

GIBSON DUNN

This Week in Derivatives

October 3, 2025

From the Derivatives Practice Group: This week, White House has withdrawn the nomination of Brian Quintenz for CFTC Chair.

New Developments

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 On September 30, according to various media publications, Brian Quintenz confirmed that the White House had withdrawn his nomination for CFTC Chair.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

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. [NEW]

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](#). [NEW]

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.[NEW]

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]

CFTC and SEC hold Joint Roundtable on Regulatory Harmonization Efforts. On September 29, the CFTC and the SEC held their Joint Roundtable on Regulatory Harmonization Efforts. CFTC Acting Chair Pham [remarked](#) that the two agencies "are aligning regulatory frameworks and rule requirements wherever possible to eliminate excessive and unnecessary costs and supporting responsible innovation and fair competition." SEC Chairman Atkins [remarked](#) that the agencies are focused "on harmonization, not a merger of the SEC and CFTC, which" he clarified, "would be up to Congress and the President," and that "[w]hat matters is building a framework where [the] agencies coordinate seamlessly, reduce duplicative regulation, and give markets the clarity they deserve." Chairman Atkins specifically noted "duplicative collateral requirements" as an area for harmonization. [NEW]

CFTC Issues Letter on Compliance Date for Reporting Requirements in Commission Regulation 39.19(c)(1). On September 26, the CFTC issued Letter [No. 25-34](#) regarding the compliance date for satisfying the reporting requirements detailed in Commission Regulation 39.19(c)(1), which sets forth daily reporting requirements for registered derivatives clearing organizations (DCOs). In order to provide additional time for DCOs to conduct more testing and facilitate compliance with the daily reporting requirements, the CFTC will not expect compliance with the amended requirements in Regulation 39.19(c)(1) and appendix

C to part 39 until June 1, 2026, so long as that DCO continues to comply with the prior version of Regulation 39.19(c)(1) in effect on September 6, 2023.

CFTC Issues Proposal to Revise Business Conduct and Swap Documentation Requirements for Swap Dealers and Major Swap Participants. On September 24, the CFTC proposed [amendments](#) that would codify existing no-action positions for certain of the CFTC's business conduct and documentation requirements applicable to swap dealers and major swap participants. The proposed amendments, if adopted, would further harmonize the CFTC's rules with those of the Securities and Exchange Commission and Municipal Securities Rulemaking Board.

CFTC Announces Agenda, Panelists for SEC-CFTC Roundtable on Regulatory Harmonization Efforts Announced. On September 24, the CFTC and the SEC announced the [agenda and panelists](#) for their joint September 29 roundtable on regulatory harmonization efforts. The roundtable, announced earlier this month, will be held at the SEC's headquarters at 100 F Street, N.E., Washington, D.C., from 1 p.m. to 5:30 p.m.

Acting Chair Pham Launches Tokenized Collateral and Stablecoins Initiative. On September 23, CFTC Acting Chair Caroline D. Pham announced the CFTC will launch an initiative for the use of tokenized collateral including stablecoins in derivatives markets. This initiative builds on the CFTC's successful Crypto CEO Forum held in February 2025, and is part of the CFTC's crypto sprint to implement the recommendations in the President's Working Group on Digital Asset Markets [report](#).

CFTC Staff Extends No-Action Position for Certain Package Transactions from the Trade Execution Requirement for Swaps. On September 22, the CFTC's Division of Market Oversight [extended](#) its no-action positions in CFTC Letter [No. 22-15](#) regarding swaps executed as part of package transactions where at least one individual swap component is subject to the trade execution requirement under Commodity Exchange Act Section 2(h)(8), and all other components are futures contracts (MAT/Futures Package Transactions).

