



ALERTS

Commodity Futures Trading Commission Issues Staff Advisory On Risks Of Expanding DCO Clearing Of Digital Assets

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Highlights

Commodity Futures Trading Commission Division of Clearing and Risk is focused on the potential heightened risks associated with digital asset clearing activities

Derivatives clearing organizations (DCO) registrants' and applicants' compliance with system safeguards, physical delivery, and conflicts of interest procedures will be under increased scrutiny

Risk management procedures must be expressly articulated and enforced by DCOs

In recent years, derivatives clearing organization (DCO) registrants and applicants have shown increased interest in expanding DCO services. In response, the Commodity Futures Trading Commission Division of Clearing and Risk (DCR) [recently issued a staff advisory](#) to all DCOs and applicants about its focus on potentially heightened risks associated with new services and products, especially those pertaining to digital assets.

The notice also highlights that the DCR expects DCOs and applicants to

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identify evolving risks and implement tailored mitigation measures.

Given the increased cyber risks associated with digital assets, the DCR says it will emphasize compliance with the systems safeguards requirements under the Commodity Exchange Act and Part 39 of the Commission's regulations. The Commission will be looking at DCOs' core principles involving physical delivery, system safeguards and conflict of interest through the DCR's general supervisory, application review, and examination authorities.

Additionally, DCR will emphasize reviews of DCOs' rules and enforcement to minimize conflicts of interest among DCOs and applicants who work with third-party entities or services. Dual-role executives, shared systems and resources, and other models that carry increased risks of conflicts of interest will be under scrutiny.

Lastly, DCR and other Commodity Futures Trading Commission staff will emphasize review of clearing contracts that involve the physical delivery of digital assets (i.e., physical settlement arrangements). These reviews will include whether DCOs have adequately engaged in risk management related to digital assets and the physical delivery of those digital assets.

For more information, please contact the Barnes & Thornburg attorney with whom you work or Trace Schmeltz at 312-214-4830 or tschmeltz@btlaw.com. This alert was co-authored by Lydia Parks, summer associate.

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