

GIBSON DUNN

This Week in Derivatives

August 8, 2025

From the Derivatives Practice Group: This week, Acting Chairman Pham announced the CFTC's Crypto Sprint initiative aimed at implementing the recommendations from the President's Working Group on Digital Asset Markets Report. As a first step, Acting Chairman Pham launched an initiative for listing spot crypto assets on designated contract markets (DCMs). For more information on the U.S. digital assets regulatory framework, please see Gibson Dunn's recent [client alert](#).

New Developments

CFTC Staff Issues No-Action Letter Regarding Event Contracts. On August 7, the CFTC's Division of Market Oversight and the Division of Clearing and Risk announced they have taken a [no-action position](#) regarding swap data reporting and recordkeeping regulations for event contracts in response to a request from the Railbird Exchange, LLC, a designated contract market, and QC Clearing LLC, a derivatives clearing organization. [NEW]

SEC Division of Corporation Finance Issues Staff Statement on Certain Liquid Staking Activities. On August 5, the SEC issued a statement regarding certain liquid staking activities. The [statement](#) aims to provide greater clarity on the application of federal securities laws to crypto assets, specifically addressing a type of protocol staking known as "liquid staking."

Liquid staking refers to the process of staking crypto assets through a software protocol or service provider and receiving a “liquid staking receipt token” to evidence the staker’s ownership of the staked crypto assets and any rewards that accrue to them. The statement clarifies the division’s view that, depending on the facts and circumstances, the liquid staking activities covered in the statement do not involve the offer and sale of securities within the meaning of Section 2(a)(1) of the Securities Act of 1933 or Section 3(a)(10) of the Securities Exchange Act of 1934. [NEW]

Acting Chairman Pham Launches Listed Spot Crypto Trading Initiative. On August 4, CFTC Acting Chairman Caroline D. Pham announced that the CFTC will launch an initiative for trading spot crypto asset contracts that are listed on a CFTC-registered futures exchange (a designated contract market). This is the first initiative in the CFTC’s crypto sprint to start implementation of the recommendations in the President’s Working Group on Digital Asset Markets [report](#). [NEW]

Acting Chairman Pham Announces CFTC Crypto Sprint. On August 1, CFTC Acting Chairman Caroline D. Pham announced that the CFTC will kick off a crypto sprint to start implementation of the recommendations in the President’s Working Group on Digital Asset Markets report. [NEW]

CFTC Staff Issues No-Action Letter Regarding Swap Data Error Correction Notification Requirements. On July 31, the CFTC took a [no-action position](#) with respect to reporting counterparties that fail to submit a swap data error correction notification with respect to an error if, at the time the reporting counterparty initially discovers and assesses the impact of an error, the reporting counterparty makes a reasonable determination that the number of reportable trades affected by the error does not exceed five percent of the reporting counterparty’s open swaps for the relevant asset class in swaps for which it was the reporting counterparty.

Acting Chairman Pham Lauds Presidential Working Group Recommendations to Usher in Golden Age of Crypto in the U.S. On July 30, the President’s Working Group on Digital Asset Markets released a [multi-agency report](#) on recommendations to strengthen American leadership in digital financial technology. The report included input from multiple federal agencies, including the CFTC. Acting Chairman Pham stated that the “report represents a unified approach under the Trump Administration to usher in a golden age of crypto, and the CFTC stands ready to fulfill our mission to promote responsible innovation, safeguard our markets and ensure they remain the envy of the world.”

CFTC Staff Issues No-Action Letter on SEF Order Book. On July 30, the CFTC issued a [no-action letter](#) stating that it will not recommend the Commission commence an enforcement action against a swap execution facility (“SEF”) that does not provide a central limit order book as set forth in CFTC Regulation

37.3(a)(2), in connection with swap transactions executed on the SEF that are not subject to the trade execution requirement in Commodity Exchange Act section 2(h)(8).

SEC Permits In-Kind Creations and Redemptions for Crypto ETPs. On July 29, the SEC voted to approve orders to permit in-kind creations and redemptions by authorized participants for crypto asset exchange-traded product (“ETP”) shares. The orders reflect a departure from recently approved spot bitcoin and ether ETPs, which were limited to creations and redemptions on an in-cash basis. Bitcoin and ether ETPs, consistent with other commodity-based ETPs approved by the SEC, will be permitted to create and redeem shares on an in-kind basis.

CFTC Staff Issues No-Action Letter Regarding Event Contracts. On July 23, the CFTC’s Division of Market Oversight and the Division of Clearing and Risk announced they have taken a [no-action position](#) regarding swap data reporting and recordkeeping regulations in response to a request from the Chicago Mercantile Exchange Inc. (“CME”), a designated contract market and derivatives clearing organization. The divisions will not recommend the CFTC initiate an enforcement action against CME or its participants for failure to comply with certain swap-related recordkeeping requirements and for failure to report to swap data repositories data associated with binary option transactions executed on or subject to the rules of CME, subject to the terms of the no-action letter.

New Developments Outside the U.S.

