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August 31, 2026

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

Ms. Vanessa A. Countryman
Secretary
U.S. Securities and Exchange Commission
100 F Street NE
Washington, DC 20549

Re: the CFTC-SEC Joint Request for Comment on Further Implementation of Portfolio Margining and Cross-Margining of Securities and Derivatives

Dear Mr. Kirkpatrick and Ms. Countryman:

The International Swaps and Derivatives Association, Inc. (**"ISDA"**) and the Futures Industry Association (**"FIA"**) (collectively, **"the Associations"**)[1] welcome the opportunity to respond to the *Joint Request for Comment on Further Implementation of Portfolio Margining and Cross-Margining of Securities and Derivatives* (**"RFC"**), published by the U.S. Commodity Futures Trading Commission (**"CFTC"**) and the U.S. Securities and Exchange Commission (**"SEC"**) (collectively, **"the Commissions"**).

Portfolio and cross-margining programs can align margin with the risk a portfolio actually presents, reduce inefficient collateral demands and liquidity strain, and free up capital for productive use. The Associations have consistently advocated for the expansion of these programs across cleared and non-cleared derivatives and securities, and we welcome the Commissions' commitment to these programs as reflected in the March 2026 Memorandum of Understanding[2] and in the April 2026 conditional exemptive orders facilitating customer cross-margining of cleared U.S. Treasury securities and Treasury futures.[3] We view this request for

[1] Information about the Associations is included in the Appendix.
[2] Memorandum of Understanding between the U.S. Securities and Exchange Commission and the U.S. Commodity Futures Trading Commission regarding Harmonization in Areas of Common Regulatory Interest (Mar. 11, 2026).
[3] SEC, Order Under Section 36 of the Exchange Act Granting Conditional Exemptive Relief from Section 15(c)(3) of and Rule 15c3-3 under the Exchange Act for Cross-Margining of Cleared U.S. Treasury Securities and Related Futures, Exchange Act Release No. 105248 (Apr. 15, 2026), 91 FR 21035 (Apr. 20, 2026); CFTC, Order Providing

comment as a natural and welcome continuation of that work and an important step toward cross-agency harmonization.

We agree with the Commissions that market participants operate in an increasingly convergent ecosystem in which related positions fall under one or both Commissions' jurisdiction, and that requiring economically related positions to be held in separate accounts under different margin regimes can result in liquidity demands without equivalent gains in market stability or regulatory benefit. The benefits of portfolio and cross-margining have the potential to be substantial: margin calibrated to actual portfolio risk rather than to gross positions; reduced procyclical collateral demand in stressed markets, when liquidity is scarcest; collateral freed to support market making, client intermediation, and hedging; and less operational fragmentation across accounts, which yields no supervisory or systemic risk benefit. Moreover, expanding portfolio and cross-margining would strengthen the competitiveness of U.S. markets. In many non-U.S. jurisdictions, margin is not bifurcated across economically related products, and portfolio treatment of economically related positions is a settled practice.

Achieving these benefits, however, will require the Commissions, other regulators, self-regulatory organizations (**"SROs"**), and the industry to resolve a series of practical and legal obstacles that, today, confine portfolio and cross-margining to a narrow set of bespoke, case-by-case arrangements. Accordingly, we encourage the Commissions to take steps within their authority to further the following recommendations:

> (1) establish a formal, coordinated process for the joint review and approval of portfolio and cross-margining programs;
> (2) ensure product eligibility is assessed via common economic drivers;
> (3) provide regulatory certainty on issues impacting insolvency analysis;
> (4) work with the private sector to address the operational measures required to implement broader portfolio and cross-margining;
> (5) address regulatory impediments to safe and efficient portfolio and cross-margining programs; and
> (6) work with prudential and global regulators to ensure the benefits of portfolio and cross-margining are recognized across capital, margin, and cross-border frameworks.

We discuss each of these recommendations, in turn, below.

I. The Commissions Should Establish a Formal, Coordinated Process for the Joint Review and Approval of Portfolio and Cross-Margining Programs

Central counterparties (**"CCPs"**), intermediaries, and affiliated entities seeking to implement portfolio and/or cross-margining programs across securities and derivatives must currently navigate two separate regulatory frameworks. Doing so involves duplicative filings and analysis,

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Exemptive Relief to Facilitate Cross-Margining of Customer Positions Cleared at CME and FICC, 91 FR 20880 (Apr. 20, 2026).

differing and sometimes inconsistent supervisory expectations, unaligned procedural timelines, and different approval instruments (i.e., rule change approvals under Section 19(b) of the Securities Exchange Act, and self-certifications or approvals under Part 40 of the CFTC's regulations, together with exemptive orders under Commodity Exchange Act Section 4(c) and Securities Exchange Act Section 36). Indeed, each existing program available today has been assembled ad hoc, through a bespoke combination of orders and conditions negotiated over an extended and unpredictable period of time.

