

August 31, 2026

- via Regulations.gov for the CFTC (<https://www.regulations.gov/commenton/CFTC-2026-1420-0001/comment>)
- via Internet comment form for SEC (<https://www.sec.gov/comments/s7-2026-23/joint-request-comment-further-implementation-portfolio-margining-cross-margining-securities>)

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

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

Re: Joint Request for Comment on Further Implementation of Portfolio Margining and Cross-Margining of Securities and Derivatives (CFTC: RIN 3038-AF72 / SEC: File No. S7-2026-23; Release No. 34-105781)¹

Dear Mr. Kirkpatrick and Ms. Countryman,

On behalf of Data Boiler Technologies, I am pleased to provide both the SEC and CFTC with our comments on the joint request for comment (RFC) regarding further implementation of **Portfolio Margining (PMgn)** and **Cross-Margining (XMgn)** of **Securities** and **Derivatives**. Data Boiler is a Pioneer in FinTech with patented inventions in signal processing, trade analytics, machine learning, time-lock cryptography, etc. We frequently comment on regulatory policy both domestically and abroad with over 13 years in business.

Please see the BOX below for an **Executive Summary** of our comments:

Introduction, Strategic Product Scope and Account Netting Safeguards

This RFC is a good starting point to identify opportunities in realigning securities and derivatives related parameters to increase US competitiveness while optimizing risk and safety guardrails. While the expansion of portfolio margining holds tremendous potential to unlock trapped institutional capital, maximize liquidity velocity, and enhance the global competitiveness of US capital markets, we have reservations following the EMIR footsteps.

Our analysis references empirical studies, such as the [BIS-IOSCO CR04/2021](#), [interconnectedness mapping](#), and other researches. The Clearinghouses' two biggest modern operational threats: the *rising cost of clearing member defaults* and the *risk of systemic flash crashes*. The expansion of PMgn and XMgn should confine to highly liquid asset classes where offsets are verifiable, correlations are stable, and operational risk are surmountable.

We recognize that market participants have intense interest in expanding cross-margining to cleared interest-rate swaps, cleared credit swaps, cash Treasury exposures, repos, and Treasury futures. Netting cash positions and repos against exchange-traded futures is an absolute necessity under the SEC's mandatory Treasury clearing rule; without comprehensive customer cross-margining, vast amounts of initial margin are dangerously trapped on offsetting sides of the exact same economic trade, which severely degrades market liquidity and spikes institutional funding costs. Furthermore, the scope of these programs can safely encompass select FX forwards, non-deliverable forwards, listed FX derivatives, and highly liquid, transparent ETFs in narrowly defined scenarios.

Conversely, we advise policy makers to enforce the strict exclusion of several complex instrument classes to prevent systemic capital distortions. Highly customized derivatives – including Swaptions, exotic interest-rate swaps (such as range accruals and Bermudan structures), complex multi-asset credit structures, and unsupported currencies – should remain

¹ <https://www.regulations.gov/document/CFTC-2026-1420-0001> ; <https://www.sec.gov/files/rules/other/2026/34-105781.pdf>

walled off within their existing risk silos. Prior to full legislative approval of the pending Digital Asset Market Clarity Act, we strongly oppose the inclusion of stablecoin-related crypto derivatives or digital asset repo exposures within any pilot programs due to foreseeable legal, liquidity, and prudential defects.

We draw a boundary for equity derivatives: while broad-based index derivatives benefit from deep risk-offsets across the SEC–CFTC border, single-stock options and equity swaps face massive fragmentation. Our stance is that a narrow-scope pilot program must prioritize highly liquid listed equity options because their centralized clearing, public exchange pricing, and constant market maker depth allow for precise, transparent risk calculation. In contrast, single-stock TRS and single-name CDS should be excluded; their custom OTC structures, opaque valuations, and extreme vulnerability to hidden leverage would dismantle mandated macroprudential safety cushions and expose the primary clearing core to cross-asset default contagion.

Resolving Account Structural Friction and Legal Obstacles

When evaluating expanded portfolio margining across distinct account categories, the Commissions should confront structural blockages. Swaps and SBS executed on a bilateral, uncleared basis are strictly siloed in separate OTC accounts and cannot safely mix with exchange-traded instruments. While the industry has long sought to incorporate customer SBS accounts into the primary Securities PMgn account structure to allow single-stock equity swaps to net against listed options or stocks, a massive structural wall remains.

Traditional equity securities are bound by the possession-or-control rules of Exchange Act Rule 15c3-3, whereas customer SBS accounts operate under SEC Rule 18a-4, creating immense back-office plumbing challenges. Furthermore, margin architectures are completely asymmetric: CFTC and Basel rules statutorily require swap dealers to post bilateral initial margin for uncleared exposures, whereas SEC Rule 18a-3 permits, but does not require, an SBS dealer to post initial margin, creating an insurmountable capital drag if merged. Similarly, expanding futures accounts to hold cash equities, or allowing securities accounts to hold commodity futures, is blocked by the statutory wall between the Securities Exchange Act and the CEA, incompatible customer protection regimes, and divided clearinghouse default funds.

Risk Management and Competitive Impacts

The expansion of these portfolio margining models carries profound implications for intermediary competition and macroprudential market surveillance. Large, bank-affiliated conglomerates holding multiple registrations (BD-FCM / SBSD-SD) stand as the undisputed beneficiaries of expanded cross-margining because their internal back-office technology allows them to offer institutional clients a unified “*prime brokerage*” wallet with embedded margin offsets. Conversely, single-registration firms (sole broker-dealers or standalone FCMs) face a severe defensive disadvantage and risk of client defection because they lack native access to cross-regime clearing nodes. Furthermore, we are highly skeptical toward “*Partial Recognition with Conservative Haircuts*,” warning that such arbitrary constraints erode capital velocity and make expansion programs ineffective.

Our Key Recommendations

- “**Two Accounts, One Margin Link**” via Inter-Account Pledges: Recommending that positions remain trapped in legally separate accounts. Instead of physically commingling volatile assets into a single pool, the clearinghouse and broker establish a legal agreement where excess margin generated by a hedge in one account is automatically pledged as collateral to the other. If an insolvency occurs, both accounts are ported or liquidated independently according to their own native laws, and only the residual “*net*” margin equity is transferred between the estates, achieving maximum capital efficiency without destroying vital customer protection firewalls. See [Q2](#).



- Adopt a “**Smart Suspension**” connecting an **SEC/CFTC declared stress condition** to an automotive-style **adjustable damper** system. This works across the SEC, CFTC, and major CCPs and it dynamically adjusts risk floors and stiffens margin requirements in milliseconds based on live exchange circuit breakers or Limit-Up/Limit-Down bands, mitigating procyclical fire sales without sending a market panic signal. By linking it directly to **volatility interruption mechanisms**, it creates a powerful, automated framework for managing systemic risk. See [Q3](#).
- **Realign \$10+ Billion to create a robust Defaulters’ Insurance Fund**, our Copyright Licensing Mechanism turns the current wastage on toxic exchange data rents and payment for order flow (PFOF) into a robust vulnerability defense mechanism. Clearinghouses via their role as royalty collection administrator, provide a multi-billion-dollar cash cushion to absorb defaults without constantly squeezing brokers for margin collateral. See [earlier section](#)
- Driven by a centralized discretionary **Claw back** mechanism and **market ostracism**, this Triple-Lock system allows market makers to activate their Proprietary Toggle during a SEC/CFTC declared **stress** period to collectively go dark and withhold quotes from specific bad actors, utilizing the organic right of refusal as a defense rather than providing liquidity to an adversary. The Commissions hold the “*Executive Hammer*” to trigger retroactive claw backs, reallocating 100% of a predator’s captured alpha into a systemic “*Reputation Pool*” to stabilize the system. See [earlier section](#).
- Modernize **market monitoring** with our 3-Tiers distributed Agentic solution, where market dynamics are assessed continuously and holistically *in the background* and when enforcing intellectual property rights and administering royalty payments under the Copyright model, it architects true layers of intelligence. It is an *indirect way to conduct a simulation*. The goal is to understand where *frictions* and *liquidity concentration* may shift at rapid pace or irregularities and dysfunctional market behaviors occur. Analyze the **stress** points and **weak links** where the next *flash crash* or systemic risks may emerge, and develop mitigation protocols with more effective and timely **volatility interruption mechanisms**. See our response to [Q15](#).

