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Effective Trade Surveillance Across Markets

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AI in Compliance Monitoring: Legal Challenges and the Commodity Futures Trading Commission's Evolving Role

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The use of Artificial Intelligence (AI) in compliance monitoring and effective trading surveillance across markets can be transformational in the ability to detect and prevent compliance issues. AI technologies, including machine learning (ML), enable the analysis of complex patterns in large data sets and can improve the accuracy and efficiency of compliance processes. These technologies, however, also present significant challenges. AI's decision-making process can become opaque, creating a "black box" effect, which can make explaining its results to regulators and investigators extremely challenging. Despite AI's potential to enhance compliance, its complexities and potential biases raise concerns about unintended consequences.

The regulatory framework is evolving, with Congress recognizing the growing influence of AI and defining it broadly in the National Defense Authorization Act of 2019.[2] President Biden's 2023 Executive Order on AI safety underscores the importance of regulatory oversight, though agencies like the Commodity Futures Trading Commission (CFTC) are merely encouraged, but not mandated, to act.[3] As AI becomes more embedded in compliance strategies, particularly in complex energy derivatives markets, robust regulatory compliance and risk management will be crucial to prevent AI-driven issues. The CFTC has begun addressing these concerns by seeking public input on AI's role in compliance, yet direct and comprehensive federal or state regulations remain absent.[4] This panel will explore AI's impact on compliance monitoring in various commodity and derivative markets.

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[2] "DEFINITION OF ARTIFICIAL INTELLIGENCE.—In this section, the term "artificial intelligence" includes each of the following: (1) Any artificial system that performs tasks under varying and unpredictable circumstances without significant human oversight, or that can learn from experience and improve performance when exposed to data sets. (2) An artificial system developed in computer software, physical hardware, or other context that solves tasks requiring human-like perception, cognition, planning, learning, communication, or physical action. (3) An artificial system designed to think or act like a human, including cognitive architectures and neural networks. (4) A set of techniques, including machine learning that is designed to approximate a cognitive task. (5) An artificial system designed to act rationally, including an intelligent software agent or embodied robot that achieves goals using perception, planning, reasoning, learning, communicating, decision-making, and acting."

[3] *See Executive Order on the Safe and Trustworthy Development and Use of Artificial Intelligence*, WHITE HOUSE (Oct. 30, 2023) https://www.whitehouse.gov/briefing-room/presidential-actions/2023/10/30/executive-order-on-the-safe-secure-and-trustworthy-development-and-use-of-artificial-intelligence/.

[4] *See* Press Release, Commodity Futures Trading Commission*, CFTC Staff Releases Request for Comment on the Use of Artificial Intelligence in CFTC Regulated Markets*, Press Release 8853-24 (Jan. 25, 2024), at https://www.cftc.gov/PressRoom/PressReleases/8853-24 ("Request for Comment").

I. EXISTING REGULATORY REQUIREMENTS AND GUIDANCE POTENTIALLY AFFECTED BY AI TECHNOLOGY

With AI technology being relatively new to the market, the legal framework surrounding it is still evolving. Given the ambiguity in this field, it is crucial for all entities to consider whether the existing regulations and guidance may be affected by the use of AI technologies.

A. Automated Trade Surveillance Systems

Designated Contract Markets (DCM) are subject to 23 Core Principles[5] set forth in Part 38 of the CFTC's regulations.[6] The core principles cover broad aspects of the DCM's business, a few of which may be affected by the potential use of AI. For example, DCM must have "resources for effective enforcement of its rules," and such resources "must facilitate … the analysis of data collected to determine whether a rule violation occurred."[7] DCMs are also required to use automated trade surveillance systems, which must be capable of "detecting and investigating potential trade practice violations."[8] Specifically, the automated trade surveillance system must be able to:

- detect and flag specific trade execution patterns and trade anomalies;

- compute, retain, and compare trading statistics;

- compute trade gains, losses, and futures-equivalent positions;

- reconstruct the sequence of market activity;

- perform market analyses; and

- support system users to perform in-depth analyses and ad hoc queries of trade-related data.[9]

In addition, DCMs have to be able to conduct real-time monitoring of trading.[10] And DCMs have to assess market activity in order to detect and prevent manipulative activity.[11] Additionally, the

