

Shipkevich Law Firm

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GUIDE TO

INTRODUCING BROKER REGISTRATION

WITH THE NATIONAL FUTURES ASSOCIATION

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Introduction

The object of this guide is to provide Shipkevich Law Firm clients with general information about the registration process for an Introducing Broker (IB).

Background

The U.S. Commodities and Futures Trading Commission (CFTC) is an independent federal agency created in 1974 for the purpose of regulating the commodity futures and options market in the United States. At the same time, Congress authorized the creation of “registered futures associations” to register industry members and ensure regulatory compliance. The National Futures Association (NFA) the self-regulatory organization for the commodity futures industry, and it oversees every firm or individual conducting business in the futures market with the public. The Commodities Exchange Act (CEA) requires firms that solicit or accept orders to buy or sell commodity futures register as IBs with the CFTC. The NFA registers IBs in compliance with CFTC regulation.

Who Must Register

According to the CEA, an introducing broker or IB is “any person engaged in soliciting or in accepting orders for the purchase or sale of any commodity for future delivery on or subject to the rules of any contract market or derivatives transaction execution facility who does not accept any money, securities, or property (or extend credit in lieu thereof) to margin, guarantee, or secure any trades or contracts that result or may result therefrom.”¹

Both individuals and organizations must register as IBs if they arrange orders to buy and sell futures, options on futures, and retail over-the-counter foreign exchange (forex) contracts. However, firms or individuals who fall under the following exemptions do not have to register as IBs:

- Already registered and acting as an Associated Person (AP) of an NFA member
- Already registered as a Futures Commission Merchant (FCM)
- Already registered as a Commodity Pool Operator (CPO) and only operates commodity pools.

¹ Commodities Exchange Act, United States Code: Title 7, 1a. Definitions.
http://www.law.cornell.edu/uscode/html/uscode07/usc_sec_07_00000001---a000-.html.

- Already registered as a Commodity Trading Advisor (CTA) and only manage accounts under power of attorney or do not receive per-trade compensation.
- Non-U.S. resident/firm that does not do business with U.S. residents or firms and submit all trades to an FCM.
- Only engages in proprietary trading.

Registration Process

In order to register, IBs must file a standard form with the NFA and submit a series of statements and policies demonstrating compliance with Commission requirements.

Form 7-R

The NFA uses this form for several different registration categories. Some sections are specific to other membership types. IBs must provide:

- Criminal, regulatory, and financial disclosures;
- Explanation of business to be transacted;
- Contact information for firm and branch offices, and for any third-party holding firm's business records.

Compliance Requirements

Also, IBs must submit a number of statements, proposals, and policies to demonstrate compliance with Commission regulations.

- *Financial filing.* IBs need to submit Form 1-FR or a FOCUS report to demonstrate that the firm has met the NFA's net capital requirements.
- *Anti-Money Laundering Procedures.* Anti-money laundering (AML) procedures are required by the NFA in order to prevent funds associated with unlawful activities from being transferred and "cleaned" via cash instruments or dubious account transfers. IBs are expected to be aware of the potential for money laundering and to account for any suspicious activity under their supervision.
- *Business Continuity and Disaster Recovery Procedures.* BCDR Procedures were introduced post-9/11 to ensure firms can resume operations with minimum disruptions when faced with political, natural, or other disasters.
- *Promotional Materials Procedures.* The NFA requires IBs to create promotional materials policies in order to eliminate solicitation fraud and ensure that firms observe high standards of commercial honor.
- *AP Supervision Procedures.*
- *Customer Complaint Procedures.*
- *Source of Assets Letter.*

- *Copies of counterparty agreements (For forex firms only).*

Principles and Associated Persons

Principles and APs are required to supply additional information, including Form 8-R, fingerprints, and, if necessary, proof they have passed the Series 3 (or equivalent) examination. Furthermore, if a forex firm, at least one AP must be approved as a Forex Associated Person

Fees

Applicants must pay a non-refundable application fee (\$200), NFA dues (\$750), and a non-refundable fee for each Principle and AP that submits an application (\$85).

Shipkevich Law Firm offers flexible payment models to handle the registration of IBs.

Guidance

At Shipkevich Law, we focus on regulatory compliance and registration with the CFTC and NFA. Flawlessly registering firms of all categories is at the heart of our practice. If you have questions about the registration process, or would like our assistance registering as an Introducing Broker with the NFA, do not hesitate to call or contact us.

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