Proskauer

CFTC Adopts Additional Exemptions From Annual Privacy Notice Delivery Requirement

April 29, 2019

On April 19, 2019, the U.S. Commodity Futures Trading Commission (CFTC) approved a final rule revising the annual privacy notice delivery requirements applicable to CFTC registered commodity trading advisors, commodity pool operators, futures commission merchants, introducing brokers, retail foreign exchange dealers, swap dealers, and major swap participants.

The new amendment conforms the requirements of CFTC Regulation 160.5 to a new exception contained in the Fixing America's Surface Transportation Act (FAST Act) of 2015, which provided an exception to the annual privacy notice delivery requirement if a financial institution (i) does not share non-public personal information about its customers except for certain purposes that do not trigger the customer's statutory right to opt out of such sharing, and (ii) has not changed its policies and practices with regard to disclosing non-public personal information from the policies and practices that were disclosed in the most recently distributed privacy notice.

The amendment also clarifies when a revised notice must be sent to all existing customers. The CFTC final rule was published in the Federal Register on April 25, 2019 and will become effective on May 28, 2019.