FIA.org

Via electronic submission

November 25, 2025

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

RE: Request for Input on All Recommendations for the CFTC in the Report of the President's Working Group on Digital Asset Markets (Aug. 21, 2025); Request for Input on Use of Tokenized Collateral Including Stablecoins in Derivatives Markets (Sept. 23, 2025)

Dear Mr. Kirkpatrick:

The Futures Industry Association ("FIA")[1] appreciates the opportunity to respond to the Commodity Futures Trading Commission's ("Commission" or "CFTC") requests for input on: (1) the use of tokenized collateral, including stablecoins, in derivatives markets;[2] and (2) recommendations for the CFTC in the report of the President's Working Group on Digital Asset Markets (the "PWGR").[3] We thank and commend Acting Chairman Pham for her leadership and engagement with stakeholders on these critical issues.

1. Executive Summary

The Commodity Exchange Act's ("CEA") central purposes of promoting responsible innovation and fair competition—while preventing manipulation, protecting customer assets, and avoiding systemic risk— serve as a guide for the challenges presented by digital assets.[4] We analyze the PWGR recommendations for the CFTC and considerations on the use of tokenized collateral against the backdrop of the agency's long history of pursuing these statutory purposes in the derivatives markets through principles-based regulation and productive engagement with the private sector, including digital asset market participants, in support of responsible innovation.

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1 FIA is the leading trade organization for the futures, options, and cleared derivatives markets globally. FIA's membership includes clearing firms, exchanges, clearinghouses, principal traders, asset managers, execution firms, commodity firms, end users, and those legal, technology, and other firms who serve this community. 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 Acting Chairman Pham Launches Tokenized Collateral and Stablecoins Initiative, Release No. 9130-25 (Sept. 23, 2025), *available at* https://www.cftc.gov/PressRoom/PressReleases/9130-25.

3 Acting Chairman Pham Announces Next Crypto Sprint Initiative, Release No. 9109-25 (Aug. 21, 2025), *available at* https://www.cftc.gov/PressRoom/PressReleases/9109-25.

4 7 U.S.C. § 5.

CFTC action with respect to digital assets should be sufficiently flexible to account for the constant innovation and evolution that is characteristic of digital asset technologies and markets, while preserving the principles that have served as critical customer protection and market integrity guardrails for nearly a century. We urge timely action on the topics discussed in this letter to the extent permitted within the agencies' existing authority, consistent with Acting Chairman Pham's expectation of issuing guidance on DCOs' acceptance of tokenized collateral, including stablecoins, by the end of the year and finalizing amendments to the CFTC's regulations for collateral, margin, clearing, settlement, reporting, and recordkeeping to enable the use of blockchain technology and market infrastructure by August 2026.[5] In particular, though FIA strongly supports Congress's efforts to create a new comprehensive regulatory framework for digital assets, we believe the CFTC and the SEC should move forward now to address customer asset segregation requirements and approve client portfolio margining programs under their existing authorities, rather than awaiting enactment of legislation. As Acting Chairman Pham has emphasized, the United States must end regulatory uncertainty around digital assets to welcome back U.S. innovators and strengthen U.S. crypto markets.[6] Though our comments generally contemplate Commission guidance, certain issues identified herein may require rulemaking in order to amend existing rules and provide durable legal certainty.

2. Response on the Use of Tokenized Collateral, Including Stablecoins, in Derivatives Markets

FIA has seen strong and growing demand among market participants to use both cash and non-cash tokenized assets to satisfy regulatory margin requirements. The use of tokenized assets has the potential to streamline and simplify the margin payment process and expand the pool of assets available to satisfy and pay margin.

However, the market has seen the rise of multiple securities[7] tokenization methods, which provide differing rights to tokenholders and raise differing levels of counterparty credit, liquidity, legal enforceability, regulatory, operational, and other risks. For example, while the on-chain issuance and subsequent transfer of securities in tokenized form could theoretically provide the initial token purchaser and any transferee with many or perhaps all of the same rights that would flow to the holder of a traditional security, this will require a case-by-case analysis of, *inter alia*, state corporate law, bankruptcy law, and applicable corporate and transactional documents. Similarly, where an issuer has issued securities in the traditional manner and creates a token to represent, and facilitate the transfer of, those securities, rights in the token and the underlying securities will be governed by state commercial law, state corporate law, bankruptcy law, as well as applicable corporate and transactional documentation.[8] More recently, we have also seen third

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5 Caroline D. Pham, Acting Chairman, U.S. Commodity Futures Trading Comm'n, Keynote Address on Financial Innovation and Digital Assets, FIA EXPO (Nov. 18, 2025) ("Pham Keynote Address").

6 *Id.*

7 This analysis focuses on tokenization of securities, though it is also possible to tokenize other assets.

8 *See, e.g.*, 2022 Amendments to the Uniform Commercial Code, Official Comment to Article 8 (Example 1). To the extent a third party rather than the security issuer creates and distributes a token purporting to represent ownership of traditionally issued securities that the third party holds directly or with a third-party custodian, tokenholder rights may be subject to additional counterparty credit risk and legal enforceability considerations under corporate, commercial, bankruptcy, and other applicable laws.

parties issue tokens representing economic exposure to the price movements of the relevant securities but not ownership rights in the securities themselves. The third party may or may not hold the underlying securities to hedge its obligation to make payments replicating increases in the price of the security. These arrangements may constitute swaps or security-based swaps, depending on the facts and circumstances, and be subject to unique regulatory, counterparty credit, and other considerations and risks.[9]

FIA believes that any regulatory framework permitting use of tokenized collateral should be restricted to assets tokenized in a manner that provides the holder with legal and economic rights in the underlying asset that are the same as or functionally equivalent to the rights of a traditional securityholder, particularly in light of the requirement that margin for cleared derivatives have minimal market, credit, and liquidity risk and the novelty of asset tokenization.