A firm or CCP contemplating a new program cannot anticipate, at the outset, what will be required of it substantively or procedurally, which agency's standards will govern a given design choice, how divergent staff views will be reconciled, or when a decision will be reached. As a result, programs that are economically sound and risk appropriate may never materialize.

To address these issues, the Associations urge the Commissions to establish a clear, coordinated, and predictable process for the joint review and approval of portfolio and cross-margining programs.[4] At a minimum, we believe that any such process should include the following elements: (1) clearly defined criteria and standards for review; (2) risk management expectations applicable to portfolio and cross-margining programs; (3) a joint-application framework and coordinated inter-agency review and approval procedures; and (4) defined timelines for review and ongoing supervisory coordination. We discuss each of these elements below.

Clearly defined criteria and standards for review

The Associations urge the Commissions to articulate a set of principles-based criteria and standards for portfolio and cross-margining programs, which standards may vary based on products included and whether those products are cleared or non-cleared.[5] In addition to the considerations discussed in Section II below, the criteria should include requirements for calculating offsets within margin methodologies,[6] including validation, back-testing, stress-testing, and governance expectations, and the extent to which methodologies already validated

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[4] The criteria for application should also be entity-agnostic so that offsets are recognized across affiliated entities (noting that, in many cases, additional work to address risk, legal enforceability and corresponding capital relief similar to that discussed in this letter may be required in the cross-affiliate context). Many global firms deliver prime services through a combination of affiliated entities. For example, a U.S. FCM/broker-dealer for execution, clearing and repo, and a non-U.S. affiliate for OTC derivatives and cash prime financing. Clients of those firms hold economically related positions across the affiliates, typically supported by cross-margining annexes, cross-default provisions and group-level netting agreements.

[5] We recognize that portfolio and cross-margining programs covering non-cleared derivatives subject to regulatory margin may also require input from and action by the U.S. prudential regulators and global regulators.

[6] To be clear, requirements governing methodology validation, back-testing, stress-testing, and governance are already well established in both the cleared and non-cleared context, including under the CPMI-IOSCO Principles for Financial Market Infrastructure (PFMI) together with its guidance and local implementing regulations, the BCBS-CPMI-IOSCO margin transparency framework and, for non-cleared derivatives, the ISDA SIMM and the standards administered through the SIMM Governance Forum. No new standards are needed for those component products, and the criteria should confirm that a methodology already validated and supervised under the applicable regime may be relied upon within a program.

under existing regimes are acceptable. Moreover, any margin methodology applied to portfolio and cross-margining programs should have key characteristics, including non-procyclicality, transparency, and predictability, and market participants should be able to replicate the impacts accurately and quickly.

The criteria should also address expectations for joint close-out/default management processes (including how to address CCP waterfalls if shortfalls exist), operational resilience, and processes for porting if positions in a cross-margined account are cleared at more than one CCP. Among other things, the criteria should require such processes to be clear and transparent.

Importantly, the criteria should provide guidance on the account structures and segregation arrangements each Commission is prepared to accept and the resulting insolvency treatment, particularly if the program includes cleared and non-cleared positions. In some cases, an existing barrier to efficient portfolio and cross-margining is legal uncertainty around how a combined account would be treated in an insolvency. As discussed in Section III, the Commissions have addressed pieces of this problem before, but only through bespoke, product-specific exemptive relief negotiated on a program-by-program basis.

Publishing these criteria and standards would allow firms to self-assess before committing resources, would reduce the volume of iterative staff inquiry during review, and would materially narrow the range of outcomes for which an applicant must plan.

Risk management expectations for cross-margined portfolios at CCPs

The criteria should set out the risk management expectations that apply specifically to cross-margined portfolios at CCPs. As a threshold matter, CCPs should be expected to assess whether their margin period of risk assumptions remain appropriate for these portfolios, particularly if the offsets are between products with materially different liquidation horizons. Cross-margined accounts should also be expressly incorporated into default fund sizing and stress testing frameworks, including through conservative and idiosyncratic scenarios calibrated to capture correlation breakdown, basis widening, and dislocation between markets that have historically moved together. In addition, if cross-margined products trade in different sessions, the framework should address the risk arising from the resulting timing mismatch, including the exposure a portfolio carries while one market is open and the offsetting market is closed.

The framework should require transparency as to the default management and loss allocation arrangements applicable to cross-margined positions, including how any losses arising from the liquidation of such a portfolio would be allocated among the participating CCPs. Where positions are cleared at more than one CCP, a coordinated default management process is necessary to preserve the cross-CCP offsets through the liquidation; absent coordination, a timing or process mismatch can erode the margin held against the portfolio and draw unnecessarily on the default waterfall. Participating CCPs should also provide transparency regarding how the programs could transmit risk between CCPs and/or between clearing services that would otherwise be separate.