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Context of the Problem

The scope of this RFC covers primarily four asset classes: securities, listed futures, over-the-counter (OTC) swaps, and security-based swaps (SBS). The goal is to identify how, when, and under what conditions these financial instruments should be allowed or restricted for initial margin netting and capital offsets.

While there is broad consensus regarding the desirability of **capital efficiency**, stakeholder groups have different agendas. The divide in opinions is mainly along these 5 fault lines:

1. Risk Methodology: VaR vs. SPAN vs. Stress-Based Models

Market participants universally desire margin reductions, yet no market segment wants to bear the credit liability or operational fallout of a major, Archegos-style risk aggregation failure.

Clearinghouse Position: Central Counterparties (CCPs), such as The Options Clearing Corporation (TOCC) and Chicago Mercantile Exchange (CME), advocate for maintaining flexibility to deploy their own proprietary risk algorithms, including SPAN 2 and STANS. They argue that customized risk parameterizations are vital to reflect the unique liquidity profiles of their specific product suites.

Large Dealer Position: Global Tier-1 broker-dealers push for the mandatory harmonization of Value-at-Risk (VaR)-based margin models across all regulatory regimes. They contend that model diversity generates highly volatile, inconsistent offsets that complicate systemic risk aggregation.

Buy-Side Position: Sophisticated institutional investors argue that cross-product offsets should only be approved when historical correlations can prove stable across protracted market stress periods, rather than relying on mathematical correlations observed during normal trading conditions.

FCM Warning: Certain Futures Commission Merchants (FCMs) caution that relying excessively on VaR-based offsets across mixed equity and futures portfolios creates a blind spot that severely underestimates systemic tail risk.

2. Customer Protection: SIPA vs. Commodity Customer Rules

Legal Incompatibility: Broker-dealers emphasize that the customer protection mechanics mandated by SIPA for securities accounts are structurally incompatible with the CFTC's Part 190 commodity customer bankruptcy rules, which establish absolute priority for commodity accounts.

Insolvency Waterfall Ambiguity: FCMs argue that co-mingling securities and derivatives inside a unified, multi-asset margin pool creates severe legal ambiguity during a corporate liquidation. It remains unclear which regulatory waterfall takes precedence when a cross-margined participant defaults.

Collateral Portability Failures: Global custodians warn that in a sudden default scenario, the conflicting legal structures governing securities and futures could prevent the swift transfer (porting) of customer collateral, leading to forced asset liquidations.

3. Clearinghouse Governance and Default Waterfalls

CCP Discretion: Central clearing houses seek maximum administrative discretion to dictate cross-product risk parameters and authorize new margin offsets, viewed as key tools to attract global trading volumes.

Intermediary Oversight: Broker-dealers and FCMs demand rigorous, transparent governance frameworks over CCP risk committees, fearing that clearinghouses may aggressively expand margin offsets to gain a competitive edge while externalizing default risk onto clearing members.

Loss Mutualization: Buy-side firms express concern that poorly designed cross-margining links could cause loss mutualization across completely unrelated asset classes, forcing a conservative fixed-income participant to absorb losses generated by a defaulting equity derivatives participant.

4. Operational Feasibility: Account Structures, Settlement Cycles, and Data

System Re-engineering: FCMs and broker-dealers emphasize that supporting wide-scale cross-margining requires the creation of entirely new legal account designations, sophisticated collateral routing infrastructure, and modified settlement cycles.

Clearinghouse Flexibility: CCPs argue that the operational hurdles are manageable, provided that regulators avoid prescriptive mandates and instead grant clearinghouses flexible timelines to update their core technology stacks.

Real-Time Data Void: Financial technology vendors point out that safe cross-margining requires continuous, real-time data synchronization across separate clearing entities – an operational capability that does not exist in today's fragmented post-trade environment.

5. Competitive Dynamics: Who Wins and Who Loses

CFTC vs. SEC-registered Broker-Dealers Rivalry: Broker-dealers fear that FCMs will secure an unfair competitive edge if regulators prioritize futures-to-futures offsets over securities-to-derivatives offsets. Conversely, FCMs worry that broker-dealers will capture market share if equity options offsets are recognized more broadly than listed futures offsets.

Exchange Defensiveness: Incumbent exchanges protect their current market structure, fearing a migration of trading volume if cross-margining models make alternative, competing execution venues more capital-efficient.

Liquidity Distortions: Buy-side institutions seek maximum margin relief but express concern that heavily optimized margin models could inadvertently warp underlying market liquidity during high-stress periods.

Empirical Stress Cases and Divergence of the US and Europe

The most notable historical stress events involving PMgn and XMgn is In March 2020, the **US Treasury** futures, repo, and cash markets experienced massive margin spikes as the COVID-19 pandemic triggered a sudden liquidity crunch.² Then, **Archegos** defaulted in March 2021, triggering massive losses for several prime brokerage banks, most notably Credit Suisse, which reported a \$5.5 billion loss.³ In particular, the Archegos case shown leverage problem was hidden in fragmented margin regimes. Subsequent headline cases included the Liability Driven Investment (**LDI**) **pension funds** 2022 UK gilts crisis on rates,⁴ and Mezzanine Collateralized Loan Obligation (**CLO**) credit market stress since 2023.⁵

According to the **BIS–IOSCO CR04/2021**,⁶ margining practices back in year 2020 amplified liquidity stress; and called for *reducing procyclicality, improving transparency, strengthening liquidity preparedness, streamlining Variation Margin (VM) processes, and ensuring internal Initial Margin (IM) models are both responsive and stable*. Later **BCBS–IOSCO reports (2024–2025)**⁷ operationalized these recommendations into **eight concrete best-practice guidelines** for VM and IM

² <https://www.federalreserve.gov/econres/feds/files/2025038pap.pdf>

³ <https://www.bayes.citystgeorges.ac.uk/news-and-events/news/2025/may/long-equity-funds-collapse-casts-a-long-shadow>

⁴ <https://www.chicagofed.org/publications/chicago-fed-letter/2023/480>

⁵ https://papers.ssrn.com/sol3/papers.cfm?abstract_id=6510529

⁶ <https://www.bis.org/publications/202110-consultation-review-margining-practices.pdf>

⁷ <https://www.bis.org/publications/202401-consultation-streamlining-vm-processes-and-im-responsiveness-margin-models-non-centrally-cleared-markets.pdf>; <https://www.bis.org/publications/streamlining-variation-margin-processes-and-initial-margin-responsiveness-margin-models-non-centrally-cleared-markets.pdf>

in non-centrally cleared markets. The European Union (EU)'s European Market Infrastructure Regulation (EMIR) model⁸ works in a different legal and market context than the US, see below table:

Dimension	EU - Unified architecture under EMIR	US - split between the SEC and the CFTC
Risk Modeling Standards	Mandatory deployment of harmonized, portfolio-based Value-at-Risk (VaR) models across all asset classes.	Proliferation of diverse risk models tailored by entity (CME - SPAN, ⁹ OCC - STANS, ¹⁰ proprietary VaR).
Cross-Margining Availability	Broad availability across rates, credit, equities, and Foreign Exchange (FX) within a single CCP umbrella.	Highly restricted across regulators; offsets are siloed by specific exchange and clear product mandates.
Customer Protection & Insolvency	Unified, single customer-protection regime with harmonized insolvency waterfalls across CCPs.	SEC : Securities Investor Protection Act (SIPA) ¹¹ versus CFTC : Commodity Exchange Act (CEA)/ Part 190 structural conflicts*
Retail Market Access	Tightly restricted retail PMgn access via strict ESMA-mandated leverage caps.	Widely available retail portfolio margining governed by established SEC/Self-Regulatory Organization (SRO) eligibility thresholds
Core Operational Model	CCP-Centric : Central clearinghouses drive risk parameters; brokers pass through models.	Broker-Centric : Firms and clearing members carry the operational burden of implementing fragmented rules.
Prudential Capital Alignment	Capital efficiency via recognition of cross-product netting under bank capital rules .	Standardized Approach for Counterparty Credit Risk (SA-CCR) ¹² constraints capital efficiency by under-recognizing cross-CCP and cross-product risk reductions.

