CORE PRINCIPLES FOR A NEW ERA

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Thursday, April 16, 2026 (3:45pm – 4:45pm ET)

FIA Law & Compliance Conference 2026

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The Commodity Futures Trading Commission's (**CFTC** or **Commission**) principles-based regulatory framework has served as the foundation for derivatives market oversight for over two decades. Established through the Commodity Futures Modernization Act of 2000 (**CFMA**),[1] this regime shifted from rigid, prescriptive rules to flexible core principles designed to foster innovation while maintaining market integrity. The regime encompasses 23 core principles for designated contract markets (**DCMs**), 18 core principles for derivatives clearing organizations (**DCOs**), and analogous principles for swap execution facilities (**SEFs**), collectively forming the regulatory architecture governing trillions of dollars in daily derivatives transactions.

Yet the market landscape these principles were designed to govern has transformed dramatically. Trading now extends well beyond traditional hours, with serious discussions underway about extending derivatives trading to a 24/7 basis. Novel products—from event contracts on election outcomes to sports-related options—challenge traditional notions of what constitutes a commodity derivative. Market structures increasingly feature non-intermediated, direct-to-consumer clearing models that bypass the traditional futures commission merchant (**FCM**) framework. And technological advances, including tokenized collateral and blockchain-based settlement systems, promise to fundamentally alter how margin is collected and positions are managed.

This paper examines whether the CFTC's core principles regime remains fit for purpose in light of these developments. The analysis proceeds in several parts. First, we provide background on the core principles framework and its historical evolution. Second, we examine DCM Core Principle 3's anti-manipulation requirements and their application to novel event contracts and prediction markets. Third, we assess whether DCO rules adequately address the risks of margin disintermediation and non-intermediated clearing models. Fourth, we analyze the regulatory implications of 24/7 trading in derivatives markets. Finally, we consider whether the Commission's Part 40 product listing and rule certification procedures require amendment to accommodate the pace and nature of market innovation.

The paper concludes that while the principles-based approach retains fundamental value, significant regulatory recalibration is necessary. The core principles were crafted for a market environment of defined trading sessions, traditional commodity derivatives, and multi-layered intermediation through regulated FCMs. Today's market realities of continuous trading, event-

[1] See The Commodity Futures Modernization Act of 2000 (CFMA), Pub. L. No. 106-554, 114 Stat. 2763 (Dec. 21, 2000).

based derivatives, direct retail clearing, and digital asset integration all require both interpretive guidance and, in some areas, substantive regulatory reform.

1. Background on Core Principles

The modern core principles framework emerged from the CFMA, which fundamentally restructured derivatives regulation by replacing the prior regime's detailed, prescriptive requirements with a set of outcome-oriented principles. This approach reflected Congress's judgment that derivatives markets had become too complex and fast-moving for rule-by-rule oversight, and that exchanges and clearinghouses should have reasonable discretion in determining how to achieve regulatory objectives.

The CFMA established 18 core principles for DCMs, covering areas such as market surveillance, trade information, position limits, and financial integrity. The Dodd-Frank Wall Street Reform and Consumer Protection Act (the **Dodd-Frank Act** or **Dodd-Frank**) substantially expanded this framework in response to the 2008 financial crisis.[2] Section 735 of Dodd-Frank amended Section 5 of the Commodity Exchange Act (**CEA**) by eliminating the eight former designation criteria, incorporating their substance into revised core principles, and adding five new principles, including: Core Principle 20 (System Safeguards); Core Principle 21 (Financial Resources); and Core Principle 22 (Diversity of Boards of Directors). This brought the total to 23 core principles for DCMs.[3]

The Dodd-Frank Act also established a parallel core principles framework for SEFs, reflecting the new requirement that standardized swaps be executed on regulated trading platforms. Further, the Dodd-Frank Act mandated that DCOs comply with statutory core principles designed to manage credit and systemic risk, including requirements for adequate financial resources to cover the default of the largest clearing member under "extreme but plausible market conditions," robust risk management capabilities, and appropriate participant and product eligibility standards.[4]

The Commission implemented these statutory requirements through detailed rulemakings, including the 2012 final rules establishing regulations for DCMs under Part 38[5] and for DCOs

[2] See The Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. No. 111-203, 124 Stat. 1376 (July 21, 2010) ["**Dodd-Frank Act**"].

