

GIBSON DUNN

This Week in Derivatives

February 13, 2026

From the Derivatives Practice Group: This week, the CFTC announced new members of the Innovation Advisory Committee.

New Developments

CFTC Announces Innovation Advisory Committee Members. On February 12, the CFTC announced the members of the Innovation Advisory Committee (IAC). The committee will help the Commission keep pace with how breakthrough innovations, such as artificial intelligence and blockchain technologies, are transforming markets, enabling the agency to develop adaptive regulations and maintain robust financial oversight in a world where change is constant. Chairman Selig is the sponsor of this committee and nominated Michael Passalacqua as the committee's designated federal officer. The full list of IAC members can be found [here](#). [NEW]

CFTC Targets Relationship Investment Scams with National and International Initiatives this Valentine's Week. On February 9, the CFTC's Office of Customer Education and Outreach announced that it is leading national and international awareness efforts to warn the public about relationship investment scams, a form of fraud that costs Americans an estimated \$10 billion each year. The national interagency *DatingOrDefrauding?* social media awareness campaign warns Americans to be skeptical of any requests from new online friends or romantic interests. The campaign highlights a common warning sign: requests to send crypto assets, or other forms of payment, to invest in scams through fake crypto websites. [NEW]

CFTC Staff Reissues Letter 25-40 Updating Payment Stablecoin Definition. On February 6, the CFTC's Market Participants Division [announced](#) it has reissued [CFTC Staff Letter 25-40](#) with a limited revision to the definition of "payment stablecoin." This No-Action Position is with respect respect to futures commission

merchants that accept certain non-securities digital assets as margin collateral and (a) take into account the value of such digital assets for purposes of certain regulatory requirements, subject to conditions or (b) deposit payment stablecoins as residual interest, subject to conditions. The CFTC's revision specifies that a national trust bank may be a permitted issuer of a payment stablecoin for purposes of the no-action position.

SEC Publishes Data on Exchange Traded Funds and Fund Mergers; Updated Statistics on Municipal Advisors, Transfer Agents, and Security-Based Swap Dealers. On February 5, the SEC's Division of Economic and Risk Analysis (DERA) published two [new reports](#) on exchange traded funds and fund mergers, and updated statistics and data visualizations on municipal advisors, transfer agents, and security-based swap dealers. The reports provide the public with information about the growth in active ETFs and the changes in fees paid by investors when mutual funds and ETFs acquire other funds.

CFTC Withdraws Event Contracts Rule Proposal and Staff Sports Event Contracts Advisory. On February 4, the CFTC announced it has [withdrawn](#) the notice of proposed rulemaking titled "Event Contracts" that it published on June 10, 2024 (see CFTC Press Release No. [8907-24](#)). The CFTC does not intend to issue final rules with respect to the proposal. Additionally, Commission staff has [withdrawn](#) CFTC Staff Letter 25-36, a Staff Advisory on Certain Contract Markets (see CFTC Press Release No. [9137-25](#)).

CFTC Staff Issues Interpretation on Legacy Swap Status. On February 2, the CFTC's Market Participants Division and Division of Clearing and Risk issued an [interpretive letter](#) addressing the effect of a merger conducted as part of an internal reorganization at Morgan Stanley, a CFTC-registered swap dealer, on the status of legacy swaps. Based on the facts and circumstances of the merger as described in the letter, the divisions concluded the swaps at issue retain their legacy swap status under the Commission's uncleared swap margin and swap clearing requirements.

CFTC Designates Xchange Alpha LLC as a Contract Market. On February 2, the CFTC announced it has issued an [order](#) designating Xchange Alpha LLC as a designated contract market (DCM) under Section 5 of the Commodity Exchange Act (CEA). The CFTC determined Xchange Alpha demonstrated its ability to comply with the CEA and CFTC regulations applicable to DCMs. The terms and conditions of the designation order require, among other things, Xchange Alpha to comply with all applicable provisions of the CEA and the CFTC regulations applicable to DCMs.

New Developments Outside the U.S.