Finally, the criteria should require confirmation of the legal and operational protections ensuring the bankruptcy-remote treatment of collateral supporting cross-margined positions, with clear segregation and portability arrangements to preserve protections during a participant or CCP default. In addition, it should require clarity around how the margin is held from a commercial law perspective and a client protection perspective, as well as the impact on a clearing member's obligations as it moves the margin in and out of the CCP's control.

Joint-application framework and coordinated inter-agency review procedures

Applicants should be able to make a single, consolidated submission that satisfies the filing requirements of both Commissions, rather than assembling two separate packages with overlapping material responding to two separate regimes. In this regard, we recommend that the Commissions publish a common application template identifying, in one place, every category of information both agencies require, including the information discussed in this Section I. We also recommend that there be a formal process for consultation in which applicants can present a proposed design to staff of both agencies jointly and obtain early feedback on threshold structural questions before incurring significant build cost. In the context of proposals by CCPs, this process should also include consultation with their clearing members in order to address required operational changes.

Once applications are submitted, the Commissions should employ a coordinated inter-agency review process that, among other things, consolidates information requests, so that applicants receive a single reconciled set of questions rather than parallel and, occasionally, inconsistent inquiries from each agency. The Commissions should also provide for a single joint public comment period where public comment is required, rather than sequential comment periods on substantively identical filings. Further, the Commissions should avoid sequential dependency, under which one Commission defers substantive review pending the other's action. We note that sequential review has materially extended the timeline in past programs.

Taken together, a joint-application framework and coordinated inter-agency review would replace the existing duplicative, sequential process with a single, coordinated one, thereby conserving both agency and applicant resources while giving applicants and other market participants the predictability necessary to move forward with new programs.

Defined timelines for review and ongoing supervisory coordination

Predictability of timing is also critical. In this regard, the Commissions should establish a consistent target period to review a filing, with a designated determination date—for example, a 60-day concurrent review period from publication of the application in the Federal Register with a 45-day comment period built into that timeframe. If an extension is needed for a complex or novel application or because multiple related programs are under review concurrently, the agencies should publish a target timeframe for the additional concurrent review period together with a notice explaining why the extension is warranted. The Commissions should also align, to the extent each Commission's authority permits, the procedural clocks applicable to the filing so that the effective approval date is a single date.

If a proposed program extends an existing, previously approved structure, the review should be abbreviated. These situations could include proposals to add a participant category or products whose risk and legal characteristics are materially the same as products covered by an existing program. Expediting the process for these applications would allow the Commissions to focus review resources on genuinely novel or complex proposals while giving applicants a faster, more predictable path for incremental extensions of existing programs.

Finally, the Associations recommend that the agencies coordinate ongoing supervision and examination of approved programs, so that participants are not subject to duplicative or divergent examination expectations in respect of the same activity. Such coordination should include clear designation of the Commission that will act as the primary supervisor. In line with our suggestions above, coordinated supervision would avoid subjecting firms to separate, overlapping examination requests from each agency covering the same activity.

II. The Commissions Should Address Product Eligibility via Common Economic Drivers

In approving product eligibility for portfolio and cross-margining based on the process described above, the Commissions should look to common economic drivers, but not necessarily offsetting economics. In other words, positions whose values are driven by the same underlying risk factor or factors should be considered rather than strictly relying on observed historical correlation of returns. A correlation observed in historical data may reflect a genuine common driver, or it may simply be coincidental, such as a pattern tied to a particular market environment rather than any real economic link. These types of correlations tend to break down under stress, which is exactly when the margin would be needed most. By contrast, when two positions are exposed to the same underlying risk factor in opposite directions, the offset is structural and it does not depend on a historical pattern continuing to hold.

Below, we provide examples of products that involve this type of structural relationship:

Broad-based equity index exposures

The shared-risk-factor logic described above applies to broad-based equity index exposures. An investor could be long such an index through a listed future, option, or cash position, and short the same index through a total return swap (or vice versa). Both positions move with the same underlying risk factor (the index) but in opposite directions. That offset is not necessarily established through historical correlations or regression analysis. Instead, it follows directly from the structure of the instruments, because both reference the same index but in opposite directions.

Single stock futures, security futures products, and narrow-based index futures

Another example is single stock futures, security futures products, and narrow-based index futures. A security future referencing an individual stock (or a narrow basket of stocks) is driven by exactly the same risk factor as the underlying stock or basket, a related option, or another security referencing that same underlying stock or basket. Accordingly, a long security future offset by a short position in the underlying (or vice versa) is structural for the same reason as the equity index example above.