In July of this year, FIA published a white paper discussing the potential application of tokenization to enhance collateral mobility in the cleared derivatives industry.[10] As the white paper noted, in light of the CFTC's flexible core principles-based regulatory regime, FIA believes that regulatory changes are not required in order to implement the use of tokenized collateral in cleared derivatives markets, provided the tokenization method provides enforceable rights in the underlying asset as described above, the asset being tokenized is otherwise eligible collateral, and CFTC registrants and registered entities satisfy applicable risk management and other requirements in their use of blockchain technology for such collateral. Tokenization that does not change the fundamental character of the underlying asset should not affect collateral eligibility, as CFTC rules do not dictate the technology that must be used to transfer and record interests in collateral.

This conclusion is consistent with the 2024 report of the CFTC's Global Market Advisory Committee Digital Asset Markets Subcommittee regarding the use of tokenized non-cash collateral.[11] We believe it is also consistent with recent remarks of Acting Chairman Pham.[12] However, in the interest of regulatory certainty, it would be helpful for the Commission to confirm, through rulemaking or other formal Commission action, that it agrees with this conclusion.

More broadly, FIA supports the Commission's intention to issue guidance regarding the use of tokenized collateral and agrees that issues such as convertibility, liquidity, transparency, custody safeguards, and haircuts should be addressed.[13] Consistent with the CFTC's technology-neutral regulatory approach, which FIA has long supported, we do not believe that haircuts should be imposed based solely on the use of tokenization technology (i.e., based solely on the fact that an

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9 *See, e.g.*, Commissioner Hester M. Peirce, SEC, Enchanting, but Not Magical: A Statement on the Tokenization of Securities (July 9, 2025).

10 Futures Indus. Ass'n, Accelerating the Velocity of Collateral: The Potential for Tokenisation in Cleared Derivatives Markets (June 2025) at 10, *available at* https://www.fia.org/sites/default/files/2025-06/FIA%20-%20Tokenisation%20-%20Accelerating%20the%20velocity%20of%20collateral.pdf.

11 *See* Commodity Futures Trading Comm'n, Press Release No. 9009-24, CFTC's Global Markets Advisory Committee Advances Recommendation on Tokenized Non-Cash Collateral (Nov. 21, 2024), *available at* https://www.cftc.gov/PressRoom/PressReleases/9009-24.

12 *See* Pham Keynote Address, *supra* note 5.

13 *See id*.

asset is in tokenized rather than traditional form). Rather, DCOs and FCMs will need to address cybersecurity, custodial, legal enforceability, and other risks and considerations associated with the tokenization of the asset under their respective risk management programs in order to determine whether to accept the asset as margin in the first instance. If a DCO or FCM is comfortable accepting a tokenized asset as margin under its risk management program, there should be no tokenization-specific haircuts for the asset except as necessary to account for any limitations on the legal and economic rights provided to tokenholders as compared with holders of the same security represented in traditional form.

Further, in response to DCOs' announced initiatives to accept stablecoins and consistent with Acting Chairman Pham's announced agenda[14] and GENIUS Act implementation efforts, the CFTC should set forth clear, risk-based principles for payment stablecoins eligible to be used as margin. The GENIUS Act implies that payment stablecoins issued by permitted payment stablecoin issuers ("PPSI") may be eligible as cash or cash-equivalent margin and collateral for FCMs, DCOs, and swap dealers.[15] This is a promising development for expanded support of a 24/7 ecosystem. Regulators have discretion under the statute to determine whether and under what conditions PPSI-issued payment stablecoins should be treated as cash or cash-equivalent and permitted for margin purposes.

In light of the novelty of the product for use as margin, we believe the CFTC should proceed in phases in the exercise of such discretion. Initially, it should permit DCOs to accept GENIUS Act-compliant payment stablecoins as initial margin.[16] Then, with the experience of accepting stablecoins as IM, the CFTC should hold a public consultation to assess industry uptake and minimization of market, credit, liquidity, operational, and other relevant risks with respect to accepted stablecoins, and determine whether such stablecoins should be treated as cash or cash-equivalent assets eligible for DCO acceptance for variation margin. The Commission may determine that additional or different criteria should apply for acceptance as variation margin as compared with initial margin after comparing stablecoin characteristics to other eligible collateral characteristics. Additional protections that could be required for use as VM include,

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14 *Id.*

15 *See* Guiding and Establishing National Innovation for U.S. Stablecoins Act of 2025, 12 U.S.C. §§ 5901–5916. ("GENIUS Act"). Section 3(g) of the GENIUS Act, 12 U.S.C. § 5902(g), provides that stablecoins not issued by permitted payment stablecoin issuers shall not be "eligible as cash or as a cash equivalent margin and collateral for futures commission merchants, derivative clearing organizations, broker-dealers, registered clearing agencies, and swap dealers." Section 18 of the GENIUS Act contains an exception for payment stablecoins issued by foreign payment stablecoin issuers that is subject to a regulatory and supervisory regime found to be comparable to the GENIUS Act and meets certain other requirements.

