

NFA Proposes to Amend the Branch Office Definition, Embraces the ‘New Normal’ of Remote Working for CPOs and CTAs

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Key Points

- Beginning as early as September 2, 2021, a “branch office” for NFA purposes will exclude any remote working location not held out to the public as a CPO or CTA office where one or more APs from the same household work remotely, subject to certain conditions. Continuing paragraph after bullet (List Continue style: Arial 10.5pt, indent 0.18”)

Recognizing the lasting impact of COVID-19 on remote working, the National Futures Association submitted to the Commodity Futures Trading Commission proposed amendments to NFA Interpretive Notice 9002 entitled “Registration Requirements: Branch Offices.”¹ The Proposal will become effective as early as September 2, 2021, unless the CFTC determines to engage in a formal review and approval process.

The Proposal would amend the definition of a branch office to specifically exclude any remote working location or flexible shared workspace where one or more associated persons (APs) of a commodity pool operator or commodity trading advisor from the same household work or rent/lease such location, provided that (i) the location is not held out to the public as an office of the CPO or CTA, (ii) the AP(s) do not meet with customers or physically handle customer funds at the location and (iii) any CFTC or NFA required records created at the location are accessible at the CPO or CTA firm’s main or applicable listed branch office.

Practical Implications for CPOs and CTAs

The Proposal builds on temporary relief from branch office requirements issued by NFA in response to CPO and CTA staff working remotely due to COVID-19,² which relief was contingent upon NFA CPO and CTA members adopting alternative supervisory methods to adequately supervise AP activities from afar. CPO and CTA members moving to permanent remote working arrangements for APs will need to ensure their policies and procedures are updated accordingly. Additionally, CPOs and CTAs should consider delisting any branch office locations designated on NFA Form 7-R that fall outside of the amended definition.

For registered investment advisers, it is important to note that the Proposal has no impact on how the Securities and Exchange Commission may view branch offices

Contact Information

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going forward as more firms move to remote or hybrid working environments. To date, the SEC has not made any public indication that they will follow the NFA's lead in this regard.

¹ The Proposal is available [here](#).

² The notice of temporary relief is available [here](#).

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