Notably, we understand English law permits clearing brokers to hold in a single client account margin for various exchange-traded instruments, including single stock options, index options, options on futures, and futures. In the United States, however, the division of authority between the SEC and the CFTC for exchange-traded single stock options and index options (regulated as securities under the Securities Exchange Act) and exchange-traded options on futures and futures (regulated as futures under the Commodity Exchange Act) means a dually registered U.S. futures commission merchant (**"FCM"**)/broker-dealer must hold customer margin for the SEC products separate from the margin for the CFTC products. This puts U.S. FCM/broker-dealers at a competitive disadvantage to English clearing brokers when a client wishes to margin both sets of products in the same account, particularly in relation to products traded on a single non-U.S. exchange.[7] Because all four products are driven by the same underlying equity and equity index risk factors, their separation into two separate accounts in the United States reflects the allocation of regulatory authority rather than any difference in risk, and they should be eligible for margining in a single account. This comparison precisely reflects the type of jurisdictional inconsistency the RFC seeks to address, and these products present a compelling candidate for portfolio margining.

Portfolio margining for swaps and security-based swaps in the context of initial margin calculations

An inconsistency similar to those described above arises in the calculation of initial margin for non-cleared derivatives. Today, if a firm calculates initial margin under the SEC or global prudential regulators' margin rules, it performs a single calculation covering both swaps and security-based swaps, and the risks of those positions are netted in the calculation. In contrast, the CFTC does not recognize that basic risk offset (including between an index position and a single-name position referencing a constituent of that index). While the Associations are aware that CFTC Letter 16-71 permits firms to perform a single initial margin calculation for security-based swaps with swaps, we understand from several firms that such a position is not being recognized consistently in National Futures Association (**"NFA"**) examinations.

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[7] Outside the U.S., it is typical for a single exchange to list all four of the derivatives products listed above, whereas in the U.S. a national securities exchange lists single stock options and index options whereas a designated contract market lists options on futures and futures. The Associations acknowledge the additional complexities inherent when different exchanges list the products.

The practical effect of the CFTC/NFA's position is that a firm must run one calculation for the SEC and U.S. prudential regulators, which includes both swaps and security-based swaps, and a separate calculation for the CFTC, which includes only swaps. Because margin is commonly called on a greater-of basis, the two results are compared and the higher figure is called, resulting in an effective loss of the offsets recognized under the SEC and U.S. prudential regulators' frameworks. The same mismatch extends beyond the margin calculation itself. For purposes of model authorization and ongoing model oversight, we understand that the NFA requires firms to conduct portfolio backtesting and to report results on a swaps-only portfolio, even if the calculation covering both swaps and security-based swaps was used to make the margin call. Firms are therefore required to build and maintain a second, parallel testing and reporting apparatus measuring a portfolio they do not margin in practice.

The Associations encourage the CFTC to explicitly amend its rules to permit risk netting between swaps and security-based swaps in the calculation of initial margin, and to apply that same treatment to the portfolio backtesting and reporting required for model authorization and ongoing oversight, thereby ensuring a consistent approach across the CFTC, SEC and U.S. prudential regulators. The Associations also encourage the Commissions to ensure ongoing consistency in this regard.

III. The Commissions Should Provide Regulatory Certainty on Issues Impacting Insolvency Analysis

While the CFTC has developed a workable path to broader portfolio margining through its existing authorities and, where needed, technical amendments,[8] portfolio margining in the SEC context is limited by a statutory constraint under the Securities Investor Protection Act (**"SIPA"**). As the RFC references, SIPA's definitions of "customer," "customer property," and "net equity" extend to futures and options on futures held in an SEC-approved portfolio margin securities account, but they do not extend to swaps, security-based swaps, or other property. The practical effect is that there are significant questions regarding the treatment of swaps, security-based swaps, and other property held in such an account under SIPA, absent further regulatory or legislative clarification. The effect of this limitation is compounded by the mismatch between these definitions and the products included within the customer property segregation requirements established by the Securities Exchange Act and the SEC's Rule 15c3-3.

Cross-margining programs existing today address this issue by relying on commingling within a futures or cleared swaps account (i.e., a CEA Section 4d(a) futures account or a 4d(f) cleared swaps account) supported by conditional exemptive relief from each Commission. This is the structure underlying the cleared credit default swap portfolio margining order and, in a different manner, in the April 2026 FICC-CME customer cross-margining orders. Even this approach is

[8] Regulation 39.15(b)(2) permits DCOs to commingle customer positions in futures, options, foreign futures and options and swaps, together with related collateral, in a Section 4d(a) or 4d(f) account, and the 2021 amendments to Part 190 clarified the treatment of cross-margin and portfolio margin programs in a commodity broker insolvency. *See* 7 CFR 39.15(b)(2); CFTC, Bankruptcy Regulations; Final Rule, 86 FR 19324 (Apr. 13, 2021).

limited,[9] however, because each order must be negotiated around a specific product pair and clearinghouse relationship, and potentially a different characterization of the cross-margined contracts under the respective insolvency frameworks, rather than establishing a generally available framework. In other words, extending the same treatment to a new product set or a new clearinghouse requires an entirely new, individually negotiated exemptive order and requires a corresponding new analysis of the resulting insolvency treatment. Moreover, because this structure relies upon using the futures account as the focus of the cross-margining relationship, it does not fully address the concerns for all participants who might wish to engage in portfolio margining across both securities and derivatives, particularly for customers whose predominant trading activity falls within the SEC-regulated products and who therefore may prefer utilizing the securities account as the focus of the relationship. To the extent a program would need to hold a fuller product set (i.e., swaps, security-based swaps, and other property) within an SEC-regulated securities account, it would still run into the SIPA limitation described above.

