



Via electronic submission

May 21, 2025

Mr. Christopher J. Kirkpatrick
Secretary of the Commission
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20581

Re: Request for Comment on Trading and Clearing Derivatives on a 24/7 Basis (April 21, 2025)

Dear Mr. Kirkpatrick:

The Futures Industry Association (“FIA”)¹ appreciates the opportunity to respond to the recent Request for Comment (“RFC”)² published by the Commodity Futures Trading Commission (“CFTC”), regarding the potential uses, benefits, and risks of trading and clearing on a 24/7 basis in the derivatives markets.³ FIA’s member firms include clearing firms, exchanges, clearinghouses, and trading and commercial firms that operate in the exchange-traded derivatives markets. Many of FIA’s member firms are CFTC-registered futures commission merchants (“FCMs”) that facilitate and/or support trading by derivatives market participants. FIA’s membership is uniquely qualified to comment on the RFC, being directly affected by any changes to the hours during which their customers and clients may trade and when trades must be cleared.

I. Introduction

There are significant operational, infrastructure, risk, compliance, and regulatory issues that require careful consideration and appropriate resolution for the healthy functioning of 24/7 trading and clearing. FIA does not support extending trading and clearing in CFTC-regulated derivatives markets to a 24/7 basis until such issues have been systematically identified, assessed, and resolved

¹ FIA is the leading global trade organization for the futures, options and centrally cleared derivatives markets, with offices in Brussels, London, Singapore, and Washington, D.C. FIA’s membership includes clearing firms, exchanges, clearinghouses, trading firms and commodities specialists from about 50 countries as well as technology vendors, law firms and other professional service providers. FIA’s mission is to support open, transparent, and competitive markets; protect and enhance the integrity of the financial system; and promote high standards of professional conduct.

² Request for Comment on Trading and Clearing Derivatives on a 24/7 Basis, Press Release No. 9068-25 (Apr. 21, 2025), https://www.cftc.gov/media/12036/24_7_RFC042125/download.

³ In this letter, FIA adopts the RFC’s general definition of trading and clearing on “24/7 basis” as “trading and associated clearing that is active for the vast majority of weekend and holiday hours.” Though it will be important to define “vast majority” – e.g., will trading and clearing be active on New Year’s Day?

pursuant to public comment and informed public agency action. FIA sets forth in this letter its primary concerns with a transition to 24/7 trading and clearing under the existing regulatory framework, and the significant issues and market risk that such a transition may entail.

The issues raised herein should be resolved in a public forum, in collaboration with industry and other relevant stakeholders. To the extent the CFTC has already permitted self-certification of certain 24/7 arrangements, not all industry participants are familiar with the regulatory analysis or accommodations that may have been made. Self-certification arrangements may include risk mitigation tools and structures that are specific to the relevant market –e.g., crypto-assets – and which may not be appropriate for other asset classes, nor when used at scale. FIA urges the CFTC to consider concrete, detailed plans, policies, and procedures to address relevant risks, before approving further transitions to 24/7 trading (and clearing).

Adoption of 24/7 trading and clearing should not be considered in a vacuum. The infrastructure necessary and appropriate to support market, credit, liquidity, and operational risks that result from 24/7 trading, clearing, and settlement will require significant buildout time and resources. Additionally, the CFTC and other market regulators must address necessary changes to their regulatory frameworks and market oversight functions.

We analyze the RFC recognizing the CFTC’s long history of supporting responsible innovation in the derivatives markets and its stated plans to continue to foster such innovation.⁴ Indeed, it is the CFTC’s enduring commitment to principles-based regulation that has supported the industry in developing modern, efficient markets that serve as the standard by which world markets are judged. However, alongside this culture of innovation, there are core tenets around which the CFTC’s mission is structured. Beyond promoting fair competition and fostering responsible innovation, the CFTC is charged with protecting customer assets, ensuring the financial integrity of transactions, mitigation of systemic risk, and preventing manipulation.

With these core tenets in mind, we highlight the following considerations and provide additional explanation and information on each in the sections that follow:

- Liquidity, access to collateral, margin and collateral calls, default management and other key risk management issues;
- Market integrity issues;
- Operational issues;
- Competition considerations;
- Product considerations;
- Changes to the regulatory framework; and

⁴ Statement of Acting Chairman Pham on the CFTC’s 50th Anniversary (Apr. 16, 2025), <https://www.cftc.gov/PressRoom/SpeechesTestimony/phamstatement041625> (“[C]ontinued dedication to our mission to promote market integrity, responsible innovation, and fair competition in our markets is essential to the success of American ingenuity and our leadership in the global economy.”).

