

An Overview of COVID-19 Relief Provided by DMO to DCMs and SEFs*			
Regulatory Requirement	✓ Means That No-Action Relief Applies to Type of Market Participant		Additional Information
	DCM	SEF	
Recording of Oral Communications		✓	Additional information about the no-action relief from each regulatory requirement is summarized on the pages that follow.
Submission of Annual Compliance Reports (ACRs) and Q4 Financial Reports (Q4FRs)		✓	
Audit Trail and Related Requirements	✓		

*This table summarizes three no-action letters issued on March 17, 2020 by the CFTC’s Division of Market Oversight (DMO): CFTC Staff Letter 20-07 and CFTC Staff Letter 20-08 (applicable to Swap Execution Facilities (SEFs)); and CFTC Staff Letter 20-09 (applicable to Designated Contract Markets (DCMs)).

The no-action letters are available at <https://www.cftc.gov/PressRoom/PressReleases/8133-20>.

This information is **NOT** a comprehensive overview or summary of the compliance obligations that apply to DCMs or SEFs.

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Recording of Oral Communications			<p>No-action relief for SEFs until June 30, 2020, from various requirements to record oral communications related to voice trading and other telephonic communications, to the extent that non-compliance arises from the inability of a SEF to record voice communications as a result of the displacement of voice trading personnel from their normal business sites in connection with the COVID-19 pandemic response.</p> <p>For purposes of CFTC Staff Letter 20-07, the term “normal business sites” <i>includes</i> alternative or disaster recovery sites that are utilized by a SEF as a component of its business continuity and disaster recovery plans.</p> <p>The relief specifically applies to recording requirements in the context of audit trail and related considerations under CFTC Regulations 37.205(a)-(b), 37.400(b), 37.406, 37.1000(a)(1), and 37.1001.</p>

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			<p>The relief is subject to the following conditions:</p> <ol style="list-style-type: none"> 1. The SEF continues to record voice communications at its normal business sites (i.e., including any alternative or disaster recovery sites); 2. The SEF makes reasonable efforts to demonstrate compliance by having its voice trading personnel not located at the SEF’s normal business sites create written or electronic records of unrecorded oral communications (<i>such as instant messaging or chat functionalities</i> that are captured by the SEF’s systems), including date, time, identifying information of the persons participating, and subject matter of any unrecorded conversation as soon as practicable after the conversation; 3. The terms of all transactions executed on the SEFs continue to be captured and recorded on the SEF systems regardless of the location of the voice trading personnel; 4. Orders entered into the SEF’s trading facility or platform by voice trading personnel, regardless of location, will be retained in the SEF system’s normal electronic audit trail and subject to existing credit and risk filters;

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			<p>5. Relief from CFTC regulation 37.400(b) is limited to instances where the SEF cannot conduct in-person real-time monitoring of voice trading personnel and is unable to comprehensively and accurately reconstruct all trading because the SEF lacks the voice recordings of voice trading personnel. Otherwise, Commission regulation 37.400(b) continues to apply. In this regard, DMO specifically noted that, “Where real-time monitoring is not practicable, SEFs would still be required to conduct monitoring and surveillance pursuant to regulation 37.400(b)—including through review of written records created pursuant to the above conditions for relief—albeit on a delayed rather than real-time basis.”;</p> <p>6. All requirements under Commission regulations 37.1000(a)(1) and 37.1001, including requirements related to swap data reporting, will continue to apply except for the requirements related to maintaining a complete audit trail; and</p> <p>7. Record retention requirements under Commission regulations 37.1000(a)(1) and 37.1001 will continue to apply to all trading activity records created during the duration of the no-action relief provided by CFTC Staff Letter 20-02.</p>

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Submission of Annual Compliance Reports (ACRs) and Q4 Financial Reports (Q4FRs)	✓	✓	<p>No-action relief for any SEF and its chief compliance officer (CCO) from the requirement to submit an ACR or a Q4FR (each, a “Report”) within the 60-day period prescribed in CFTC Regulation 37.1501(f)(2) or 37.1306(d), respectively, provided that:</p> <ol style="list-style-type: none"> 1. The Report had to be submitted to the CFTC prior to September 1, 2020, pursuant to the applicable regulation; and 2. The Report is submitted to the CFTC not later than 120 days after the end of the SEF’s fiscal year. <p>DMO specifically noted that the no-action relief provided by CFTC Staff Letter 20-08: (x) goes beyond relief provided in CFTC Letter No. 17-61; and (y) does not alter, amend, suspend, or otherwise affect the relief granted to SEF’s and SEF CCOs under that letter. See CFTC Letter No. 17-61, <i>No-Action Relief for SEFs from Compliance with the Timing Requirements of Commission Regulation 37.1501(f)(2) Relating to CCO ACRs and Commission Regulation 37.1306(d) Relating to Q4FRs</i>, Nov. 20, 2017 (which allows for an ACR to be submitted by a SEF’s CCO not later than 90 days after the end of the SEF’s fiscal year).</p>

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Audit Trail and Related Requirements	✓		<p>No-action relief for DCMs until June 30, 2020, if any DCM fails to comply with audit trail and related requirements pursuant to Commodity Exchange Act sections 5(d)(4) and (10), and related CFTC regulations (<i>e.g.</i>, DCM Core Principles (4) and (10)), to the extent that non-compliance relates to the displacement, in connection with the COVID-19 pandemic response, of <i>Affected Market Participants</i> from an exchange’s trading floor and/or <i>other designated premises</i> from which customer orders may be placed.</p> <p>For purposes of CFTC Staff Letter 20-09, the term: (x) <i>Affected Market Participants</i> means floor brokers, other registrants and unregistered members of DCMs to which the CFTC’s Division of Swap Dealer and Intermediary Oversight (DSIO) issued relief from compliance with, among other things, the requirement to make and keep records of oral communications pursuant to CFTC Regulation 1.35. See CFTC Letters 20-02, 20-03, 20-04, 20-05 and 20-06 (the DSIO No-Action Letters); and (y) <i>other designated premises</i> refers to exchange rules that may allow customer orders to be entered from the premises of an entity registered to conduct customer business.</p>

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			<p>The relief is subject to the following conditions:</p> <ol style="list-style-type: none"> 1. A DCM will require Affected Market Participants to continue to conduct customer business in accordance with the same exchange rules applicable to the trading conducted on the trading floor, or otherwise in compliance with relief granted pursuant to the DSIO No-Action Letters, including preparation of a written record of oral communications; 2. Customer orders entered into the trading platform by Affected Market Participants will be retained in the DCM system’s normal electronic audit trail and subject to existing credit and risk filters; and 3. All other exchange rules, including those relating to the handling of customer orders and trade practices, will continue to apply to Affected Market Participant trading activity during the duration of any no-action relief.