16 If acceptance of payment stablecoins as IM is permitted prior to the GENIUS Act compliance deadline, the issuer must adhere to the requirements for stablecoin issuance under Section 4 of the Act as though it were a permitted payment stablecoin issuer (or to foreign requirements found to be comparable, for foreign stablecoin issuers, as discussed below). We recognize that ongoing monitoring of GENIUS rulemaking may require stablecoin margin considerations to be re-evaluated and acceptance reviewed as rules are finalized.

solely by way of example, more robust concentration limits or more frequent reserve asset disclosures.[17]

FIA supports the use of reliable, well-regulated stablecoins as margin to facilitate faster, cheaper payments and support expanded trading hours in markets where this is appropriate.[18] However, we believe the above phased approach is necessary in light of the systemic importance of DCOs and the novelty of stablecoins (particularly for use as regulatory margin).

In addition, we urge the Commission to evaluate the cross-border implications of its treatment of PPSI-issued stablecoins, both in terms of foreign comparability determinations with regard to U.S. law and the CFTC's own comparability determinations with respect to foreign regimes. We also urge the Commission to address the treatment of foreign payment stablecoin issuers permitted under the GENIUS Act, including the conditions under which their stablecoins may be deemed eligible for margin (particularly where they are pegged to a fiat currency other than USD).[19] FIA urges the CFTC to cooperate with foreign counterparts, including through the International Organization for Securities Commissions, to develop harmonized tokenized and stablecoin collateral standards and extend comparability determinations accordingly, consistent with Acting Chairman Pham's desire for a "pragmatic cross-border framework, including substituted compliance, mutual recognition, and passporting as appropriate, in order to avoid market fragmentation."[20]

We acknowledge that widespread adoption of tokenized assets, including stablecoins, as margin will take time and operational, legal, risk management, and other resources. Significant collaboration across the cleared derivatives ecosystem will be needed. While the white paper outlines several of our recommendations to help facilitate the broader usage of tokenized collateral, we recommend that the CFTC convene an industry working group made up of the various stakeholders involved in the clearing process, such as clearinghouses, brokers, market participants, service providers, and others, to advance the implementation of tokenized margin payments.

3. Responses to Certain Recommendations for the CFTC in the PWGR

In order to support fully the digital asset regulatory scheme, we encourage the CFTC to consider how the well-proven existing rules for derivatives markets can be extended to cover the unique aspects of digital assets. We address several key aspects of the rules and ways to honor them in

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17 Additional considerations that could be a part of this comparison include (i) timely redemption policies; (ii) custody of reserve assets and stablecoins themselves, including segregation obligations and issuer and custodian system safeguards requirements; (iii) criteria for high-quality, liquid reserve assets consistent with the GENIUS Act's list of eligible assets; (iv) overall caps on acceptance of stablecoins as margin; and (v) settlement interoperability across networks.

18 FIA acknowledges that while the language of the GENIUS Act prohibits a payment stablecoin that is not issued by a permitted payment stablecoin issuer from being treated as cash or cash-equivalent for purposes of margin and collateral for FCMs, DCOs, swap dealers, etc., there is nothing in the GENIUS Act that prohibits an FCM or DCO from accepting such stablecoins as non-cash collateral and margin.

19 We believe the CFTC should prohibit acceptance of stablecoins of foreign and domestic issuers that do not comply with the GENIUS Act or substantially similar requirements, as well as the CFTC's own core principles or other guidance.

20 Pham Keynote Address, *supra* note 5.

light of the innovations presented by digital assets below. Subsection titles correspond to the recommendations as set forth in the PWGR.

a. Provide guidance to designated contract markets ("DCM") regarding the listing of leveraged, margined, or financed spot retail commodity transactions on digital assets pursuant to CEA Section 2(c)(2)(D).

Leveraged, margined, or financed spot retail commodity transactions on digital assets ("leveraged retail transactions") have never been listed on DCMs before and thus lack the user familiarity, operational infrastructure, and clear legal and regulatory framework that futures products have developed over more than a century of exchange trading. Additionally, there is no settled consensus on the basic operational mechanics of these products in practice. Key lifecycle elements (i.e., trade execution, custody and control of collateral, margining and liquidations, funding and settlement flows) remain an open question. Given the novelty and unique risk profile and user base of these instruments, it is both prudent and consistent with the CEA to treat them as distinct from traditional futures and cleared swaps.

In summary, under Section 2(c)(2)(D) of the CEA, commodity transactions must be conducted on a registered DCM (or a national securities exchange) if they (i) involve leverage, margin, or financing; (ii) have a counterparty that is not an eligible contract participant; and (iii) lack "actual delivery" of the commodity within 28 days.[21] All transactions executed on a DCM must be cleared through a registered derivatives clearing organization ("DCO").[22] A person acting as a futures commission merchant ("FCM") with respect to leveraged retail transactions must be registered with the Commission as such.[23] These requirements, among others, reflect Congress's clear intent to ensure a robust risk management and transparency framework for such leveraged retail trades.

