

# Client Alert

Current Issues Relevant to Our Clients

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## NFA Proposes Information Systems Security Program Requirements for Member Firms

The National Futures Association (“NFA”) recently submitted an interpretive notice proposal to the Commodity Futures Trading Commission (“CFTC”) that would require NFA members to establish information systems security programs (“ISSPs”). A copy of the proposed interpretive notice is available [here](#).

### Background

Various NFA compliance rules place responsibilities on every NFA member futures commission merchant (“FCM”), commodity trading advisor (“CTA”), commodity pool operator (“CPO”), introducing broker (“IB”), retail foreign exchange dealer (“RFED”), swap dealer (“SD”) and major swap participant (“MSP”) to supervise their employees, agents and businesses. The rules are written to give members flexibility in developing procedures tailored to meet their specific needs and address the risks associated with their businesses. The NFA periodically issues interpretive notices to provide more specific guidance on acceptable standards for supervisory procedures.

### Proposed Interpretive Notice

The NFA’s recent interpretive notice proposal provides guidance regarding information systems security practices that all member firms should adopt and tailor to their particular business activities and risks. Among other things, under the proposed interpretive notice, each member firm would be guided to:

- Establish and implement a written ISSP appropriate for the member’s business and have it approved in writing by a specified executive level official;
- Assess and prioritize the risks associated with the use of its information technology systems;
- Document and describe in its ISSP the safeguards deployed in light of the identified and prioritized threats and vulnerabilities and implement procedures to detect these potential threats;

- Create an incident response plan to provide a framework to manage detected security events or incidents, analyze their potential impact and take appropriate measures to contain and mitigate their threat;
- Conduct ongoing education and training relating to information security for all appropriate personnel;
- Monitor and regularly review the effectiveness of its ISSP including the efficacy of the safeguards deployed and make adjustments as appropriate;
- Address in its security risk assessment the risk posed by critical third-party service providers that have access to the member’s systems, operate outsourced systems for the member or provide cloud-based services such as data storage or application software to the member;
- Conduct appropriate due diligence on all third-party service providers and implement appropriate controls to protect customer and firm confidential data; and
- Maintain records associated with ISSP adoption and implementation in accordance with other NFA Rules.

The proposal notes that many members are already subject to a variety of similar requirements under other statutes and regulations and nothing in the proposal is intended to relieve members from or reduce the obligations to which members are subject to under other state or federal statutes or regulations related to data security and privacy.

### What’s Next?

The NFA has submitted the proposed interpretive notice to the CFTC. If it is approved by the CFTC, an effective date

would subsequently be set. NFA member firms should review their current information systems security practices and begin preparing themselves for the increased obligations associated with the NFA's proposed interpretive notice.

## For More Information

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