

GIBSON DUNN

This Week in Derivatives

May 15, 2026

From the Derivatives Practice Group: This week, the CFTC filed an amicus brief in the U.S. Court of Appeals for the Sixth Circuit asserting the CFTC's exclusive jurisdiction over prediction markets.

New Developments

CFTC Staff Issues No-Action Letter on Data Reporting for Event Contracts. On May 13, the CFTC's Division of Market Oversight and Division of Clearing and Risk announced they have taken a [no-action position](#) regarding swap data reporting and recordkeeping regulations. The divisions will not recommend the Commission initiate an enforcement action against designated contract markets, derivatives clearing organizations, 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 fully collateralized event contract transactions. [NEW]

CFTC Reaffirms Exclusive Jurisdiction Over Prediction Markets in Sixth Circuit Amicus Brief. On May 12, the CFTC filed an [amicus brief](#) in the U.S. Court of Appeals for the Sixth Circuit asserting the CFTC's exclusive jurisdiction over prediction markets. According to the CFTC, the amicus brief outlines the comprehensive regulatory scheme designed by Congress, which is implemented by the CFTC, and details how that comprehensive regulatory structure preempts state laws as applied to CFTC-regulated markets. [NEW]

CFTC Approves Capital Comparability Determination and Order for Certain Nonbank Swap Dealers Domiciled in the European Union. On May 12, the CFTC announced it has [approved](#) a comparability determination and a related comparability order granting conditional substituted compliance with the agency's capital and financial reporting requirements. This action applies to certain CFTC-registered nonbank swap dealers organized and domiciled in France and regulated under the European Union's Investment Firms Regulation and Investment Firms Directive. [NEW]

CFTC Issues Proposed Rule to Modify Clearing Requirement for Canadian Dollar- and Mexican Peso-Denominated Interest Rate Swaps. On May 8, the CFTC issued a [proposal](#) to modify the CFTC's swap clearing requirement. The regulations would be amended to remove the requirement to clear interest rate swaps referencing the Canadian Dollar Offered Rate and the Interbank Equilibrium Interest Rate, and replace it with a requirement to clear Canadian dollar- and Mexican peso- denominated interest rate swaps referencing overnight, nearly risk-free rates.

CFTC Staff Issues Supplemental Letter Regarding No-Action Position on Reporting, Recordkeeping Requirements. On May 4, the CFTC's Division of Market Oversight and Division of Clearing and Risk announced they have taken a [no-action position](#) regarding swap data reporting and recordkeeping regulations with respect to Railbird Exchange, LLC, a designated contract market, and Bitnomial Clearinghouse, LLC, a derivatives clearing organization, or their participants.

CFTC Staff Issues Supplemental Letter Regarding No-Action Position on Reporting, Recordkeeping Requirements. On May 1, the CFTC's Division of Market Oversight and Division of Clearing and Risk announced they have taken a [no-action position](#) regarding swap data reporting and recordkeeping regulations with respect to Gemini Titan, LLC, a designated contract market, and Gemini Olympus, LLC, a derivatives clearing organization, or their participants.

New Developments Outside the U.S.

ESMA Issues Guidance on Effective Use of Resolution Tools in CCP Crisis Planning. On May 15, ESMA published a [resolution briefing](#) for Central Counterparties (CCP). The briefing provides practical guidance to National Resolution Authorities (NRAs) on how to operationalize the write-down and conversion of instruments tool (WDCI). According to ESMA, the briefing supports NRAs in enhancing their preparedness for implementing a WDCI. [NEW]

European Commission Launches Call for Candidates for the ESAs' Board of Appeal. On May 12, the European Commission launched a [call](#) for expression of interest for the appointment of members to the Board of Appeal of the three European Supervisory Authorities (EBA, EIOPA and ESMA – the ESAs). This call aims to establish a reserve list of qualified candidates to fill vacancies that may arise within the Board of Appeal. The reserve list will remain valid for a period of five years from the date of its adoption. [NEW]

ESMA Identifies Areas for Further Supervisory Convergence on Compliance and Internal Audit in the Funds Sector. On May 11, ESMA published the results of its [2025 Common Supervisory Action](#) on the compliance and internal audit functions of fund managers, which was carried out in with the participation of all EU and European Economic Area (EEA) national supervisors. [NEW]

ESMA Outlines Enforcement Activities for Corporate Reporting Across the EEA in 2025 Corporate Finance. On May 7, ESMA published its [report](#) on 2025 corporate reporting enforcement and regulatory activities. According to ESMA, the report provides an overview of how national enforcers and ESMA supervised corporate reporting across the EEA during 2025.

ESMA Promotes Proportionate Supervision of Sustainability Requirements. On May 6, ESMA issued a [statement](#) presenting the results of its Common Supervisory Action on how sustainability is integrated into firms' suitability assessment as well as into processes and procedures for product governance.

