



January 16, 2026

Submitted Electronically

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

Re: FIA Comments on CFTC “Proposal To Provide Exemptive Relief To Facilitate Cross-Margining of Customer Positions Cleared at Chicago Mercantile Exchange, Inc. and Fixed Income Clearing Corporation” – 90 Fed. Reg. 58,525 (Dec. 17, 2025)

Dear Mr. Kirkpatrick:

The Futures Industry Association (“FIA”)¹ welcomes the opportunity to submit this letter in response to the Commodity Futures Trading Commission’s (the “CFTC” or the “Commission”) “Proposal To Provide Exemptive Relief To Facilitate Cross-Margining of Customer Positions Cleared at Chicago Mercantile Exchange, Inc. and Fixed Income Clearing Corporation” (the “Customer XM Arrangement”).² The Customer XM Arrangement would allow joint clearing members of the Chicago Mercantile Exchange, Inc. (“CME”) and the Fixed Income Clearing Corporation (“FICC”) that are dually registered as broker-dealers with the Securities and Exchange Commission (“SEC”) and futures commission merchants (“FCMs”) with the Commission (“BD-FCMs”) to hold futures customer funds in a commingled customer account at FICC.³

¹ FIA is the leading global trade organization for the futures, options, and centrally cleared derivatives markets, with offices in London, Brussels, Singapore and Washington, DC. 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. FIA’s membership includes clearing firms, exchanges, clearinghouses, trading firms, and commodities specialists from more than 48 countries, as well as technology vendors, lawyers, and other professionals serving the industry. FIA’s core constituency consists of firms that operate as clearing members in global derivatives markets, including firms registered with the Commodity Futures Trading Commission as futures commission merchants, the majority of which are also registered with the SEC as broker-dealers.

² Proposal To Provide Exemptive Relief To Facilitate Cross-Margining of Customer Positions Cleared at Chicago Mercantile Exchange, Inc. and Fixed Income Clearing Corporation, 90 Fed. Reg. 58,525 (Dec. 17, 2025).

³ See *id.* at 58,525-26.

FIA strongly supports the objectives of the Customer XM Arrangement, in particular to decrease costs associated with the SEC’s recent rule requiring the central clearing of Treasury cash and repos (“**Treasury Clearing Requirement**”).⁴ In this comment letter, we explain why the U.S. implementation of the Basel capital regulation framework (the “**Capital Rules**”)⁵ constrains the practical utility of the Customer XM Arrangement, urge the Commission to engage with the U.S. Prudential Regulators to address these issues, and offer a few technical comments on CME’s and FICC’s proposed margin methodology. Overall, FIA strongly supports the Customer XM Arrangement and urges the Commission to approve it.

I. The Customer XM Arrangement Would Allow Customer Positions to Be Cross-Margin Between CME and FICC

FICC and CME have a longstanding cross-margining arrangement for a BD-FCM’s proprietary Treasury securities positions cleared at FICC and proprietary Treasury futures and interest rate futures positions cleared at CME (collectively, “futures”), recognizing that the risks of these positions can offset one another and therefore warrant lower margin requirements. If approved by the Commission and the SEC, the Customer XM Arrangement would extend this cross-margining arrangement to a BD-FCM’s positions held for customers, allowing the BD-FCM to collect margin from the customer based on the most conservative assessment of the total risk of the customer’s portfolio of Treasury securities and futures positions as between the two clearinghouse margin models. This helps to eliminate duplicative margin requirements without diminishing overall risk management standards.

FIA agrees with the Commission that the SEC’s Treasury Clearing Requirement makes this a particularly apt moment to seek to achieve clearing efficiencies through cross-margining arrangements. The Treasury Clearing Requirement will greatly expand cleared Treasury securities activity, and the increased margin requirements associated with such activity could negatively impact market participation and liquidity. FIA agrees with the Commission that cross-margining arrangements such as the Customer XM Arrangement more accurately reflect the underlying credit risk of positions without sacrificing robust risk management.

⁴ See Standards for Covered Clearing Agencies for U.S. Treasury Securities and Application of the Broker-Dealer Customer Protection Rule with Respect to U.S. Treasury Securities, 89 Fed. Reg. 2714 (Jan. 16, 2024). FIA is also submitting a comment letter to the SEC in support of FICC’s corresponding proposed rule change to implement the Customer XM Arrangement. See Notice of Filing of Proposed Rule Change To Amend and Restate the Second Amended and Restated Cross-Margining Agreement Between FICC and CME and Amend Related GSD Rules, 90 Fed. Reg. 60,791 (Dec. 29, 2025); see also File No. SR-FICC-2025-801 (Dec. 12, 2025), <https://www.dtcc.com/media/Files/Downloads/legal/rule-filings/2025/FICC/SR-FICC-2025-801.pdf>.