ESMA Publishes Data for Quarterly Bond Liquidity Assessment. On August 1, ESMA published its new [quarterly liquidity assessment of bonds](#). For this period, there are currently 1,346 liquid bonds subject to Markets in Financial Instruments Directive (“MIFID II”) transparency requirements. As indicated in the [public statement](#) released on March 27, 2024, the quarterly liquidity assessment of bonds will continue to be published by ESMA. [NEW]

ESMA Prepares for Switch Toward Single Volume Cap in October 2025. On July 24, ESMA announced an update of the volume cap system, which will pass from the previous double volume cap mechanism to a “single” volume cap mechanism (“VCM”) in October, according to the changes introduced by the Markets in Financial Instruments Regulation Review. The new VCM limits at 7% the trading volume under the reference price waiver in the EU, compared to the total aggregated trading volume in the EU over the last 12 months for each equity and equity-like financial instrument.

New Industry-Led Developments

ISDA Releases SwapsInfo First Half of 2025 and the Second Quarter of 2025. On August 7, ISDA released a [research note](#) that concludes interest rate derivatives trading activity increased in the first half of 2025, driven by continued interest rate volatility, evolving central bank policy expectations, and persistent macroeconomic uncertainty. Trading in index credit derivatives also rose, as market participants responded to a changing macroeconomic environment and sought to manage credit exposure. [NEW]

ISDA Responds to IFSCA on Derivatives Reporting and Clearing. On August 5, ISDA [responded](#) to the International Financial Services Centres Authority's ("IFSCA") consultation on reporting and clearing of over-the-counter ("OTC") derivatives contracts booked in International Financial Services Centres. In the response, ISDA provided several recommendations including removing one-to-one hedging requirements for OTC derivatives, especially those referencing foreign or IFSC-listed securities, to align with global practice and support flexible risk management. [NEW]

ISDA Board Appoints New Chair. On July 31, ISDA [announced](#) that its Board of Directors elected Amy Hong as its new Chair. Ms. Hong is Head of Strategy, Investments and Partnerships in the Global Banking & Markets division at Goldman Sachs, responsible for leading strategic initiatives for the division with a focus on market structure, systemic and operational risks, and industry digitization. Ms. Hong succeeds Jeroen Krens, who has stepped down in accordance with ISDA's bylaws following his departure from HSBC.

ISDA/IIF Responds to the PRA Consultation (CP10/25) on Enhancing Banks' and Insurers' Approaches to Managing Climate-Related Risks. On July 30th, ISDA and the Institute of International Finance ("IIF") [responded](#) to the [PRA consultation \(CP10/25\)](#) on enhancing banks' and insurers' approaches to managing climate-related risks, which proposes updates to the [Supervisory Statement 3/19](#) on climate-related risk management for banks and insurers. ISDA and IIF indicated their broad support the PRA's climate risk approach, but warned against overly prescriptive or bespoke climate-specific requirements.

ISDA Responds to EC on Exemption of Spot FX Benchmarks from BMR. On July 28, ISDA and the Global Foreign Exchange Division of the Global Financial Markets Association [responded](#) to the European Commission's ("EC") consultation on the need to exempt spot foreign exchange ("FX") benchmarks under Article 18a of the EU Benchmarks Regulation ("BMR"). The consultation recommends applying the exemption to four currencies on the basis that their use in the EU either exceeds

(Indian rupee, South Korean won, Taiwanese new dollar) or is very close to (Philippine peso) the significant benchmark threshold based on traded volume data provided by EU supervised entities.

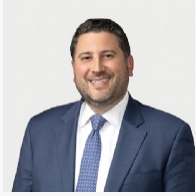
ISDA CEO Issues Comment on Strengthening DC Governance. On July 23, ISDA CEO Scott O'Malia offered an informal comment on the role of Credit Derivatives Determinations Committees ("DCs"). He announced the formation of a governance committee that will be responsible for overseeing the operation of the DCs and making changes to the DC rules where necessary to ensure long-term viability and meet market expectations for efficiency and transparency in credit event determinations.

ISDA and CSA Issue Notification of Significant Error or Omissions Suggested Operational Practices. On July 22, ISDA and the Canadian Securities Administrators ("CSA") developed a [Suggested Operational Practices](#) that considered current institutional processes and outlined suggested operational practices related to the new requirement under §26.3(2) of the Canadian Trade Repositories and Derivatives Data Reporting rules rewrite. This is intended to notify a Canadian regulator of a significant error or omission with respect to derivatives data.

ISDA Announces Paper on UPI Identifiers for MIFID Transaction Reporting. On July 22, ISDA announced a [paper](#) (titled *UPI as the Foundation for OTC Derivatives Reporting: The Case for UPI*) that it submitted to the UK Financial Conduct Authority on July 16. The paper was developed to complement ISDA's [response](#) to the FCA's discussion paper [DP24/2: Improving the UK Transaction Reporting Regime](#), which is intended to improve transaction reporting under the UK Markets in Financial Instruments Regulation.

ISDA Releases Report on Interest Rate Derivatives Trading Activity Reported in EU, UK and US Markets: First Quarter of 2025. On July 21, ISDA released a [report](#) that analyzed interest rate derivatives trading activity reported in Europe. The analysis is based on transactions publicly reported by 30 European approved publication arrangements and trading venues.

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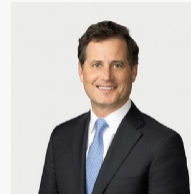
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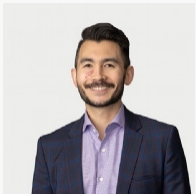
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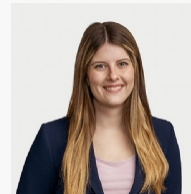
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