Absent a legislative fix, one possible solution to this constraint would be to enable a separate, elective (**"opt-in"**) subordinated account class that could be utilized without a specific cross-margining order for products that fall within the SEC's remit but are not within SIPA's customer-property protections. Similar to the approach taken in the April 2026 FICC-CME customer cross-margining orders, a customer choosing this account class would acknowledge, based on clear disclosure, that positions and property in the account are not covered by Securities Investor Protection Corporation (**"SIPC"**) insurance protections and that, in a liquidation, the account class would be subordinated to, and administered separately from, other customer accounts, with assets relating to that account class distributed pro rata among participants within the class. The Commissions could require the relevant clearing organizations or other parties to agree to act as "securities intermediaries" under the Uniform Commercial Code to aid in protecting the positions and related margin from the claims of their creditors, and to agree to permit "porting" of the positions in a liquidation of a member.[10] In other words, SIPA liquidation would still control the liquidation process (with all other applicable rights and protections available to affected creditors), but SIPA would not govern the disposition of such accounts and SIPC insurance would not cover such accounts. In exchange for giving up SIPC insurance, the opt-in account could accommodate a broader range of products, including those not subject to Part 190 or another specialized insolvency regime (provided, in the case of Part 190 products, the CFTC also provides relief).

[9] Notably, if a product is going to be margined under the CFTC regime instead of the SEC regime, it's important that the CFTC amend Part 190 to more directly address how open security positions should be treated in the funded net equity calculation. Opinion-level legal certainty regarding treatment of these positions is necessary for satisfaction of applicable regulatory requirements.

[10] *See* e.g., CFTC, Order Providing Exemptive Relief to Facilitate Cross-Margining of Customer Positions Cleared at Chicago Mercantile Exchange, Inc. and Fixed Income Clearing Corporation91 Fed. Reg. 20880, 20887 (Apr. 20, 2026).

IV. The Commissions Should Work with the Private Sector to Address the Operational Work Required to Implement Broader Portfolio and Cross-Margining

Product eligibility and regulatory approval are necessary but not sufficient. In the experience of our members, whether a cross-margining arrangement functions effectively and efficiently requires operational capabilities that support an orderly close-out. Those operational capabilities, in turn, depend on the ability of a single party to control the liquidation and sequence it so that offsetting positions are unwound together. This process becomes quite complex when positions are spread across multiple CCPs or across cleared and non-cleared transactions.

For example, if one CCP liquidates the positions cleared by it at a gain while the other liquidates at a larger loss, it is not always clear under all existing programs whether the surplus from the first CCP is made available to the other to cover the shortfall, which party bears any residual loss, or, to the extent applicable, how that outcome interacts with each CCP's default waterfall and the contributions of members who are not participating in the program. Similarly, if a cleared position is margined against a non-cleared position, the CCP may not be able to observe the offsetting leg, and the allocation of margin collection, liquidation responsibility, and shortfall risk between the CCP, the counterparty to the non-cleared transactions and other CCP participants (e.g., via the default fund) must be clarified.

The daily operational requirements are equally consequential. Portfolio and cross-margining programs require the participants to reconcile positions and agree on a margin figure each day. If position data does not reconcile, or is delivered late or unreliably, the margin requirement can revert from the figure accounting for offsets to something approaching the gross figure with little notice. A clearing member facing that possibility may need to hold standby funding capacity sufficient to meet the gross requirement on any given day, which erodes much of the liquidity benefit the program is meant to deliver. There are related considerations around where collateral is held, how quickly it can be moved between product buckets and accounts, whether all participants can book and value the relevant instruments, and, if margin is held at two CCPs, any differences between the component parts of initial margin and variation margin calculations at each CCP.

To address these considerations, the Associations encourage the Commissions to convene CCPs, clearing members, clients, and non-cleared counterparties to further the operational work required to implement effective and efficient portfolio and cross-margining programs.

