2026 FIA Law and Compliance Division Conference
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PANEL TITLE:	Customer Onboarding Primer
DATE:	April 17, 2026
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Customer Onboarding Primer

Under the intermediated access model of futures execution and clearing, customers must establish an account with a futures commission merchant (**FCM**) (or introducing broker (**IB**)) which maintains memberships in (or access to) designated contract markets (**DCM**) (and other boards of trade) and derivatives clearing organizations (**DCO**).[1] Similarly, in the institutional cleared swaps market counterparties need to have account relationships with swap dealers and FCMs that will facilitate execution (OTC or on a swaps execution facility), and guarantee clearing on a DCO. By contrast, under the emergent direct clearing access model (to date, available only for fully collateralized contracts), the DCM or DCO onboards "participants" (rather than "customers") directly, in effect disintermediating the FCM's role under the traditional model of execution and clearing.[2]

This paper surveys the main components of the customer onboarding process for FCMs, with reference to the compliance standards applicable to FCMs under the Commodity Exchange Act (**CEA**), the regulations of the Commodity Futures Trading Commission (**CFTC**) thereunder, the compliance rules of the National Futures Association (**NFA**), and, as applicable, the rules of certain DCMs and DCOs.[3]

I. Initial Diligence

FCMs and IBs are "financial institutions" as defined under the Bank Secrecy Act (**BSA**).[4] As such they are required to establish and implement anti-money laundering programs that include policies, procedures, and controls, a designated compliance officer to oversee the program, ongoing training for employees, and an independent audit function to periodically test the program. In addition, under regulations adopted by FINCEN under the BSA,[5] financial institutions are required to adopt risk-based procedures for conducting customer due diligence, including procedures reasonably designed to (i) understand the nature and purpose of customer relationships for the purpose of

[1] See generally Philip McBride Johnson, Thomas Lee Hazen, Susan C. Ervin, Charles R. Mills, and Kathryn M. Trkla, Derivatives Regulation 2d ed. (2026), at § 6.07.

[2] As of February 2026, there are ten DCOs authorized under their registration orders to clear fully collateralized contracts (futures, options on futures, or swaps) without intermediation; none currently clears on a leveraged basis for direct retail participants (i.e., persons who are not eligible contract participants (**ECP**) as defined under Section 1a(18) of the CEA). See CFTC's List of registered Derivatives Clearing Organizations (available here). ICE NGX Canada Inc. offers direct, leveraged access to participants that are legal entities (not individuals), each of which transacts in connection with a line of its business (including financial intermediation services).

[3] The CFTC is in the process of evaluating how onboarding standards for DCMs and DCOs operating under the direct access model (particularly for retail participants) should differ from or align with the standards for FCMs operating under the traditional model. See CFTC Staff Request for Comment on the Direct Clearing of Derivatives by Retail Participants (December 18, 2025) (available here).

[4] 31 U.S.C. 5312(a)(2).

[5] See 31 CFR chapter X and 31 CFR 1026.220,

developing a customer risk profile; (ii) acquire information regarding the beneficial owners of legal entity customers; (iii) monitor, identify, and report suspicious transactions; and (iv) on a risk basis, maintain and update customer information.[6]

Many years ago the CFTC declined to adopt a suitability rule for FCMs, and it has not revisited that decision since.[7] NFA found the same difficulty in adopting NFA Compliance Rule 2-30, and for that reason Rule 2-30 “is premised on NFA's conclusion that the customer is in the best position to determine the suitability of futures trading if the customer receives an understandable disclosure of risks from a[n NFA] Member or Associate who ‘knows the customer’”[8] As adopted, NFA Compliance Rule 2-30 requires NFA members (including FCMs and IBs) to obtain certain information from its non-ECP and individual customers at onboarding (to be verified at least annually), including:

(1) The customer's true name and address, and principal occupation or business;

(2) For customers who are individuals, the customer's current estimated annual income and net worth. For all other customers, the customer's net worth or net assets and current estimated annual income, or where not available, the previous year's annual income;

(3) For individuals, the customer's approximate age or date of birth;

(4) An indication of the customer's previous investment and futures or swaps trading experience; and

(5) Such other information deemed appropriate by such Member or Associate to disclose the risks of futures and/or cleared swaps trading to the customer.[9]

II. Risk Disclosure

FCMs and IBs are required to provide to each customer that is not an ECP a written risk disclosure “containing only the language set forth in” CFTC Regulation 1.55(b). The 1.55(b) disclosure must be provided prior to account-opening and the FCM/IB must obtain a written acknowledgment from the customer stating that the disclosure was received and understood.[10]

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[6] See part 42 of the CFTC Regulations (requiring FCMs and IBs to comply with applicable provisions of the BSA and Department of Treasury regulations thereunder); NFA Compliance Rule 2-9; NFA Interpretive Notice 9045 (FCM and IB Anti-Money Laundering Program).