* Remarks:

SECURITIES PORTFOLIO MARGIN (SEC / SIPA Regime)	CFTC 4d(f) SWAP ACCOUNT (CEA / Part 190 Regime)
- Governed by SIPC - Net Equity Claim on securities - Pro-rata share of customer pool - SIPC cash/security advances (up to \$500k per customer) - Slow, court-supervised process	- Governed by the CFTC and Bankruptcy Code Sub-chapter IV "Account Class" protection - Strict pro-rata distribution per account class

US regulators were cautious about imposing rigid rules like Europe, and together with industry pushback, the US only adopted measures that fit existing legal mandates, supervisory tools, and market structure priorities (*transparency, bank liquidity, Central Counterparty [CCP] reporting*). The US did **NOT** adopt measures that would require new statutory authority, major cross-agency coordination, or large operational/market-structure changes (*anti-procyclicality mandates, standardized VM windows, CCP-level cross-product pooling*).

A "one-size-fits-all" mandate undermines systemic resilience. The diversity of risk-assessment approaches in the US allows clearinghouse to *calibrate risk* engines to specific product liquidities. While Europe's EMIR framework aims to maximize

⁸ <https://www.fia.org/fia/emir-30-resources>

⁹ <https://www.cmegroup.com/solutions/risk-management/performance-bonds-margins/span-methodology-overview.html>

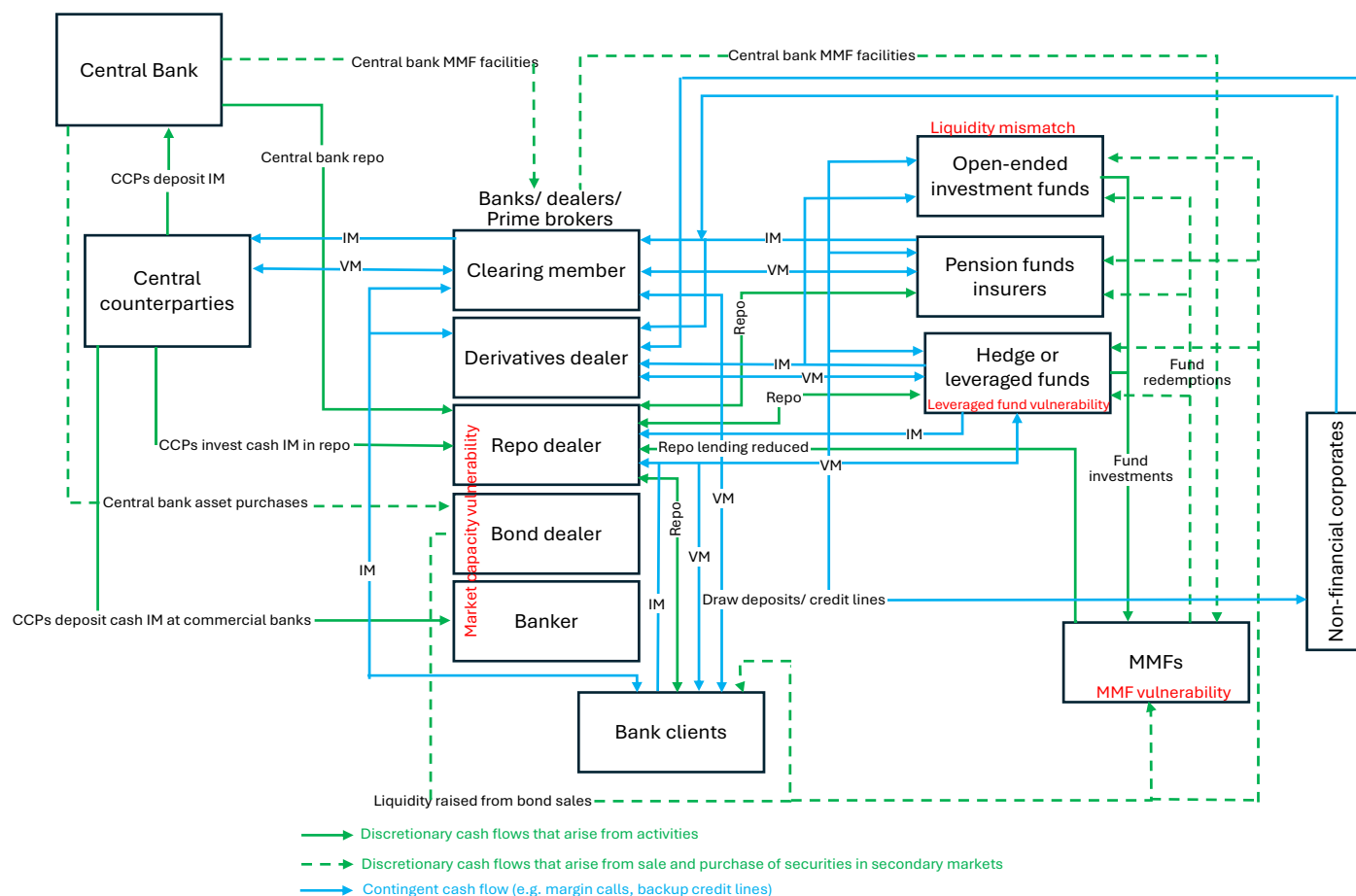
¹⁰ <https://www.federalregister.gov/documents/2026/05/27/2026-10453/self-regulatory-organizations-the-options-clearing-corporation-order-approving-proposed-rule-change>

¹¹ <https://www.sec.gov/about/laws/sipa70.pdf>

¹² <https://www.bis.org/publications/201403-standards-standardised-approach-measuring-counterparty-credit-risk-exposures.pdf>

capital efficiency via cross-product netting, its rigid, prescriptive modeling parameters often result in overly conservative baseline margins that trap *institutional liquidity* during normal market condition, while failing to provide the dynamic operational flexibility required by intermediaries to navigate rapid cross-border *market stress*.

Reforming PMgn and XMgn requires holistic review of the *interconnectedness of financial plumbing*,¹³ including but not limited to the time-tested default waterfall model.¹⁴ In particular, we would like to draw the Commission’s attention to the Financial Stability Board (FSB) Working Group on Interconnectedness Mapping:



IM = initial margin; MMF= money market funds; VM = variation margin. VM transferred between clearing members and CCPs is generally paid in cash. IM can be paid in a combination of cash and securities. Repo includes both repurchase agreements and transactions that are economically similar to repurchase agreements, such as securities lending transactions.

Source: FSB Working Group on Interconnectedness Mapping
<https://www.iosco.org/library/pubdocs/pdf/IOSCOPD686.pdf> (Figure D.2 on page 54)

See also: <https://www.fsb.org/uploads/P090818.pdf>

As pointed out in our July 9, 2026 comment letter to the CFTC,¹⁵ clearing and settlement must operate like utilities and be neutral (ensuring conservative risk management, standardized collateral rules, predictable margin models, no race-to-the-bottom in credit standards, and no competitive pressure to loosen risk controls) to maintain systemic stability. Derivatives Clearing Organizations (DCOs) under CEA §5b and 17 CFR Part 39 are being regulated on the assumption that a clearinghouse must manage counterparty credit risk through centralized institutional default funds, mutualized clearing-member cushions, and manual risk-interventions. Clearing members (major banks and FCMs) post guaranty fund capital, provide liquidity lines, absorb losses through assessments, provide intraday credit, backstop settlement failures.

