

TO: All Derivatives Clearing Organization (“DCO”) Registrants and DCO Applicants
FROM: Division of Clearing and Risk (“DCR”)
DATE: May 30, 2023
SUBJECT: Review of Risks Associated with Expansion of DCO Clearing of Digital Assets

Over the past several years, DCR has observed increased interest by DCOs and DCO applicants in expanding the types of products cleared and business lines, clearing models, and services offered by DCOs, including related to digital assets. DCR reminds registrants and applicants that when expanding lines of business, changing business models, or offering new and novel products, DCR will remain focused on the potentially heightened risks that may be associated with certain of those clearing activities. DCR expects DCOs and applicants to actively identify new, evolving, or unique risks and implement risk mitigation measures tailored to the risks that these products or clearing-structure changes may present.

In light of DCR’s observations articulated above, and through DCR’s general supervisory authority, application review authority, and examination authority, DCO registrants and applicants should expect that DCR will be placing emphasis on the potential risks and DCO core principles related to system safeguards, physical settlement procedures, and conflicts of interest.

More specifically, because of the heightened cyber and other operational risks that may be associated with digital assets, DCR will emphasize compliance with the systems safeguards requirements under the Commodity Exchange Act and Part 39 of the Commission’s regulations. Further, for DCO registrants and applicants with dependencies on affiliated entities or services (*i.e.*, dual-hatted executives, shared systems and resources, etc.) or other models that carry risks of conflicts of interest, DCR will emphasize reviews of DCOs’ establishment and enforcement of rules to minimize conflicts of interest and implementation of processes for resolving conflicts of interest. Finally, for DCO registrants and applicants clearing contracts that may involve physical delivery of digital assets, DCR, working with other relevant CFTC staff, will emphasize reviews of physical settlement arrangements, including whether DCOs have adequately identified and managed risks and obligations associated with digital assets and whether DCO rules clearly state the obligations of the DCO, if any, with respect to physical deliveries involving digital assets.

DCR staff is available to assist with any questions. DCR will continue to focus on maintaining safe and sound, orderly, and fairly competitive clearing systems, while promoting responsible innovation.