

ALERTS

CFTC — Coronavirus Update for Commodity Pool Operators

March 11, 2020

In an *SRZ Alert* sent yesterday and during an SRZ webinar on March 5, 2020, we discussed various considerations for fund managers to take into account when preparing for business interruptions that may be associated with the coronavirus outbreak.[1] Registered commodity pool operators (“CPOs”) and commodity trading advisors (“CTAs”), however, should consider the following points in addition to the overall guidance applicable for all fund managers.

Talk to your auditors to confirm audit timing. CPOs must distribute an annual report for each commodity pool (i.e., private fund), certified by an independent public accountant, to pool participants within 90 days of the pool’s fiscal year-end. For many CPOs, that means distributing audited financial statements by the end of March. *All registered CPOs should confirm with their auditors, as soon as possible, that they will be able to meet this deadline.*

In addition to consulting best practices, remember to benchmark your business continuity plan (“BCP”) against the specific NFA guidance. NFA Compliance Rule 2-38[2] and Interpretive Notice 9052[3] require all members to establish a BCP for use in the event of an emergency or significant business disruption. The NFA observed that “many NFA members” already contemplate pandemic scenarios in their BCPs.

Provide contact information to the NFA. NFA members are required to submit the name and contact information of their designated disaster recovery contacts so that the NFA may contact such persons in the event of an emergency.

Save your self-assessment. Your coronavirus response may well be reviewed on a future NFA exam, so you should be prepared to discuss your experiences.

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If you have any questions concerning this *Alert*, please contact your attorney at Schulte Roth & Zabel or one of the authors.

[1] See Coronavirus Update for Fund Managers (March 10, 2020), available [here](#). Webinar materials are available upon request by contacting events@srz.com.

[2] See NFA Compliance Rule 2-38, available [here](#).

[3] See NFA Interpretive Notice 9052, available [here](#).

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