- The integral role of FCMs in the effective and safe functioning of CFTC-regulated markets.

FIA shares the CFTC's interest in its regulated markets remaining innovative and vibrant. But first and foremost, the CFTC must protect these markets and their participants, ensuring they remain safe and resilient for all who depend on them. We urge the CFTC to consider and work collaboratively with FCMs, clearinghouses, and exchanges to address the challenges that 24/7 trading and clearing presents before approving an expansion.

II. Discussion of Key Considerations

A. Liquidity, Access to Collateral, Margin and Collateral Calls, Default Management and Other Key Risk Management Issues

The introduction of 24/7 trading and clearing – weekend trading and clearing in particular – would signify a marked change to the margining timeline and the framework in which it operates. The structural modifications required to adapt to this change are significant. FIA believes that these issues and challenges must be reviewed and addressed before a 24/7 trading/clearing regime can be implemented.

1. The current framework and infrastructure for margining is not prepared for wide-scale 24/7 trading and clearing.

The ability for FCMs and designated clearing organizations (“DCOs”) to calculate and collect margin on a timely basis is fundamental to the safe operation of the derivatives market. The current market infrastructure does not support 24/7 movement of collateral, creating challenges for timely collateralization of exposures outside of traditional trading hours. This creates the risk of under margined exposures, which, in turn, creates risks for market participants, FCMs, and DCOs. Clearing firms may not be willing to carry the credit risk associated with margin calls that remain unmet due to inability to move cash or non-cash collateral outside of traditional hours. A shift to 24/7 trading requires that clearing and collateral functions match trading capabilities. An intraday liquidity access structure must be designed, implemented, and be functional before any changes to the CFTC's collateral, collateral mobility, and margin call requirements are implemented.

In addition to access to collateral, other aspects of the margining framework should be analyzed in the context of 24/7 trading and clearing:

- The current assumption of a one-day Margin Period of Risk (MPOR) for initial margin calibration may not be appropriate in the context of weekend trading where a close out may not be possible.
- Use of pre-trade risk limits and collection of additional margin buffers are potential risk mitigants when faced with trading occurring when clearing and settlement systems are not open, which are utilized in existing examples of holiday trading. However, such mitigants would be difficult to deploy on a systematic basis should 24/7 trading be more widely implemented across markets and asset classes.

- During weekends and holidays, traders may build up outsized positions inconsistent with their risk profile. FCMs and DCOs may not be able to require additional margin on those positions in real time or have the ability to close-out positions that exceed risk limits.
- Execution risk controls may not be applicable under a “give-up” model with clearing members lacking visibility or control over the activity given-up to them during off-hours trading which they are then obligated to accept for clearing.
- The Federal Reserve Board’s market operations are not available 24/7. What are the implications of markets being open during times at which banks are not able to access tools such as the Standing Repo Facility or Discount Window?
- Will buy-side participants have appropriate access to and ability to move liquid assets as margin outside of traditional market hours?
- Tokenization could play a significant role in giving market participants the ability to move collateral on a real-time 24/7 basis. However, this infrastructure is still in the early stages and is not ready to support an immediate, wide-scale move to 24/7 trading/clearing.
- Certain Central Counterparties (“CCPs”) may face challenges in accepting foreign currency as collateral, given differing banking hours and other central bank considerations.
- Even if FCMs and DCOs were given the option, and chose not to expand their trading hours, they would still be impacted by a move to 24/7 trading/clearing, as they would be subject to market moves during extended hours on their positions, resources would still have to be dedicated to meeting variation margin requirements, and firms would still face increased default risk exposure.
- The CFTC should consider whether FCMs, whether they clear trades on a 24/7 basis or not, might bear a risk of loss with 24/7 trading by virtue of their contribution to a mutualized default fund. It may be more appropriate for participants in 24/7 trading markets to be supported by a segregated default fund.

2. *Auto-liquidation is not a solution for the challenges posed by 24/7 risk management.*

FIA does not believe that auto-liquidation is an appropriate risk management solution for the majority of market participants in the real-world 24/7 setting, particularly during periods of low liquidity. For many products, FCMs may struggle to execute auto-liquidations in volatile or illiquid weekend markets without causing procyclicality and larger market impact.

