

CFTC Staff Issues Interpretation Regarding U.S. Person Definitions

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On May 21, 2025, the Commodity Futures Trading Commission's (the "CFTC") Market Participants Division and Division of Market Oversight (the "Divisions") issued [an interpretative letter](#) (Staff Letter 25-14) clarifying the application of certain cross-border definitions of "U.S. persons" under the CFTC Regulations.

Following the controversial May 2024 enforcement action involving a drastically expanded definition of "U.S. person" in which the CFTC determined that a Seychelles-based digital assets platform was required to register with the CFTC as a futures commission merchant, last week's interpretative letter has settled some concerns across the industry regarding the scope of the CFTC's cross-border jurisdiction. The letter's narrower view of "U.S. Person" provides much-needed clarity for non-U.S. firms with nexuses to the United States.

The letter responds to a request for interpretation by a proprietary trading firm (the "Firm") which represented that it is headquartered in and directs its operational activities from the Bahamas. The Firm engages in trading various virtual currency futures, options and swaps contracts listed on non-U.S. exchanges, both directly and through non-U.S. brokers. However, the Firm represented that it also has the following U.S. nexuses:

- the Firm is indirectly owned by natural persons who are U.S. residents. Such persons are also co-owners and co-managers of a related U.S.-based prop trading firm, from which the Firm receives non-trading related IT, legal, compliance and administrative services;
- the Firm would like to license trading technology from the related firm;
- the Firm would like to engage U.S.-based traders, quantitative researchers and software developers, who would be employed by an affiliate of the Firm organized in the Bahamas; and
- the Firm would like to host trading technology on U.S.-located servers.

Relying on the foregoing representations by the Firm, the Division clarified that the Firm is not and would not be considered a "U.S. person" based on its current or proposed expanded operations, because, in line with its [2013 guidance](#) and § 23.23(a) of the CFTC Regulations, the Firm's "place of organization and principal place of business are the factors that are of relevance in determining its cross-border status." In addition, the Division also stated that the Firm is not a "person located in the United States" for purposes of the "foreign futures or foreign options customer" definition in Commission regulation [30.1\(c\)](#); is not a "participant located in the United States" for purposes of Commission regulation [48.2\(c\)](#); and is a "foreign located person" for purposes of Commission regulation [3.10\(c\)\(1\)\(ii\)](#).

The CFTC also clarified that as a result of the above, the non-U.S. exchange and brokers through which the Firm trades in virtual currency derivatives are not subject to the CFTC's registration obligations that would otherwise apply if the Firm was deemed a "U.S. Person."

Staff Letter 25-14 reestablishes the guidance for offshore firms that was well-established prior to the controversial May 2024 enforcement action, clarifying that incidental ties in and of themselves do not trigger sweeping registration requirements.