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[5] The 23 Core Principles include: (i) Designation as Contract Market; (ii) Compliance with Rules; (iii) Contracts Not Readily Subject to Manipulation; (iv) Prevention of Market Disruption; (v) Position Limitations or Accountability; (vi) Emergency Authority (vii) Availability of General Information; (viii) Daily Publication of Trading Information; (ix) Execution of Transactions; (x) Trade Information; (xi) Financial Integrity of Transactions; (xii) Protection of Markets and Market Participants; (xiii) Disciplinary Procedures; (xiv) Dispute Resolution; (xv) Governance Fitness Standards; (xvi) Conflicts of Interest; (xvii) Composition of Governing Boards of Contract Markets; (xviii) Recordkeeping; (xix) Antitrust Considerations; (xx) System Safeguards; (xxi) Financial Resources; (xxii) Diversity of Board of Directors; (xxiii) Securities and Exchange Commission. *See* Core Principles and Other Requirements for Designated Contract Markets, 77 FR 36612-01.
[6] *See* 17 C.F.R. § 38.
[7] 17 C.F.R. § 38.153.
[8] 17 C.F.R. § 38.156.
[9] *Id.*
[10] 17 C.F.R. § 38.250.
[11] 17 C.F.R. § 38.251.

CFTC's strategic plan highlights the use of sophisticated data analytics for market surveillance to identify potential violations.[12]

DCMs could potentially use AI to enhance their surveillance capabilities. AI technologies can analyze vast amounts of trading data in real-time, detect unusual patterns, and identify potential manipulative behavior more efficiently than traditional methods.[13] But there are also AI-related concerns to address, such as data quality, data overfitting, hallucinations, and explainability.[14]

B. **Duty to Supervise**

1. CFTC Regulation

CFTC Regulation 166.3 imposes a duty on certain registrants, including Futures Commission Merchants (FCM), commodity trading advisors and commodity pool operators, to "diligently supervise" the activities of their officers, employees, and agents in connection with their business.[15] The CFTC has taken the position that the duty to supervise under section 166.3 is a broad obligation, requiring firms to establish and maintain a system that reasonably ensures compliance with all applicable laws and regulations.[16] This may include establishing written policies, procedures, and a compliance program, as well as ensuring that staff are adequately trained and monitored.

While existing guidance under this regulation does not explicitly reference AI, the CFTC's guidance does not prohibit its use by registered entities. It is possible that incorporating AI may assist with the effective supervision related to a registrant's business. Any technology used within a firm's operations, including AI, must be subject to the same level of supervision and compliance scrutiny as any other aspect of the business.[17] Firms should ensure that AI systems are reliable,

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[12] *See 2022-2026 Strategic Plan,* COMMODITY FUTURES TRADING COMMISSION, https://www.cftc.gov/media/7081/CFTC2022_2026StrategicPlan/download ("CFTC Strategic Plan").

[13] *See Trade surveillance is about to trade up: Is AI the answer to more secure markets?*, DELOITTE, https://www2.deloitte.com/us/en/pages/advisory/articles/trade-surveillance-programs-with-ai-implementation-and-machine-learning.html (stating that AI and machine learning models provide dynamic and robust trade surveillance, improving the analysis of suspicious activity by revealing hidden patterns and identifying potential market manipulation behaviors); Scott Moritz, *Artificial Intelligence Explained – Using AI for Trade Surveillance and Fraud Detection*, LINKEDIN, https://www.linkedin.com/pulse/artificial-intelligence-explained-using-ai-trade-scott.

[14] *See Clearing data-quality roadblocks: Unlocking AI in manufacturing*, IBM, https://www.ibm.com/topics/ai-hallucinations.

[15] *See* 17 C.F.R. § 166.3 ("Each Commission registrant, except an associated person who has no supervisory duties, must diligently supervise the handling by its partners, officers, employees and agents (or persons occupying a similar status or performing a similar function) of all commodity interest accounts carried, operated, advised or introduced by the registrant and all other activities of its partners, officers, employees and agents (or persons occupying a similar status or performing a similar function) relating to its business as a Commission registrant.").

[16] *See In re Collins,* 1997 WL 761927, at *10; *CFTC v. Sidoti*, 178 F.3d 1132, 1137 (11th Cir. 1999) (defendant was liable for failure to supervise because he "knew of specific instances of misconduct, yet failed to take reasonable steps to correct the problems"); *BGC Financial, LP,* 2019 WL 6358480, at *9 ("For a registrant to fulfill its duties under Regulation 166.3, it must both design an adequate program of supervision and ensure that the program is followed.").