Liquidity already ebbs and flows – sometimes significantly – by product and at various time periods throughout the month. Volatility in the markets exacerbates liquidity crunches. 24/7 trading heightens these concerns – particularly when paired with an auto-liquidation regime – to the extent that it increases the probability that auto-liquidation will be triggered at times of low liquidity (such as weekends and extended holiday periods). Amplifying these concerns about liquidity are the potential limitations on the ability to “top up” margin in accounts during off hours. Meeting a

margin call in fiat currency requires banks to be open. The CFTC should consider waiting to implement 24/7 trading until these parts move in lockstep.

Furthermore, during market turbulence, immediately liquidating a large position or positions during cascading markets can be procyclical, adding to market volatility, which in turn may cause further defaults. In other words, a directional market subject to an auto-liquidation model tends toward procyclicality, so this model could exacerbate financial instability in a time of heightened market volatility. Such an impact could very well be more severe in the retail context, where retail participants frequently move in groups and/or follow similar trading strategies or guidelines. The effect of liquidating hundreds of retail accounts at once could be enormous and would almost certainly lead to further instability and additional liquidations.

For these reasons, FCMs and DCOs have a duty to consider market conditions before liquidations. The current clearing model requires the establishment of a clearly defined default management strategy with provisions for hedging and portfolio splitting prior to liquidation to ensure that any close-out happens at the best possible price. Expert judgment is relied upon with staff in some cases implicitly evaluating market conditions prior to taking action to liquidate positions. This second line of defense may be even more important in the context of products tied to cryptocurrencies or other more volatile underlying commodities. In contrast, in a rigid, algo-driven automatic liquidating model, no such consideration can be given. A wholly automated function could in fact exacerbate market turbulence and create systemic risk.

If auto-liquidation is made a part of any trading regime, the CFTC should require additional disclosures so that participants, particularly retail participants, understand the risks involved and the potential losses that could occur. Among the risks that should be clearly disclosed are:

- The potential failure of any planned risk management, hedging, or arbitrages in the event the customer's positions are closed out unexpectedly and without warning;
- The effect of delay in providing additional maintenance margin because of banking closures (normal weekend, or an extended holiday period, for example) or delays in transmittal, including those not the fault of the customer, and possible auto-liquidation notwithstanding best efforts;
- The effect of failure to pay maintenance margin;
- The possible adverse results of a forced auto-liquidation, including responsibility for any losses, and liability for resultant legal fees (including collection actions);
- The possibility that a customer's positions may be auto-liquidated even though the customer might have entered no off-hours trades, due to movements in the relevant market; and
- The possibility of auto-liquidation prompted by an operational error caused either by an FCM using auto-liquidation or due to a fat-finger error entered by a market participant.

Other considerations/questions noted by our members include:

- Given that auto-liquidation requires a willing and able counterparty, there is no way to ensure that auto-liquidation will function at all;
- There are many possible auto-liquidation models; the pros and cons of each should be closely considered;
- Are Saturdays and Sundays business days?;
- When can DCOs/FCMs send default notices?; and
- Can an FCM/DCO issue margin calls and/or avail itself of any remedy available to it on a 24/7 basis?

* * *

Given these issues, it may be sensible, as an interim step, to move to a slightly expanded schedule prior to any full 24/7 implementation. It would be worthwhile to ensure reliable clearing infrastructure for this expanded schedule before moving into full 24/7 operations.

B. Market Integrity Issues

1. *Lower liquidity on weekends will increase risk.*

There is likely to be less trading volume, and therefore lower market liquidity, at certain points in a 24/7 trading cycle. For example, we anticipate less activity at 3 a.m. on a Saturday than during traditional market hours. Lower liquidity creates several risks for market participants, such as large market moves occurring on thin trading volumes and constraints on the ability to manage risk. These risks could increase exposure for clearing firms. For example, thinner weekend markets may hinder our members' efforts to assess and impose sufficient and appropriate risk-based margining guidelines. To that end, sufficient implementation time for 24/7 trading and clearing must be built in, so that member firms can analyze these issues and put in place sufficient margin rules to ensure well-functioning markets and participant protection.

