

**MEMO# 35951**

December 12, 2024

# **CFTC Staff Issues Advisory Related to the Use of Artificial Intelligence by CFTC-Registered Entities and Registrants**

[35951]

December 11, 2024

TO: ICI Members

Chief Compliance Officer Committee

Chief Risk Officer Committee

Compliance Advisory Committee

Derivatives Markets Advisory Committee

Registered Fund CPO Advisory Committee

Technology Committee

Treasury Clearing Working Group SUBJECTS: Compliance  
CPO/CTA

Disclosure

Investment Advisers

Recordkeeping

Technology & Business Continuity

Trading and Markets RE: CFTC Staff Issues Advisory Related to the Use of Artificial Intelligence by CFTC-Registered Entities and Registrants

On December 5, 2024, the Commodity Futures Trading Commission's (CFTC) Divisions of Clearing and Risk (DCR), Data (DOD), Market Oversight (DMO) and Market Participants (MPD, and together with DCR, DOD, and DMO, the "Divisions") issued a staff advisory on the use of artificial intelligence (AI) in CFTC-regulated markets by registered entities and registrants ("Staff Advisory").[\[1\]](#) The Staff Advisory acknowledged that "as registered entities and registrants design, develop, use, and evaluate AI products, services, and systems, AI may eventually touch upon all or nearly all aspects of the lifecycle of a derivatives trade" and that the Divisions are issuing the Staff Advisory "to remind CFTC-regulated entities of their obligations under the Commodity Exchange Act (CEA) and the CFTC regulations."

Staff of the Divisions "is closely tracking the development of AI technology and AI's

potential benefits and risks" and the Staff Advisory reflects staff's understanding of current and potential AI use cases in the derivatives markets. In addition, the Staff Advisory is informed, in part, by the public comments received in response to a "request for comment" published earlier this year.<sup>[2]</sup>

The Staff Advisory sets out certain requirements under the CEA and CFTC regulations that could be implicated by potential AI uses and risks for a range of CFTC-regulated entities<sup>[3]</sup> and that staff of the Divisions expects that such entities "will assess the risks of using AI and update policies, procedures, controls and systems, as appropriate, under applicable CFTC statutory and regulatory requirements."

Most relevant to ICI members is the Staff Advisory's examples applicable to fund managers who may be CPOs and/or CTAs regarding compliance and recordkeeping and customer protection.

- Compliance and Recordkeeping - The Staff Advisory recognizes that "AI may support the accuracy and timeliness of financial information and risk disclosures that are provided to the [CFTC], National Futures Association, and the registrant's customers" and reminds registrants that "they remain responsible for ensuring that such information and disclosures are compliant with the applicable statutory and regulatory requirements."<sup>[4]</sup>
- Customer Protection - The Staff Advisory does not cite to any examples directly applicable to CPOs or CTAs, but generally warns that use of AI tools should be consistent with fundamental customer protection principles (i.e., a duty of care and loyalty).

The Staff Advisory also encourages CFTC-regulated entities to engage with Division staff when considering any changes to risks that may arise with the deployment of AI use cases and issues a reminder that staff may incorporate AI as a topic of discussion in its routine oversight activities.

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#### Notes

<sup>[1]</sup> CFTC Release No. 9013-24, CFTC Staff Issues Advisory Related to the Use of Artificial Intelligence by CFTC-Registered Entities and Registrants (Dec. 5, 2024), available at <https://www.cftc.gov/csl/24-17/download>. The Divisions state that the Staff Advisory is intended to remind the affected parties of their obligations under the Commodity Exchange Act and CFTC regulations and that it is not intended to create any enforceable rights, any new binding rules or regulations, or to amend any existing rules or regulations.

<sup>[2]</sup> See CFTC Release No. 8853-24, Request for Comment on Artificial Intelligence (Jan. 25, 2024), available at [https://www.cftc.gov/media/10156/AI\\_RFC\\_012524/download](https://www.cftc.gov/media/10156/AI_RFC_012524/download). Comments received are available at <https://comments.cftc.gov/PublicComments/CommentList.aspx?id=7479>.

[3] For example, designated contract markets (DCM), swap execution facilities (SEF), swap data repositories (SDR), derivatives clearing organizations (DCO), futures commission merchants (FCM), swap dealers (SD), commodity pool operators (CPO), commodity trading advisors (CTA), introducing brokers (IB), retail foreign exchange dealers (RFED), and associated persons of each such FCM, SD, CPO, CTA, IB and RFED.

[4] The Staff Advisory uses as an example a CPO that used generative AI to update a disclosure document or prepare periodic account statements for a commodity pool would still be subject to all the requirements of Part 4 of the CFTC's regulations.

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