¹³ <https://www.fsb.org/uploads/P090818.pdf>

¹⁴ <https://globalriskinstitute.org/publication/incentives-behind-clearinghouse-default-waterfalls/>

¹⁵ <https://www.databoiler.com/index.htm/files/DataBoiler%20CFTC%20FinTech%2020260709.pdf>

Thus, the clearinghouse is effectively leveraging the balance sheets of the largest US financial institutions to guarantee trades, enforce margin calls, settle billions daily, and withstand member defaults. Clearinghouses do not have access to the FED, but through intraday credit from clearing banks, this creates an implicit guarantee chain (Federal Reserve → Clearing Banks → Clearing Members → Clearinghouse → Market Participants) with the Fedwire being the ultimate backstop settlement layer. Margining is systemically guaranteed, and this is why US futures markets rarely experience settlement failures, and survived multiple crises (e.g. nickel event that traumatized LME).

Vertical Integration and Overcoming FSOC likely Objections

While both the CFTC and the SEC aim to eliminate fraud and abuse, the two agencies approach investor protection from fundamentally different legal philosophies. The SEC has an explicit statutory mandate under the SEA to protect retail investors. Its rules assume the general public owns stocks and bonds, meaning the agency heavily regulates public disclosures to prevent everyday consumers from being exploited. The CFTC's mandate under the CEA focuses on market integrity and price discovery. The derivatives markets were built for commercial hedgers managing massive risk.

Reference to our July 31, 2026 comment letter to the CFTC,¹⁶ we pointed out that many sophisticated trading firms optimize their capital by utilizing **cross-margining programs**. This mechanism allows them to reduce their required margin at a traditional DCO if they hold an offsetting, highly correlated hedge position at an affiliated or partnered clearing venue.¹⁷ If a platform hosting event contracts or digital options freezes into bankruptcy, the cross-margined hedge is completely neutralized or rendered untradable. The surviving traditional DCO will observe that the market maker's portfolio is suddenly unhedged and exposed to massive gross market risk. The surviving DCO's risk engine is statutorily mandated to issue immediate, multi-million-dollar **emergency margin calls** to that member. If multiple market makers face these unexpected margin spikes simultaneously, it can trigger a wave of forced liquidations across traditional commodities and futures markets.¹⁸

Central counterparty clearing relies entirely on market confidence.¹⁹ Because vertically integrated platforms operate via closed-loop stacks, a failure creates a fog of war regarding where the losses reside.²⁰ If a direct-clearing DCO fails due to a flawed automated portfolio compression cycle or an internal bot-trading glitch, the broader market will not instantly know if the problem was unique to that platform or systemic to automated risk engines. Fearing a similar hidden structural vulnerability, institutional participants will proactively execute pre-emptive asset withdrawals and pull liquidity from other platforms that utilize similar integrated clearing models or automated netting logic. This asymmetric information panic turns a localized operational glitch into a system-wide liquidity drain.

We reiterate our already raised concerns in our response to the CFTC Advance Notice of Proposed Rulemaking to regulate Prediction Market,²¹ about conflating the respective functions of DCM, DCO, and FCM in a vertically integrated model and other anti-competitive behaviors. With all due respect to the CFTC, other agencies in the **Financial Stability Oversight Council (FSOC)** also have authority to audit and evaluate DCMs and DCOs using specific systemic risk metrics under Title VIII of the Dodd-Frank Act to catch the hidden circulation risks before they trigger multi-exchange contagion.²²

¹⁶ https://www.databoiler.com/index_htm_files/DataBoiler%20CFTC%20ReportEC%2020260731.pdf

¹⁷ <https://www.dydx.xyz/crypto-learning/cross-margining>

¹⁸ <https://learn.optimusfutures.com/margin-calls-explained>

¹⁹ <https://www.investopedia.com/terms/c/ccph.asp>

²⁰ <https://www.cftc.gov/PressRoom/SpeechesTestimony/johnsonstatement121823c>

²¹ https://www.databoiler.com/index_htm_files/DataBoiler_CFTC_SEC_20260430.pdf

²² https://oig.treasury.gov/system/files/OIG_Sorter/CIGFO_AUDIT_71713.pdf

The Common Clearing Member Overlap Index (CCMOI)

The FSOC does not evaluate clearinghouses in isolation; it maps the concentration of shared institutional networks.

The Metric: The CCMOI measures the exact percentage of clearing members that hold simultaneous memberships across multiple DCOs (e.g., matching a firm's exposure at the OCC, CME, and a retail platform).

The Vulnerability Target: If the index reveals that a small cluster of 5 to 10 market-making firms provide more than **70% of the daily liquidity** across multiple clearinghouses, the FSOC flags the network as highly fragile. A localized failure at one small direct platform will trigger an automatic margin-drain or credit freeze that forces those specific firms to pull liquidity from the larger SIFMUs.

The Settlement Bank Interconnectedness Ratio (SBIR)

This metric evaluates the concentration of the physical cash pipes handling end-of-day money movements.

The Metric: The SBIR calculates the volume of daily margin, performance bonds, and settlement cash flowing through specific **Settlement Banks** relative to those banks' total tier-1 liquid capital.

The Vulnerability Target: If a retail direct DCO and a massive traditional commodities exchange route their cash through the exact same commercial depository bank, the FSOC calculates the **"Co-Insolvency Probability."** If an operational cyber-breach locks up the ledger files of the smaller retail exchange, the FSOC uses the SBIR to model whether the operational gridlock will bleed into the shared bank's clearing account, freezing the settlement cycles of the broader financial system.

Net-to-Gross Exposure Ratios and Compression Tracking

To ensure that platforms are not using post-trade netting to mask massive system-wide vulnerabilities, the FSOC audits the structural density of **compressed portfolios**.

The Metric: The FSOC tracks the delta between **Gross Notional Exposure** (the absolute total value of all open contracts) and **Net Notional Exposure** (the value remaining after positions are compressed and canceled out).

The CFTC proposal to allow platform-native **UICs** *"where practicable"* must be rejected. In short, it fundamentally **undermines global financial stability frameworks** by breaking alignment with the **UPI** standard²³ mandated by prudential regulators. Rather than ensuring interoperability, this lax approach serves as a functional **loophole** that shields event contracts from macro-prudential surveillance, leaving **systemic risk trackers completely blind** to cross-border concentrations in prediction markets.

The Vulnerability Target: If a platform reports a near-zero net exposure but maintains a massive gross exposure fueled by rapid internal bot trades, the FSOC flags it for **"Risk Transformation Arbitrage."** The council applies algorithmic stress tests to model what happens if a bankruptcy court voids those compression cycles right before a platform's collapse, forcing the sudden resurrection of billions in gross liabilities that can break the clearing house's default resources.

The Federal Reserve's Ultimate Jurisdiction Over Title VIII (SIFMUs)

Under **Title VIII of the Dodd-Frank Act**, FSOC can designate critical clearinghouses as **SIFMUs**,²⁴ triggering enhanced systemic-risk oversight. Once a clearinghouse reaches – or threatens to reach – macro-stability relevance,²⁵ the **Federal Reserve Board of Governors gains backstop supervisory authority** alongside the CFTC. Any CFTC rule that *shifts un-intermediated retail asset pools into shared settlement commercial banks* requires joint prudential authorization.