2. *Thin markets are also more susceptible to fraud and market manipulation.*

When trading volume decreases on weekends, affected markets are more susceptible to fraud and market manipulation. Protecting market participants from fraudulent trading practices and promoting fair competition are key components of the Commodity Exchange Act and the CFTC's mandate.

In environments with decreased trading volume and market liquidity, individual trades have an outsized impact on market price and may increase volatility. Individuals intent on using fraudulent trading practices may be able to more easily manipulate markets for their gain during these times, at the expense of other market participants and the integrity of the market generally. Thin markets have been specifically targeted for market manipulation in the past.⁵

⁵ See, e.g., *In the Matter of Christopher Louis Pia*, CFTC No. 11-17, 2011 WL 3228315 (July 25, 2011) ("Trading in both contracts was relatively illiquid, and Pia's trading in the contracts on the close frequently

* * *

Acknowledging that current market liquidity risks exist, the CFTC should weigh increased exposure on weekends and holidays against the perceived benefits of 24/7 trading and determine whether the risks can be mitigated.

C. Operational Issues

Key market infrastructure must be available to support 24/7 trading and clearing activity. We highlight below concerns related to such support.

1. *Staffing issues.*

A 24/7 trading/clearing day requires that clearing firms, exchanges, end-users, and regulators significantly ramp up their staffing, which may include new hiring. It may require that certain firms be staffed 24/7 for operational, technology, risk management and compliance purposes, including senior staff who can make material risk decisions such as managing default processes. While FIA has no concrete data at this time, these costs may be substantial and, in some cases, may outweigh any perceived increase in business that 24/7 trading/clearing hypothetically presents. Moreover, staffing challenges would not be limited to market participants. The CFTC and designated self-regulatory organizations should also consider their own staff's ability to surveil markets and respond to market events over the weekend and on holidays.

The CFTC should carefully consider whether, and for which products and markets, the potentially significant cost increases associated with an expansion to 24/7 trading/clearing outweigh any benefits.

2. *Systems and processing issues.*

Firms, exchanges, and regulators will need to determine if and how their IT infrastructure and other systems can support 24/7 markets and whether there is a business case to make the necessary investments to build required functionality. Considerations include:

- Buildout of risk management and trade surveillance systems;
- Overnight processing when there is no distinct "overnight" period or other downtime in which to conduct such processing;
- Availability of important Federal Reserve facilities, including Fedwire Funds Service, Fedwire Securities Service, National Settlement Service, the Federal Reserve Discount Window, and the Federal Reserve Standing Repo Facility;
- Downtime for updates and maintenance, without significant associated costs in building out redundancy;

accounted for a significant portion of the volume. Pia's trading strategy took advantage of these key characteristics of these two futures markets-thinly traded, illiquid, and volume-weighted average settlement price calculations-to attempt to manipulate the daily settlement prices.").

- Continuous operation may delay the implementation of new products, services, and updated risk methodologies; and
- Need for consistency across market infrastructure regarding assignment of trade dates and settlement dates.

FIA requests additional opportunity for the FCM community to respond to these considerations. Our members stand ready to adapt to market innovations, subject to appropriate demand, but owe it to their customers and their markets to ensure full operational readiness prior to adoption of a 24/7 trading day.

3. *Compliance with obligations of broker-dealers.*

Our members have also identified potential issues associated with compliance with broker-dealer obligations to facilitate clearance and settlement of transactions by T+1. It is unclear how broker-dealers would comply with these requirements if exchanges eventually expanded markedly – and certainly to a 24/7 model. More consideration is needed regarding how the trade date affirmation requirement would apply to trades executed on weekends or holidays if the U.S. transitions to a full 24/7 trading and clearing model. While volumes generally may not be large during weekends, a large influx of trades executed during these times may present difficulties for firms in allocating and confirming trades as required by the trade date requirements. The CFTC should also consider and collaboratively address these and other broader impacts on market structure and the settlement and clearance process before adopting a 24/7 trading/clearing model.

D. Competition Considerations

1. *Business competition considerations.*

If the 24/7 model does not permit traditional margin treatment during weekend periods, FIA anticipates that it could lead to competitive distortions related to loss tolerance.

Further, all firms could realize the *effects* of 24/7 trading, whether or not they offer it to customers. Price movement during off-hours will impact all market participants and their clients, particularly those carrying open positions over these off-hour periods. These firms would likely need to incur certain attendant costs as well as heightened default fund risk, notwithstanding their choice not to offer these services. The CFTC must consider the implications to all firms, even those who choose not to offer 24/7 trading or clearing.