[3] See 7 USC §7.

[4] See 7 USC § 7a-1.

[5] See 17 CFR Pt. 38 et seq.

under Part 39 of the Commission's Regulations.[6] In finalizing these rules, the Commission preserved the principles-based character of the regime while codifying certain industry practices and providing guidance and acceptable practices to help registered entities demonstrate compliance. As the Commission noted, several commenters during the rulemaking process "contended that the principles-based regime has permitted the U.S. futures markets to prosper and keep pace with rapidly changing technology and market needs," while others pointed to "the futures markets' resilience throughout the financial crisis" as evidence of the regime's effectiveness.

Three pillars have defined the modern core principles' animating purposes: ensuring market integrity by preventing fraud, abuse, and price manipulation; protecting market participants; and promoting responsible innovation within regulated frameworks. The flexibility inherent in the principles-based approach has enabled the Commission to oversee markets ranging from traditional agricultural futures to complex interest rate swaps, from physically-delivered commodity contracts to financially-settled derivatives on digital assets.

Yet this very flexibility raises questions about whether the principles can stretch to accommodate innovations that fall outside their original contemplation. When trading extends to weekends and holidays, does "market surveillance" still mean the same thing? When contracts settle on political elections or sporting events, what does "not readily susceptible to manipulation" require? When clearing occurs without FCM intermediation, are DCO core principles alone sufficient to protect customers? These questions frame the analysis that follows.

2. Core Principle 3: Contracts Not Subject to Manipulation

DCM Core Principle 3, codified at CFTC Rule 38.200, mandates that exchanges "list on the contract market only contracts that are not readily susceptible to manipulation."[7] This requirement is seemingly straightforward in the context of traditional agricultural or energy derivatives. However, this same section has become the focal point for debates about whether prediction markets and event contracts can be appropriately regulated under the existing framework.

The origins of Core Principle 3 trace to the Dodd-Frank Act's amendments to Section 5 of the CEA.[8] Prior to the Dodd-Frank Act, contract market designation relied on eight distinct, prescriptive criteria rather than flexible principles. Section 735 of Dodd-Frank shifted from this prescriptive approach to a principles-based framework, requiring DCMs to maintain rigorous market surveillance and provide economic evidence that a contract's design prevents

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[6] See 17 CFR Pt. 39 et seq.

[7] 17 CFR §38.200.

[8] See 7 USC §7.

manipulation.[9] The 2012 implementing rules, still largely in place today, enforce that a DCM must have the authority and ability to intervene in the market to ensure compliance.[10]

Event contracts present unique challenges under Core Principle 3. Unlike traditional commodity derivatives, where manipulation typically involves conduct affecting the price of an underlying commodity, event contracts settle based on discrete outcomes such as election results, judicial decisions, or sporting event outcomes. The controversy surrounding this new market is that these outcomes may be directly influenced by market participants or third parties. The Commission has acknowledged this concern in a recently published Advance Notice of Proposed Rulemaking (**ANPRM**), noting that some commentators have questioned whether event contracts "could create financial incentives for market participants to influence the underlying event rather than merely to predict it."[11]

In a March advisory (**Advisory**), the CFTC's Division of Market Oversight (**DMO**) identified specific categories of event contracts presenting "heightened potential for manipulation or price distortion."[12] These include contracts that "resolve or settle based on the action of a single individual or a small group of individuals," such as contracts based on officiating decisions during sporting events; contracts that settle based on "injuries to individual sports participants"; and contracts based on "unsportsmanlike conduct, or physical altercations between sports participants."[13] Each of these contract types is particularly vulnerable because a single participant's conduct could determine the outcome with minimal cost or risk of detection.