²³ https://www.databoiler.com/index_htm_files/DataBoiler%20Evolution%20ISIN%20UPI%20plus%20PKI%20DPKI.pdf

²⁴ <https://www.brookings.edu/articles/what-if-a-clearinghouse-fails/>

²⁵ [The Interagency Blocking of Over-the-Counter \(OTC\) Derivatives Regulation \(1998\)](#) ; [Title VIII SIFMU Mandates and Banking Rails Containment \(Post-2010\)](#) ; [The Fed-Treasury Veto Over Joint Cleared Swap Rules](#)

Unilateral CFTC expansion of *direct retail clearing model* would weaken the FED's oversight of systemic liquidity. Past cases show the FED can – and does – use its statutory tools to delay or constrain CFTC initiatives that pose liquidity risks.

Enhanced Fiduciary CPO-Matchmaker Model instead of following the Europe MTF model

Europe does not require a broker buffer if the platform holds a specialized corporate omnibus license. Under MiFID II, platforms offering non-traditional retail trading operate as an **Authorized Multilateral Trading Facility (MTF)**. An MTF is legally permitted to integrate execution and clearing functions into a single system. MiFID II explicitly permits regulated venues to grant **direct electronic access (DEA)** to retail participants, provided the exchange architecture handles the consumer suitability natively. Under European Market Infrastructure Regulation (EMIR) and MiFID II, the platform itself strips away anonymity by assigning or requiring a **Legal Entity Identifier (LEI)** or a unified passported customer ID for all direct retail accounts. The exchange performs the exact KYC/AML checks that a broker would traditionally conduct.²⁶

The UK's Financial Conduct Authority utilizes an entirely different operational method. Instead of fighting over old rulebooks, the FCA places direct-to-consumer digital and prediction clearing platforms into its active statutory **Digital Sandbox and innovation sandboxes**.²⁷ Rather than forcing a platform to fit into a rigid "Broker" or "Clearinghouse" box, the FCA evaluates the platform based on the **outcome of consumer protection**. If a platform can prove its matching engine natively blocks sub-cent margin deficits and has automated disclosures built directly into the user interface, it is granted a custom operating charter. We like the Sandbox approach. Yet, we recognize deep differences in risk philosophy. The primary reason the US does not simply adopt the EU/UK's MTF model is **the statutory separation mandated by the CEA**. Our analysis concludes that this proposal, as well as the entire "*Parts 15–18 Routing Approach*" designed to legitimize the direct-clearing DCO model, is unworkable.

To establish a programmatic "**Fully Collateralized Tech-Clearing**" Safe Harbor to *exempt* 100% pre-funded, non-intermediated clearing utilities from traditional *mutualized banking default funds* – replacing manual paperwork with rigorous mathematical code **audits** of underlying smart contracts, liquidation scripts, and oracle price feeds to defend **against flash-loan vulnerabilities**, we counter suggest an "**Enhanced Fiduciary CPO-Matchmaker Model**". Please see our August 24, 2026 response to the CFTC-SEC joint RFC on Further Definition of "Swap" and "Security-Based Swap" (SBS) and on Alternative Compliance (CFTC: RIN 3038-AF71 / SEC: File No. S7-2026-21) and the related Data Reporting provision (CFTC: RIN 3038-AF70 / SEC: File No. S7-2026-22) for details.²⁸ By amending 7 U.S.C. § 1a(47)(B), CFTC Parts 4, 38, and 39 plus the **additional safety guardrails** we recommended, such as the *Exposure to Cause versus Effect (E2CvE) framework*, a *3-Tier Market Monitoring* system, a centralized *discretionary Claw backs mechanism* with market ostracism as a defense, we believe the FSOC would comfortably agree to let 100% pre-funded Enhanced Fiduciary CPO-Matchmakers be *exempt* from **mutualized insurance** requirements.

US Implementation Progress by Agencies and Systemic Takeaways

CFTC (Derivatives, Futures, and Swaps) — Partial Adoption Status

Given DCOs operate highly heterogeneous legacy risk systems (e.g., CME SPAN vs. ICE VaR models), forcing a single, rigid procyclical mandate would disrupt exchange economics, alter margin liquidity dynamics, and create unintended compliance frictions across distinct derivatives products. In turn, the CFTC has **NOT mandated across-the-board anti-procyclicality margin buffers or floors** similar to European EMIR rules. It favors supervisory pressure over prescriptive

²⁶ <https://www.fsb.org/uploads/P280519-2.pdf>

²⁷ <https://www.northerntrust.com/content/dam/northerntrust/pws/nt/documents/asset-servicing/growth-within-controlled-risks-a-new-era-of-strategic-realignment.pdf>

²⁸ https://www.databoiler.com/index.htm_files/DataBoiler%20CFTC%20SEC%2020260824.pdf

rules. Also, the agency has **NOT yet required DCOs** to provide standardized, open-access **margin simulation tools** directly to end-client portfolios.

SEC (Securities and Security-Based Swaps) — Minimal Adoption Status

The SEC's statutory remit is legally restricted to securities and security-based swaps under the Securities Exchange Act. The commission possesses no administrative authority to unilaterally rewrite insolvency or customer segregation laws. Doing so would be required to merge securities portfolios with commodities portfolios inside a unified cross-margining framework. In turn, the SEC has **NO comprehensive framework governing initial margin procyclicality controls** for securities options or cash clearing systems; and **NO mandated standardized variation margin settlement windows**, leaving equity options clearing models structurally distinct from futures workflows; and does **NOT support automated, cross-regime pooled margining** with CFTC markets, where this RFC is revisiting.

SROs and FINRA in particular — Limited Adoption Status

SROs possess no legal jurisdiction to harmonize securities portfolio margining with futures derivatives rules, which remain the exclusive domain of the CFTC and the SEC. Amid FINRA tightened the eligibility criteria and disclosure mandates governing retail customer portfolio margin accounts, FINRA's primary statutory mandate is consumer and retail investor protection. The agency relies on disclosure, suitability assessments, and traditional credit controls rather than attempting to enforce wholesale structural reforms onto central market clearing infrastructures. Therefore, FINRA has **NOT implemented industry-wide anti-procyclicality metrics** for broker-dealer internal margin models.

Federal Reserve and Prudential Bank Regulators — Strongest Adoption Status

Banking regulators focus their authority on regulated banking nodes. Because banks function as the central liquidity providers for the entire derivatives clearing network, maximizing bank resilience represents the most direct lever to mitigate macroprudential risk. Prudential regulators **CANNOT impose market-wide liquidity or margin buffer requirements on non-bank financial entities**, such as hedge funds, family offices, or private levered credit funds operating outside direct banking supervision. The banking regulators have **NOT mandated cross-asset margin harmonization for non-bank capital market intermediaries**.

Inter-Agency and FSOC Actions

We applaud the success of FSOC's inter-agency coordination (Fed, SEC, CFTC, Treasury/OFI) of the FICC–CME cross-margining pilots. It addressed the structural gap between cash Treasuries, repo (FICC) and Treasury futures (CME) were margin-segregated. In April 2026, the SEC issued a Notice of No Objection to FICC's Advance Notice for the Third Amended and Restated Cross-Margining Agreement with CME, as well as accelerated approval of FICC's proposed rule change (SR-FICC-2025-025).²⁹ The SEC also granted conditional exemptive relief under Exchange Act §36, allowing Broker-Dealers-FCMs to hold customer Treasury securities and related margin in futures accounts for cross-margining purposes.³⁰

Reconciling conflicting customer segregation rules and insolvency asset distributions requires formal legislative action and statutory amendments by the United States Congress. Facing intense industry lobbying and high compliance costs, U.S. agencies have prioritized incrementalism and targeted pilots over sweeping, system-wide harmonization. We envisage ours and others' response to this RFC would be informative to **engineer a comprehensive statutory solution to bridge the SIPA vs. CFTC Part 190 customer protection divide**. However, as mentioned in [earlier sections](#), a “one-size-fits-all” mandate undermines systemic resilience, and we thus oppose following the European models.