2. *Market participant competition considerations.*

The increased demand for staffing and operational resources to support 24/7 trading/clearing may cause concentration of trading within a smaller population of participants. Any such concentration, particularly during periods of lower liquidity and volume, would create inherent risk, as well as price discovery issues given the inequity of enabling some, but not all, market participants to take advantage of market events that take place during off hours.

Indeed, this notion raises a larger concern – that during open market hours, futures trading is difficult to step away from. Traders with open positions *must* monitor markets during the open period, and *must* be able to react, for risk management purposes. To that end, 24/7 trading will certainly favor those firms able to maintain constant monitoring – whether by individuals or algorithmically. This could favor large and more sophisticated participants over smaller firms or individual traders.

When considered in light of Commodity Pool Operators (“CPOs”) or Commodity Trading Advisors (“CTAs”) who manage positions for third parties, the population of individuals at risk from this effect may be substantial. 24/7 trading may tend to favor those CPOs or CTAs capable of internalizing the cost of 24/7 monitoring – creating a smaller menu of managers and with it, the inevitable downside of a less competitive marketplace.

E. Product Considerations

FIA cannot yet opine in detail on whether different products lend themselves better or worse to 24/7 trading and clearing. Some digital assets already operate in a 24/7 trading environment, so derivatives products tied thereto may be the most logically suited for continuous trading. However, many agricultural products currently only trade a few hours a day. For hedgers who spend a significant amount of their time producing the underlying physical product, such shorter market hours may be preferable.

Each 24/7 trading/clearing scenario, in any product, requires careful evaluation of the context in which such products are traded and cleared and the underlying risks. When barriers to safe utilization of 24/7 trading/clearing are removed, the decision of whether to implement it may still not be simple, but will depend on the characteristics of a given contract and the market in which it trades. FIA requests the opportunity to collaborate with other market participants and the CFTC as the CFTC considers whether and which products are suited to 24/7 trading and clearing.

F. Changes to the Regulatory Framework

The complexities associated with a move to 24/7 trading and clearing cannot be borne solely by market participants. Rather, the CFTC, self-regulatory organizations, and exchanges must be able to adapt their rules and regulations to a new environment. Following such changes, FCMs may need to update documentation with customers too.

1. *CFTC regulations.*

For 24/7 trading/clearing to operate, significant regulatory relief, changes, and/or clarification may be required from the CFTC. The regulatory framework for order handling requirements, execution quality disclosures, and volatility controls during weekends must be clear, fit for purpose, and consistent across venues. Questions and comments raised by an expansion of trading/clearing hours may include:

- Are Saturdays and Sundays business days and what trade date would be used to book weekend activity? If not, would activity from Saturday and Sunday be treated as if it happened on Monday for purposes of assessing residual interest impacts to FCMs?⁶
- If a client requests money back from its FCM on a Saturday and that money is “locked up” in a reverse repurchase agreement, the FCM may have to borrow money to fulfill the client’s request. Would such borrowing necessitate a letter to the CFTC, and an increase to the FCM’s residual interest?⁷
- Would this change require margin calls made over the weekend to be aged? Saturday and Sunday would no longer be considered a holiday/weekend. Currently, when an FCM receives a call from a CCP, if U.S. banks are “open” (i.e., it is not a holiday or a weekend), then margin calls must be aged.⁸
- Will money market funds be open to permit firms access to unwind and have cash liquidity?⁹
- If a US-based bank is considered “open,” customer protection computations must be run – i.e., Legal Segregation with Operational Commingling (LSOC), segregation of customer funds (seg comp), residual interest. Will this apply over the weekend and on holidays?
- FCMs would need CCPs to expand their hours contemporaneously to permit settlement. If cash (and securities) cannot be moved to and from clearing houses, clearing members will be hindered in their ability to reduce risk for their clients and thus hindered in their ability to safely operate under a 24/7 trading/clearing framework.
- In the event of a catastrophic market event taking place late at night or on a weekend which causes CCP(s) to default, would regulators be ready and available to step in and shepherd the administration of and attention to any resulting shortfalls? Similarly, would participants have access to liquid resources to meet payment obligations and manage default events?
- FIA believes the policy objectives of 24/7 trading/clearing would support that exchanges and clearinghouses that are not designated as Systemically Important Financial Market Utilities (SIFMUs) have access to Federal Reserve Deposit Accounts too. This is a market integrity and equity issue that FIA has a history of advocating on.
- Currently, Automated Clearing House (“ACH”) hours are 23 1/4 every business day and settlements occur four times a day; “[p]ayments are settled when the Federal Reserve’s settlement service is open (currently, the Federal Reserve’s settlement system is closed on federal holidays and weekends, and business days from 6:30 p.m. ET to 7:30 a.m. ET).”¹⁰

⁶ See CFTC Regs. §§ 1.23, 1.32, 22.17, 22.2, 30.7.