The Commission's recent ANPRM on prediction markets solicits comments related to these concerns. Specifically, the ANPRM asks "[h]ow should a determination of whether an event contract is 'readily susceptible to manipulation' be made? What factors should be considered? Are there particular aspects of event contracts that make this determination different from the determination with respect to other listed contracts?"[14] The Commission further inquires whether existing surveillance rules from other types of exchanges and platforms "limit or mitigate the potential for manipulation" and, if so, "how and to what extent are these rules appropriate as requirements for prediction markets."

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[9] Dodd-Frank Act §735.

[10] See CFTC Final Rule, Core Principles and Other Requirements for Designated Contract Markets, 77 Fed. Reg. 36612 (June 19, 2012).

[11] See CFTC Advanced Notice of Proposed Rulemaking, Prediction Markets, 91 Fed. Reg. 12516 (Mar. 16. 2026) ["**ANPRM**"].

[12] CFTC Div. of Market Oversight Staff Letter No. 26-08, (Mar. 12, 2026) ["**Prediction Markets Advisory**"].

[13] Prediction Markets Advisory at 4.

[14] ANPRM at 12519.

Appendix C to Part 38 provides the primary guidance for DCMs demonstrating compliance with Core Principle 3.[15] The guidance addresses cash-settled contracts, advising that DCMs evaluate third-party data sources for the "existence and quality of any safeguards the third party has placed on unauthorized or premature release of the index value itself or any key data used in deriving the index value."[16] For exchange-traded swaps, the guidance states that DCMs "should verify that the third party utilizes business practices that minimize the opportunity or incentive to manipulate the cash-settlement price series." However, this guidance was developed primarily for traditional commodity derivatives and does not explicitly address the unique characteristics of event contracts.

The self-certification process under Part 40 has become a flashpoint in this debate.[17] As discussed later in this paper, DCMs may list new products for trading one business day after self-certifying that the contract complies with the CEA and CFTC regulations, including that it is not readily susceptible to manipulation.[18] Some industry observers suggest that the self-certification process "may be inappropriate in this context given the complex market structure issues associated with 24/7 trading."[19] Critics argue that novel event contracts "require input and consideration by all market participants, and thus, at a minimum, any product listed for 24/7 trading should automatically be subject to an additional 90-day stay for review and public comment."[20]

The fit-for-purpose question for Core Principle 3 is whether its flexible mandate can adequately address the manipulation risks unique to event contracts, or whether more specific rules are required. The CFTC's ongoing rulemakings will likely determine whether the existing principles-based approach survives in this context or whether Congress's original judgment about regulatory flexibility must yield to more prescriptive requirements tailored to prediction markets.

3. DCO Rules – Fit for Purpose for Margin Disintermediation?

The DCO core principles framework has long assumed that clearing occurs through a multi-layered system of intermediation: customers transact through FCMs, which collect margin and guarantee customer trades to the clearinghouse, which in turn becomes the buyer to every seller and seller to every buyer. This architecture distributes risk across multiple parties and creates redundant

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[15] See 17 CFR Pt. 38, App. C.

[16] Id.

[17] See 17 CFR Pt. 40 et seq.

[18] Id.

[19] See, e.g., ISDA and SIFMA Comment Letter in response to CFTC Request for Comment on Trading and Clearing Derivatives on 24/7 Basis, Release No. 9068-25 ["**ISDA/SIFMA 24/7 Comments**"]

[20] ISDA/SIFMA 24/7 Comments at 3 n.7.

protections for customers and the financial system. The emergence of non-intermediated clearing models—where customers bypass FCMs and clear directly through the DCO—fundamentally challenges this architecture.

The regulatory debate centers on whether direct clearing should extend beyond fully-collateralized contracts to include margined products. Non-intermediated models have historically been approved only when 100 percent of potential losses are pre-collateralized, eliminating counterparty risk. A "fully-collateralized position," as defined in Part 39, is "a contract cleared by a DCO that requires the DCO to hold, at all times, funds in the form of the required payment sufficient to cover the maximum possible loss that a party or counterparty could incur upon liquidation or expiration of the contract."[21] Moving to a margined model, where only a portion of potential losses is collected, significantly increases the risk that a DCO would need to cover a defaulting participant's obligations.