The Commission accordingly should issue rules or guidance for DCOs making clear that prudent risk management generally requires establishing a separate default fund for leveraged retail transactions, particularly where the DCO clears a material volume of such transactions. Separating guaranty resources for leveraged retail transactions in this manner is important to mitigate systemic risk concerns and prevent contagion from novel leveraged, retail-focused products that exhibit high volatility and operational and regulatory complexity. This approach is consistent with congressional intent and longstanding customer protection principles, including those embedded in the "*Zelener* fix"[24] and the obligation on DCOs to "ensure that . . . nondefaulting members or participants would not be exposed to losses that nondefaulting members or participants cannot anticipate or control" and have "rules and procedures designed to allow for the efficient, fair, and safe management of events during which members or

21 7 U.S.C. § 2(c)(2)(D).
22 17 C.F.R. § 38.601.
23 *See* 7 U.S.C. § 6d; 17 C.F.R. § 1.3 (definition of "futures commission merchant").
24 Commodity Futures Trading Commission Reauthorization Act of 2008, Pub. L. No. 110-246, tit. XIII, 122 Stat. 1651 (2008) (regulating leveraged retail transactions in foreign currency and other commodities by adding Section 2(c)(2) of the CEA, abrogating by statute the ruling in *CFTC v. Zelener*, 373 F.3d 861 (7th Cir. 2004), that the CFTC lacked jurisdiction over such products).

participants . . . default on [their] obligations."[25] Though a 2017 CFTC staff release indicated that the CFTC then believed it did "not have the authority to require the DCOs to establish separate clearing systems or guaranty funds to clear [Bitcoin futures] contracts,"[26] which were structured similarly to other futures contracts, FIA believes the same is not true of digital asset leveraged retail transactions. While DCOs have reasonable discretion in implementing the core principles that apply to them under the CEA, using the same default fund for contracts having the battle-tested futures contract structure and for untested leveraged retail commodity contracts—with risks exacerbated by the characteristic volatility of digital asset markets—may not be a reasonable exercise of discretion.

Today, U.S. registered FCMs hold roughly $175 billion in regulatory capital that backstops their guaranty of customer trades and serves as a first line of defense against a more serious contagion event that could spread to a clearinghouse and beyond. These FCMs contribute another $15 billion to clearinghouse default funds that serve to incentivize careful risk management and distribute risk among highly capitalized institutions during a stressed market crisis.[27] These funds should remain available to protect against defaults in traditional products, while separate funds are dedicated to protecting customers who choose to participate in the novel leveraged retail commodity product class.

Additionally, FIA encourages the Commission to clarify the segregation requirements and bankruptcy treatment for leveraged retail transactions occurring on a DCM. CFTC Rule 190.01 defines the term "futures" or "futures contracts" to include contracts covered under CEA Section 2(c)(2)(D) that are traded on a DCM. However, the rule's delineation of bankruptcy account classes describes the "futures account" class by cross-reference to CFTC Rule 1.3, which in turn defines the term as "an account that is maintained in accordance with the segregation requirements of sections 4d(a) and 4d(b) of the [CEA] and the rules thereunder." Section 4d of the CEA imposes segregation requirements for property received in certain connections with the "trades or contracts" of an FCM customer, without limitation. However, CFTC Rule 1.20's segregation requirement applies only to "futures customer funds," which do not include customer assets to be used for trading in leveraged retail transactions.

FIA believes that such clarification of account class treatment warrants careful consideration. Though the CFTC's 2021 revisions to its bankruptcy rules for FCMs and DCOs under Part 190 recognized the possibility that a DCM could offer leveraged retail transactions, this was merely

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[25] 7 U.S.C. § 7a-1. Congress has also recognized that spot-like digital asset transactions are appropriately treated differently from other CFTC jurisdictional products in the CLARITY Act enacted by the U.S. House of Representatives and the U.S. Senate Banking Committee's current discussion draft of digital asset market structure legislation, which emphasize the need for tailored safeguards in retail digital commodity markets, albeit in the context of true "spot" transactions that do not fall within Section 2(c)(2)(D). *See* CLARITY Act, H.R. 3633, 119th Cong. (as passed by House July 17, 2025); Responsible Financial Innovation Act of 2025, Discussion Draft, S. Comm. on Banking, Hous., & Urban Aff., 119th Cong. (July 21, 2025).

[26] U.S. Commodity Futures Trading Comm'n, Off. of Pub. Aff., CFTC Backgrounder on Self-Certified Contracts for Bitcoin Products (Dec. 1, 2017), *available at* https://www.cftc.gov/sites/default/files/idc/groups/public/@newsroom/documents/file/bitcoin_factsheet120117.pdf.

[27] Changing Market Roles: The FTX Proposal and Trends in New Clearinghouse Models: Hearing Before the H. Comm. on Agric., 117th Cong. (May 12, 2022).

addressed in passing, as it was not contemplated at that time that DCMs actually would seek to offer such products. It may be appropriate to revisit the question and consider a separate account class for such transactions given the possibility of widespread trading in the product, in recognition of its unique and untested features noted above. Equally, it may be appropriate for the Commission to require FCMs and DCOs to segregate customer funds for leveraged retail transactions from funds in other account classes during business as usual (absent Commission authorization to do otherwise) to ensure that separate account class treatment is possible in the unlikely event of a bankruptcy.[28]

To the extent the Commission believes it needs additional authority from Congress to require a separate guaranty fund and create a separate account class for leveraged retail transactions, FIA urges the Commission to seek such authority, whether through pending digital asset market structure legislation or otherwise. As the CFTC expands its oversight into novel digital asset products, preserving default fund separation and asset segregation will be critical to upholding market integrity and investor confidence.

b. Enable firms to provide bundled trading and custody services.