[7] CFTC, Adoption of Customer Protection Rules, 43 Fed. Reg. 31885, 31888 (July 24, 1978) (stating that the CFTC was unable “to formulate meaningful standards of universal application” for a suitability rule).

[8] NFA Interpretive Notice 9004, NFA Compliance Rule 2-30: Customer Information and Risk Disclosure.

[9] NFA Compliance Rule 2-30(c). FCMs that are notice-registered broker-dealers must obtain additional information from individual customers trading security futures. Id.

[10] CFTC Regulation1.55(a); NFA Compliance Rule 2-30(d)(1).

Prior to November 2013, an FCM or IB could provide customers with the risk disclosure statement set forth in Appendix A to CFTC Regulation 1.55 in lieu of the risk disclosure statement required under CFTC Regulation 1.55(a).[11] Appendix A was adopted to "permit firms doing multinational business to use the same risk disclosure statement for foreign and U.S-based business, thereby reducing duplicative disclosure requirements without sacrificing important customer protections or obscuring any special risks of trading outside the U.S."[12] In November 2013, the CFTC revised the risk disclosures contained in Regulation 1.55(b), but did not amend Appendix A to Regulation 1.55. In adopting the amendments to Regulation 1.55(b), the Commission stated that FCMs could continue to use the Appendix A risk disclosure statement provided that the firms also provided non-ECP customers with the revised Regulation 1.55(b) risk disclosure statement.[13] In 2016, the CFTC's Division of Swap Dealer and Intermediary Oversight approved the use of a Combined Risk Disclosure Statement for non-ECP customers, drafted by the Futures Industry Association and designed to achieve compliance with separate risk disclosure requirements set forth in CFTC Regulations 1.55(b) and (c), 30.6(a), 33.7(a), 190.10(c)[14], and Appendix A to Regulation 1.55.[15]

A list of disclosures and authorizations required under the CFTC Regulations is set forth in Annex A hereto.

III. Account Documentation

FCMs are required to maintain "current records relating to its customers' accounts, including copies of all account agreements and related account documentation, and 'know your customer' materials."[16] These records may include the following, depending on the nature of the FCM's business, the customer's legal form and capacity, and the customer's risk profile:

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[11] Appendix A was also drafted to comply with separate risk disclosure requirements under CFTC Regulations 30.6(a) and 33.7(a).

[12] CFTC, Risk Disclosure by Futures Commission Merchants, Introducing Brokers, Commodity Pool Operators and Commodity Trading Advisors to Customers; Bankruptcy Disclosure, 59 Fed, Reg, 34376 (July 5, 1994). The Appendix A has also been approved for use in Ireland and the United Kingdom to satisfy risk disclosure obligations adopted by the Securities and Futures Authority and the Central Bank of Ireland. CFTC Risk Disclosure by Futures Commission Merchants, Introducing Brokers, Commodity Pool Operators and Commodity Trading Advisors to Customers, 59 Fed. Reg. 38118 (July 27, 1994) (" The generic risk disclosure statement addresses, in the case of members of the United Kingdom SFA, commodity futures, options on commodity futures, options on commodities and options on securities, and in the case of members of exchanges whose rules have been approved by the CBI, financial futures and options on financial futures.").

[13] See Enhancing Protections Afforded Customers and Customer Funds Held By Futures Commission Merchants and Derivatives Clearing Organizations, 78 FR 68506, 68564 (Nov. 14, 2013).

[14] CFTC Regulation 190.10(c) has since been rescinded.

[15] CFTC Letter No. 16-82 (November 30, 2016).

[16] CFTC Regulation 190.10.

- A record of the FCM's diligence in determining whether the customer is a member of NFA;[17]

- Documentation evidencing the capacity and authority of the beneficial owner of the account to trade and clear futures, options on futures, and swaps.

- For accounts for which the beneficial owner of the account has conferred trading discretion on a third party, document the owner's grant of discretionary trading authority. Such a grant must be in writing, signed, and dated by the account owner, and must clearly designate to whom discretionary trading authority has been granted.[18]

- For municipal and sovereign accounts, analysis of sovereign immunity, amenability to suit.

- Where the FCM is part of a financial institution subject to Basel capital requirements, as a condition to recognizing the benefit of netting risk exposure under derivative contracts cleared by the FCM, as well as the collateral benefit taken in respect of margin collected to secure such contracts for credit risk mitigation purposes, document sufficient legal review to conclude with a well-founded basis that in the event of a legal challenge (including one resulting from a default or receivership, insolvency, liquidation, or similar proceeding) the court and administrative authorities within the relevant jurisdiction (i.e., the jurisdiction under the law of which the customer is organized) would find the netting and collateral arrangements under those contracts to be legal, valid, binding and enforceable under the law of the relevant jurisdictions.[19]

- The Account Agreement. The elements of the account agreement include:

    - Applicable Law governing the agreement. Should specifically reference exchange and clearinghouse rules, as well as interpretive guidance issued by the Joint Audit Committee.

