

Alert | Financial Regulatory & Compliance/ Innovation & Artificial Intelligence



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Reviewing 2024 CFTC AI Initiatives and Looking Ahead

Go-To Guide

- In 2024, CFTC sought public input and appointed a Chief Artificial Intelligence Officer to lead AI regulatory strategies.
- The CFTC Technology Advisory Committee's May report emphasized fairness, transparency, and privacy in AI applications, recommending robust guidelines for financial markets.
- A December advisory outlined AI-related compliance requirements, urging registrants to assess AI risks and update policies accordingly.
- CFTC plans to continue evaluating AI's impact on financial markets, potentially leading to new regulations and guidance in 2025.

The Commodity Futures Trading Commission (CFTC) undertook a series of initiatives in 2024 to address CFTC registrants' and other industry participants' use and application of AI technologies. While these actions do not constitute formal rulemaking or adoption of new regulations, they underscore CFTC's continued awareness of and attention to the potential benefits and risks of AI on financial markets. Tracing CFTC's 2024 initiatives may provide a preview of what to expect in 2025.

On Jan. 25, 2024, CFTC issued a request for public comment (Request) concerning AI in CFTC-regulated markets. Among other things, the Request sought input on the definition of AI, potential applications, and associated risks. Adopting a definition from an [Oct. 30, 2023, presidential executive order](#), the Request

defines AI as “a machine-based system that can, for a given set of human-defined objectives, make predictions, recommendations or decisions influencing real or virtual environments.” Specific subject areas on which CFTC sought comments included trading, compliance, risk management, recordkeeping, cybersecurity, data processing, and customer interactions. As part of an ongoing effort, CFTC staff sought to gather information to help evaluate the possible need for future guidance and rulemaking.

In May 2024, CFTC took additional steps to address AI. On May 1, CFTC designated Dr. Ted Kaouk as CFTC’s first Chief Artificial Intelligence Officer. In this position, Dr. Kaouk is charged with leading and implementing CFTC’s enterprise data and AI regulatory strategy. On May 2, CFTC’s Technology Advisory Committee released a [report addressing responsible AI in financial markets](#), making five recommendations on how CFTC should approach AI application in financial markets. The report defined responsible AI as including fairness, robustness, transparency, explainability, and privacy in designing and deploying AI models.

On May 6, CFTC Commissioner Kristin Johnson released a proposed agenda for CFTC staff to assess existing regulation in light of increased AI adoption. Among other things, Commissioner Johnson recommended creating an interagency AI Task Force¹ to focus overseeing and supervising financial markets to ensure against AI misuse. Commissioner Johnson also urged adopting increased monetary penalties for persons who intentionally use AI to engage in fraud, market manipulation, or evade regulation.

CFTC staff’s most recent AI undertaking was an advisory issued Dec. 5, 2024, focused on CFTC registrants’ use of AI in CFTC-regulated markets. The advisory summarizes requirements under the Commodity Exchange Act, as amended (CEA), and CFTC regulations associated with current and potential AI uses. Several of these requirements are the same as those CFTC staff identified for possible further review in the January 2024 Request.

The advisory separates CFTC registrants into three categories, and then sets forth certain requirements emerging from registrants’ possible AI use in each category. The list of requirements is not intended to be exhaustive, and the advisory states that CFTC staff expects registrants to assess risks associated with AI and revise and update policies and procedures appropriately. The advisory directs that assessments should consider both registrants’ and their third-party service providers’ AI use.

Requirements	CFTC Category 1	CFTC Category 2	CFTC Category 3
System Safeguards	X	X	
Market Surveillance	X		
Order Processing and Trade Matching	X		
Settlement		X	

¹ The proposed task force would consist of representatives from market and prudential regulators including the CFTC, SEC, Federal Reserve, OCC, CFPB, FDIC, and federal housing and credit union regulators.

Requirements	CFTC Category 1	CFTC Category 2	CFTC Category 3
Member Assessment and Interaction		X	
Risk Assessment and Risk Management			X
Compliance and Recordkeeping			X
Customer Protection			X

- Category 1 – designated contract markets, swap execution facilities, and swap data repositories.
- Category 2 – derivatives clearing organizations.
- Category 3 – futures commission merchants, swap dealers, commodity pool operators, commodity trading advisors, introducing brokers, retail foreign exchange dealers, and associated persons.

The advisory notes it is not a compliance checklist. Instead, it is intended to remind CFTC registrants of their obligations regarding AI use under the CEA and CFTC regulations. Because the obligations are themselves evolving with changes in AI technology, the advisory encourages CFTC-regulated entities to engage with CFTC staff to consider possible risks arising from deploying AI.

The advisory does not create enforceable rights or any new or amended rules or regulations. Acknowledging AI’s rapid development, the advisory concludes that such development could lead CFTC staff to reevaluate the advisory, develop future staff guidance, and/or recommend proposed new regulations. With AI’s expanding role in business and finance, and the high-level and ongoing nature of regulatory initiatives during 2024, CFTC and other regulators are likely to continue to focus on the application and use of AI technologies in 2025.

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