[17] *See* Press Release, Commodity Futures Trading Commission, *CFTC Technology Advisory Committee Advances Report and Recommendations to the CFTC on Responsible Artificial Intelligence in Financial Market,* Press Release

transparent, and aligned with regulatory requirements, and that they have adequate controls in place to prevent and detect any potential misconduct or violations.

Additionally, CFTC Regulation 1.11 mandates that each FCM must establish, maintain, and enforce risk management policies and procedures in order to monitor risks associated with the FCM's activities.[18] FCMs should review whether the "technological" risks in this program would include the use of AI in FCM's business dealings. Additionally, under CFTC Regulation 1.11, an FCM is required to have policies and procedures governing the use of "automated trading programs."[19]

The CFTC has alleged violations related to surveillance by registered FCMs. For example, on May 23, 2024, the CFTC assessed a $200 million civil monetary penalty on JP Morgan Securities LLC (JPM), a registered FCM, for violating CFTC Regulation 166.3.[20] The violation stemmed from JPM's alleged failure to properly configure certain data feeds, resulting in incomplete ingestion of trade and order data by its automated surveillance systems. The CFTC asserted that the supervisory failures were evidenced by the large volume and proportion of order messages on specific trading venues that went unsupervised. It also asserted that surveillance activities across other trading venues were compromised due to varying degrees of data gaps, affecting the monitoring of multiple products. JPM also allegedly failed to implement measures to verify that complete trade and order data were being ingested directly from exchanges into its surveillance systems. The CFTC emphasized that registrants must ensure, through rigorous testing and other means, that all trade and order data from exchanges are fully integrated into their surveillance systems to maintain effective oversight.[21]

The recent action followed another case in 2021 in which JPM entered into a settlement with the CFTC to resolve allegations of spoofing, attempted manipulation of the trading of precious metals and U.S. Treasury futures contracts, as well as an alleged violation of CFTC Regulation 166.3 for a failure to supervise its trade surveillance system.[22] JPM agreed to pay a total of $920.2 million. The CFTC asserted that from 2008 through 2016, JPM issued spoofing orders - orders to buy or sell precious metals and Treasuries with the intent to cancel the orders before execution. The CFTC claimed that these orders were then used by traders to send false signals of supply or demand to deceive market participants into purchasing other orders. The CFTC alleged that JPM traders did so to manipulate market prices and cause artificial pricing. Through these actions, the CFTC determined that JPM failed to provide adequate supervision to its

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8905-24 (May 2, 2024), at https://www.cftc.gov/PressRoom/PressReleases/8905-24 (stating "[w]ithout appropriate industry engagement and relevant guardrails (*some of which have been outlined in existing national policies*), potential vulnerabilities from using AI applications and tools within and outside the CFTC could erode public trust in financial markets, services, and products." (emphases added)) ("CFTC TAC Report").

[18] *See* 17 C.F.R. § 1.11.

[19] *Id.*

[20] *See In the Matter of J.P. Morgan Securities LLC,* Order Instituting Proceedings Pursuant to Section 6(c) and (d) of the Commodity Exchange Act, Making Findings, and Imposing Remedial Sanctions, CFTC Docket 24-07 (May 23, 2024), https://www.cftc.gov/media/10726/enfjpmorganorder052324/download.

[21] *See* Press Release, Commodity Futures Trading Commission, *CFTC Finds J.P. Morgan Failed to Surveil Billions of Client Orders on a U.S. Designated Contract Market*, Press Release 8914-24 (May 23, 2024), at https://www.cftc.gov/PressRoom/PressReleases/8914-24.

[22] *In re JPMorgan Chase & Co.,* CFTC No. 20-69, 2020 WL 5876730 (Sept. 29, 2020) (the "CFTC Spoofing Order").

employees that would be sufficient to allow JPM to identify, investigate, and halt the misconduct. The order indicates that this inadequate surveillance was evidenced by the numerous red flags, inquiries from the CME Group Inc. (CME Group) and CFTC, and internal allegations of misconduct.

On September 29, 2023, the CFTC ordered Goldman Sachs & Co. LLC (Goldman Sachs), a registered FCM, to pay a $3 million civil penalty for violating CFTC Regulation 166.3 due to supervisory failures and material omissions related to disruptive trading.[23] According to the CFTC, Goldman Sachs did not maintain adequate supervisory systems to prevent disruptive trading in ICE Futures Europe contracts. The order states that its key automated preventative control, the Volatility Awareness Control, which was designed to suspend potentially disruptive trading when volatility thresholds were exceeded, malfunctioned and allowed such trading to continue unchecked. Additionally, the CFTC alleged that its post-trade surveillance meant to detect intentional or reckless efforts to influence daily settlement prices in futures contracts was compromised. Per the order, the system incorrectly applied settlement periods for ICE Gasoil futures, resulting in improper surveillance of potential disruptive trading activities.