⁵ See 12 C.F.R. Parts 3, 217, 324 (Office of the Comptroller of the Currency, Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation, respectively (and collectively the “**U.S. Prudential Regulators**”). Citations herein are to the Capital Rules in 12 C.F.R. Part 217.

II. The Practical Availability of Customer Cross-Margining Depends on Regulatory Capital Treatment

While FIA supports the Commission’s proposed issuance of exemptive relief to allow the Customer XM Arrangement, the Capital Rules make the Customer XM Arrangement largely impractical for BD-FCMs that are part of a banking organization.⁶ As explained below, this is because the Capital Rules do not appropriately recognize the risk-reducing effects of cross-product netting arrangements. FIA recognizes that the Commission does not have direct authority over the Capital Rules, but wishes to bring this issue to its attention to facilitate future discussion with the U.S. Prudential Regulators.

The Customer XM Arrangement reflects the economic reality that a customer’s positions across related securities and futures products may offset one another, thereby reducing the BD-FCM’s overall credit risk exposure to that customer and warranting lower margin requirements on the customer. However, the Capital Rules do not generally permit a banking organization, including a subsidiary BD-FCM, to recognize this risk-offset when calculating exposures to a customer for regulatory capital purposes. While a banking organization may calculate exposures for a group of transactions with a customer on a net basis if the transactions are part of a “netting set”, this treatment does not generally extend to “cross-product” netting sets, *i.e.*, netting sets that covers multiple transaction types (*e.g.*, Treasury repos/cash positions and Treasury futures).⁷ As such, the Capital Rules effectively require a banking organization to treat its Treasury security position exposure to a customer on the one hand, and its Treasury futures exposure to the same customer on the other, as two as two separate netting sets. This means that the exposures under the Capital Rules for each netting set remain the same, despite the economic fact that the risks of the underlying positions offset one another.

In the absence of appropriate relief, the consequence of the exposures under each netting set remaining the same, but margin collected under the Customer XM Arrangement decreasing, is higher capital requirements for banking organizations. The Capital Rules generally allow a banking organization to reduce its exposures by taking into account the financial collateral securing them. A banking organization will generally collect less margin (*i.e.*, financial collateral) from a customer with offsetting Treasury securities and futures positions under the Customer XM Arrangement than if it collected margin for each set of positions separately. As explained above, though, the banking organization’s exposure on each set of positions under the Capital Rules would

⁶ The Commission noted this issue in its proposed order. *See* 90 Fed. Reg. at 58,527 n.8 (“[e]fficiencies gained through the ability to net offsetting risks within cross-margining arrangements may be affected by existing rules and regulations for other, related resource requirements. As one example, staff is aware that market participants have raised potential concerns related to cross product netting benefits under applicable capital rules.”).

⁷ Institutions required to calculate risk-weighted assets using the advanced approaches under Subpart E of the Capital Rules may use the internal model methodology (“IMM”) for calculating derivatives exposures, subject to prior regulatory approval. 12 C.F.R. § 217.132(d). The IMM recognizes cross-product netting arrangements. 12 C.F.R. § 217.132(d)(1)(iii). However, this is of little practical benefit, since most advanced approaches institutions use the standardized approach to counterparty credit risk (“SA-CCR”), and institutions not subject to the advanced approaches are required to use the current exposure methodology (“CEM”), neither of which recognize cross-product netting arrangements. *See* 12 C.F.R. § 217.132(c)(5) (SA-CCR); 12 C.F.R. § 217.34 (CEM).

remain the same (since cross-product netting arrangements are not generally recognized), with less margin to offset each set of exposures. Thus, collecting less margin under the Customer XM Arrangement would result in higher overall exposures across both sets of positions under the Capital Rules and subject the banking organization to higher capital requirements for each set position of positions, even though each set of positions offset one another and the true exposure is lower.

The fact that the Capital Rules do not recognize the risk-offsetting benefits of cross-product netting arrangements greatly limits the practical utility of the Customer XM Arrangement. Either banking organizations use the Customer XM Arrangement and accept higher capital charges, or they discard the Customer XM Arrangement altogether and collect customer margin across Treasury securities and futures positions as if these positions did not offset. Recognizing cross-product netting arrangements would allow banking organizations and their customers to actually use the Customer XM Arrangement, thereby reducing duplicative margin costs and freeing up capital for more productive uses throughout the economy.