The CFTC's 2022 roundtable on disintermediation surfaced sharp divisions on these questions.[22] Industry participants noted that FCMs offer "key benefits including customer protection, bankruptcy controls and disclosures to serve clients as well as the entire financial system."[23] Others emphasized that Congress and the CFTC "intentionally applied very prescriptive rules to FCMs because of the important roles they play for customer protection and asset protection."[24]

A critical concern involves the "auto-liquidation" feature that some non-intermediated platforms have proposed. Auto-liquidation automatically closes out customer positions if they have not posted enough collateral to cover a loss in value. Critics warn that this approach could be "a weapon of mass destruction" by triggering a "cycle of flash crashes" if the algorithms are not finely tuned to market conditions and customer circumstances.[25]

The industry consensus appears to be that auto-liquidation is inappropriate for traditional derivatives markets. As the Futures Industry Association ("**FIA**") has noted, "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."[26] This tailored approach protects commercial hedgers—such as pension funds

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[21] 17 CFR §39.2 ("Fully collateralized position").

[22] CFTC Staff Roundtable on Non-Intermediation (May 25, 2022) available at https://www.cftc.gov/sites/default/files/2022/07/1658159363/transcript052522.pdf ["**Non-Intermediation Roundtable**"].

[23] Id.

[24] Id.

[25] Id.

[26] See FIA White Paper on 24/7 Markets in Exchange-Traded Derivatives (Mar. 2026) available at https://www.fia.org/sites/default/files/2026-03/FIA%20highlights%20challenges%2C%20opportunities%20of%2024-7%20trading%20and%20clearing.pdf ["FIA 24/7 Paper"]; see also Jeff Reeves, FIA

and agricultural producers—who need their derivative positions most precisely during periods of high volatility when auto-liquidation could be triggered. The Securities Industry and Financial Markets Association ("**SIFMA**") similarly argued that auto-liquidation "would most likely lead to a rushed auction, potentially generating losses that could tap into mutualized resources."[27]

The DCO core principles themselves may require updating to address these challenges. Compliance requires DCOs to have sufficient margin from each member to cover potential exposures in normal market conditions and that models used in setting margin requirements be "risk-based" and "reviewed on a regular basis."[28] The CFTC's recent ANPRM asks whether prediction markets should be permitted to offer trading on margin, and if so, "what factors should be involved in the calculation of initial margin, such as concentration, or liquidity?"[29] Given that some event contracts resolve quickly while others may not resolve for years, the Commission inquires "what time series of data and other time period considerations should be involved when calibrating appropriate margin."[30]

The CFTC has sought public comment on a potential "Retail DCO" registration category that would establish tailored requirements for DCOs serving retail customers through direct clearing models.[31] Key questions include: how should such DCOs handle intermediation; what types of intermediation should be permitted; and whether existing rules adequately address conflicts of interest, risk management, and standard customer protections. Notably, most DCMs registering to provide prediction markets since 2020 have chosen fully non-intermediated models, which require the DCO to accept individual customers as clearing members directly rather than through existing FCM members.

The fit-for-purpose question for DCO rules is whether the existing core principles can be stretched to accommodate direct retail clearing of margined products. The historical protections provided by FCMs such as customer due diligence, creditworthiness assessment, segregation of funds, and default management, must be replicated somehow in a non-intermediated model. If the core principles cannot achieve this result without interpretive guidance, more prescriptive rules may be necessary.

Market Voice "CFTC roundtable on non-intermediation focuses on FCM benefits and default waterfalls" (May 26, 2022).

[27] ISDA/SIFMA 24/7 Comments at 5.

[28] See 17 CFR §39.13 (implementing DCO Core Principle D).

[29] ANPRM at 12519.

[30] Id.

[31] CFTC Staff Seeks Public Comments on 24/7 Trading (Apr. 21, 2025) available at https://www.cftc.gov/media/12036/24_7_RFC042125/download ["**CFTC RFC 24/7**"].