ESMA Publishes Latest Edition of Spotlight on Markets Newsletter. On February 13, ESMA published its latest edition of the Spotlight on Markets Newsletter. This edition opens with ESMA's [Digital and Data Strategies](#), outlining ESMA's position that enhanced data use and improved digital tools will strengthen effective and risk-based supervision. Other highlights include the [launch of the](#)

[selection process](#) for the Consolidated Tape Provider for OTC derivatives, which ESMA stated is an important step toward greater post-trade transparency. [NEW]

ESMA to Hold Conference “A New Era for EU Capital Markets” on May 21, 2026. On February 5, ESMA announced that it is organizing a [high-level conference](#) “A New Era for EU Capital Markets” on May 21, 2026 in Paris, France. The conference will bring together senior policymakers, regulators, leaders of major market infrastructures and financial institutions, as well as investor representatives. Discussions will focus on how to deepen market integration, strengthen supervision and improve the investor journey in support of the Savings and Investments Union.

ESMA Launches Selection Process for its Next Chair. On February 3, ESMA launched the [selection procedure](#) for the position of ESMA Chair. This key leadership role offers the opportunity to shape the future of Europe’s financial markets and steer the organization through an evolving regulatory and supervisory landscape.

New Industry-Led Developments

IOSCO Announces Pre-Valentine’s Day Campaign Focused on Combatting Relationship Investments Scams. On February 11, IOSCO announced the start of a [worldwide initiative](#) to raise awareness about relationship investment scams and the devastating effect they can have on an investor’s financial future. These scams are called various names, including romance scams, crypto investment scams, financial grooming scams, and “pig butchering” scams. [NEW]

ISDA Publishes Paper on IRRBB Management in Emerging Market and Developing Economies. On February 9, ISDA published a [paper](#) on interest rate risk in the banking book (IRRBB) in which it argues that building more effective IRRBB management frameworks supported by well-functioning interest rate derivatives markets is both a financial stability priority and a foundation for sustainable economic progress in emerging market and developing economies. [NEW]

ISDA and FIA Respond to CPMI-IOSCO Consultation on General Business Losses. On February 5, ISDA and the Futures Industry Association (FIA) [responded](#) to the Committee on Payments and Market Infrastructures (CPMI) and International Organization of Securities Commissions (IOSCO) consultation on the management of general business risks and general business losses by financial market infrastructures (FMIs). ISDA and FIA stated that they welcome the consultation’s emphasis that FMIs should maintain sufficient resources to bear general business losses for which they are solely responsible, given these losses stem from risks under FMI control and are not appropriately allocated to participants. [NEW]

ISDA Chief Executive Scott O’Malia Gives Remarks at Trading Book Capital Event. On February 5, Scott O’Malia gave [welcoming remarks](#) at ISDA’s Trading Book Capital event. In his remarks, O’Malia highlighted three priorities: (1) preserving the viability of Fundamental Review of the Trading Book internal models

and improving current treatment of non-modellable risk factors, (2) mitigating market-functioning strains, and (3) ensuring that the supplementary leverage ratio operates as a backstop after recent U.S. modifications.

ISDA Responds to RBI Unique Transaction Identifier Proposals. On February 3, ISDA submitted [comments](#) to a Draft Circular from the Reserve Bank of India (RBI) proposing to mandate the global Unique Transaction Identifier for all transactions in OTC markets for Rupee interest rate derivatives, forward contracts in Government securities, foreign currency derivatives, foreign currency interest rate derivatives, and credit derivatives in India.

ISDA Publishes Paper on How and Why Pension Funds Use Derivatives. On February 2, ISDA published a [paper](#) that it said reviews how and why pension funds use derivatives. It also reviews the global regulatory landscape that shapes derivatives use and highlights the role ISDA plays in helping pension funds navigate these markets.

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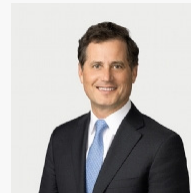
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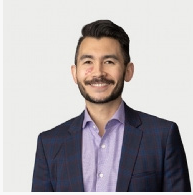
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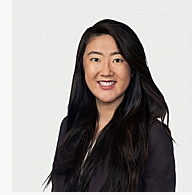
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