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## Notices to Members

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### **Notice I-18-13**

August 09, 2018

#### **Effective date of Interpretive Notice establishing disclosure requirements for NFA Members engaging in virtual currency activities**

NFA recently adopted an [Interpretive Notice](#) entitled Disclosure Requirements for NFA Members Engaging in Virtual Currency Activities. The Interpretive Notice establishes disclosure requirements for futures commission merchants (FCM), introducing brokers (IB), commodity pool operators (CPO) and commodity trading advisors (CTA) that engage in activities related to virtual currencies or virtual currency derivatives. NFA adopted the Interpretive Notice because of concerns that customers may not fully understand the nature of virtual currencies and virtual currency derivatives, the substantial risk of loss that may arise from trading these products and the limitations of NFA's regulatory authority over spot market virtual currencies. The Interpretive Notice will become effective on Wednesday, October 31, 2018. NFA will provide Member education on the requirements prior to the effective date in order to ensure that Members understand their obligations.

#### **FCM and IB Members**

The Interpretive Notice requires FCM and IB Members to provide virtual currency derivative customers with the [NFA Investor Advisory – Futures on Virtual Currencies Including Bitcoin](#) and the [CFTC Customer Advisory: Understand the Risks of Virtual Currency Trading](#). Beginning on October 31, 2018, FCM and IB Members must provide these advisories to customers in the manner described in the Interpretive Notice at or before the time they trade a virtual currency derivative with or through the Member. FCM and IB Members are also required to provide these advisories to any customer that has traded a virtual currency derivative prior to the effective date by November 30, 2018.

If an FCM or IB Member engages in any type of spot market virtual currency activity with a customer or counterparty on or after October 31, 2018, the Member must provide the standardized disclosure language in the manner described in the Interpretive Notice and must also prominently display the disclosure language in any of its promotional material related to spot market virtual currencies.

### **CPO and CTA Members**

The Interpretive Notice requires CPO and CTA Members to provide investors with robust disclosures related to their investor activities in spot market virtual currencies and virtual currency derivatives and describes a number of areas that CPOs and CTAs should address (when applicable) in their disclosure documents, offering documents and promotional material. In addition, CPO and CTA Members must provide standardized disclosure language addressing the limits of NFA's oversight with respect to spot market virtual currencies. Additional information on the effective date for updating promotional materials and updating, filing and notifying investors and prospective investors of changes to disclosure documents and offering documents is set forth below.

*Promotional material.* Any promotional material related to the spot market virtual currency activities of a CPO or CTA Member distributed or used on or after October 31, 2018 must satisfy the requirements set forth in the Interpretive Notice.

*Disclosure documents and offering documents.* CPO and CTA Members engaged in or soliciting investors to engage in activities related to virtual currencies or virtual currency derivatives should review any disclosure documents or offering documents that are currently in use to determine whether such documents are materially complete in light of the requirements set forth in the Interpretive Notice. If a disclosure document or offering document used for a pool, exempt pool or managed account program is materially incomplete, it must be updated within 21 days of the effective date of the Interpretive Notice (November 21, 2018).

*Filing requirements.* If a disclosure document that has been or is required to be filed with NFA is updated, the updated document must be filed with NFA by November 21, 2018 (and accepted by NFA before it is used). Disclosure documents with no material changes other than updates to incorporate the standardized disclosure language may be filed for expedited review or, where permitted, as a supplement.

*Notice to investors and prospective investors.* NFA expects CPO and CTA Members engaging in activities involving virtual currencies or virtual currency derivatives to provide updated disclosures addressing the requirements set forth in the Interpretive Notice to existing investors by November 21, 2018 and to any solicited prospective investors prior to accepting an investment from such person.

More information regarding the Interpretive Notice can be found in NFA's July 20, 2018 [submission letter to the CFTC](#). If you have any questions related to the Interpretive Notice please contact Mary McHenry, Associate Director, Compliance ([mmchenry@nfa.futures.org](mailto:mmchenry@nfa.futures.org) or 312-781-1420); Sarah A. Iverson, Director, Compliance ([siverson@nfa.futures.org](mailto:siverson@nfa.futures.org) or 312-781-1202) or Blake Brockway, Assistant General Counsel ([bbrockway@nfa.futures.org](mailto:bbrockway@nfa.futures.org) or 312-781-1553).

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