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Release Number 8949-24

CFTC Staff Issues No-Action Letter for EU-Based and UK-Based DCOs Regarding Certain Requirements Applicable to DCOs

August 23, 2024

Washington, D.C. — The Commodity Futures Trading Commission’s Division of Clearing and Risk (DCR) today issued a no-action letter to address the applicability of certain CFTC regulations to registered derivatives clearing organizations (DCOs) based in either the European Union (EU) or the United Kingdom (UK). This letter replaces CFTC Letter 16-26, which applied only to EU-based DCOs and was issued in 2016 as part of the CFTC’s response to the EU equivalence determination with regard to the CFTC’s regulatory framework for DCOs. [See CFTC Press Release No. 7342-16]

At that time, the UK was a part of the EU, and therefore, CFTC Letter 16-26 also applied to DCOs based in the UK. After withdrawing from the EU in 2019, the UK adopted and retained the EU regulatory framework for central counterparties (CCPs) in the European Market Infrastructure Regulation. The UK’s HM Treasury subsequently published a statutory instrument concluding the CFTC’s regime for regulating DCOs is equivalent to the UK’s regime for regulating CCPs. Given these developments, DCR has updated CFTC Letter 16-26 to explicitly apply it to UK-based DCOs post-Brexit.

-CFTC-

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