We understand that some of the market interest in digital assets lies in the bundling of services and related efficiencies. The CFTC's regulations set forth robust standards for registrants in selecting and overseeing custodial services for customer assets. For example, CFTC Rules 1.20, 1.26, and 1.49 limit FCM depositories for futures customer funds to a bank or trust company, a DCO, or another FCM. Certain CFTC rules would not be compatible with bundled services and, instead, assume or require that the custodian is separate from the CFTC registrant executing a given transaction. For example, in addition to requirements to segregate customer from proprietary funds, CFTC Rules 1.20 and 1.26 require an FCM to enter into agreements with and obtain acknowledgments from its depositories related to compliance with CEA and CFTC requirements. And in the swap dealer, rather than the FCM context, the Commission's margin rules for uncleared swaps expressly require the use of a custodian for regulatory initial margin that is not affiliated with either counterparty.[29]

FIA recognizes that combining trading and custody services is common in spot digital asset markets, and that the need for special technological expertise for digital asset custody—together with historical regulatory impediments to the provision of digital asset custody, which are now being incrementally reversed—limits the number of available custodians[30] (though FCMs have observed a limited set of depositories for traditional asset classes as well). FIA believes that any framework for offering trading and custody services for digital asset products within the same corporate group or otherwise as a package must require custodians to have robust customer

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28 *See, e.g.*, 17 CFR § 1.20(e)(3), (g)(5) (prohibiting FCMs and DCOs from commingling funds held for futures, cleared swaps, and foreign futures accounts, respectively, absent authorization via a Commission order, rule, or approval of a DCO rule).

29 *See* 17 C.F.R. § 23.157.

30 *See, e.g.*, Hester M. Peirce, Commissioner, U.S. Sec. & Exch. Comm'n, Cultivating Confidence: The Role of Custody in Institutional Confidence – Public Trust and Oversight, Remarks at the Digital Assets Summit, Singapore (Sept. 30, 2025), *available at* https://www.sec.gov/newsroom/speeches-statements/peirce-093025-cultivating-confidence-role-custody-institutional-confidence-public-trust-oversight (explaining certain causes of the current dearth of digital asset custodians).

protections in place. Specifically, any such framework must: (i) identify and mitigate or clearly disclose conflicts of interest between a firm's trading and custody businesses; (ii) clearly delineate the scope of trading versus custodial functions and responsibilities; (iii) impose rigorous, consistent custody standards and other protections for customer assets that are tailored to the unique features of digital assets where appropriate and require segregation of customer from proprietary assets; and (iv) require firms to work with the Commission and other stakeholders to establish clear, enforceable resolution and recovery plans taking into account recent case law and practical learnings from past bankruptcies of digital asset custodians.[31]

These requirements should be as robust as the protections that apply in traditional commodity derivatives markets, to ensure parity of investor protection and market integrity without constraining innovation.

c. Provide guidance to FCMs in calculating and administering segregation obligations when digital assets are held on behalf of customers, including separate account treatment under Regulation 1.44.

The requirement to segregate customer assets from proprietary assets in case the firm fails is a foundational aspect of the CEA's customer protection regime.[32] Digital assets that customers deposit with an FCM to margin, guarantee, or secure their trades are and should be subject to the existing segregation regime, notwithstanding that different technology may be required to hold customer digital assets than traditional customer assets.

We encourage the Commission to work with stakeholders to review all regulations and guidance applicable to customer segregation (including those discussed above) and make any necessary changes to accommodate the distinct characteristics of digital assets.[33] FIA stands ready to support this endeavor and encourages the Commission to allow for optionality in technology solutions to accommodate the ongoing evolution of technology and best practices in the digital asset space.

With respect to Rule 1.44 as it applies to digital assets that may in the future be accepted for margin, FIA supports functional equivalence: such digital assets should be treated like other customer funds covered by the separate account framework under Rule 1.44, but with operational flexibility to account for the different means of custodying digital assets.

In applying Rule 1.44, the Commission and other stakeholders may also wish to consider the relative volatility and availability for 24/7 trading of many digital assets (as well as the ongoing move toward 24/7 or 23/7 for digital asset derivatives on certain DCMs). This is particularly important given that the rule's net liquidating value calculation and one-day margin call

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31 In addition, any such framework should recognize that differing registered entity or registrant categories generally require multiple licenses, absent a congressional or Commission decision to exempt an existing registrant from dual licensing obligations. For example, a firm performing functions that require designation as a contract market under Section 4(a) of the CEA and registration as a DCO under Section 5b of the CEA must obtain both registrations, absent an applicable exemption.

32 *See* 7 U.S.C. § 6d.

