

Supervision

Member Regulatory Workshop



Supervision



NFA 2-9 – Supervision:

(d) Each Swap Dealer or Major Swap Participant Member shall diligently supervise its employees and agents in the conduct of their swap activities for or on behalf of the Member.

Supervision



CFTC 23.602 - Diligent Supervision:

(a) Supervision. Each swap dealer and major swap participant shall establish and maintain a system to supervise, and shall diligently supervise, all activities relating to its business performed by its partners, members, officers, employees, and agents (or persons occupying a similar status or performing a similar function). Such system shall be reasonably designed to achieve compliance with the requirements of the Commodity Exchange Act and Commission regulations.

(b) Supervisory System. Such supervisory system shall provide, at a minimum, for the following:

(1) The designation, where applicable, of at least one person with authority to carry out the supervisory responsibilities of the swap dealer or major swap participant for all activities relating to its business as a swap dealer or major swap participant.

(2) The use of reasonable efforts to determine that all supervisors are qualified and meet such standards of training, experience, competence, and such other qualification standards as the Commission finds necessary or appropriate.

Supervision



Written Supervisory Program:

- Tailor supervisory procedures for your operations.
- Written policies and procedures reasonably designed to ensure that APs' trading activities comply with all applicable NFA and CFTC Requirements.
 - Procedures to identify, escalate and resolve potential instances of non-compliance:
 - Frequency; documentation preparation and maintenance
 - Identification of individuals responsible for performing each function
 - Use of third-party service providers, if applicable
- Update supervisory procedures and processes as necessary.
 - New systems or lines of business
 - New offices or employees
 - Remote/Hybrid Operations

Supervision



Qualified Supervisory Personnel & Pre-Hiring Due Diligence:

- Supervisory personnel must be appropriately qualified to carry out their supervisory functions.
- Prospective APs must be qualified and eligible for the position.
 - Background checks; confirming educational and employment information; inquiring about disciplinary matters; screening for statutory disqualification.
 - Independently confirming that NFA's swaps proficiency requirements were completed.
 - Ongoing checks and attestations.

Capturing, Retaining and Reviewing Required Communications:

- Identification of approved devices and platforms
- Prohibition of all other methods of communication
- Ongoing attestations regarding the use of off channel communication methods
- Ongoing reviews of communications (surveillance)
 - Defined frequency and scope
 - Foreign language coverage
 - Documentation standards
 - Potential concerns should be further reviewed in conjunction with corresponding trade activity, and escalated to Compliance or other appropriate supervisory personnel
- Ongoing checks to ensure records are being captured, retained and reviewed as required

Review of Trading Activities:

- Ongoing reviews (surveillance) of trading activity that are reasonably designed to identify potential trading misconduct and market abuses
 - Defined frequency and scope
 - Product coverage
 - Documentation standards
 - Potential concerns should be further reviewed in conjunction with corresponding communications, and escalated to Compliance or other appropriate supervisory personnel
- Periodic reviews of the effectiveness of supervisory measures employed to review trading activities
- Ongoing checks to ensure that reviews (and any systems used for reviews) are operating as intended

Supervision



Training:

- Training on NFA and CFTC Requirements, as well as internal policies and procedures, must be completed prior to permitting an AP to interact with customers or counterparties
- Ongoing supplementary training must be provided, at least annually
- Documentation evidencing completion of training, as well as contents of training
- Best practice: periodically requiring APs to formally acknowledge their receipt, review and understanding of policies and procedures

Q&A

Supervision