For these reasons, FIA encourages the Commission to engage with the U.S. Prudential Regulators to revise the Capital Rules to recognize cross-product netting arrangements. FIA welcomes the opportunity to discuss potential solutions in more detail, and directs the Commission's attention to a joint discussion paper published by FIA, the International Swaps and Derivatives Association, and the Securities Industry and Financial Markets Association, which proposes including repos in SA-CCR as a way of recognizing cross-product netting.⁸

III. CME and FICC Should Closely Monitor and Update their Margin Methodology as Appropriate

All participants in the clearing of products at FICC and CME benefit from appropriately calibrated margin levels that reflect the true exposures of the combined positions. As explained above, FIA supports the efficiencies created by margin offsets where appropriate. However, FIA also wants to ensure that as the cross-margining arrangement is expanded from proprietary positions to customer positions, margin calculation methodologies are appropriate for the change. FIA has had discussions with CME to better understand its margin testing for these products and how limits for margin offsets have been set. FIA has also emphasized the need for the margin tools to be resilient. Given the size of this market, FIA believes it is critical that both FICC and CME have in place plans to avoid market shocks from urgent changes to margin levels. As the Customer XM Arrangement is rolled out, FIA encourages FICC, CME and the regulators to actively review the appropriateness of margin levels and maximum offsets to ensure that margin is at all times sufficient.

⁸ Cross-Product Netting Under the U.S. Regulatory Capital Framework (Apr. 2025), <https://www.fia.org/fia/articles/fia-joins-trade-associations-publishing-discussion-paper-cross-product-margining-and>.

IV. The Commission Should Clarify How the Net Equity Calculation under Part 190 Applies to Repos

In the proposal, the Commission helpfully explains that cross-margined positions and related collateral held at FICC would be treated as customer property under Part 190 of the Commission’s Regulations, and therefore that a customer’s claims for such property would be allowable “net equity” claims, as calculated under Commission Regulation 190.08. Given that repos are not derivatives products, however, it is not clear how some of the terminology used in Commission Regulation 190.08 would apply. Generally, a repo creates securities and cash positions (the purchased securities held by the repo buyer and the purchase price held by the repo seller), as well as deliver/receive obligations (the repo buyer’s obligation to redeliver the securities and the repo seller’s obligation to deliver the repurchase price). When discussing the calculation of a cross-margining customer’s net equity claim, the Commission refers to “in-the-money securities positions” (but not “out-of-the-money securities positions”) and “open trade balances”, which are terms used in Commission Regulation 190.08, but are not obviously applicable to repos. We respectfully request the Commission provide further clarification or examples of the net equity calculation of a customer’s claim for cross-margined positions and related collateral—which would include repo positions and related collateral—in order to facilitate market acceptance and understanding of the Customer XM Arrangement. For instance, it is not entirely clear how “open securities transactions” fit within the Commission Regulation 190.08 net equity calculation framework. FIA would like to engage with the Commission as to how unrealized gains/losses in the value of such open securities transactions would be calculated, including clarifying:

- Whether unrealized gains in the value of securities positions would be included in open trade balances under Regulation 190.08(b)(1)(i)(B) or as “realizable market value . . . of any securities or other property” under Regulation 190.08(b)(1)(C); and
- Whether unrealized losses in value of securities positions would be included in open trade balances under Regulation 190.08(b)(1)(i)(B) under Regulation 190.08(b)(1)(i)(B) or, even though a loss would constitute a negative value, as “realizable market value . . . of any securities or other property” under Regulation 190.08(b)(1)(C).

While FIA offers the above comments to highlight practical issues posed by the Capital Rules and to encourage CME and FICC to monitor and amend margin methodology as appropriate, FIA reiterates its strong support for the Customer XM Arrangement and welcomes continued engagement with the Commission as the proposed order is finalized and implemented.

Mr. Christopher J. Kirkpatrick
January 16, 2026

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FIA appreciates the opportunity to comment on the proposed order. If the Commission has any questions about FIA's comments, please do not hesitate to contact me at 202.466.5460 or alurton@fia.org.

Sincerely,



Allison Lurton
General Counsel and Chief Legal Officer

cc: The Hon. Michael S. Selig, CFTC Chairman
Richard Haynes, Acting Director, Division of Clearing and Risk
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