    - Hedge/Spec representation[20]

        - FCM must provide an opportunity for each customer at account opening to designate its account as a hedging account and retain a record of all accounts designated as hedging. FCMs may permit each customer to open hedging accounts on the basis of a written representation that the customer's trading constitutes hedging as defined under any relevant CFTC, DCO, DCM, SEF or FBOT rule.

[17] See NFA By-law 1101 (prohibiting members of NFA from "accepting an order or handling a transaction in commodity futures" for a non-member of NFA that is required to be registered with the CFTC as an FCM, IB, CPO or CTA).

[18] See JAC Regulatory Alert 24-01 (October 29, 2024).

[19] See 12 CFR 3.3(d)(1).

[20] See CFTC Regulation 1.41.

- Payment Obligations: Margin, Grace/Cure Periods vs Administrative Cure Periods[21]

- Limited Recourse/Separate Account Margining (CFTC Regulations 1.56 and 1.44)

    - FCM is prohibited from representing to any person for which it carries an account that it will guarantee against loss, limit loss or not call for required margin with respect to such account.

    - FCMs electing to offer "separate account" margining to customers must do so in compliance with the requirements of CFTC Regulation 1.44.

- Registered Investment Company Customers

    - Custody of investment company assets by FCMs[22]

    - Use of derivatives by registered investment companies[23]

- Risk Limits (based on risk profile of customer)[24]

- Security/Collateral

    - Title Transfer[25]

    - Control Agreements, Margin Financing

    - Scope of Security (all accounts or just the FCM's account)

    - Warehouse receipts

    - UCC reps

- Termination/Events of Default/Remedies

- Security Futures: customer eligibility/product eligibility/Securities Act exemptions

- Cleared Derivatives Addendum

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[21] FCMs for which CME is the designated SRO, and FCMs clearing CME contracts for customers, must take care that cure or grace periods do not contravene CME Rule 930.K. See generally CME Financial and Regulatory Bulletin #24-02 (October 15, 2024) (available here).

[22] See Investment Company Act Rule 17f-6 (custody of investment company assets by an FCM).

[23] See Investment Company Act Rule 18f-4 (use of derivatives by an investment company).

[24] See CFTC Regulation 1.11 and 1.73 (FCM's obligation to set limits).

[25] See CFTC Letter 25-38 (November 25, 2025) (available here).

- Cleared CDS[26]

  - FINRA-approved risk management methodology for cleared CDS portfolios

  - Subordination Agreement (customer's claims in respect of CDS cleared with FCM would be subordinated in a SIPA proceeding – but not in a Part 190 proceeding)

  - Can the FCM clear cleared single-name CDS not part of a portfolio with cleared index CDS?

[26] See SEC Order Granting Conditional Exemptions under the Securities Exchange Act of 1934 in Connection with the Portfolio Margining of Cleared Swaps and Security-based Swaps that are Credit Default Swaps (November 1, 2021).

ANNEX A

CFTC Regulations require that FCMs obtain the following consents, representations, authorizations, and acknowledgments of disclosures:

- CFTC 1.33(g) (consent to electronic transmission of confirms/statements)
- CFTC 1.41 (hedging designation)
- CFTC 1.44 (separate account disclosures and agreements)
- CFTC 1.55(b) and CFTC 30.6(a) (risk disclosure)
- CFTC 155.3(b)(2) (consent to cross trade)
- CFTC 1.55(d)(1)(authorization to transfer funds)
- CFTC 1.55(j) (Firm-Specific Disclosures)
- CFTC 1.55(p) (bankruptcy disclosure for FCM customers)
- CFTC 1.65 (bulk transfer notice and customer disclosure)
- CFTC 1.71(e) (conflict of interest disclosure)
- CFTC 15.05 (disclosure to foreign brokers/foreign traders)
- CFTC 22.16 (Cleared Swaps Customer default disclosures)
- CFTC 30.6 (requiring disclosure set forth under CFTC 1.55(b) to be provided by FCMs and IBs to foreign futures and option customers)
- CFTC 30.12 (Direct Order Transmittal Client Disclosure Statement)
- CFTC 33.7 (commodity option disclosure)
- CFTC 41.41(b)(1) (security futures risk disclosure)
- CFTC Part 160 (privacy notices required under GLB Act)
- CFTC Part 161 Opt-out notices required under FCRA)
- CFTC 166.2 (authorization to trade from customers holding discretionary accounts)
- CFTC 166.5(c)(7) (required provisions where account agreement includes an agreement to arbitrate)