

Joint Audit Committee

Regulatory Update

TO: Chief Financial Officers
Chief Compliance Officers

03-03

DATE: May 23, 2003

SUBJECT: NFA Compliance Rule 2-38 – Business Continuity and Disaster Recovery Plan

Recently NFA adopted Compliance Rule 2-38 requiring firms to establish and maintain a written business continuity and disaster recovery plan outlining procedures to be followed in the event of an emergency or significant business disruption. The rule becomes effective July 1, 2003 and is broadly written to allow firms flexibility in adopting a business continuity and disaster recovery plan tailored to their individual needs.

This plan must be reasonably designed to enable the firm to continue operations, reestablish operations, or transfer its business to another firm with minimal disruption. At a *minimum*, the following essential components should be addressed in the plan:

- Establishing back-up facilities, systems and personnel located in reasonably separate geographic areas from the firm's primary facilities, systems and personnel (e.g. different power grids and telecommunication vendors);
- Backing up or copying essential documents and data (e.g. general ledger) on a periodic basis and storing the information off-site in either hard-copy or electronic format;
- Considering the impact of business interruptions encountered by third parties and identifying ways to minimize that impact; and
- Developing a communication plan to contact essential parties such as employees, customers, carrying brokers, vendors and disaster recovery specialists.

The plan should be updated as necessary to respond to material changes in the firm's operations and periodically reviewed to assess its effectiveness.

The plan should be distributed and explained to key employees and essential components communicated to all employees. Copies should be maintained at one or more off-site locations. Finally, each firm is required to provide NFA with the updated contact information for an individual(s) who NFA can contact in the event of an emergency.

NFA Compliance Rule 2-38 and the associated Interpretive Notice may be found on NFA's Web site at www.nfa.futures.org.

If you have any questions, please consult your DSRO and/or NFA.