Key Systemic Realities

²⁹ <https://public-inspection.federalregister.gov/2026-07221.pdf> ; <https://public-inspection.federalregister.gov/2026-07635.pdf>

³⁰ <https://public-inspection.federalregister.gov/2026-07636.pdf>

Prefunded Resource Concentration: Financial resources are heavily concentrated within a tiny cohort of super-CCPs. The two largest central clearinghouses globally (*CME and LCH*) account for roughly *one-third of all prefunded financial resources*, defined as total initial margin plus prefunded default-fund contributions. The *next tier of major CCPs captures another half* of global resources, leaving the remaining clearinghouses with only a small, peripheral share of total prefunded positions.³¹

The Default Contagion Channel: Exposure concentration among clearing members represents a key systemic risk vector. The largest clearing members globally (*JPM, Citi, GS, MS, BofA, BNP, DB, UBS, HSBC, Barclays, SocGen*) – measured by their prefunded financial-resource contributions – each maintain active memberships across roughly 16 to 25 CCPs. As a result, the credit failure or operational default of any single dominant clearing firm would immediately activate default-management protocols across dozens of CCPs, creating simultaneous liquidity stress and potential contagion throughout the broader clearing ecosystem.

Core-Periphery Architecture: The global financial network exhibits a definitive core-periphery topography. A highly dense, interdependent core of *dominant CCPs and multiplex banking entities is surrounded by a highly dispersed periphery of less connected, specialized market participants*. Even highly peripheral CCPs routinely depend on at least one core multiplex dealer, creating an indirect transmission channel that links peripheral asset classes straight back into the central systemic risk core.

Dominance of Critical Services: The concentration of critical services means that the failure of a single core bank would cause immediate operational disruptions across multiple clearing networks. If a dominant settlement bank goes offline, it instantly *freezes settlement timing, collateral routing, and intraday liquidity access* across completely separate asset clearing houses.

Systemic Interdependency Levels: Across the global clearing space, roughly one-quarter of clearing members provide external *credit facilities to their CCPs*, a similar share delivers critical *investment management* services, and about one-sixth supply vital *intraday liquidity lines*. This multi-layered overlap implies that during an intense market crisis, a bank's capacity to deliver emergency credit and liquidity to a CCP will degrade at the exact moment its clearing margin obligations are expanding under procyclical risk pressures.

Realigning \$10+ Billion to Create a Robust Defaulters' Insurance Fund

Reference our August 17, 2026 comment letter to the SEC,³² in which we recommend a Copyright Licensing Model to address the industry's long-standing issue – **who owns the data** and **what gets paid**,³³ as well as the Clearinghouses' two biggest modern operational threats: the *rising cost of clearing member defaults* and the *risk of systemic flash crashes*.

Currently, if a major broker-dealer defaults (like Lehman Brothers in 2008 or the near-misses during the 2021 meme-stock craze), the clearinghouse must rely on its own clearing fund, which is financed by demanding massive, unpopular margin deposits from its members. The **copyright licensing model realigns \$10+ billion a year** currently wasted on toxic exchange data rents, access fee rebates, and Payment for Order Flow (PFOF). A portion of this massive capital pool can be redirected straight into the clearinghouse's **Default Insurance Fund**. By acting as the centralized "*royalty collection administrator*" (similar to ASCAP or BMI in the music industry), the clearinghouse secures a stable, multi-billion-dollar cash cushion that

³¹ <https://www.fia.org/fia/articles/ccp-tracker-update-q1-2026-highlights> ; https://ccp-global.org/sites/default/files/2025-06/CCPGPDNF25Q1_FINAL_20250612v1.pdf

³² https://www.databoiler.com/index_html_files/DataBoiler%20SEC%20OPR%2020260817.pdf

³³ https://www.databoiler.com/index_html_files/DataBoiler%20Copyright%20Licensing.pdf

protects the entire financial system from member defaults – without needing to constantly squeeze brokers for more cash collateral. The model treats order flow, quotes and trades as copyrighted “*songs*” and the trading venues as “*streaming platforms*.” A venue utilizing this framework would rapidly build a community of loyal participants by offering unique commercial incentives.

Legacy exchanges use a “*Jukebox model*” to extract high data/connectivity rents while using tiered rebates that favor the elites. By replacing traditional Payment for Order Flow (PFOF) and transaction rebates with clear copyright standards, it weeds out “*phantom quotes*” and rebate-harvesting manipulation. This cleaner, more transparent matching book **eliminates toxic rebate games and appeals to risk-averse institutional buy-side desks**. The model allows proprietary firms to license out old, unused algorithms (their “*sunk costs*”) to earn a secondary income stream, drawing structural incentives for both participants and exchange networks, in turn, enhancing the US competitiveness.

Monetizing the Ultimate “Data Repository” via Flat Subscriptions

Established clearinghouses already possess the most valuable asset in the capital markets: a complete, undisputed ledger of every transaction that occurs across the industry. Yet, they are largely barred from commercializing this data due to intense regulatory restrictions and exchange monopolies. Under the copyright model, the clearinghouse can house the public “*Sound Library*” or archive of historical trade and order sequences. Instead of allowing for-profit exchange groups to extract rent from proprietary data feeds, the clearinghouse becomes the prime distributor. They can charge flat channel subscription fees to market participants who want to safely analyze anonymized, historical algorithmic pattern behaviors. This opens an enormous, stable, and highly profitable new revenue stream for the clearinghouse.

De-risking the System via Time-Lock Encryption (TLE)

Clearinghouses face immense systemic risk from “*latency-arbitrage*” and predatory HFT algorithms that exploit microsecond data delays across exchanges, occasionally causing structural market instability. The framework introduces TLE to make market data available securely across a secured, synchronized starting line.³⁴ TLE prevents data from being decrypted prematurely. For the clearinghouse, this completely levels the trading field and slows down artificial, microsecond-level market panic. By ensuring everyone operates on a synchronized timeline, the clearinghouse faces far fewer erratic, intraday volume surges, lowering their overall operational tail risk.

Shifting Risk via the “Liability Pass-Through” Architecture

In the current market structure, if an algorithmic glitch causes a flash crash, the clearinghouse is left holding the bag if a bankrupt broker cannot cover their trading losses. The exchange that hosted the toxic trade usually hides behind regulatory immunity. This framework legally mandates that rights obligations pass through liabilities. If an algorithmic “*remix*” or strategy causes market chaos, the liability is shared between the algo publishers (brokers) and the platforms. The clearinghouse gains a powerful legal mechanism to claw back funds. If a trading member defaults due

³⁴ Without [TLE](#) to make market data available securely in synchronized time, it causes “*initial bias*” that exacerbates the gap between subscribers of proprietary feeds and the public consolidated tape. NYSE’s rooftop antenna service is a [controversy](#), it is used by high frequency trading (HFT) firms such as Virtu, as well as McKay Brothers and its sister company Quincy Data that advocate for “*level the playing field*.” NASDAQ’s [equalization project](#) in removing its GPS antenna may ease conflicts among subscribers of collocation service. Yet, a directive like China banning HFTs from using client-dedicated servers co-located within exchange data center, it merely pushes the latency arms race to the nearest neighborhood. We criticize the SEC for not going far enough with the [latency requirement](#) (same manner and using the same methods) in Market Data Infrastructure Rules. Not until a mandate of [market data available securely in synchronized time](#) and the questions of [who owns the data](#) being addressed, inequitable situations would remain.

to a systemic glitch, the clearinghouse can legally seize their entire “*algo catalog*” and its ongoing royalty streams to recoup the losses, rather than liquidating the firm at a steep discount in a panicked market.

