

“Common Deficiencies” Identified in NFA Exams (March 2021)

The National Futures Association (the “NFA”) has published a series of Member Notices relating to “common deficiencies” identified in its examinations specifically of commodity pool operators (“CPOs”) and commodity trading advisors (“CTAs”).

According to the NFA, the “most common deficiencies” among CPO and CTA members firms involved the following regulatory requirements:

1. Cybersecurity:
 - (a) Adopting a written information systems security program to address the risk of unauthorized access to or attack on their information technology systems and to respond appropriately should unauthorized attacks occur;
 - (b) Notifying the NFA of certain cybersecurity incidents related to their trading activities; and
 - (c) Providing cybersecurity training to employees upon hiring and annually thereafter.
2. Self-examination questionnaire: Annually reviewing their operations using the NFA's Self-Examination Questionnaire.
3. Pool financial reporting:
 - (a) Notification requirements:
 - (i) Where the CPO has elected a fiscal year-end other than the calendar year-end for the pool, providing written notice of the fiscal year-end election to all participants and filing the notice with the NFA within 90 calendar days after the pool's formation;
 - (ii) Providing written notice to the NFA of the CPO changing the independent CPA engaged to audit a pool's financial statements;
 - (iii) Filing an extension request if the CPO requests an extension to file an annual pool financial statement; and
 - (iv) Promptly updating the Annual Questionnaire when a pool ceases trading; and
 - (b) Calculation of financial ratios -- using the accrual method of accounting and in accordance with U.S. GAAP or another internationally recognized accounting standard.

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