ESMA Consults on New Simplified Approach to Updating MMF Stress Test Parameters. On May 5, ESMA launched a [consultation](#) on a new approach to updating the parameters for stress test scenarios under the Money Market Funds framework. ESMA proposed replacing the current annual amendments to Section 5 of the Guidelines with an annual web-based publication of the calibration parameters.

ESMA Advances the Simplification of EU Reporting Frameworks for Funds and Transactions. On May 5, ESMA stated that it has launched a harmonized approach to funds reporting and has set a clear path towards streamlined, more efficient transaction reporting across European markets. According to ESMA, the [two reports](#) are complementary pillars of ESMA's broader simplification and burden reduction agenda.

New Industry-Led Developments

ISDA Publishes Report on Interest Rate Derivatives Trading Activity Reported in EU, UK and US Markets. On May 14, ISDA published a [report](#) that analyzes interest rate derivatives trading activity reported in Europe. According to ISDA, this analysis is based on transactions publicly reported by 30 European approved publication arrangements and trading venues. [NEW]

IOSCO Elects New Board Leadership. On May 13, IOSCO Board members met virtually to elect a new Board leadership for the 2026- 2028 term. Jean-Paul Servais, Chairman of the Belgian Financial Services and Markets Authority, was re-elected Chair of the Board of IOSCO for a third term. The full list of the new Board can be found [here](#). [NEW]

ISDA Publishes Overview of EU Clearing Landscape Following EMIR 3.0 Implementation. On May 11, ISDA published a [paper](#) providing an overview of the EU clearing landscape following the implementation of the European Market Infrastructure Regulation 3.0 (EMIR 3.0). The paper assesses the early operational impact of the active account requirement, including its role in providing fallback clearing accounts at EU CCPs. [NEW]

ISDA/ASIFMA/GFXD Letter to RBI on INR-Denominated FX Derivatives Reporting. On May 9, ISDA, the Asia Securities Industry & Financial Markets Association (ASIFMA), and the Global Foreign Exchange Division (GFXD) submitted a [joint letter](#) to the Reserve Bank of India (RBI) in response to the RBI's [Reporting Instructions for Authorised Dealer \(AD\) Category – I Banks](#) draft directions to mandate the reporting to CCIL of certain INR-denominated FX transactions. [NEW]

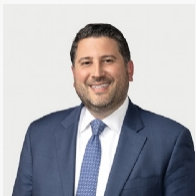
ISDA, FIA Respond to MAS Consultation on Recovery and Resolution Planning for Market Infrastructures. On May 8, ISDA and the Futures Industry Association (FIA) [responded](#) to the Monetary Authority of Singapore's (MAS) [consultation](#) on recovery and resolution planning and enhancement of resolution powers for capital market infrastructures. According to ISDA, their response supports the proposed framework for recovery and orderly wind-down planning for capital market infrastructures, while recommending greater clarity and safeguards on certain aspects of the framework. [NEW]

ISDA Responds to AMLA on Customer Due Diligence under AMLR. On May 7, ISDA responded to the Anti-Money Laundering Authority's (AMLA) consultation on draft regulatory technical standards on customer due diligence under the Anti-Money Laundering Regulation (AMLR). In the response, ISDA stated that it endorsed the Association for Financial Markets in Europe's response to the consultation but also highlighted inconsistencies in identification and verification requirements. [NEW]

CPMI-IOSCO Seeks Input on Updated Guidance and Public Disclosures to Implement Initial Margin Proposals. On May 6, IOSCO and the BIS Committee on Payments and Market Infrastructures (CPMI) announced they are seeking comments on proposed amendments to the “2017 CPMI-IOSCO [resilience of central counterparties](#)” and to the “2015 CPMI-IOSCO [public quantitative disclosure standards](#) for central counterparties.”

ISDA Publishes Paper on Capital Models Benchmarking. On May 5, ISDA published a [paper](#) introducing a benchmarking approach that it states can be applied to internal models for counterparty credit risk. ISDA noted that this is an industry approach developed with engagement from the UK Prudential Regulation Authority as part of a wider regulatory initiative.

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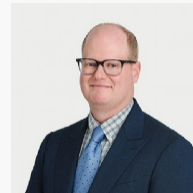
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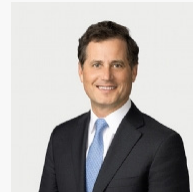
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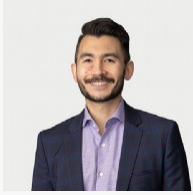


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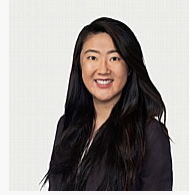
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