33 Among the guidance that may need to be reviewed is CFTC Staff Letter No. 20-34, concerning accepting virtual currencies from customers into segregation for a physically delivered futures contract or swap.

requirements are keyed to business days (defined to exclude Saturdays and Sundays). As Acting Chairman Pham has noted, our markets are increasingly 24/7 while bank rails are not, creating avoidable settlement risk.[34] Tokenization of assets could play a significant role in giving market participants the ability to move collateral on a real-time 24/7 basis, supporting weekend margin movements in certain markets.[35] However, the required infrastructure for this is still in the early stages and is not yet ready to support an immediate, wide-scale move to 24/7 trading and clearing.[36]

d. Provide clarity on haircuts on digital assets held by registered intermediaries (including FCMs, swap dealers, and DCOs) for purposes of calculating and reporting margin, financial resources/capital, segregation and settlement obligations, including working with the SEC around the non-marketable securities haircut framework and its applicability to non-security digital assets.

As with all collateral, it is critical that the CFTC and all intermediaries consider characteristics specific to digital assets in setting appropriate parameters for their use.

Within their principles-based regulatory framework, DCOs may retain reasonable discretion in designating stablecoins, tokenized securities, and other digital assets that are acceptable collateral and setting haircuts on any assets they accept (working with their risk committees). However, such discretion is always subject to the core principles for DCOs and CFTC implementing regulations, particularly those addressing risk management.

This risk-management framework requires a two-step process[37]: *first*, a DCO must ensure that the relevant digital asset is eligible as initial margin in the first instance—that is, it must confirm that the asset presents minimal market, credit, and liquidity risk.[38] *Second,* if a DCO determines that the asset is eligible, it should establish and maintain haircuts that are calibrated to the risks implicated by the relevant digital asset collateral. Once established, such haircuts should be fully transparent (for example, posted on DCO websites) and should be periodically reviewed by the

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34 Pham Keynote Address, *supra* note 5.

35 *See, e.g.*, Katherine Doherty & Muyao Shen, *Treasuries Go 24-7 as Repo Trade Hits Blockchain on a Saturday*, Bloomberg (Aug. 12, 2025), https://www.bloomberg.com/news/articles/2025-08-12/treasuries-go-24-7-as-repo-trade-hits-blockchain-on-a-saturday; Pham Keynote Address, *supra* note 5.

36 *See* Futures Indus. Ass'n, Response to CFTC Request for Comment on Trading and Clearing Derivatives on a 24/7 Basis, at 5 (April 21, 2025), https://www.fia.org/sites/default/files/2025-05/FIA%2024-7%20Trading%20Comment%20Letter%20FINAL_1.pdf.

37 17 CFR 39.13(g)(10)-(12).

38 In this regard, DCOs should assess whether a stablecoin meets the CFTC guidance to be promulgated, discussed above, and otherwise has design, governance, reserve composition, and custodial arrangements that satisfy the existing DCO risk-management standards, in addition to any other issues bearing on market, credit, and liquidity risk. Equally, for other tokenized assets, the DCO should confirm that the token gives the holder ownership rights in the underlying asset or that tokenholder rights are otherwise substantially equivalent to those that would flow from holding and transferring the underlying asset in a traditional manner. For all digital assets, it may be appropriate to consider technological, and other operational and legal enforceability risks, including the possibility of loss of private keys and settlement finality considerations associated with a given network consensus mechanism, as well as the potential application or non-application of Article 12 of the Uniform Commercial Code.

CFTC and the DCO as digital asset market structure, liquidity, and custody practices evolve. Operational, legal, risk management, and other considerations should be reassessed as needed.

It would be helpful for the Commission to consult with market participants and provide guidance on establishing appropriate haircuts to reflect the credit, market, and liquidity risks of any digital assets DCOs may consider accepting as initial margin. relevant considerations in this regard could include, but are not limited to, market risk from unanticipated liquidations or transfers by large digital asset holders; the digital asset's general correlation with other assets accepted by the DCO as margin; concentration risk; asset volatility and liquidity; availability of the asset for trading on multiple markets, and the quality and accessibility of such markets. In particular, concentration risks could include risks from accepting multiple digital assets that have the same issuer or the same native blockchain, as well as concentration in tokens representing a particular security or securities of the same issuer. For stablecoins accepted as margin, it may be appropriate to establish concentration limits, including with respect to stablecoin reserve assets.

e. Review the application of eligible depository rules to accounts holding digital assets as collateral under CFTC Regulation 1.49.

Digital assets are distinguished by their unique method of evidencing and transferring ownership and control, which reflects the promise of immutable, distributed, programmable recordkeeping yet requires specialized custodial technology and expertise. At their core, the CFTC's depository rules are designed to ensure that collateral is protected, wherever and however held. In order to ensure that the benefits of those robust rules extend to digital assets, the unique custody and depository characteristics of digital assets must be considered. The availability of supporting custodians remains relatively limited, as noted above, and varies across digital assets.

The Commission should consider whether revisions to the set of eligible depositories are warranted to reflect these idiosyncrasies while preserving the sanctity of the collateral on deposit. Any such expansion must balance the flexibility needed to accommodate ongoing evolution in the asset class and custodial technologies for it against the unique risks of an asset class where transactions are generally irreversible and control of an asset generally depends on a single alphanumeric key (perhaps divided into distributed shards for security reasons) that is irretrievable if lost.