Supervision is also a common source of allegations against swap dealers.[24] Section 4s(h)(1)(B) of the Commodity Exchange Act requires diligent supervision of the business of the swap dealer. CFTC Regulation 23.602 requires each swap dealer to establish and maintain a system to supervise to diligently monitor all activities relating to its business performed by its partners, members, officers, employees, and agents.[25] The CFTC may claim there is violation if the registrant's supervisory system was inadequate, or the registrant did not diligently perform its supervisory duties. Although this provision in the regulations does not explicitly mention AI, it requires that a registrant's supervisory system must be adequate and diligently performed. This may be argued to include any technology, such as AI, that is used within a firm's operations. The

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[23] *See* Press Release, Commodity Futures Trading Commission, *CFTC Orders Goldman Sachs to Pay $3 Million for Supervision Failures and Material Omissions in a Letter to the CFTC's Division of Enforcement*, Press Release 8800-23 (Sept. 29, 2023), at https://www.cftc.gov/PressRoom/PressReleases/8800-23.

[24] *See Swap Dealer Enforcement Actions: A 10 Year Summary (2012-2022)*, DELOITTE (June 2023), https://www2.deloitte.com/content/dam/Deloitte/us/Documents/Advisory/us-advisory-deloitte-swap-dealer-enforcement-actions-industry-insights-june-2023.pdf (stating "[s]upervision failures are the more prevalent – accounting for almost a third of total rule breaches across [the 10-year] period, indicating the weight the CFTC places on failures to diligently supervise matters related to their businesses as CFTC registrants"); *See Swap Dealer Enforcement Actions: A 11 Year Summary (2012-2023)*, DELOITTE (April 2024), https://www2.deloitte.com/content/dam/Deloitte/us/Documents/Advisory/us-advisory-swap-dealer-enforcement-actions-april-2024.pdf (stating "[s]upervision is consistently the most fined rule area, as the CFTC widely uncovers supervisory failings upon conducting investigations into other rule areas."); Press Release, Commodity Futures Trading Commission, *CFTC Orders Three Financial Institutions to Pay Over $50 Million for Swap Reporting Failures and Other Violations*, Press Release 8801-23 (Sept. 29, 2023), at https://www.cftc.gov/PressRoom/PressReleases/8801-23 (discussing all three financial institutions failing to diligently supervise swap reporting); Press Release, Commodity Futures Trading Commission, *CFTC Orders Four Financial Institutions to Pay Total of $260 Million for Recordkeeping and Supervision Failures for Widespread Use of Unapproved Communication Methods*, Press Release 8762-23 (Aug. 08, 2023), at https://www.cftc.gov/PressRoom/PressReleases/8762-23; *CFTC Orders TD Bank to Pay $4 Million for Supervision Failures Impacting its Electronic Communications Surveillance System*, COMMODITY FUTURES TRADING COMMISSION (Aug. 08, 2023), https://www.cftc.gov/PressRoom/PressReleases/8944-24.

[25] *See* 17 C.F.R. § 23.602(a).

use of AI in monitoring must be subject to the same level of supervision and scrutiny as traditional methods.[26] AI can be integrated into compliance systems to enhance monitoring capabilities, but firms must ensure these systems are robust, transparent, and explainable.[27]

2. Exchange Rules

The CFTC lacks the authority to bring failure-to-supervise charges under these provisions against non-registrants because these specific requirements, such as CFTC Regulation 166.3, apply only to registered entities.[28] Non-registrants, however, often trade on exchanges subject to their rulebooks.[29]

For instance, the CME Group has rulebooks and related guidance in its Market Regulation Advisory Notices (MRAN). These MRANs, including one dated July 1, 2024, emphasize the importance of supervisory duties under CME Group's Rules 432.W, 433, 444, and 501, requiring firms to maintain robust oversight of their employees and agents to ensure compliance with exchange rules. CME Group includes automated trading systems in this context, both fully- and semi-automated, operated by a non-registrant.[30]

CME outlined key aspects of supervisory responsibilities:

- Effective Oversight: Firms must maintain effective systems to monitor employee and agent activities, ensuring compliance with rules that prohibit disruptive practices and mandate proper order entry.