4. 24/7 Hour Trading in Derivatives Markets

The extension of derivatives trading to a 24/7 basis represents perhaps the most significant operational challenge to the core principles regime. Today's major exchanges have expanded operations to allow for trading up to 23 hours a day, Monday through Friday. The move to include weekends and holidays raises fundamental questions about market surveillance, clearing, margin collection, and default management.

In June 2025, the CFTC issued a request for comment on the implications of extending the trading of CFTC-regulated derivatives markets to an effectively 24/7 basis.[32] The request drew sharply divided responses. Digital asset industry participants, led by the Blockchain Association, argued that derivatives needed to trade on the same timeframe as the underlying assets they reference, enabling market participants to close out or otherwise manage positions in response to spot market moves.[33] Traditional market participants were more cautious, with some arguing that conditions may not yet be ripe to extend all the way to 24/7 trading in other derivatives markets.[34]

The clearing and risk management implications of 24/7 trading are profound. As the FIA has emphasized, "around-the-clock trading will require alignment on the clearing of trades and the management of risk. In traditional derivatives markets, clearing is a series of financial payments and guarantees dispersed among several market participants to protect the financial system from a default."[35] The introduction of trading on weekends and holidays would "signify a marked change to the processes and timeline for collecting and posting margin, and to the framework in which margining operates."[36]

A central concern is the unavailability of traditional collateral and funding mechanisms during weekends and holidays. In the current environment, clients can post various types of collateral (e.g., cash and securities) to meet margin calls, and clearing members have access to repo markets for funding. None of these forms of collateral and funding are currently available on weekends and holidays, creating challenges for timely collateralization of exposures and introducing the risk of under-margined positions. This asymmetry creates risks for market participants, clearing members, and clearinghouses alike.

Liquidity is another critical consideration. As DCM Core Principle 4 requires, exchanges must have "the capacity and responsibility to prevent manipulation, price distortion, and disruptions of

[32] Id.

[33] Letter from Laura Sanders, Blockchain Association, to CFTC on CFTC RFC 24/7 (May 21, 2025).

[34] Letter from Mike Seyfert, The National Grain and Feed Assoc. (May 21, 2025).

[35] FIA 24/7 Paper at 4.

[36] Id.

the delivery or cash-settlement process through market surveillance, compliance, and enforcement practices and procedures."[37] When trading is spread across weekdays, weekends, and evenings, volume is likely to drop and execution costs are likely to rise. Lower liquidity creates the risk of large market moves occurring on thin trading volumes, potentially triggering automated buying or selling that accelerates price movements. One exchange warned, regulators should ensure innovation "does not compromise market integrity, operational robustness or customer protection" and highlighted the issues that could arise during periods of very low trading activity.[38]

Commercial hedgers have been particularly vocal in their opposition to extended trading hours. The American Cotton Shippers Association stated it "strongly believes" 24/7 trading would have a detrimental effect on soft commodities markets.[39] Agricultural merchants have warned that extending hours effectively will dilute concentration of traded volume and create pockets of illiquidity in off-market hours, especially late at night and on the weekends.

Potential solutions involve significant technological and infrastructural changes. Proponents suggest that tokenized assets as collateral could effectively decouple clearing and settlement systems from the operating hours of traditional bank payment and could be coded to automatically make margin payments during out-of-office hours if certain conditions were met.[40] Coinbase and Nodal exchanges both announced plans to accept USDC stablecoin as collateral for crypto futures, which would be the first time a stablecoin had been recognized as eligible collateral at a regulated US derivatives exchange.[41] Central banks worldwide have begun efforts to extend operating hours for wholesale payment systems, including the Bank of England's RTG and CHAPs extension proposal,[42] the European Central Bank's T2 extension proposal,[43] and the Federal Reserve's FedNow initiative and Fedwire extension proposal.[44]

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[37] See 17 CFR §38.250 (Core Principle 4).

[38] Letter from Kara Dutta, Intercontinental Exchange, Inc. in response to CFTC 24/7 RFC at 1 and 4 (May 21, 2025).

[39] Letter from William Allen, American Cotton Shippers Ass'n. in response to CFTC 24/7 RFC at 2 (May 21, 2025).

