

CFTC Adopts Final Interpretation on the Actual Delivery Exception for Leveraged Retail Virtual Currency Transactions

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The CFTC unanimously approved final interpretive guidance describing what constitutes “actual delivery” of a virtual currency for purposes of the actual delivery exception from the provisions of the Commodity Exchange Act that prohibit any leveraged, margined, or financed transaction in a commodity with a retail customer, unless the transaction is conducted as if it were a futures contract. The final guidance is of key importance for cryptocurrency and digital asset intermediaries, such as digital asset exchanges and dealers, as it may significantly constrain the ability to offer leveraged or margined trading to retail customers.

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

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