

GIBSON DUNN

This Week in Derivatives

May 22, 2026

From the Derivatives Practice Group: This week, the CFTC issued a staff advisory concerning its new policy on cooperation in enforcement matters.

New Developments

CFTC and National Hockey League Sign MOU Related to Integrity in Professional Hockey. On May 21, the CFTC and the National Hockey League (NHL) announced their signing of a [Memorandum of Understanding](#) (MOU) intended to protect the integrity of professional hockey and maintain fair and transparent prediction markets. According to the CFTC, under the terms of the MOU, the CFTC and NHL have solidified their intent to share information and coordinate to protect the integrity of both professional hockey and related event contracts offered on CFTC-regulated exchanges. [NEW]

CFTC Staff Issues Advisory on Cooperation in Enforcement Matters. On May 19, the CFTC issued a [staff advisory](#) containing the Division of Enforcement's new policy on cooperation. Absent aggravating circumstances, the advisory lays out a path for a potential declination when a respondent voluntarily self-reports, fully cooperates, effects timely and appropriate remediation, and provides full restitution and/or disgorgement. Additionally, the advisory details what level of cooperation credit may be awarded to respondents for self-reporting and cooperation when they are ineligible for a declination. [NEW]

CFTC Sues Minnesota to Block State Law. On May 19, the CFTC filed a lawsuit against Minnesota to block a new state law, signed by Governor Tim Walz, that

would make operating or assisting in the operation of a prediction market a criminal felony. The CFTC is seeking a preliminary injunction to stop the law from going into effect on August 1, 2026. [NEW]

CFTC Chairman Selig Announces DJ Hennes as Director of the Market Participants Division. On May 18, CFTC Chairman Michael S. Selig announced DJ Hennes will serve as director of the Market Participants Division. Hennes joins the CFTC from KPMG LLP, where he was a managing director in the firm's Financial Services Risk & Compliance Advisory Practice. Prior to joining KPMG, he spent 15 years at Promontory Financial Group, most recently leading its Capital Markets Practice for the Americas. [NEW]

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.

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.

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 Developments Outside the U.S.

ESMA Publishes Shortlist of Candidates for Position of Chair. On May 20, ESMA published the shortlist of candidates for the position of Chair: Karen Dorte and Abelskov Carlo Comporti. ESMA has sent the shortlist to the Council of the European Union and the European Parliament. The Council will appoint the Chair following confirmation by the Parliament. [NEW]

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.

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.

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 Industry-Led Developments

IOSCO Publishes Reports on Market Liquidity for Equity Markets and on Extended Trading Hours for Equity Venues. On May 21, IOSCO published its [Consultation Report](#) regarding Regulatory Considerations and Good Practices on the Evolution of Market Liquidity during the Trading Day and its [Report](#) on Extended Trading Hours. [NEW]

ISDA, FIA and SIFMA Submits Joint Letter on Sunset of Swaps LTR Rules. On May 20, ISDA, the Futures Industry Association (FIA), and the Securities Industry and Financial Markets Association (SIFMA) submitted a [joint letter](#) to the CFTC to request the CFTC to sunset large trader reporting rules (LTR) rules for physical commodity swaps pursuant to Regulation 20.9. [NEW]

ISDA and SIFMA Submit Joint Letter on CFTC-SEC Harmonization. On May 19, ISDA and SIFMA submitted a [joint letter](#) to the SEC and CFTC on SEC-CFTC harmonization. This letter focuses on three priority areas: alignment of SEC and CFTC transaction reporting rules, elimination of the SEC's ANE trigger for applying security-based swap rules to non-U.S. transactions, and adoption of an outcomes-based substituted-compliance framework across both agencies. [NEW]

ISDA, AFME Respond to EC on Market Risk Delegated Act. On May 19, ISDA and the Association for Financial Markets in Europe (AFME) [responded](#) to the European Commission's consultation on the draft legal text of the upcoming market risk delegated act. ISDA stated that the associations welcomed the ongoing efforts to address the implementation of the market risk standard and to ensure a level playing field. [NEW]

ISDA Responds to MAS on Prudential Treatment of Crypto Assets on Permissionless Blockchains. On May 15, ISDA and the Asia Securities Industry and Financial Markets Association submitted a [joint response](#) to the Monetary Authority of Singapore's (MAS) [consultation](#) on the prudential treatment of crypto assets on permissionless blockchains. ISDA stated that it welcomed MAS's more risk-sensitive and technology-neutral approach and urged further refinements. [NEW]

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.

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](#).

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.

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.

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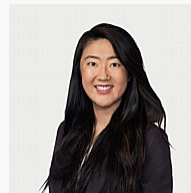
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