To achieve this, the Commission should consider expanding the set of permissible depositories with respect to digital assets to cover institutions that are capable of satisfying best practices for technical custody and settlement of digital assets, as well as appropriate wallet segregation and proof of holdings and other audit standards; meeting financial resources requirements, including liquidity standards; establishing legal enforceability of security interests; establishing appropriate risk control frameworks for operational and other risks and considerations, including with respect to segregation risks, valuation and haircuts, liquidity, settlement finality, diversification and concentration limits, reporting and transparency; and insolvency and default handling and transition arrangements (including resolution and recovery plans). To the extent the digital asset depository's custody services are not otherwise subject to regulation and supervision by a federal or state regulator (or a foreign regulator implementing a regulatory regime comparable to the CEA), the Commission should consider requiring the depository to be subject to Commission oversight and examination with regard to the above matters.

f. Provide guidance for DCO acceptance of digital asset collateral (including payment stablecoins) including DCO financial resources requirements, valuation of assets and haircuts for margin purposes, settlement finality, treatment of digital asset custodians and self-custody, systems safeguards requirements, end-of-day reporting for assets that trade 24/7, and legal risk considerations in such areas as netting and interests in collateral under CFTC Regulations 39.11, 39.13, 39.14, 39.15, 39.18, 39.19, and 39.27.

FIA recognizes the need for guidance in the listed areas as to how these rules can be applied to digital assets to achieve the same level of protection of customer funds and market integrity that these rules provide for traditional assets. We are happy and prepared to work with the DCOs, as clearing members of those organizations that support the clearing ecosystem, to create that guidance. Please see our responses above on haircuts for margin purposes and treatment of digital asset custodians, and our discussion of the use of digital asset collateral, including payment stablecoins, in Section 2 above.

We note the settlement finality requirements of CFTC Rule 39.15(d) with respect to variation margin transfers and other settlements involving settlement bank accounts and believe analogous settlement finality would need to be assured for variation margin transfers involving stablecoins, to the extent permitted as discussed above. We also note the daily settlement requirements of Rule 39.15 and the related requirement that DCO financial resources be sufficiently liquid to enable the DCO to fulfill its obligations during a one-day settlement cycle. To the extent a DCO determines it may hold financial resources in the form of a given stablecoin, it will need to ensure that the stablecoin can be converted into cash for daily settlement with any customers that wish to effect settlements in cash rather than stablecoins (or for all settlements, if the CFTC has not permitted use of the stablecoin for variation margin).

g. Provide guidance on the adoption of tokenized non-cash collateral as regulatory margin to implement the CFTC's GMAC DAMS recommendation.

Please see Section 2 above for FIA's detailed response to the CFTC's request for comment on the use of tokenized collateral.

h. Consider allowing the use of blockchain technology to satisfy recordkeeping obligations under CFTC Reg 1.31.

FIA has long supported bringing efficiencies to the cleared derivatives markets. We welcome the opportunity to work with the Commission and other stakeholders to bring the efficiencies of blockchain technology to bear to support recordkeeping obligations under CFTC regulations. The CFTC amended Rule 1.31 in 2017 to "modernize and make technology neutral" the agency's requirements for the form and manner in which required records must be kept.[39] This was intended to provide "greater flexibility regarding the retention and production of all regulatory records under a less-prescriptive, principles-based approach." The form and manner of record retention must ensure the records' authenticity and reliability, with particular standards for systems and controls for electronic records. Consistent with this approach, we believe that use

[39] CFTC, Final Rule, Recordkeeping, 82 Fed. Reg. 24479 (May 30, 2017).

of blockchain technology in a registrant's or registered entity's recordkeeping systems is and should be permissible so long as such technology provides accurate, timely, accessible, secure, and auditable records.

i. The Working Group encourages regulatory exploration of more vertically integrated business models in the digital asset space. These business models should include appropriate structural safeguards, governance mechanisms, and disclosures to mitigate conflicts of interest.

FIA recognizes the growing market structure trend to combine regulatory categories of registrants. Vertical integration cannot, however, come at the cost of customer protection. Any exploration of more vertically integrated business models in the digital asset space should be conditioned on robust, enforceable safeguards for market participants. Vertically integrated firms should be required to, amongst other things: (i) segregate customer and affiliate assets; (ii) implement robust, principles-based governance and conflicts of interest controls, including appropriate information barriers; (iii) meet prudential and financial resource requirements; and (iv) maintain appropriate reporting, transparency, and auditability.

In particular, to ensure the integrity of the CEA's system of self-regulation and promote confidence in market integrity, the Commission must preclude a scenario in which a registered entity is the designated self-regulatory organization ("DSRO") for itself or an affiliate, or is permitted to grant an affiliated market maker preferential exchange access or access to other market participants' position or other data. Moreover, careful consideration must be given to circumstances in which a registered entity is the DSRO or SRO for competitors of an affiliate.

We urge the Commission to establish a robust framework for addressing the potential conflicts associated with vertically integrated structures, and welcome the opportunity to work with the Commission on developing such a regulatory framework.

j. Absent Congressional action, the SEC and CFTC should use their existing authorities to provide fulsome regulatory clarity that best keeps blockchain-based innovation within the United States.

