NFA Virtual Currency Update - Interpretive Notice 9073 Repealed & Compliance Rule 2-51 Amended

NFA Interpretive Notice 9073 (the “Notice”), which set forth disclosure requirements for NFA Members engaging in virtual currency activities, has been repealed. The Notice had been in effect since October 31, 2018 and, after submitting its proposal to the CFTC to repeal the notice the on October 1, 2025, the NFA invoked the “ten day” provision of Section 17(j) of the Commodity Exchange Act which allows the NFA to proceed with the repeal if the CFTC did not respond within ten days.

With this change, NFA Members will not be required to include the prescribed language per the Notice in offering and marketing materials, which stated the limits of the NFA’s regulatory oversight authority over underlying or spot market virtual currency trading. While this requirement has been lifted, NFA members may need to include new disclosures in the potential event of NFA proposing new requirements with respect to digital commodities activities.

Additionally, NFA Compliance Rule 2-51 (Requirements for Members and Associates Engaged in Activities Involving Digital Asset Commodities), which previously limited the NFA’s jurisdiction over digital asset commodities to Bitcoin and Ether since being adopted on May 31, 2023, has been amended to further the scope to any digital asset commodity that has a “related” commodity interest product listed for trading on a CFTC-regulated trading facility. This list now includes XRP and SOL but is expected to grow over time.