Acting Chairman Pham Announces New Leadership, Members of Global Markets Advisory Committee and Subcommittees. On September 19, CFTC Acting Chair Caroline D. Pham [announced](#) new members of the Global Markets Advisory Committee (GMAC) and subcommittees, which she sponsors, including Scott Lucas, Managing Director, Head of Markets Digital Assets at J.P. Morgan, as co-chair of the GMAC's Digital Asset Markets Subcommittee, together with co-chair Sandy Kaul, Executive Vice President at Franklin Templeton, and other appointees to GMAC, the new Global Market Structure Subcommittee, the Digital Asset Markets Subcommittee, and the Technical Issues Subcommittee.

CFTC and SEC Extend Form PF Compliance Date to Oct. 1, 2026. On September 17, the CFTC and the SEC each voted to further [extend the date](#) for investment advisers to comply with amendments to Form PF, the confidential reporting form used by certain private fund advisers. The Commissions extended the compliance date to October 1, 2026.

SEC Approves Generic Listing Standards for Commodity-Based Trust Shares. On September 17, the SEC voted to approve proposed rule changes by three national securities exchanges to adopt generic listing standards for exchange-traded products (ETPs) that hold spot commodities, including digital assets. As a result, the exchanges may list and trade Commodity-Based Trust Shares that meet the requirements of the approved generic listing standards without first submitting a proposed rule change to the Commission pursuant to Section 19(b) of the Exchange Act. Commissioners Peirce and Crenshaw each released statements regarding the approval. Commissioner Peirce [said](#) that the “streamlined listing process will benefit investors, issuers, other market participants, and the Commission by reducing the time and resources required to bring new ETPs to market.” Conversely, Commissioner Crenshaw [said](#) that “the Commission is passing the buck on reviewing these proposals and making the required investor protection findings, in favor of fast tracking these new and arguably unproven products to market,” and noted her belief that the generic listing standards are not appropriate for digital asset ETPs “due to the unique risks that still exist in the underlying crypto spot markets,” including volatility and a lack of guardrails comparable “to those that exist in regulated securities markets.”

New Developments Outside the U.S.

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]

ESMA Provides Updated Instructions for Weekly Commodity Derivative Position Reporting. On September 25, ESMA published updated [reporting instructions](#) and [XML schema](#) (version 1.2.0) for the [weekly reporting](#) of commodity derivatives positions under the Markets in Financial Instruments Directive II, reflecting the changes from the latest review.

New Industry-Led Developments

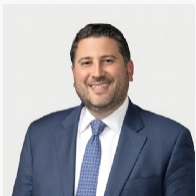
ISDA CEO Comments on Path to Greater CFTC-SEC Alignment. On October 2, ISDA CEO Scott O'Malia offered informal [comments](#) on a path to greater CFTC-SEC alignment. He highlighted three key areas where greater coordination between the CFTC and SEC is critical and market participants can help to deliver 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. [NEW]

ISDA Publishes Report on Interest Rate Derivatives Trading Activity Reported in EU, UK and US Markets: First Half of 2025 and the Second Quarter of 2025. On September 24, ISDA published a [report](#) that analyzes 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.

ISDA, AFME, FIA, GFXD Respond to ESMA on Simplification of Financial Transaction Reporting. On September 19, ISDA, the Association for Financial Markets in Europe (AFME), the Futures Industry Association (FIA) and the Global Foreign Exchange Division (GFXD) of the Global Financial Markets Association (GFMA) submitted a [joint response](#) to ESMA's Call for Evidence on streamlining of transaction reporting.

ISDA Publishes Credit Derivatives Trading Activity Reported in EU, UK and US Markets: First Half of 2025 and Second Quarter of 2025. On September 16, ISDA published a [report](#) that analyzes credit derivatives trading activity reported in Europe. The analysis shows European credit derivatives transactions based on the location of reporting venues (EU versus UK) and product type. The report also compares European-reported credit derivatives trading activity to what is reported in the US.

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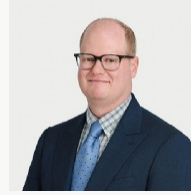
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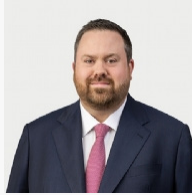
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