

Update: Digital Assets

Member Regulatory Workshop



Member Firms engaging in Digital Assets

Digital Asset Derivatives*

370 Members

Spot Digital Assets*

150 Members

*As of March 2023

Current Requirements of Member Firms



Interpretive Notice 9073

Firms engaging in spot Digital Assets:

- FCMS & IBs must provide written disclosures and CFTC/NFA Advisories
- CPOS/CTAs - Disclosure required in Disclosure Document, Offering Memorandum and/or Promotional Material
- Must discuss unique features, price volatility, valuation, cyber security, opaque spot market, regulatory landscape, technology, transaction fees
- Required verbatim disclosure

Current Requirements of Member Firms

Member Filings

- Firm Annual Questionnaire
- Pool Questionnaire
- PQR Disclosures

Current Requirements of Member Firms



Member Filings

Rule 2-50 Notice Filings must file by 5:00 p.m. following business day:

- Pool cannot meet its margin call(s)
- Pool that is unable to satisfy redemption requests in accordance with its subscription agreements
- Pool has halted redemptions (not related to existing gates or lockups)
- CPO receives notice from a swap counterparty that a pool it operates is in default

Swap Dealers and Digital Assets

- Annual Questionnaire
- Digital asset related swaps activity
- Material Information Disclosures

NFA Compliance Rule 2-51

- Significant amount of fraudulent activity in the spot digital asset markets
- NFA currently has limited jurisdiction over Members that commit fraudulent or improper acts in these markets
- NFA's Board approved NFA Compliance Rule 2-51 in February 2023

NFA Compliance Rule 2-51

- Modeled after NFA's other anti-fraud rules:
 - Compliance Rule 2-2
 - Compliance Rule 2-36
- Applies to all Membership categories, including swap dealers
- Extends to digital assets that are commodities (currently Bitcoin and Ether)
- NFA could amend the rule to cover other digital assets identified as commodities in the future

NFA Compliance Rule 2-51

Compliance Rule 2-51 includes the following sections:

- a. Fraud and Related Matters
- b. Just and Equitable Principles of Trade
- c. Disclosure and Related Matters
- d. Supervision
- e. Scope

What we are seeing on exams

- Confirmations
- Valuation
- 3rd Party Admin
- Cybersecurity
- Promotional Material
- Registration
- Bylaw 1101

Risk Management



- Risk Assessment Process
- Counterparty Risk
- Passwords
- Due Diligence



What's Next

- Disclosures
- Due Diligence
- Updates

Q&A Session

NFA Information Center

8:00 a.m. to 5:00 p.m. CT, Monday - Friday

312-781-1410 or 800-621-3570

information@nfa.futures.org

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