⁷ *Id.*

⁸ See the Joint Audit Committee, Margin Handbook, Chapter 4, at 4-3 (2d ed. 1999), available at <http://jacfutures.com/jac/MarginHandBookAdobe.aspx>.

⁹ See CFTC Reg. § 1.25.

¹⁰ See The ABCs of ACH, NACHA, available at <https://www.nacha.org/content/abcs-ach>.

Without an expansion in ACH hours, firms that have more of a retail client base will struggle to effectively operate 24/7.

- Will there be changes to other key sections of the CFTC rules, including Part 37 (regarding SEFs), sections 1.12 and 1.17 (margin rules), section 1.22 (use of customer funds), section 1.55 (contents and distribution of risk disclosure statements)?

2. *Clearing rules.*

FIA believes that certain clearing rules would need significant overhaul or modification to accommodate new and enhanced risks associated with 24/7 trading and clearing. These changes should accomplish the following goals: (1) to limit clearing member and clearinghouse exposure and provide for additional financial resources for 24/7 trading/clearing; (2) to manage risks associated with discharging the responsibilities of a DCO, including limiting exposure to potential losses from defaults; and (3) to maintain margin requirements sufficient to cover potential exposures in normal market conditions. Such rule modifications may include:

- Requiring a clearing member whose ratio of initial margin requirement for exchange contracts traded during certain periods to adjusted net capital exceeds 20%, averaged over the prior six months, to adopt, adhere to, and enforce risk management and other policies and procedures designed to provide a mechanism for hedging risk exposure to such exchange contracts. This mechanism must utilize an alternative venue, such as a spot market, that supports weekend trading. This rule would, in FIA's view, promote prudent risk management practices and ensure access to additional trading liquidity during weekend trading.
- Requiring clearing members to limit trading during certain off-hours to either: (i) less than half of the customer's excess margin, or (ii) the full amount of the customer's excess margin, provided that unrealized losses are deducted from available funds and gains are not recognized until the first margin run following the weekend. This rule could ensure that additional positions established over the weekend are sufficiently collateralized.
- Permitting the imposition of a guaranty fund deposit surcharge on clearing members that support exchange contracts traded during certain off-hours. This would provide additional financial resources to address larger than expected market volatility during a potential position liquidation due to off-hours trading, though clearing members who opt out of off-hours trading would still face risk once the default fund was depleted.

G. The Integral Role of FCMs in the Effective and Safe Functioning of CFTC-Regulated Markets

FCMs ensure critical protections are met in the system, including those relating to customer protection, disclosures of risks, capital resources, and credit and collateral management. FCMs also provide a valuable buffer to ameliorate operational errors by DCOs on behalf of their customers and ensure all customer accounts are supervised directly and indirectly through a robust

oversight system. These protections provided by FCMs are established by a carefully constructed and complementary framework of CFTC, NFA and exchange and clearinghouse rules.

We set forth below a number of FCM requirements that are critical to the effective and just functioning of CFTC-regulated markets:

