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## NFA Adopts Swaps Proficiency Exam Requirement for Associated Persons of Asset Managers

On March 25, 2019, the National Futures Association (“NFA”) adopted [rule amendments](#) and a related [interpretive notice](#) that will, for the first time, impose a swaps proficiency exam requirement on Associated Persons (“APs”) of registered Commodity Pool Operators (“CPOs”) and Commodity Trading Advisors (“CTAs”) that trade Commodity Futures Trading Commission (“CFTC”) regulated swaps. These swaps cover a broad range of instruments, including certain forward and option transactions. APs will be able to take the exam beginning January 2020, and must pass the exam by January 31, 2021. Registered CPOs and CTAs that trade swaps should use the substantial lead time to develop a program to ensure all APs pass the proficiency exam before January 31, 2021.

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The NFA will administer the swaps proficiency exam requirement online. There will be two proficiency tracks, a short track and a long track. APs of registered CPOs and CTAs will be required to complete the short track. The short track will consist of four modules: swap products and applications, regulation of the swaps market, supervision and intermediary compliance and anti-fraud and other requirements. The short track will take approximately four hours to complete. The NFA has published [Frequently Asked Questions](#) about the swaps proficiency requirements and is developing a content outline that will provide additional information on the topics that will be covered.

The NFA has long required that APs pass the Series 3 exam (unless there was an applicable substituted exam or a waiver was granted). The Series 3 exam covers futures and options on futures trading, as well as related compliance matters. The swaps proficiency exam requirement will fill a gap created by the Dodd-Frank Act’s expansion of the CFTC’s jurisdiction to include swaps, in addition to futures and options on futures. When the NFA amended its registration rules in response to the Dodd-Frank Act to reflect that CPOs and CTAs engaged in swap activities are “swap firms” and APs of such firms are “swap APs,” it exempted swap APs of swap firms whose futures activities were de minimis or non-existent from the Series 3 exam requirement. In doing so, the NFA acknowledged that the Series 3 exam tests for knowledge that is not relevant to swaps activities and announced its plan to develop proficiency requirements for swaps APs.

The swaps proficiency requirement will be in addition to, and not a substitute for, the Series 3 exam and other proficiency requirements currently in effect. As a result, after January 31, 2021, swap APs will have to have passed the swap proficiency exam as well as Series 3 exam (unless, depending on the scope of their activities, an exemption applies, a substituted exam is passed, or a waiver is granted).

Please contact [Deborah A. Monson](#), [Jeremy A. Liabo](#) or the Ropes & Gray attorney who usually advises you for further information, or with any questions you may have.