Default Procedures and Intellectual Property Liquidation Overhaul

We recommend the NSCC to amend Rule 18A - **DEFAULT PROCEDURES AND INTELLECTUAL PROPERTY LIQUIDATION OVERHAUL** (COPYRIGHT LICENSING FRAMEWORK) in its rulebook. First, declaration of a clearing member Event of Default. Second, upon the declaration of a Defaulting Member, the NSCC shall instantly activate its Automated Royalty Distribution Engine to execute the following mitigation sequences:

- **Suspension of Disbursements:** The Corporation shall halt all netting distributions, performance royalties, and “featured artist” or “publisher” payouts otherwise payable to the Defaulting Member.
- **The Royalty Redirection Event:** All ongoing performance royalties generated by the Defaulting Member’s registered Digital Object Identifier (DOI) trading algorithms across all “*streaming platforms*” shall be automatically frozen.
- **Diversion to Clearing Fund:** The NSCC shall automatically reroute 100% of these ongoing royalty cash flows directly into the **NSCC Default Insurance Fund** to offset any projected settlement shortfalls.

Third, **Seizure and Administration of the Algorithmic Strategy Catalog.** The Defaulting Member, as a condition of membership, hereby grants to the NSCC a perfected, first-priority security interest in, and an irrevocable power of attorney over, its entire registered Algorithmic Strategy Catalog (including all source code, execution wheels, and historical trade sequence DOIs). The Corporation’s Risk Committee shall immediately isolate the Defaulting Member’s catalog into two structural risk segments:

- **Non-Interactive Streamers (Exchanges):** The NSCC shall maintain standard clearing operations for any passive, “timeless classic” trading streams, utilizing their structural regulatory immunity to insulate the matching book from legal contagion.
- **Interactive Streamers (ATS Dark Pools / SDPs):** For any custom or “*profane content*” streams, the NSCC shall instantly invoke the **Liability Pass-Through Clause**, enforcing joint and several financial liability against any upstream Publishers or broker-dealer syndicates that contributed to the default-triggering market chaos.

Fourth, **Orderly Liquidation and Algorithmic Leasing.** Rather than executing a forced market-selling of physical equity inventory—which creates artificial downward price pressure and destabilizes public markets – the NSCC shall liquidate the Defaulting Member’s intangible assets via the public Sound Library:

- **The Emergency Auction Engine:** The NSCC shall host a closed, competitive auction allowing non-defaulting Clearing Members to bid on the exclusive trading rights of the Defaulting Member’s high-performing, alpha-generating DOIs.
- **Open-Source Leasing:** If an immediate auction is unavailable, the NSCC may lease out the Defaulting Member’s active algorithmic “songs” to the broader trading crowd via flat channel subscription models. All collected subscription rents shall be applied directly toward extinguishing the Defaulting Member’s remaining central counterparty liabilities.

Fifth, upon final liquidation or lease execution of the Algorithmic Strategy Catalog, all rights obligations and pass-through liabilities shall permanently transfer to the acquiring or leasing constituents. The NSCC shall be **fully subrogated** to all claims, performance royalties, and legal remedies that the Defaulting Member held against any third-party market centers or data consolidators.

CAPITULATION – Unwavering recognition of higher authorities

Refer to our August 24, 2026 response to the CFTC-SEC joint RFC on Swap and SBS, that the declaration of **Stress RENTD** requires appropriate checks and balances to prevent *functional creep*. A couple of consideration factors: (a) if more than X% of the book flips to **Proprietary Mode**, the **CFTC** can trigger a “*Market Integrity Intervention*” or a **mini-Stress RENTD**, forcing a compulsory license at the last FRAND rate to ensure the market remains a utility; and (b) during **Stress RENTD**, the market may shift from a **Continuous Book** to a **Randomized Batch Auction** (every 10-60 seconds). This eliminates the latency advantage and ensures that the “*Stress Period*” actually helps the **hedgers** rather than the **snipers**.

Under normal circumstances, the Commissions would step in to stop “*Proprietary Poisoning*” with a **Stress RENTD** to preserve **market integrity**. Alternatively, if a foreign adversary tries to enter the market to manipulate a US-centric outcome (e.g., an election or a specific regulatory event), the **Makers** use their **Proprietary Toggle** to “*go dark*” as a signal, where the CFTC observes the refusal and stands down (i.e. “*discretionary override*” to **NOT** intervene). It allows the market’s organic “*Willing Seller*” refusal to act as a **National Security Filter** (turning the “*Proprietary Poisoning*” threat into a **Strategic Defense Mechanism**). This is a sophisticated use of **Realpolitik within market microstructure**, where the US government can deter a suspicious foreign adversary *through makers collective actions*. See below for a discussion.

1. Centralized Discretionary Claw backs

The **Operating Committee** of a Prediction Market (with their **90-day Vested Skin in the Game**) identifies if a participant is a “*Toxic Adversary*” and their suspicious activity during a **Stress RENTD**, but they have no power to seize funds. They must present a “*Case for Intervention*” to the Commissions.

- **The Power:** Only the **Commissions** can trigger a **Retroactive Royalty Claw back**. By making this a purely regulatory discretionary tool, it prevents the “*Animal Farm*” elites from using “*predatory behavior*” as a pretext to settle scores with competitors.
- **For example,** If the 90-day Vested Jury determines a trade was predatory, the “**Royalty**” is not just the FRAND fee—it is 100% of the trade’s alpha. This turns the predator’s “*gaming*” into a forced donation to the Reputation Pool, benefiting the very participants they tried to exploit. Any profit “*mistakenly*” captured by a sniper during a **Stress RENTD** can be subject to **Claw back**.
- **The Logic:** This ensures that “*Alpha Seizure*” is a high-level regulatory act of Realpolitik, not a tool for market participants to cannibalize each other. If a sniper is caught extracting value during a crisis, the CFTC can reallocate those gains to the **Reputation Pool** to stabilize the system.

2. Market Ostracism as the Primary Defense

Instead of “*Tactical Latency*” (which can be gamed or lead to **phantom liquidity**), the defense remains the **Sovereign Right of Refusal**:

- The market remains a **Continuous Limit Order Book** for all.
- However, if Makers (the **Willing Sellers**) collectively suspect “*Adverse Intent*” or “*Sniping*,” they simply **withhold their quotes** from those specific counterparties by toggling to **Proprietary Mode** (i.e., forfeit royalties than provide a signal or liquidity to an adversary).
- **The Result:** The market does not “*lag*” or “*pivot*”—it simply **thins out** for the bad actor. If the actor is a foreign adversary, the CFTC’s “*stand down*” (choosing not to declare a Stress RENTD override) allows the Makers’ collective refusal to succeed.

3. The “Realpolitik” Balance to create a Triple-Lock System

- a) **Makers** provide the initial defense via the **Proprietary Toggle**.

- b) The **Operating Committee** provides intelligence/monitoring.
- c) The **Commissions** provides the “*Executive Hammer*” (Claw backs and Stress Period Overrides).

In our recommended model, it turns the market into an **Active Defense** environment.

- **Predators** face the risk of **Regulatory Claw backs** if they exploit a crisis.
- **Adversaries** face **Market Ostracism** from Makers who value their “*90-day Vested*” reputation over a one-time trade with a bad actor.
- **Fairness** is preserved because the “*rules*” of execution do not change – only the **willingness** of participants to engage.

In the interest of keeping the market’s technical execution clean and non-discriminatory, while centralizing the “**Executive Power**” within the Commissions, this Realpolitik within market microstructure can also be used to address the **Midpoint Sniping** issue during a **Stress RENTD** period.