FIA strongly supports Congress's efforts to create a new regulatory framework for digital assets. This offers an opportunity for the U.S. to regain leadership in this space. FIA accordingly urges enactment of the CLARITY Act once harmonized with current and anticipated Senate versions of digital asset market structure legislation.

As the last several years have shown in the digital asset context, the blurred lines between the SEC's jurisdiction over securities transactions and the CFTC's anti-fraud and anti-manipulation jurisdiction over commodities (and plenary regulatory authority over their derivatives) has resulted in significant confusion for digital asset market participants and end users, regulatory overreach, and stifled innovation. Additionally, owing to the specter of past SEC enforcement actions, market participants continue to face challenges in determining when a digital asset has been offered or sold as part of an "investment contract," and when subsequent sales of such an asset no longer constitute offers and sales of a security.

Given the persistent regulatory confusion, we greatly appreciate the CFTC's and the SEC's efforts to move forward with providing jurisdictional clarity while awaiting legislation. However, given the current momentum behind legislative efforts, FIA presently intends to focus its comments on this topic on the pending bills. Should the current legislative efforts not come to fruition, FIA will address the agencies' use of their existing authorities to provide regulatory clarity at that time.

k. Rules for digital assets should include portfolio margining standards, as suggested by the CLARITY Act.

FIA strongly supports provisions included in the CLARITY Act that incentivize prudent risk management and hedging activity in digital asset and traditional markets through (i) a coordinated CFTC-SEC process for registrants of one or both agencies to seek coordinated agency action needed to facilitate portfolio margining; and (ii) an obligation on the federal banking regulators to develop risk-based and leverage capital requirements that recognize risk offsets from agreements providing for termination and close-out netting across multiple types of financial transactions in the event of a counterparty default.[40] In the meantime, the CFTC and the SEC have the authority to and should establish a coordinated process to approve portfolio margining arrangements now, without waiting for legislation to require them to do so. As discussed at the recent CFTC-SEC joint roundtable and in other venues, portfolio margining is one of the most critical harmonization initiatives before the agencies. It is necessary to reduce barriers to risk management that is critical for volatile digital asset markets and to rationalize a system that today too often fails to recognize the offsetting risks of transactions in economically similar products, solely because the products are under the jurisdiction of two different regulators.[41] And more broadly across the financial system, demand for client portfolio margining of Treasury and repo transactions with related futures transactions is becoming more and more urgent to mitigate costs and burdens as the compliance deadline for the SEC's Treasury clearing mandate approaches.

In addition to facilitating client portfolio margining between CFTC-regulated clearinghouses and SEC-regulated clearing agencies, the CFTC should join with the SEC to urge the banking regulators—whether in coordination via the President's Working Group on Digital Asset Markets or the Financial Stability Oversight Council or in bilateral or group discussions—to take action to remove capital requirements that would constrain banks' ability to support a client portfolio margining program as clearing members even if it is approved by the CFTC and the SEC.

l. The SEC and CFTC should adopt rules ensuring customer asset segregation for digital assets.

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40 *See* Stakeholder Perspectives on Federal Oversight of Digital Commodities: Hearing Before the S. Comm. on Agric., Nutrition & Forestry, 119th Cong. (July 15, 2025) (statement of Walt Lukken, President & CEO, Futures Indus. Ass'n), *available at* https://www.agriculture.senate.gov/imo/media/doc/0191b61d-939c-565e-ee005fadab52e8c4/Testimony_Lukken_07.15.20251.pdf.

41 U.S. Sec. & Exch. Comm'n & Commodity Futures Trading Comm'n, SEC-CFTC Joint Roundtable on Regulatory Harmonization Efforts (Sept. 29, 2025), *available at* https://www.sec.gov/newsroom/meetings-events/sec-cftc-joint-roundtable-sept-29-2025.

As noted above, since 1936, the precept of segregation of customer assets from proprietary assets has stood as a cornerstone of the customer protections available under the CEA, and it is also a critical customer safeguard under the federal securities laws.[42] As part of the CFTC-SEC initiative to provide clarity on the trading of leveraged retail transactions on DCMs and national securities exchanges,[43] we would urge the agencies or their staffs to confirm, through rulemaking or interpretive action, that the segregation requirements of Section 4d of the CEA apply to property held for customers in connection with trades in such contracts. We believe it is already clear that segregation requirements would apply to any digital assets held for customers in connection with trading in futures, options on futures, foreign futures and options, or cleared swaps, just as they would apply to other property of customers held by FCMs or DCOs for such customer trading.

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FIA provides these comments with the hope of supporting digital assets markets in reaching their full potential in the United States and thanks the CFTC for the opportunity to comment. Should you have any questions about our comment, please do not hesitate to contact me at alurton@fia.org.

Sincerely yours,

Allison Lurton
General Counsel, Chief Legal Officer
FIA

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42 Additional information about CEA and CFTC requirements for the protection of FCM customer funds is available on FIA's website: https://www.fia.org/fia/articles/protection-customer-funds-frequently-asked-questions.

43 U.S. Sec. & Exch. Comm'n, Press Release No. 2025-110, SEC and CFTC Staff Issue Joint Statement on Trading of Certain Spot Crypto Asset Products (Sept. 2, 2025), *available at* https://www.sec.gov/newsroom/press-releases/2025-110-sec-cftc-staff-issue-joint-statement-trading-certain-spot-crypto-asset-products.