- *Minimum capital requirements.* The minimum amount of capital that an FCM must have readily available is defined by rule, but constantly fluctuates. Moreover, this amount is subject to certain caveats, including capital “haircuts,” or reductions, for no or late margin call satisfaction and ongoing risk-reducing measures to help ensure capital is not impaired. FCMs risk-manage customers tick-by-tick as markets move, and may make margin calls intraday to protect themselves, their clients, and the markets in which they trade. Net capital serves the important function of backstopping the trading of FCM customers and house accounts.
- *Guaranty fund.* The traditional DCO model allows the DCO to require FCM contributions to a guaranty fund and allows the DCO to require additional assessments from FCMs to shore up the guaranty fund if circumstances require.
- *Customer funds protection and segregation.* Funds belonging to customers must be kept legally segregated from proprietary assets of the FCM. Customer funds are also protected by a robust FCM bankruptcy regime under Part 190 which, broadly speaking, ensures that funds of customers of a bankrupt FCM are directed back to the customer immediately. They do not pass through the bankruptcy estate and are, by statute, not subject to any claim by the FCM’s creditors.
- *Prohibition of Guaranteeing Against Loss.* FCMs are prohibited by rule from guaranteeing against or limiting customer loss (or even making such representations).¹¹ This rule operates to prevent FCMs from becoming undercapitalized, to minimize the opportunity for the misuse of other customers’ funds, and to ensure proper segregation and maintenance of customer and FCM funds.
- *“Know Your Customer” Obligations.* The Bank Secrecy Act requires that “financial institutions” (including FCMs) engage in standardized due diligence procedures to verify customer identity and assess and monitor potential, new, and existing customer risk.
- *FCM Customer-Related Obligations.* Registered FCMs must comply with numerous other obligations designed to protect customers and the markets in which they operate. These include, but are not limited to:
 - Firm-specific disclosures with ongoing obligations to refresh and update information to enable members of the investing public to select the FCM with which they do business;
 - Privacy notices;

¹¹ See CFTC Reg. § 1.56.

- Examination, registration, and disclosure requirements for public-facing FCM associates;
 - Ethics examinations and other obligations for public-facing FCM associates who engage with customers; and
 - Significant requirements to adequately supervise all persons directly or indirectly handling customer interest accounts, with penalties for failure to do so. Adequate supervision includes the robust monitoring of customer accounts to help ensure market integrity, compliance with position limits, and other requirements imposed upon customers.
- *Other FCM Obligations.* FCMs are subject to other requirements that are designed to ensure market integrity. FCMs must comply with significant requirements to prepare, maintain, and retain appropriate books and records concerning their business, including recordings of certain telephone conversations. They are required to file daily segregation reports, periodic financial and risk reports, and a CCO Annual Report and certification.
 - *NFA Membership.* FCMs are required to be members of the NFA, be subject to NFA audit, and comply with numerous NFA rules designed for customer protection.

In short, this wide array of rules underscores the FCM's role as both "gatekeeper" and steward for the safe functioning of derivatives markets. In particular, FCMs, and the consequent protective function entrusted to the FCM by the CEA and its regulations, are key to the proper functioning of the clearing system. The CFTC must ensure that any further transition to 24/7 trading/clearing does not eliminate or erode these core protections.

III. Follow-Up Matters

FIA reiterates its position that there are significant operational, infrastructure, risk, compliance, and regulatory issues that require careful consideration and appropriate resolution via public comment and public agency action before a transition to 24/7 trading and clearing should occur. A significant period leading up to any such change is crucial. First, adequate time is needed to consider whether a transition to 24/7 trading/clearing is desirable, and if so, in which markets. Second, any implementation period should be long enough to permit responsible coordination and deployment of necessary resources. And, third, during any implementation period, an open dialogue amongst market participants and regulators will be necessary to address any issues promptly.

The CFTC recognizes in its RFC that the proposed change, in the short term, would present technical and operational challenges. We have endeavored to identify many of those issues, amongst others, in this letter, and additional impediments are likely to arise if and when firms begin transitioning to 24/7 trading and clearing. FIA and its members would need significant time to sort through these challenges. The identification of challenges herein should not be read to assume support for an expansion to 24/7 trading/clearing across all products. FIA questions the regulatory prudence and market demand for such a sweeping change.

Mr. Christopher Kirkpatrick

May 21, 2025

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FIA suggests a roundtable, similar to the one held by the CFTC in October 2024, with the CFTC and derivatives market participants before further moves toward 24/7 trading and clearing are considered. Further, to the extent the CFTC has not already done so, FIA suggests consultation and communication with the Securities and Exchange Commission and the Federal Reserve Board on the expansion to 24/7 trading and clearing given the parallel discussions in SEC-regulated securities markets and Federal Reserve Board-operated infrastructure and interlinkages between the markets.

* * *

FIA thanks the CFTC for the opportunity to respond to the RFC. Should you have any questions about any of the foregoing, please do not hesitate to contact me at alurton@fia.org.

Sincerely,

A handwritten signature in cursive script, reading "Allison Lurton".

Allison Lurton
General Counsel and Chief Legal Officer