

GIBSON DUNN

This Week in Derivatives

October 17, 2025

From the Derivatives Practice Group: This week, ESMA and ISDA were particularly active, especially with respect to the derivatives markets in Japan, the UK, and the EU. Due to the federal government shutdown, regulatory activity has stalled in the U.S.

New Developments

White House Withdraws Nomination for CFTC Chair. On September 30, according to various sources, Brian Quintenz confirmed that the White House had withdrawn his nomination for CFTC Chair.

CFTC Staff Issues Advisory on Certain Contract Markets. On September 30, the CFTC issued an [advisory](#) to futures commission merchants, introducing brokers, designated contract markets, derivatives clearing organizations, and registered futures associations about certain contract markets regarding preparations with respect to potential market disruption during a lapse in government appropriations. The advisory is a reminder of certain applicable regulatory requirements and does not create new obligations.

CFTC Issues Federal Register Notice Regarding Operations During Lapse in Appropriations. On September 30, the CFTC issued a [notice](#) to provide for the continuation, shutdown, and resumption of certain operations in the event of a lapse in appropriations, and to alert all persons regulated by or engaged in proceedings at

the Commission of these provisions. The CFTC also published a [Plan for Lapse in Appropriations](#).

CFTC Staff Issues No-Action Letter Regarding Electricity Binary Options. On September 30, 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 binary options in response to a request from Electron Exchange DCM LLC, a designated contract market, and Electron Exchange DCO LLC, a derivatives clearing organization. In the request, Electron Exchange DCM LLC represented that it intends to list cash-settled binary options with underlying commodities relating to electricity and/or power markets. The divisions stated that they will not recommend the CFTC initiate an enforcement action against either entity or their 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 Electron Exchange DCM LLC and cleared through Electron Exchange DCO LLC, subject to the terms of the no-action letter.

CFTC Announces Participation in World Investor Week 2025. On September 30, the CFTC's Office of Customer Education and Outreach announced its participation in [World Investor Week](#), a global effort to emphasize the importance of investor education and protection. The CFTC said that, during the week, from October 6-12, it will warn the public about current scam trends and red flags through social media and webinars.

New Developments Outside the U.S.

ESMA Publishes Second Consolidated Report on Sanctions. On October 16, ESMA published its [second consolidated report on sanctions and measures](#) imposed in Member States in 2024. Building on this report, ESMA will further foster discussions between national securities markets authorities on the effective and consistent implementation of capital markets rules and continue working towards ensuring that similar breaches lead to similar enforcement outcomes across the EU, irrespective of where they have been initiated. [NEW]

ESAs' Joint Committee Publishes Work Program for 2026. On October 16, the Joint Committee of the European Supervisory Authorities (ESAs) presented its [2026 Work Program](#), outlining key areas of collaboration for the coming year. The Program aims to strengthen the financial system's digital operational resilience, ensure the continued protection of consumers, and identify risks that could undermine financial stability. [NEW]

EBA and ESMA Recommend Targeted Revisions to the Investment Firms' Prudential Framework Investor Protection. On October 15, the European Banking Authority (EBA) and ESMA have issued their [technical advice](#) in response to the European Commission's Call for Advice on the Investment Firms Regulation and Investment Firms Directive. They propose limiting significant changes to the framework, which has proven to be fit-for-purpose, as confirmed by stakeholder feedback during the joint consultation. [NEW]

ESMA Announces 2025 European Common Enforcement Priorities and Results of Fact-finding on Materiality Considerations in Sustainability Reporting. On October 14, ESMA outlined the [European Common Enforcement Priorities](#) for the 2025 annual financial reports of listed issuers. This year's priorities reaffirm ESMA's commitment to simplification and burden reduction, while maintaining a strong focus on investor protection and market stability. [NEW]

ESMA Proposes Key Reforms to Settlement Discipline, Supporting the Transition to T+1. On October 13, ESMA published its [final report](#) recommending significant amendments to the Regulatory Technical Standards on Settlement Discipline. These changes aim to enhance settlement efficiency across the EU, facilitate the transition to a shorter settlement cycle (T+1) by October 11, 2027 and reduce the administrative burden on central securities depositories and market participants. [NEW]

ESMA Consults on CCP Participation Requirements. On October 9, ESMA launched a [public consultation](#) on draft Regulatory Technical Standards on the elements to be considered when central counterparties (CCPs) define participation requirements. ESMA encouraged stakeholders to share their views about the elements that a CCP should consider when establishing its admission criteria, and assessing the ability of non-financial counterparties acting as clearing members to meet margin requirements and default fund contributions.

ESMA Publishes Technical Standards on CCP Authorizations, Extensions, and Validations. On October 9, ESMA published its Final Reports on the Regulatory Technical Standards on CCPs' [authorizations, extensions of authorization](#) and [model validations](#), following the review of the European Market Infrastructure Regulation (EMIR 3). According to ESMA, EMIR 3 introduces several measures to make EU clearing services and EU CCPs more efficient and competitive, notably by streamlining and shortening supervisory procedures for initial authorizations, extensions of authorization and validations of changes to models and parameters.

ESMA Organizes First Data Day Focused on Burden Reduction and Digitization. On October 7, ESMA announced that the first [ESMA Data Day](#) will be held on December 2, 2025. ESMA said that this flagship event will showcase how smarter data use and digitalization can simplify the regulatory framework and reduce reporting burdens while steering clear of deregulation.

