



GIBSON DUNN

## This Week in Derivatives

May 29, 2026

**From the Derivatives Practice Group:** This week, the CFTC issued a policy statement describing the views of the Commission concerning the listing of perpetual contracts.

### New Developments

**CFTC Issues Policy Statement Concerning the Listing of Perpetual Contracts.** On May 29, the CFTC issued a [policy statement](#) describing the views of the Commission concerning the listing of perpetual contracts. This policy statement was issued contemporaneously with an order permitting the listing of a perpetual contract, which references the spot price of bitcoin, by a DCM as a futures contract. [NEW]

**Commission Staff Confirms the Categorization of Certain Crypto Asset Perpetuals as Foreign Futures and Issues No-Action Letter Regarding FCM Transfers of Customer Crypto Assets to Foreign Brokers as Margin.** On May 29, the CFTC's Market Participants Division announced it has issued an interpretation and a [no-action position](#) in response to a request from Coinbase Financial Markets, Inc., a registered futures commission merchant. The positions relate to CFM's plan to offer certain digital commodity derivatives products listed on CFM's affiliated foreign board of trade, Deribit FZE. [NEW]

**CFTC Approves BTCPERP Contract Submitted by KalshiEX, LLC.** On May 29, the CFTC announced it has issued an [Order for Approval](#) to KalshiEX, LLC, a

designated contract market, for the listing of the BTCPERP Contract, a perpetual contract that references the spot price of bitcoin, as a futures contract. Kalshi submitted the BTCPERP Contract pursuant to Commission Regulation 40.3 for Commission review and approval on May 29, 2026. [NEW]

**CFTC Staff Issues Advisory on 24/7 Trading, Clearing, and Settlement.** On May 29, the CFTC's Division of Clearing and Risk, Division of Market Oversight, and Market Participants Division issued a [staff advisory](#) regarding 24/7 trading, clearing, and settlement. According to the CFTC, the divisions seek to encourage responsible innovation in these markets while reminding designated contract markets, swap execution facilities, derivatives clearing organizations, and futures commission merchants of their regulatory obligations pursuant to the Commodity Exchange Act and Commission regulations thereunder. [NEW]

**CFTC Sues to Block State Enforcement in Rhode Island Amid Ongoing Efforts to Preserve Jurisdiction.** On May 28, the CFTC moved to [intervene](#) in a lawsuit in the U.S. District Court for the District of Rhode Island to halt the state's efforts to apply state gambling laws against CFTC-registered contract markets. In response to a [complaint](#) filed by a CFTC-registered designated contract market threatened with impending unlawful enforcement by the state, Rhode Island filed a complaint of its own in a parallel state case seeking significant civil penalties. [NEW]

**CFTC Joins Gemini Trust Company LLC in Motion for Relief from Judgment.** On May 27, the CFTC announced it has joined Gemini Trust Company LLC in a motion for relief from judgment in *CFTC v. Gemini Trust Company LLC*, [originally filed](#) in the U.S. District Court for the Southern District of New York in June 2022. The parties entered into a [consent order](#) in January 2025. [NEW]

**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.

**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.

**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.

**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 Developments Outside the U.S.**

**ESMA's Annual Data Report Shows Increased Quality, Wider Use, and Digital Progress.** On May 29, ESMA published its [annual report](#) on the quality and use of regulatory data. According to ESMA, the report shows that improvements in data quality and data use reinforce each other in a virtuous cycle, and supports more effective supervision and market monitoring across the EU. [NEW]

**ESMA Consults on Revised Guidelines to Support Smoother Allocations and Confirmations under T+1.** On May 26, ESMA launched a [consultation](#) on the updated guidelines on standardized procedures and messaging protocols. According to ESMA, this review is part of ESMA's work to support market participants in preparing for the transition to a T+1 settlement cycle. [NEW]

**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.

**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 Industry-Led Developments**

**ISDA Letter to EC and ESMA on Technical Issues with Revised Derivatives Transparency Framework.** On May 27, ISDA sent a [letter](#) to the European Commission and ESMA to highlight several technical issues arising from the interaction between the delegated regulation 2025/1003 on identifying reference data to be used for over-the-counter derivatives for the purposes of public transparency and the draft regulatory technical standards for derivatives transparency (RTS 2) and from areas of the draft RTS 2 that lack clarity. [NEW]

**IOSCO Publishes AI Supervisory Toolkit.** On May 25, IOSCO published a [Supervisory Toolkit for AI Use in Capital Markets](#). IOSCO stated that this report provides regulators with a practical toolkit to support the supervision and oversight of AI based systems used by regulated entities. [NEW]

**ISDA, GFXD Respond to ASIC on Proposed Changes to Derivative Transaction Rules.** On May 22, ISDA and the Global Foreign Exchange Division (GFXD) of the Global Financial Markets Association submitted a [joint response](#) to the Australian Securities and Investments Commission's (ASIC) consultation on proposed changes to the ASIC Derivative Transaction Rules 2024. [NEW]

**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.

**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.

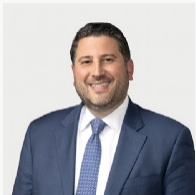
**ISDA and SIFMA Submit Joint Letter on CFTC-SEC Harmonization.** On May 19, ISDA and SIFMA submitted a [joint letter](#) to the SEC and CFTC on SEC-CFTC harmonization. This letter focuses on three priority areas: alignment of SEC and CFTC transaction reporting rules, elimination of the SEC's ANE trigger for applying

security-based swap rules to non-U.S. transactions, and adoption of an outcomes-based substituted-compliance framework across both agencies.

**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.

**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.

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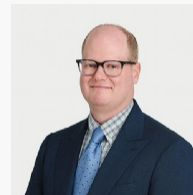
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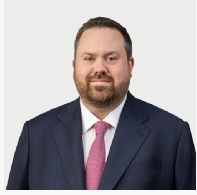
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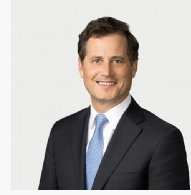
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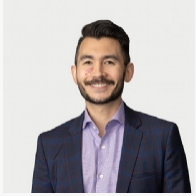
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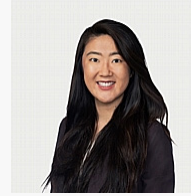
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