- Accountability for Violations: Firms can be held liable for violations by their employees or agents if it's found that inadequate supervision facilitated the infractions.

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[26] CFTC TAC Report, supra Footnote 17.

[27] *See Request for Comment on the Use of Artificial Intelligence CFTC-Regulated Matters*, COMMODITY FUTURES TRADING COMMISSION (Jan. 25, 2024), https://www.cftc.gov/media/10156/AI_RFC_012524/download (Noting that generative AI could be used to leverage market analysis, supplement human analysis, and mitigate investment risk by designing and implementing hedging strategies. The CFTC acknowledged a recent publication by the International Organization of Securities Commissions that found market intermediaries are deploying AI and machine learning for uses including advisory and support services, client identification and monitoring, including compliance with know-your-customer obligations, and risk management).

[28] 17 C.F.R. § 166.3 (2015); see also id. § 5.21 (same for retail foreign exchange dealers).

[29] *See CME Rulebook*, CHICAGO MERCANTILE EXCHANGE GROUP, https://www.cmegroup.com/rulebook/CME/ (stating "[a]ny Person initiating or executing a transaction on or subject to the Rules of the Exchange directly or through an intermediary, and any Person for whose benefit such a transaction has been initiated or executed, expressly consents to the jurisdiction of the Exchange and agrees to be bound by and comply with the Rules of the Exchange…"); *Rulebook*, INTERCONTINENTAL EXCHANGE, https://www.ice.com/publicdocs/rulebooks/futures_us/ICE_Futures_US_By_laws.pdf (stating "[a]ll Rules shall be binding and effective and in force, and shall govern all cases to which they may be applicable…").

[30] *See Market Regulation Advisory Notice: Supervisory Responsibilities for Employees and Agents*, CME GROUP (Jul. 16, 2024), https://www.cmegroup.com/rulebook/files/cme-group-Rule-432-433-444-501.pdf.

- Training and Compliance Programs: Establishing comprehensive programs is encouraged to educate employees on rule compliance and violation prevention.

- Documentation and Reporting: Firms must meticulously document and report their supervisory efforts, ready to present such records to exchanges or regulators.

- Escalation Procedures: Clear procedures for reporting and addressing potential violations are essential to prevent further infractions and ensure issues are promptly resolved.[31]

According to CME, these supervisory responsibilities aim to uphold market integrity by ensuring firms actively monitor and manage their personnel's activities.[32]

B.   Guidance on Compliance Programs

The CFTC has also provided general guidance on compliance programs, emphasizing the need for trading companies to have robust systems in place to detect activities that may violate regulations or market rules. This guidance highlights the importance of identifying:

- potentially manipulative behavior,

- fraudulent practices, and

- any actions that could undermine market integrity. [33]

If a trading company opts to use AI in its surveillance systems, it is crucial that the AI system is both transparent and under the company's control. The company must be able to clearly explain how the AI functions, how it identifies potential issues, and how it integrates into the overall compliance strategy.

II.   <u>REQUEST FOR COMMENTS ON USE OF AI</u>

In January 2024, the CFTC further addressed the use of AI by issuing a Request for Comment (RFC) on the application of AI in markets under its jurisdiction and the implications of

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[31] *Id.*

[32] *See CME Group Rules and Regulation Overview*, CME GROUP , https://www.cmegroup.com/education/courses/market-regulation/overview/cme-group-rules-and-regulation-overview.html.

[33] *See* Press Release, Commodity Futures Trading Commission, *CFTC Issues Guidance on Factors Used in Evaluating Corporate Compliance Programs in Connection with Enforcement Matters*, Press Release 8235-20 (Sept. 25, 2024), at https://www.cftc.gov/PressRoom/PressReleases/8235-20 (Outlining factors that will be used to evaluate the effectiveness of compliance programs, including whether a compliance program was reasonably designed and implemented to (i) prevent the underlying misconduct at issue; (ii) detect the misconduct; and (iii) remediate the misconduct.); Guidance on Evaluating Compliance Programs in Connection with Enforcement Matters (Sept. 10, 2020), at https://www.cftc.gov/media/4626/EnfGuidanceEvaluatingCompliancePrograms091020/download (hereinafter "CFTC Guidance").