V. The Commissions Should Address Regulatory Impediments to Safe and Efficient Portfolio and Cross-Margining Programs

Even if products are an obvious fit for portfolio and cross-margining under the shared-risk-factor standard described in Section II above, market participants may still be discouraged from using portfolio and cross-margining programs due to the complexities and costs of complying with two full sets of largely duplicative regulatory requirements and multiple levels of oversight. To avoid these complexities and costs, the Associations strongly encourage the Commissions to designate a single set of requirements that governs a given program, together with a single SRO and a single SRO rulebook. In other words, a market participant should be permitted to comply with either the CFTC's rules or the SEC's rules (but not both) with respect to a given basket of portfolio-margined products without additional conditions.[11] Importantly, the Commissions not only have the statutory authority to take this approach, in our view, the statute practically compels it: Section 713 of the Dodd-Frank Act[12] (**"Section 713"**) authorizes the CFTC and SEC to approve portfolio margining programs and thereby exempt the transactions included in such a program from certain requirements under their respective statutes. In advance of either Commission granting such an exemption, the two Commissions are *required* to "consult" with each other and *adopt rules* intended "to ensure that such transactions and accounts are subject to comparable requirements to the extent practical for similar products." We therefore believe that, for portfolio margining to achieve its intended result, the required agreement between the regulators should result in market participants being subject to a single, coherent regulatory framework for all products included within a single portfolio margining arrangement, except to the extent explicit statutory requirements mandate otherwise.

By the same token, if SEC rules govern a particular basket of portfolio-margined products, then the authorizing statute of the Financial Industry Regulatory Authority (**"FINRA"**) dictates that FINRA's rules (and not the NFA's) should govern that basket; and if CFTC regulations govern a different basket, then the NFA's authorizing statute dictates that the NFA's rules (and not FINRA's) should govern. In any case, a single portfolio margining arrangement should no more be subject to two SRO rulebooks than to two sets of Commission rules.[13]

The costs and complexity of the current bifurcated approach are not hypothetical. The single stock futures, security futures products, and narrow-based index futures described in Section II illustrate how duplicative requirements can deter otherwise efficient portfolio and cross-margining programs. As natural hedges for cash equity and equity option positions, these products should be at the core of any equity portfolio margining program. However, offering these products requires compliance both with CFTC and NFA requirements, designed for one market structure, and with SEC and FINRA requirements, designed for a different market structure. The cost of complying with both regimes can outweigh the commercial benefit of offering the products at all.

[11] At a minimum, if both agencies maintain regulatory authority over the relevant portfolio, despite the exemption authorized by Section 713, the Commission should agree to a single set of requirements that may be reflected in both Commissions' rules.

[12] Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. No. 111-203, § 713, 124 Stat. 1376, 1646 (2010) ("Portfolio Margining Conforming Changes").

[13] At a minimum, NFA and FINRA should be required to agree on the same set of requirements, if both continue to exercise authority over the arrangement.

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Indeed, we understand that firms already operating global portfolio margining across FCM and prime brokerage accounts under FINRA Rule 4210[14] cannot coherently integrate single stock futures and fully spread security futures products into those programs. Determining whether a security future qualifies as "fully spread" under the rule is difficult in practice and hard to apply consistently across a large book of positions. As a result, firms do not have certainty regarding recognition of their subordination and rights-transfer arrangements in a default scenario. Because the overlapping requirements are costly and uncertain to achieve the intended result, firms often decline to portfolio margin these products at all, even though they are natural hedges for the same underlying risk.

Regulations applicable to client clearing of credit default swaps are another example of rules that could be streamlined to facilitate cross-margining. Conditions in the 2021 SEC CDS Portfolio Margin Order[15] related to the SEC's risk management rules[16] impose numerous requirements on clearing members that are redundant to applicable CFTC regulations. Specifically, CFTC's regulation 1.11 (Risk Management)[17] is already applicable to the relevant clearing member, and CFTC's regulation 39.13 (Risk Management)[18] is already applicable to the corresponding derivatives clearing organization. These rules establish comprehensive risk management requirements at both the clearing member and clearing organization levels, and the SEC's conditions largely restate obligations that the CFTC framework governs and supervises, but with minor differences requiring separate and parallel compliance efforts. To avoid this duplication, subject to the subordination requirements being satisfied, the Associations believe that a dually registered FCM/broker-dealer should be relieved from complying with the aforementioned conditions in the 2021 SEC CDS Portfolio Margin Order.[19]

The reporting condition in the 2021 Order illustrates the same point. It continues to require a clearing member to report to SEC and FINRA staff the details of its 25 largest counterparty portfolios measured by net credit exposure and gross notional amount separately. This report must be submitted monthly within five business days after month's end. A snapshot limited to index and single-name credit default swap positions does not reflect how a clearing member actually evaluates counterparty risk, which is assessed across the counterparty's full book of cleared products, and it is therefore of limited value as a risk measure. Firms are able to provide a monthly report of open index and single-name credit default swap positions by client, and the Associations would support that approach; however, the requirement to report portfolio-margining components specific to those two products should be eliminated.

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[14] FINRA Rule 4210(g). As the Request for Comment notes, most broker-dealers offering customer portfolio margining in a securities account under FINRA Rule 4210 generally portfolio margin only cash market securities and options on securities. See Request for Comment, n.8.
[15] SEC's Order dated Nov 1, 2021 Granting Conditions 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, Release No 34-93501; 86 Fed Reg 61,357.
[16] *Id.* Paragraphs (b)(3) and (c)(1)-(3) of the Order.
[17] 17 C.F.R. 39.11 Financial resources.
[18] 17 C.F.R. 39.13 Risk management.
[19] *See* 2021 SEC CDS Portfolio Margin Order, supra note 15, at paragraphs (b)(3) and (c)(1)-(3).

