

CFTC Issues COVID-19 Related Relief for Futures and Swap Market Participants

March 17, 2020

The CFTC today joined other U.S. financial regulators in providing COVID-19 related relief from certain regulatory requirements. This relief is designed to help CFTC-registered swap dealers, futures commission merchants (**FCMs**), introducing brokers, and other market participants whose operations may be disrupted by the pandemic. The relief is targeted at requirements that may be difficult for market participant to meet because of social distancing measures, including personnel working away from their usual offices.

The relief for CFTC-registered firms is conditioned on the physical absence of personnel in key functions being “required by the [registrant’s] written business continuity plan.” Thus, firms should ensure, before relying upon this relief, that their business continuity plans accurately reflect their remote working arrangements and are otherwise up to date.

The CFTC’s relief was issued by its Division of Swap Dealer and Intermediary Oversight in a series of four no-action letters.

- For swap dealers (**CFTC Letter 20-06**), FCMs and introducing brokers (**CFTC Letter 20-03**) the CFTC is providing:
 - Relief from the requirements to record the date and timestamp and to make and keep records of oral communications under CFTC Regulations 1.35, 155.3, and 23.202 if the personnel responsible for making such records are required by the firm’s written business continuity plan to be absent from their normal business site. This relief is subject to conditions set out in the letters. This relief expires on June 30, 2020.
 - A 30-day delay for submissions of the annual CCO report, for reports required to be furnished to the CFTC before September 1, 2020. Most annual CCO reports were previously due March 31, 2020.
- For members of an exchange (i.e., a SEF or DCM), the CFTC is providing relief from the timestamp requirements of CFTC Regulation 1.35, if the personnel responsible for making such record are required to be absent from their normal business site; provided that a record of the date and time, to the nearest minute, is otherwise created and maintained in accordance with Commission regulation. This relief expires on June 30, 2020. (**CFTC Letter 20-02**)

The two other letters provide similar relief for registered floor brokers (**CFTC Letter 20-04**) and registered retail foreign exchange dealers (**CFTC Letter 20-05**).

If you have any questions regarding the matters covered in this publication, please contact any of the lawyers listed below or your regular Davis Polk contact.

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