[40] See, e.g., FIA Paper "Accelerating the velocity of collateral the potential for tokenization in cleared derivatives markets" (June 2025).

[41] Coinbase Blog, Coinbase Derivatives and Nodal Clear Partnership in USDC Integration (June 18, 2025) available at https://www.coinbase.com/blog/coinbase-derivatives-and-nodal-clear-partner-in-usdc-integration.

[42] See Bank of England Policy Statement Extending RTGS and CHAPS settlement hours – early morning extension (Feb. 24,2026) available at https://www.bankofengland.co.uk/paper/2026/ps/extending-rtgs-and-chaps-settlement-hours-early-morning-extension.

[43] See European Central Bank Consultation Paper on the Extension of T2 Operating Hours (June 2025) available at https://www.ecb.europa.eu/press/payments-news/ecb.pubconpm202506.en.pdf.

[44] See Press Release, "Fed. Reserve Bd. Announces expanded operating days of two large value payment services, Fedwire Funds Service and the Nat'l Settlement Service (NSS), to include Sundays and weekday holidays" (Oct. 9, 2025) available at https://www.federalreserve.gov/newsevents/pressreleases/other20251009a.htm.

The operational challenges extend to staffing and technology. Expanding trading hours into weekends and holidays creates new staffing requirements across multiple functions, including trade support, information technology, compliance, and surveillance. Many firms rely on legacy computer systems designed for batch processing on standardized daily transaction cycles, and adapting these systems to continuous processing presents substantial challenges. Even the definition of fundamental terms like “trading day,” “session,” “close,” and “official settlement” require reconsideration in a market that operates perpetually.

Regulatory oversight itself faces new challenges in a 24/7 environment. Surveillance staffing and technology will need to operate continuously, requiring additional resources. Weekends and holidays have traditionally provided a pause in trading, allowing market participants and regulators to reassess market conditions and manage defaults and crises. As the FIA has noted in its policy paper, “policymakers will need to assess how to work through these one-off challenges without that buffer.”[45] Questions about timing for residual interest calculations, customer fund segregation reporting, and error-trade windows will need to be addressed.

The core principles’ fitness for 24/7 trading depends substantially on whether their requirements can be met in an environment without natural breaks in trading activity. Core Principle 4’s market surveillance requirements, Core Principle 11’s financial integrity requirements, and Core Principle 20’s system safeguards requirements all implicitly assume periods during which maintenance, review, and assessment can occur. The FIA has recommended that regulators “engage with industry to address these issues in a logical and thoughtful manner” and develop “regulatory and operational standards for trading 24/7, including a standardized taxonomy of terms and a standard definition of trade date.”[46]

5. CFTC Regulations Part 40: Further Amendments Needed?

Part 40 of the Commission’s regulations establishes the procedures by which registered entities submit rules and products to the Commission. The framework provides two pathways: self-certification under CFTC Rule 40.2 (for products) or CFTC Rule 40.6 (for rules), and voluntary submission for Commission approval under CFTC Rule 40.3 (for products) or CFTC Rule 40.5 (for rules).[47] The self-certification process has been the primary mechanism for market innovation, permitting exchanges to list new products for trading one business day after submission. The

[45] FIA 24/7 Paper at 10.

[46] Id. at 10.

[47] See 17 CFR Pt. 40 et seq.

Commission last comprehensively amended Part 40 in 2011,[48] and again in November 2024,[49] but the rapidly evolving market structure raises questions about whether further amendments are necessary.

