



GIBSON DUNN

This Week in Derivatives

June 5, 2026

From the Derivatives Practice Group: This week, the CFTC rescinded a policy stating that it will not accept settlement offers where the defendant continues to deny the allegations in the complaint or administrative order.

New Developments

CFTC Rescinds Policy Regarding Denials of Settlements in Enforcement Actions. On June 3, the CFTC [rescinded](#) a policy, codified in Appendix A to Part 10, stating that it will not accept settlement offers where the defendant continues to deny the allegations in the complaint or administrative order. According to the CFTC, rescinding this policy aligns the Commission with the overwhelming majority of federal agencies and gives the Commission more flexibility in settling enforcement actions, which conserves resources, provides certainty, and potentially expedites the return of money to injured investors. [NEW]

CFTC Staff Issues No-Action Position Related to Designated Contract Market Procedures. On June 3, the CFTC's Division of Market Oversight announced it has issued a [no-action letter](#) to Cboe Digital Exchange, LLC, a designated contract market, which addresses certain procedures related to dormancy. The no-action position is time-limited and subject to the terms and conditions in the letter. [NEW]

CFTC Implements Technical Enhancements to Streamline Product Self-Certification Process. On June 1, the CFTC announced the launch of enhancements to its electronic filing system for product self-certifications. According to the CFTC, Exchanges are now able to submit a single set of product certification documents applicable to multiple closely related contract certifications in one consolidated submission. Updated submission instructions regarding this new functionality are available [here](#). [NEW]

CFTC Chairman Selig Announces Dr. Patrick J. Schorno as Chief Economist. On June 1, CFTC Chairman Michael S. Selig announced that Dr. Patrick J. Schorno has been named the agency's chief economist to serve as economic adviser to the Commission and integrate rigorous economic analysis, regulatory cost-benefit analysis, and research into the CFTC's mission. Dr. Schorno joins the CFTC from the Public Company Accounting Oversight Board where he served as the deputy chief economist. [NEW]

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.

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.

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.

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.

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.

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.

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 Developments Outside the U.S.

ESAs Publish the First Report on DORA Major ICT-related Incidents. On June 3, the European Supervisory Authorities (ESAs) published their first [annual overview](#) of major information and community technology (ICT) incidents in the EU financial sector based on a reporting mechanism established by the Digital Operational Resilience Act (DORA). ESMA said that the report shows that ICT risks are increasingly borderless and interconnected. The ESAs also noted that the recent evolution of highly capable AI-driven tools should encourage financial entities to strengthen cybersecurity measures going forward. [NEW]

GMTF Presents its Findings on EU Gas and Gas Derivative Markets. On June 2, the Gas Market Task Force (GMTF) published a [report](#) on the functioning of EU gas and gas derivatives markets. ESMA said that the report suggests further work in several areas to ensure that European gas and gas derivatives markets continue

performing as expected and to the benefit of European competitiveness and consumers. [NEW]

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.

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.

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 Industry-Led Developments

ISDA and the Credit Derivatives Governance Committee Select S&P Global as DC Administrator. On June 4, ISDA and the Credit Derivatives Governance Committee [announced](#) that S&P Global Market Intelligence has been selected as the administrator for the Credit Derivatives Determinations Committees (DCs). According to ISDA, the DCs were introduced in 2009 as a centralized decision-making body to enable a standardized auction settlement process and ensure central clearing could be implemented for credit derivatives. [NEW]

ISDA, GDF Respond to the Central Bank of Ireland on DLT and Tokenization. On June 3, ISDA and Global Digital Finance [responded](#) to the Central Bank of Ireland's discussion paper on distributed ledger technology (DLT) and tokenization in financial services. ISDA said the response focused on the potential role of DLT and tokenization within wholesale markets, including their use in collateral and liquidity management, and that the paper also emphasized that any regulatory framework for DLT and tokenization should be assessed through the lens of prudent risk management, with particular attention to liquidity, credit risk, operational resilience and legal certainty. [NEW]

IOSCO Publishes Final Report on Valuing Collective Investment Schemes. On June 1, IOSCO published its [Final Report on Valuing Collective Investment Schemes \(CIS\)](#). According to IOSCO, the paper sets out a comprehensive and updated set of recommendations to further enhance the reliability, consistency, and transparency of valuation practices across global investment funds and updates and consolidates IOSCO's earlier principles on valuation for [collective investment schemes](#) and [hedge funds](#). [NEW]

ISDA, AFME Respond to Dutch Ministry of Finance Consultation on Dividend Stripping. On May 28, ISDA and the Association for Financial Markets in Europe (AFME) [responded](#) to the Dutch Ministry of Finance's consultation on additional anti-dividend stripping measures. ISDA said the associations argued that some proposed measures would add uncertainty, duplicate existing protections, and risk harming liquidity and efficiency in the Dutch equity market. [NEW]

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.

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.

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.

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 Submit 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.

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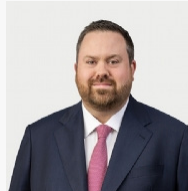
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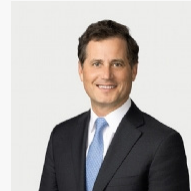
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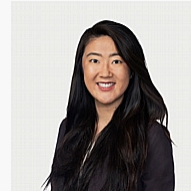
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