Supervisory expectations applied to the ISDA SIMM is another example. The value of an industry-standard methodology depends on its consistent application, and the SIMM governance framework accordingly sets common thresholds for identifying when a potential shortfall in initial margin is material enough to warrant action, with firms reporting against those thresholds through periodic monitoring reports made available to regulators. We understand, however, that the NFA has asked firms to set firm-specific thresholds for breach monitoring instead, with lower thresholds for smaller in-scope firms. Firm-specific thresholds generate duplicative work and could produce additional margin calls in stressed conditions, when liquidity is least available. In addition, we understand that NFA is requiring firms to take concrete remedial action where SIMM outputs diverge from firms' internal value-at-risk models. Because internal models differ from firm to firm and behave differently from SIMM, such a divergence frequently reflects methodological differences rather than any deficiency in the model. It seems counterintuitive to be working toward common industry standards for portfolio and cross-margining, while widely accepted practices under an existing industry-standard methodology are being called into question.

For these reasons, the Associations encourage the Commissions to review the regulatory impediments applicable to products within their overlapping jurisdiction and, where requirements are duplicative, to streamline them jointly so that a single set of requirements that are consistent with global standards governs a given portfolio or cross-margining program. Where the duplication arises at the self-regulatory level, as some of the examples above illustrate, we would encourage the Commissions to designate a single SRO. Relatedly, the Associations encourage the Commissions to codify the conditions governing portfolio and cross-margining programs in their respective regulations, which would meaningfully enhance transparency for market participants.[20]

VI. The Commissions Should Work with Prudential and Global Regulators to Ensure that the Benefits of Portfolio and Cross-Margining are Recognized Across Capital, Margin, and Cross-Border Frameworks

The full benefits of portfolio and cross-margining programs depend on more than just action by the Commissions. Capital rules determine whether recognized margin offsets translate into reduced counterparty exposure; the Federal Reserve's margin regulations can impose floors that override risk-based methodologies; and margin and insolvency regimes outside the United States determine whether the same portfolio is treated consistently across jurisdictions. The Associations address each of these below, and encourage the Commissions to engage with the U.S. prudential regulators and non-U.S. regulators accordingly.

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[20] In the status quo, such conditions are currently dispersed across individual exemptive orders, approval orders and staff letters, and it can be difficult for a firm to identify which requirements apply to a particular program. Codification would provide a single, published source of the applicable conditions and the opportunity for public notice and comment.

Recognition of cross-product netting in the capital framework

The benefits of portfolio and cross-margining can be realized in full only if the bank regulatory capital framework recognizes corresponding netting of positions when calculating counterparty exposure. Under the current rules, if margin is subject to a cross-margining program but counterparty exposure calculations under capital regulations do not recognize corresponding cross-product netting, the same portfolio may be subject to a materially higher capital requirement than it would absent the cross-margining.

The U.S. Basel Endgame re-proposal has made a significant step towards remedying this issue by recognizing cross-product netting arrangements across repo-style transactions and derivatives under the standardized framework for non-cleared and client-facing cleared transactions.[21] However, adjustments to the proposed calculation are necessary to ensure that the benefits are appropriately recognized. In simple terms, Treasury repos are usually very short-dated, while the derivatives used to hedge them are longer-dated, and the proposal sharply limits netting when maturities differ, even when the positions are in fact hedged. The result is that well-hedged portfolios are treated almost as if they were unhedged. In some cases, capital requirements are as high as—or higher than—today's gross treatment. This perpetuates the counterintuitive outcome that exists today: reducing risk and recognizing offsets in margin calculations does not reduce capital requirements. ISDA raised these issues in comments to the prudential regulators and would welcome further engagement by the Commissions with U.S. prudential regulators on this important issue.[22] Moreover, given that many market participants operate across jurisdictions, the Associations further encourage the Commissions to pursue consistent recognition of cross-product netting internationally, so that the benefits of portfolio and cross-margining are reflected across Basel implementations rather than in the U.S. framework alone.

Recognition of margin loans within cross-product netting sets

The Associations also support the recognition of margin loans within cross-product netting arrangements.[23] Cash securities positions are commonly financed through margin loans, and the resulting exposure is secured by, and managed against, the same positions that sit within a cross-margining program. Where the capital framework recognizes cross-product netting across repo-style transactions and derivatives but excludes margin loans, counterparty exposure on an economically hedged book is overstated and a material portion of the benefit of cross-margining cannot be realized for cash securities. The Associations therefore encourage the Commissions, in their engagement with the U.S. prudential and global regulators, to seek recognition of margin

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[21] *See* 91 Fed. Reg. 14952 (Mar. 27, 2026), available at https://www.federalreserve.gov/newsevents/pressreleases/bcreg20260319a.htm.

