



Division of Swap Dealer and
Intermediary Oversight

U.S. COMMODITY FUTURES TRADING COMMISSION

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Audience: Applicants for Registration as Associated Persons and Registrants listing New Principals

Topic: Expiration of Temporary No-Action Relief from the Requirement to Submit a Fingerprint Card with Form 8-R

1. Introduction and Background

The purpose of this Advisory is to inform registrants and persons contemplating applying for registration that the no-action relief currently in place with respect to the requirement to submit a fingerprint card when applying for registration as an Associated Person (“AP”) or when being listed as a principal of a registrant will not be extended beyond the scheduled September 30, 2020 expiration date.

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, commodity pool operator, commodity trading advisor, 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 the National Future Association (“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.

In light of the restrictions on travel and on contact between people imposed at the outset of the COVID-19 pandemic, DSIO believed that it was necessary to provide temporary relief from the fingerprinting requirement for all newly listed principals and applicants for AP registration. Accordingly, on April 24, 2020, DSIO issued Staff letter 20-16, which permitted the use of alternative measures to accomplish the requisite criminal background check for persons applying for AP registration or being listed as principals. On July 14, 2020, DSIO issued Staff Letter 20-20, extending the relief provided in Staff Letter 20-16 to the earlier of September 30, 2020 or the date on which NFA notifies the public that it has resumed processing fingerprints.

2. Guidance

Given the widespread, if restricted, reopening of businesses and services in most parts of the country, and the availability of law enforcement offices to persons needing to have

fingerprints taken, DSIO now believes that the blanket relief provided under Staff Letters 20-16 and 20-20 is no longer urgently needed. Accordingly, that general relief will be permitted to expire September 30.

Although for the near future, NFA will not be providing its walk-in service for persons wishing to complete a fingerprint card at NFA's Chicago offices, NFA will be forwarding completed fingerprint cards to the FBI for the required background check procedure.

Any person who finds it impossible or inordinately difficult to have their fingerprints taken on an approved fingerprint card is invited to reach out to DSIO and NFA and their case will be handled on an individual basis.

This Advisory is being issued in light of the extraordinary market and social conditions related to COVID-19. It is intended solely to clarify that the no-action relief provided by Staff Letters 20-16 and 20-20 is expiring by its terms given that, in recent cases, the Division has extended certain other time-limited relief. As a result, this Advisory is informational only and sets no precedent that, for instance, will require the Division to state separately that previously-issued relief has expired when the relief already specifies the date on which it will expire. Registrants and other persons that are entitled to rely on any relief issued by the Division remain responsible to abiding to all terms and conditions of that relief, without further notification from the Division – including as to the date of expiration specified in the relief itself.

Issued in Washington, D.C. on September 29, 2020, by the Division of Swap Dealer and Intermediary Oversight.

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