The self-certification process has come under scrutiny in the context of novel products. Under CFTC Rule 40.2, a DCM or SEF must provide to the Commission "a written certification that the new contract or instrument complies with the CEA and the Commission's regulations thereunder" along with "a concise explanation and analysis of the underlying commodity, the terms and conditions of the contract and the compliance of the contract with applicable provisions of the Act."[50] The Commission's 2024 amendments added the word "complete" to CFTC Rule 40.2(a)(3)(v) "to confirm that it is essential that the DCM or SEF include a concise explanation and analysis...that explains how and why the contract's terms and conditions comply with the applicable core principles and regulations."[51]

This amendment responded to the Commission's experience that "numerous instances" had arisen where "registered entities provided only cursory supporting analyses for their product submissions or, in certain cases, failed to document the evidentiary basis for their certifications altogether." The Commission also reported "undue delays in receiving certain requested information, suggesting that supporting analyses had not been prepared by the registered entities as of the time of request." For novel products (such as digital assets and event contracts) the Commission emphasized that DCMs must have "completed research on the underlying commodity...and how the contract complies with the core principles" before listing.[52]

The self-certification process's speed of one business day after submission contrasts sharply with the rule certification process, which provides a ten-business-day review period during which the Commission may stay implementation. Industry participants have questioned whether novel event contracts warrant the same expedited treatment as traditional derivatives. The ISDA-SIFMA-SIFMA AMG joint letter to the CFTC suggested that "given the complex market structure issues associated with 24/7 trading," the existing self-certification process "may be inappropriate in this context" and that novel products "should automatically be subject to an additional 90-day stay for review and public comment."[53]

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[48] See CFTC Final Rule, Provisions Common to Registered Entities, 76 Fed. Reg. 44776 (July 27, 2011).

[49] See CFTC Final Rule, Provisions Common to Registered Entities, 89 Fed. Reg. 88594 (Nov. 7, 2024).

[50] Id. at 88598.

[51] Id.

[52] Id. at 88600 n.74.

[53] Letter from ISDA, SIFMA and SIFMA-AMG in response to CFTC 24/7 RFC at 3 (May 21, 2025) available at https://www.sifma.org/wp-content/uploads/2025/05/CFTC-RFC-on-24-7-Trading-ISDA-SIFMA-and-SIFMA-AMG-response-FINAL-filed-with-CFTC.pdf.

The guidance framework under Part 40 also warrants examination. Appendix C to Part 38 provides guidance on demonstrating compliance with Core Principle 3, including detailed recommendations for evaluating cash-settled contracts, physical delivery specifications, and cash price series.[54] However, this guidance was developed primarily for traditional commodity derivatives and does not explicitly address event contracts. The ANPRM on prediction markets asks whether the Commission should develop specific guidance for event contracts, including guidance on "resolution criteria," dispute resolution procedures, and the determination of whether underlying events have occurred.[55]

The Commission has also received comments questioning whether the Part 40 framework adequately addresses the informational value that prediction markets can provide. A February 2026 Federal Reserve working paper found that exchange-traded event contracts "performed as well as or better than Bloomberg consensus surveys, the Federal Reserve Bank of New York Survey of Market Expectations, and federal funds futures in forecasting Federal Reserve policy decisions and inflation outcomes.[56] The paper highlighted that, unlike periodic surveys, "prediction market prices provide a continuously updating, real-time view of the full probability distribution of potential outcomes."[57] This suggests that event contracts may serve legitimate informational and hedging functions that the current regulatory framework does not fully contemplate.

Several specific amendments to Part 40 merit consideration. First, the Commission could develop explicit guidance or rules for event contract self-certification, including standards for evaluating manipulation susceptibility, requirements for data source reliability, and procedures for determining settlement in disputed cases. Second, the Commission could establish differentiated review timelines for novel product categories to ensure adequate analysis without sacrificing the flexibility the self-certification process provides. Third, the Commission could clarify how Part 40 requirements apply when products are intended for 24/7 trading, including how definitions of "business day" and "trading day" interact with continuous market operation.

The Part 40 definition of "business day" currently means "the intraday period of time starting at 8:15 a.m. and ending at 4:45 p.m. Eastern Standard Time...on all days except Saturdays, Sundays, and Federal holidays."[58] This definition underlies critical timing requirements throughout Part 40,

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[54] See 17 CFR Pt.38, App. C.

[55] See ANPRM at 12519.