EU Supervisory Authorities Warn Consumers of Risks and Limited Protection for Certain Crypto-assets and Providers. On October 6, the European Supervisory Authorities (EBA, EIOPA and ESMA – the ESAs) issued a [warning](#) to consumers, reminding them that crypto-assets can be risky and that legal protection, if any, may be limited depending on the crypto-assets at issue. The warning was accompanied by a [factsheet](#) explaining what the new EU regulation on Markets in Crypto-Assets means for consumers. The ESAs recommended concrete steps consumers can take to make informed decisions before investing in crypto-assets, such as checking if the provider is authorized in the EU.

ESMA Releases 2026 Work Program – Advancing on More Integrated, Accessible, and Competitive Financial Markets in the EU. On October 3, ESMA published its [2026 Annual Work Program](#). Guided by its multi-annual strategy for 2023–2028 which sets out three strategic priorities and two thematic drivers, ESMA’s 2026 work program focuses on delivering on core policy and supervisory mandates while contributing to ambitious reforms for more integrated, accessible, and innovative EU capital markets.

New Industry-Led Developments

IOSCO Reviews Implementation of Recommendations for Crypto and Digital Asset Markets. On October 16, IOSCO published its report on its [Thematic Review](#) Assessing the Implementation of IOSCO Recommendations for Crypto and Digital Asset Markets. In recognition of the rapid development and growth of crypto-asset markets, IOSCO and other relevant bodies, including the Financial Stability Board, have developed comprehensive policy frameworks for the regulation and oversight of crypto-assets and global stablecoins. [NEW]

ISDA Publishes New Report that Shows the Importance of Derivatives to Japan’s Asset Management Ambitions. On October 16, ISDA published a [report](#) drawing on discussions with 20 senior asset managers based in Japan. The report revealed that reducing barriers in the market would enable them to utilize derivatives more efficiently, which, in turn, could enhance Japan’s competitiveness in the global market. [NEW]

ISDA Expands Digital Regulatory Reporting Solution to Cover Hong Kong's Revised Reporting Rules. On October 15, ISDA has [expanded](#) its Digital Regulatory Reporting solution to support revised derivatives reporting rules in Hong Kong, enabling in-scope firms to implement the changes cost-effectively and accurately. The amendments from the Hong Kong Monetary Authority and the Securities and Futures Commission came into effect on September 29. [NEW]

ISDA Submits Supplementary Analysis to ESMA on Reporting Costs. On October 13, ISDA submitted to ESMA an [analysis](#) of the costs of regulatory reporting, which proposes where savings can be made most effectively. This document supplements the recent [response](#) submitted by ISDA, the Association for Financial Markets in Europe, Futures Industry Association, and the Global FX Division of the Global Financial Markets Association to ESMA's [call for evidence](#) on a comprehensive approach for the simplification of financial transaction reporting. [NEW]

ISDA Publishes Joint Association Letter on Simplification of Application of the EU Taxonomy. On October 13, ISDA, the Association for Financial Markets in Europe, the European Fund and Asset Management Association, the European Association of Co-operative Banks and the European Banking Federation published a [policy statement](#) in support of the European Commission's efforts to simplify the application of the EU taxonomy. The statement emphasizes that reporting companies need legal certainty that the intended amendments and simplifications will apply as planned from January 1, 2026. [NEW]

ISDA Publishes Joint Paper on Removal of SI Regime for Derivatives and Bonds in the EU and UK. On October 13, ISDA and the Association for Financial Markets in Europe published a [paper](#) on the practical implications of the recent discontinuation of the systematic internalizer regime for derivatives, bonds and other non-equity financial instruments in the EU, and the expected discontinuation in the UK in the near future. [NEW]

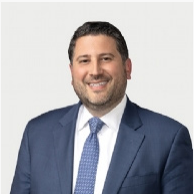
ISDA Publishes Clearing Model Comparison. On October 10, ISDA updated a comparison of available [US Treasury \(UST\) clearing models](#), as well as [models for clearing repos](#) at other central counterparties globally and models for clearing derivatives. This comparison is intended to help market participants understand existing and potential new clearing models for UST cash and repo transactions as they implement the US SEC's recent rules requiring clearing of such transactions.

ISDA Publishes Report on the Impact of the FRTB on Correlation Trading. On October 7, ISDA published a [report](#) on the capitalization of the correlation trading portfolio (CTP) under the Fundamental Review of the Trading Book. According to ISDA, the paper sets out the industry position on best practice as it is applied to the

current regulation. It also makes recommendations for improvements that ISDA said would help to clarify regulatory requirements for the CTP to ensure alignment with how banks manage the risk of such products and support a globally consistent approach to the CTP to maintain liquidity in this important market.

ISDA CEO Comments on Path to Greater CFTC-SEC Alignment. On October 2, ISDA CEO Scott O'Malia offered informal [comments](#) on a path to greater CFTC-SEC alignment. He highlighted three key areas where greater coordination between the CFTC and SEC is critical and market participants can help to deliver solutions that would increase compliance, cut costs and create a robust collateral infrastructure. These three areas include (1) regulatory reporting, (2) Treasury clearing, and (3) market liquidity and collateral infrastructure.

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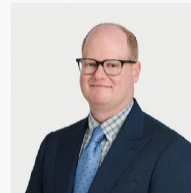
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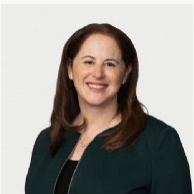
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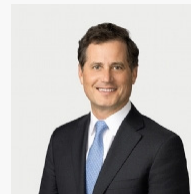
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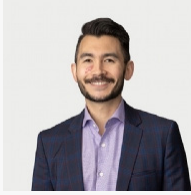
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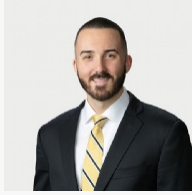
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