[22] *See* ISDA Letter in Response to Basel III Proposal available at: https://www.isda.org/2026/06/18/iif-isda-and-sifma-submit-comment-letter-on-basel-iii-endgame-proposal/

[23] *See* ISDA Letter in Response to Basel III Proposal, pages 15-16, available at: https://www.isda.org/2026/06/18/iif-isda-and-sifma-submit-comment-letter-on-basel-iii-endgame-proposal/; *see also* 91 Fed. Reg. 14952, 14985 (Mar. 27, 2026).

loans within cross-product netting sets on the same basis as repo-style transactions and derivatives.

Application of the Federal Reserve's margin regulations to arranged financing

A further constraint arises under the Federal Reserve's margin regulations. Where a non-U.S. bank affiliate provides arranged financing to certain clients secured by U.S. margin stock, Regulation X[24] prohibits U.S. borrowers, and non-U.S. funds with majority U.S. beneficial ownership, from borrowing more than Regulation U[25] permits. This effectively imposes a flat 50% margin requirement on the client's net long equity exposure (the "stub long"), with no recognition of offsetting derivatives or other positions the client holds elsewhere. Regulation U applies directly to U.S. bank lenders; it is Regulation X, operating on the borrower side, that extends the same constraint to financing provided by non-U.S. bank affiliates. The result is a margin floor that disregards a client's actual portfolio risk, even where the bank has a sophisticated risk-based internal margin methodology that already recognizes offsets on the hedged portion of the portfolio. By contrast, a U.S. broker-dealer with portfolio margining capabilities under FINRA Rule 4210(g) can apply a risk-based model to the same stub long exposure, producing margin requirements calibrated to actual portfolio risk rather than a flat statutory rate.

The Associations therefore encourage the Commissions to work with the U.S. Federal Reserve to permit application of risk-based portfolio margin methodologies to the stub long in lieu of the flat Regulation U/X rate if appropriate safeguards are in place (e.g., enforceable security interests, risk model validation, concentration limits).

Coordination with non-U.S. margin regimes

The benefits of an expanded portfolio margining framework will be realized differently across firms depending on their global presence. For example, non-cleared swaps are subject to margin requirements in multiple jurisdictions, and a portfolio margining regime that is not coordinated with the non-cleared margin rules implemented outside the United States would produce inconsistent outcomes for the same portfolio depending on where a firm and its counterparty are regulated. The Associations therefore encourage the Commissions to engage with non-U.S. regulators on the interaction between an expanded portfolio margining framework and the international margin framework.[26]

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[24] 12 C.F.R. pt. 224.
[25] 12 C.F.R. pt. 221.
[26] In addition, an entity that the Commissions have already authorized to margin two sets of products on a portfolio basis should be able to participate in a comparable program at a non-U.S. CCP (e.g., in Australia, Brazil or Germany) without satisfying additional conditions separately imposed by the local regulator. Where a non-U.S. regulator seeks participation by U.S. brokers and their clients, the Associations encourage that regulator to align its conditions with the CFTC-SEC framework to the extent local law permits, so that the same portfolio is not subject to two different sets of program conditions.

Cross-border legal and insolvency considerations

Reduction of margin through portfolio and cross-margining programs depends on the ability to net and close out the offsetting positions. Therefore, market participants must consider how the supporting documentation would operate if a counterparty is organized outside the United States or if an insolvency proceeding is governed by non-U.S. law. The Associations would welcome the opportunity to work through these considerations with the Commissions and other relevant policymakers, regulators and stakeholders.

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The Associations strongly support the Commissions' efforts to advance portfolio margining and cross-margining, which would improve capital and liquidity efficiency, reduce risk, and better align margin requirements with actual portfolio risk. We stand ready to assist the Commissions in resolving the issues identified in this letter and welcome the opportunity to discuss them further with Commission staff.

Our members are strongly committed to maintaining the safety and efficiency of the U.S. derivatives markets and hope that you will consider our suggestions, as they reflect the extensive knowledge and experience of derivatives professionals within our membership.

Please do not hesitate to reach out to Ann Battle (abattle@isda.org), Nicolette Cone (ncone@isda.org), and Michael Sorrell (msorrell@fia.org) should you have any questions.

Respectfully submitted,

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APPENDIX

About ISDA

Since 1985, ISDA has worked to make the global derivatives markets safer and more efficient. Today, ISDA has over 1,000 member institutions from 79 countries. These members comprise a broad range of derivatives market participants, including corporations, investment managers, government and supranational entities, insurance companies, energy and commodities firms, and international and regional banks. In addition to market participants, members also include key components of the derivatives market infrastructure, such as exchanges, intermediaries, clearing houses and repositories, as well as law firms, accounting firms and other service providers. Information about ISDA and its activities is available on the Association's website: www.isda.org.

About FIA

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.