its adoption.[34] This initiative aims to gather public input to assess AI's benefits and risks, particularly in derivatives markets.[35] The RFC, prompted in part by an Executive Order from the White House, seeks to understand AI's potential to enhance market efficiency, performance, and cost reduction, while also addressing concerns related to market safety, customer protection, governance, and data privacy. The CFTC's effort underscores its commitment to promoting responsible innovation while ensuring market integrity and participant protection.[36] CFTC Commissioner Kristin N. Johnson described this initiative as an effort to explore the integration of AI in financial markets and to assess the need for regulatory guardrails to mitigate potential risks posed by AI technologies.[37]

III.   POTENTIAL FOR ENFORCEMENT ACTION AGAINST DEVELOPERS

On January 29, 2018, the CFTC alleged that Edge Financial Technologies Inc. (Edge), a software development company, and its CEO, Jitesh Thakkar, engaged in aiding and abetting spoofing and a manipulative and deceptive scheme in the E-mini S&P futures contract market on the Chicago Mercantile Exchange. The CFTC alleged that Thakkar violated CFTC Regulation 180.1(a)(1) and (3), which prohibits market manipulation.[38] Thakkar, the owner of Edge, became the first fintech software engineer to be charged as a co-conspirator for the use of its proprietary trading technology by another party. The CFTC stated that Thakkar designed a custom trading software application that enabled "Trader A" to engage in spoofing – placing orders with the intent to cancel before execution – and inject false information into the market regarding supply and demand into the E-mini S&P market.[39]

While this case did not result in a conviction, it underscored the growing scrutiny on the role of software developers in financial markets and the potential legal risks associated with the misuse of trading technologies. The case highlighted potential risks for the creators of trading algorithms and AI-driven technologies, extending beyond the entities that deploy them to those who design and develop the software itself.

IV.   FUTURE CONSIDERATIONS FOR MARKET SURVEILLANCE IN THE AGE OF AI

The CFTC's Technology Advisory Committee has outlined key considerations for entities utilizing AI, which are increasingly being urged upon the CFTC for future regulatory action.[40]

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[34] *See* Request for Comment, supra Footnote 4.

[35] *Id.*

[36] *Id.*

[37] *See Commissioner Kristin N. Johnson Statement on the CFTC RFC on AI: Building a Regulatory Framework for AI in Financial Markets*, COMMODITY FUTURES TRADING COMMISSION (Jan. 25, 2024), https://www.cftc.gov/PressRoom/SpeechesTestimony/johnsonstatement012524

[38] *See* 17 C.F.R. § 180.1(a)(1); 17 C.F.R. § 180.1(a)(3).

[39] *See* Press Release, Commodity Futures Trading Commission, *CFTC Charges Jitesh Thakkar and Edge Financial Technologies, Inc. with Aiding and Abetting Spoofing and Manipulative and Deceptive Scheme*, Press Release 7689-18 (Jan. 29, 2018), at https://www.cftc.gov/PressRoom/PressReleases/7689-18.

[40] CFTC TAC Report, supra Footnote 17.

These considerations are critical for entities to monitor closely, as they may shape the regulatory landscape moving forward. The Advisory Committee's recommendations include several points:

- The CFTC should explore the definition and adoption of an AI Risk Management Framework (RMF) for the financial sector. This framework should align with the National Institute of Standards and Technology's (NIST) guidelines, focusing on assessing the efficiency of AI models and identifying potential consumer harms as they relate to regulated entities. This includes addressing governance issues that may arise from AI deployment.

- Initially, the Advisory Committee does not recommend that the CFTC impose additional AI-specific risks within existing risk management requirements. Instead, it suggests that the CFTC develop robust firm-level governance standards over AI systems, consistent with the NIST framework. This approach allows for a more measured introduction of AI governance without overwhelming entities with new regulatory burdens.

- The CFTC should conduct a comprehensive inventory of existing regulations related to AI within the sector. This inventory would facilitate a gap analysis to identify potential risks associated with AI systems, thereby determining compliance needs and opportunities for further dialogue on regulatory relevance. This could lead to clarifying staff guidance or even new rulemaking as necessary.

- Furthermore, the CFTC should actively seek to align its AI policies and practices with those of other federal agencies, including the SEC, the Treasury, and others concerned with financial market stability. Such inter-agency cooperation would ensure a cohesive and unified approach to AI regulation, reducing the risk of conflicting guidelines across different regulatory bodies.[41]

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[41] CFTC TAC Report.