

Coronavirus/COVID-19 Update

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COVID-19: CFTC Issues No-Action Relief for Market Participants

On March 17, 2020, in response to the COVID-19 (coronavirus) pandemic, the Commodity Futures Trading Commission (CFTC) Division of Market Oversight (DMO) and Division of Swap Dealer and Intermediary Oversight (DSIO) issued eight no-action letters providing temporary and targeted relief for CFTC registrants facing challenges in complying with certain commission requirements.¹

The relief applies to:

- members of designated contract markets (DCMs) and members of swap execution facilities (SEFs) (CFTC Letter No. 20-02);
- futures commission merchants (FCMs) and introducing brokers (IBs) (CFTC Letter No. 20-03);
- floor brokers (CFTC Letter No. 20-04);
- retail foreign exchange dealers (RFEDs) (CFTC Letter No. 20-05);
- swap dealers (CFTC Letter No. 20-06);
- SEFs (CFTC Letter Nos. 20-07 and 20-08); and
- DCMs (CFTC Letter No. 20-09).

The DMO and DSIO relief, subject to conditions specified in the no-action letters, includes:²

- DSIO relief for FCMs, IBs, floor brokers, RFEDs, swap dealers, and members of DCMs and SEFs, until June 30, 2020, from certain CFTC timestamping requirements when personnel are located remotely.
- DSIO relief for FCMs, IBs, floor brokers, RFEDs and swap dealers until June 30, 2020, from certain audio recording obligations.
- 30 days of DSIO no-action relief for FCMs and swap dealers to file annual compliance reports.

¹ See CFTC press release "CFTC Provides Relief to Market Participants in Response to COVID-19" (March 17, 2020) (announcing CFTC staff letters 20-02 to 20-06); CFTC press release "CFTC Issues Second Wave of Relief to Market Participants in Response to COVID-19" (March 17, 2020) (announcing CFTC staff letters 20-07 to 20-09).

² Among the express conditions, FCMs, IBs, floor brokers, and members of DCMs and SEFs, must comply with the applicable rules of any DCM or SEF on which the FCM, IB, floor broker or member has trading privileges. Additionally, the CFTC expects FCMs, IBs, RFEDs, swap dealers and SEFs, as well as registrants relying on the floor broker relief, to establish and maintain supervisory systems reasonably designed to supervise the activities of personnel who are acting from an alternative or remote location during the COVID-19 pandemic.

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- DSIO relief for floor brokers until June 30, 2020, from the requirement that floor brokers be located on the premises of a DCM, as well as the requirement to register as IBs, which otherwise may be triggered by remote trading activities.
- DMO relief for SEFs until June 30, 2020, from certain audio recording obligations that would otherwise make SEFs unable to comply with certain audit trail, recordkeeping and other requirements.
- DMO relief for DCMs until June 30, 2020, from certain audit trail and related requirements due to the displacement of certain market participants, such as floor brokers, from trading floors and other locations from which they may enter orders.
- DMO announced that it also will provide a time extension for SEFs to prepare and submit certain reports, such as annual compliance reports.

“These prudent, targeted and temporary actions will help facilitate orderly trading and liquidity in our derivatives markets. The CFTC remains squarely focused on promoting their integrity, resilience and vibrancy through sound regulation,” CFTC Chairman Heath Tarbert said regarding the relief.