[56] See Anthony M. Diercks, Jaren Dean Katz, and Jonathan H. Wright, Fed. Reserve B'd, Staff of Finance and Economic Discussion Series, "Kalshi and the Rise of Macro Markets" (Feb. 12, 2026) ["**Fed Prediction Markets Paper**"] available at https://www.bing.com/ck/a?!&&p=3f7adfaa755cad30291493f2d9a7cc06ee67 598fcf8dc95ed2b924bb4a7b698bJmltdHM9MTc3NTI2MDgwMA&ptn=3&ver=2&hsh=4&fclid=2a762c24-45e2-659d-18be-3aa944c8647f&psq=kalshi+and+the+rise+of+macro+markets&u=a1aHR0cHM6Ly93d3cuZm VkZXJhbHJlc2VydmUuZ292L2Vjb25yZXMvZmVkcy9maWxlcy8yMDI2MDEwcGFwLnBkZg.

[57] Fed. Prediction Markets Paper at 9-12.

[58] 17 CFR §40.1 ("Business Day").

including when self-certifications take effect and when Commission review periods begin and end. If derivatives trading extends to weekends and holidays, this definitional framework will require reconsideration. The fit-for-purpose question is whether Part 40 can accommodate continuous trading through interpretive guidance or whether substantive amendments to timing and procedural requirements are necessary.

6. Conclusion

The CFTC's core principles regime has served derivatives markets well for over two decades, providing a flexible framework that has accommodated significant market evolution while maintaining the fundamental protections of market integrity, customer protection, and systemic risk management. However, the simultaneous emergence of 24/7 trading demands, novel event contract products, non-intermediated clearing models, and digital asset integration presents challenges that may exceed the adaptive capacity of the existing principles-based approach.

The analysis presented in this paper suggests that regulatory recalibration is necessary across multiple dimensions. Core Principle 3's anti-manipulation requirements, while conceptually sound, lack specific guidance for event contracts where the underlying "commodity" is a discrete event that may be influenced by market participants. DCO core principles, designed for intermediated clearing with sophisticated institutional participants, may not adequately address the risks of direct retail clearing of margined products. The infrastructure assumptions underlying continuous market operation (e.g., "business day" definitions; margin collection timelines) are embedded throughout the regulatory framework and require systematic review.

The Commission's ongoing rulemakings, including the ANPRM on prediction markets and the request for comment on 24/7 trading, represent important first steps. However, the scope of necessary adaptation may ultimately require Congressional attention. The core principles' statutory foundation was crafted for a market environment fundamentally different from today's reality. While the Commission retains discretion under Core Principle 1 to determine by rule or regulation, the manner in which a board of trade complies with the core principles, this discretion may not extend to addressing structural gaps in the statutory architecture itself.[59]

Industry participants have offered thoughtful recommendations that merit consideration. For example, the FIA has urged alignment of 24/7 trading with 24/7 clearing, advancement of tokenization initiatives, extension of wholesale payment system operating hours, and identification of which markets are ready for continuous trading.[60] Commercial end-users have emphasized that

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[59] See 17 CFR §38.100.

[60] FIA 24/7 Paper at 10-11.

any expansion of trading hours must not compromise the hedging utility that derivatives markets provide.[61]

Whatever specific reforms emerge, several principles should guide the regulatory response. First, the pace of regulatory adaptation should match the pace of market evolution; regulators should not be in the position of retrofitting rules designed for a bygone market structure. Second, the principles-based approach retains value and should be preserved where possible, but principles alone cannot address every risk. Prescriptive rules remain appropriate where specific safeguards are required. Third, any expansion of trading hours or product types should be accompanied by corresponding expansions of clearing, margin collection, and surveillance capabilities. Fourth, the protection of commercial hedgers and retail customers must remain paramount; innovation that compromises market integrity or customer protection is not innovation worth pursuing.

The CFTC has proven itself capable of adapting to market change throughout its history—from the introduction of financial futures in the 1970s, to electronic trading in the 1990s, to the comprehensive swap regulation mandated by Dodd-Frank. The current moment demands similar adaptive capacity. The core principles regime should be revisited, updated, and strengthened to address the new technologies, participants, methods and modes of trading, and innovative products that define today's derivatives markets. The alternative serves neither market integrity, nor the public interest.

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[61] See fn. 39 supra.

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