

**MEMO# 32417**

April 24, 2020

# **CFTC Staff Issues Time-Limited No-Action Relief from Fingerprinting Requirements for Associated Persons and Principals of Certain CFTC-Registered Entities**

[32417]

April 24, 2020 TO: ICI Members  
Chief Compliance Officer Committee  
Derivatives Markets Advisory Committee  
Investment Advisers Committee  
Registered Fund CPO Advisory Committee SUBJECTS: Compliance  
Derivatives  
Investment Advisers RE: CFTC Staff Issues Time-Limited No-Action Relief from  
Fingerprinting Requirements for Associated Persons and Principals of Certain CFTC-  
Registered Entities

In light of challenges caused by the COVID-19 pandemic, the Division of Swap Dealer and Intermediary Oversight (DSIO) of the Commodity Futures Trading Commission has issued time-limited no-action relief to registrants, including commodity pool operators (CPOs) and commodity trading advisors (CTAs), from the requirement to submit a fingerprint card for new principals and applicants for registration as associated persons (APs).[\[1\]](#)

DSIO issued the relief in response to a request by the National Futures Association (NFA), which has temporarily suspended its applicant fingerprinting service because of concerns related to the COVID-19 pandemic. That suspension, along with other challenges resulting from the pandemic, have made it difficult for registrants, and their principals and APs, to comply with the fingerprinting requirements in CFTC Regulations 3.10 and 3.12.[\[2\]](#)

DSIO's no-action letter provides relief to a registrant (or applicant for registration) listing a principal, or an applicant for AP registration, from the requirement to submit with Form 8-R a fingerprint card for such principal or AP registration applicant, until the earlier of July 23, 2020 or the date that NFA notifies the public that it has resumed the processing of fingerprints, provided the following conditions are satisfied:

1. The registrant or applicant for registration listing such principal, or sponsoring such

applicant for AP registration, causes a criminal history background check of such principal or applicant for AP registration to be performed;

2. The criminal history background check is of a type that would reveal all matters listed under Sections 8a(2)(D) or 8a(3)(D), (E), or (H) of the Commodity Exchange Act (CEA), and does not reveal any matters that constitute a disqualification under Sections 8a(2) or 8a(3) of the CEA, other than those disclosed to NFA;
3. A person with authority to bind the registrant or applicant for registration listing such principal, or sponsoring such applicant for AP registration, signs and submits a certification that the background check was completed and that it did not disclose any matters that constitute a disqualification; and
4. The registrant or applicant for registration listing such principal, or sponsoring such applicant for AP registration, maintains records documenting the completion and the results of the criminal history background check in accordance with CFTC Regulation 1.31.

DSIO emphasizes that principals and APs of registrants and applicants for registration relying on the relief must submit their fingerprints to NFA within thirty days of NFA's public announcement of its resumption of fingerprint processing.

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#### **endnotes**

[1] See CFTC No-Action Letter 20-16 (April 24, 2020), *available at* [https://www.cftc.gov/PressRoom/PressReleases/8158-20?utm\\_source=govdelivery](https://www.cftc.gov/PressRoom/PressReleases/8158-20?utm_source=govdelivery).

[2] DSIO explains that Regulation 3.10(a)(2) requires each applicant for registration as a futures commission merchant, retail foreign exchange dealer, swap dealer, major swap participant, introducing broker, CPO, CTA, or leverage transaction merchant to accompany its registration application with a Form 8-R for each natural person listed as a principal of the applicant, along with the fingerprints of the natural person on a fingerprint card provided by NFA. Regulation 3.12(c)(3) requires each person applying for registration as an AP to accompany his or her Form 8-R with the applicant's fingerprints on a fingerprint card provided by NFA.