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CFTC Further Expands the Definition of CTA



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On August 29, 2023, the U.S. District Court for the Western District of Texas entered a consent order ("Order") and imposed sanctions on Barelt Media and its owner Ryan Masten for operating an unregistered commodity trading advisor ("CTA"). [This Order](#) resolves litigation against Barelt filed by the Commodity Futures Trading Commission ("CFTC") and significantly broadens the scope of the definition of CTA.

The Order stated that for several years Barelt Media, doing business as SignalPush, "offered customers and potential customers the ability to obtain trade signals and to automate trading on binary options platforms using those trade signals." The Order further explains that Barelt Media acted as a CTA by, "for compensation or profit, engaging in the business of advising others, either directly or through publications, writing, or electronic media, as to the value or advisability of trading in any commodity option, and failed to register as such, in violation of [the Commodity Exchange Act]". It further states that Masten also acted as an associate person of a CTA without registration.

Because the Order is very sparse on the facts, and because the resulting outcome now would require trade signal providers to register as CTAs, CFTC's Commissioner Caroline D. Pham noted that this enforcement action is yet another example of CFTC's regulation by enforcement and not the first time that the CFTC has attempted to expand its interpretation of the CTA. Two years ago, on September 29, 2021, the CFTC published its advisory explaining that some registered CTAs may also be performing the services of a swap execution facility ("SEF") and accordingly [must register](#) as such. Even though an advisory is just that – an advisory – the CFTC [referred](#) to this advisory in its September 26, 2022 settlement against a registered CTA – Asset Risk Management LLC – claiming that it also acted as a SEF without registration.

Commissioner Pham further noted, citing from CFTC's Nadex [Advisory Notice](#), that "a technology provider that sells software capable of receiving and aggregating

trade signals, and submitting orders to the [e]xchange based upon those signals and parameters customized by the trader is not likely required to register with the CFTC as the trade advice does not originate from the technology provider.”

Given the Order and prior CFTC’s actions on CTAs, all entities that may be deemed providing “advice,” or some form of recommendation, or direction to others in trading derivatives, should carefully analyze its operations and conduct a compliance overview consistent with CFTC’s new interpretation of CTA.
