of process.

NFA will accept an agreement appointing a U.S. law firm as agent under the third category if the law firm provides or has provided NFA with a written representation that it acts as agent for service of process in the regular course of business. Other persons attempting to qualify under the third category must provide NFA with evidence, acceptable to NFA that they are in the business of acting as agent for service of process.

The Division of Clearing and Intermediary Oversight at the Commodity Futures Trading Commission may approve additional categories of entities to act as agent on a case-by-case basis.¹ A written request for such approval should be addressed as follows:

Director
Division of Clearing and Intermediary Oversight
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20581

The request should include information regarding the relationship between the foreign firm and the proposed agent, as well as any other information relevant to the CFTC's determination. Copies of the request and the CFTC's reply should be sent to the Vice President, Membership and Registration, NFA.

¹ In this connection, the Division has confirmed that a foreign firm may appoint its U.S. subsidiary or affiliate as its agent if such subsidiary or affiliate is registered as an introducing broker or broker-dealer. [See CFTC Interpretive Letter No. 88-13, Comm. Fut. L. Rep. (CCH) ¶ 24,291 (July 28, 1988).] The foreign firm must provide NFA with evidence of the affiliation and of the agent's broker-dealer registration, if applicable.

Contents of Agreement

In order to comply with CFTC Regulation 30.5 (17 C.F.R. § 30.5), an agency agreement should contain the following:

1. The name, address and telephone number of the principal;
2. The name, address and telephone number of the agent;
3. Language making or acknowledging the agency appointment;²
4. An original signature on behalf of the principal and the title of the person signing the agreement;
5. An original signature on behalf of the agent and the title of the person signing the agreement;
6. Effective date; and

A signed original of the agreement must be sent to:

Vice President, Membership & Registration
National Futures Association
300 S Riverside Plaza
Suite 1800
Chicago, Illinois 60606

² There is no prescribed language for making the agency appointment. NFA will accept any language that is broad enough and sufficient to make the appointment. For your convenience, however, the following are examples of acceptable language:

X hereby appoints Y to act as its U.S. agent for service of process and other communications for purposes of CFTC Regulation(s) 30.5 (and 30.10), and Y hereby accepts such appointment.

X and Y hereby agree that Y will act as X's U.S. agent for service of process and other communications with respect to transactions subject to the jurisdiction of the Commodity Futures Trading Commission.