Our Key Recommendations

- “**Two Accounts, One Margin Link**” via **Inter-Account Pledges**: Recommending that positions remain trapped in legally separate accounts. Instead of physically commingling volatile assets into a single pool, the clearinghouse and broker establish a legal agreement where excess margin generated by a hedge in one account is automatically pledged as collateral to the other. If an insolvency occurs, both accounts are ported or liquidated independently according to their own native laws, and only the residual “*net*” margin equity is transferred between the estates, achieving maximum capital efficiency without destroying vital customer protection firewalls. See [Q2](#).
- Adopt a “**Smart Suspension**” connecting an **SEC/CFTC declared stress condition** to an automotive-style **adjustable damper** system. This works across the SEC, CFTC, and major CCPs and it dynamically adjusts risk floors and stiffens margin requirements in milliseconds based on live exchange circuit breakers or Limit-Up/Limit-Down bands, mitigating procyclical fire sales without sending a market panic signal. By linking it directly to **volatility interruption mechanisms**, it creates a powerful, automated framework for managing systemic risk. See [Q3](#).
- **Realign \$10+ Billion to create a robust Defaulters’ Insurance Fund**, our Copyright Licensing Mechanism turns the current wastage on toxic exchange data rents and payment for order flow (PFOF) into a robust vulnerability defense mechanism. Clearinghouses via their role as royalty collection administrator, provide a multi-billion-dollar cash cushion to absorb defaults without constantly squeezing brokers for margin collateral. See [earlier section](#)
- Driven by a centralized discretionary **Claw back** mechanism and **market ostracism**, this Triple-Lock system allows market makers to activate their Proprietary Toggle during a SEC/CFTC declared **stress** period to collectively go dark and withhold quotes from specific bad actors, utilizing the organic right of refusal as a defense rather than providing liquidity to an adversary. The Commissions hold the “*Executive Hammer*” to trigger retroactive claw backs, reallocating 100% of a predator's captured alpha into a systemic “*Reputation Pool*” to stabilize the system. See [earlier section](#).
- Modernize **market monitoring** with our 3-Tiers distributed Agentic solution, where market dynamics are assessed continuously and holistically *in the background* and when enforcing intellectual property rights and administering royalty payments under the Copyright model, it architects true layers of intelligence. It is an *indirect way to conduct a simulation*. The goal is to understand where *frictions* and *liquidity concentration* may shift at rapid pace or irregularities and dysfunctional market behaviors occur. Analyze the **stress** points and **weak links** where the next *flash crash* or systemic risks may emerge, and develop mitigation protocols with more effective and timely **volatility interruption mechanisms**. See our response to [Q15](#).

It takes all five Dodd-Frank regulatory agencies (SEC, CFTC, OCC, FRB, FDIC) to break down silos and work in unison to safeguard US financial stability. Healthy capital markets development requires both TradFi and DeFi to be united while maintaining positive tensions in the technology arms race. Trust will be earned over time if we can reduce chaos and shape a safer and fair environment for all! Please see [Annex 1](#) for our response to specific questions in this joint RFC. Feel free to contact us with any questions and please keep us posted where our expertise might be helpful.

Sincerely,

Kelvin To

Founder and President

Data Boiler Technologies, LLC

This letter is also available at: https://www.DataBoiler.com/index_html_files/DataBoiler%20CFTC%20SEC%2020260831.pdf

CC: Commodity Futures Trading Commission (CFTC)

The Honorable Michael S. Selig, Chairman
Mr. Duncan Henes, Director, Market Participants Division / Acting Director, Division of Market Oversight
Dr. Richard Haynes, Acting Director of the Division of Clearing and Risk
Mr. Frank Fisanich, Deputy Director of Market Oversight, CFTC
Mr. Owen Kopon, Associate Director, Division of Market Oversight
Mr. Paul Chaffin, Special Counsel, Division of Market Oversight
Mr. Jorge Herrada, Director of the Office of Technology Innovation
Mr. Stephen Andrews, Deputy General Counsel for Regulation
Mr. Herminio Castro, Associate General Counsel
Mr. Mark Fajfar, Senior Assistant General Counsel

Securities and Exchange Commission (SEC)

The Honorable Paul S. Atkins, Chairman of the SEC
The Honorable Hester M. Peirce, Commissioner of the SEC
The Honorable Mark T. Uyeda, Commissioner of the SEC
Mr. Jamie Selway, Director of the Division of Trading and Markets
Ms. Carol McGee, Assistant Director, Division of Trading and Markets
Mr. Arun Manoharan, Assistant Director, Division of Trading and Markets
Mr. Richard Holley III, Assistant Director, Division of Trading and Markets
Ms. Larua Compton, Senior Special Council, Division of Trading and Markets
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Federal Reserve Board of Governors (FED)

Mr. Andreas Lehnert, Director of the Division of Financial Stability

Office of Comptroller of the Currency (OCC)

Mr. James Gallagher, Deputy Comptroller and Chief National Examiner

Federal Deposit Insurance Corporation (FDIC)

Ms. Dana T. Wade, Deputy to the Chairman and Chief of Staff

ANNEX 1 – Data Boiler’s response to specific questions

Existing Portfolio Margining Models and Practices

1. What security or derivatives positions are market participants interested in addressing beyond the current portfolio margin and cross-margin programs available? Have customers expressed interest in adding any particular positions to a portfolio margining or cross-margining account? Discuss why a particular security, derivative, or other asset should be included in a portfolio margin account, and if applicable, why other particular securities, derivatives or other assets should be excluded.

US Treasuries are partly included in portfolio-margin (**PMgn**) and cross-margin (**XMgn**) programs today, but full cash ↔ futures ↔ repo cross-margining across all accounts and regimes is not yet universally available. Dealers, CCPs, and regulators have expanded recognition of Treasury-related offsets in specific contexts (CCP member margining, certain broker portfolio-margin accounts, and targeted pilot programs), but legal, operational, and prudential limits prevent blanket inclusion for every customer and every clearing/ settlement chain.

Market participants are asking to expand portfolio-margin and cross-margin programs to a **defined set of additional positions** where empirical offsets exist and operational/legal barriers are surmountable. The most commonly requested additions are:

- **Cleared interest-rate (IR) swaps and cleared credit/interest swaps** (including security-based swaps where legal treatment permits);
- **Cash Treasury exposures, repo and Treasury futures** (cash-futures cross-margining);
- **Cleared OTC derivatives (cleared swaps) and cleared SBS** (to the extent clearinghouses and legal regimes allow) – see our response to [Q2 Point D](#);
- **Certain FX forwards and non-deliverable forwards (NDFs) and listed FX derivatives** in limited, well-tested pairings
- **Some select liquid, transparent ETFs** in narrowly defined cases.

Including **cleared OTC derivatives** and **cleared SBS** to the extent clearinghouses and legal regimes allow is good for capital efficiency while **cleared swaps** are held in a strict “**Account Class**.” If an FCM fails, all customer assets within that specific account class are pooled together. If there is a shortfall, losses are distributed *pro-rata* across all swap customers in that class – even if your specific portfolio was perfectly hedged and profitable. There is **no SIPC insurance** for futures or swaps. Instead, the framework relies on speed. The clearinghouse (CCP) attempts to instantly “*port*” (transfer) the entire pool of customer positions and margin to a healthy FCM overnight to prevent market contagion. Please also see our response to [Q2 point A](#) regarding **Uncleared Swap Accounts** and Mixed Swap **structured products**

While broad-based index derivatives (like SPX options) benefit from deep risk-offsets across the SEC/ CFTC border, **single-stock options and equity derivatives are currently not in programs** (to increase offsets with listed futures/ options) and face massive fragmentation and structural hurdles. See our response to [Q6b](#) regarding OTC equity derivatives, single-name SBS. Illiquid or low-priced equity options should continue be excluded from standard customer PMgn and XMgn programs. Highly customized derivatives like *Swaptions* (options on interest-rate swaps),³⁵ *Exotic IR Swaps* (e.g., range accruals, Bermudan structures),³⁶ and *complex multi-asset credit structures; unsupported Currencies* (non-USD SOFR, EUR, GBP, JPY); *Single-Name CDS* Constraints; and *Inter-Clearinghouse / Fragmented Account Structure* – should sit within the exact same “*risk silo*.”

³⁵ <https://corporatefinanceinstitute.com/resources/derivatives/swaption/>

³⁶ <https://arxiv.org/pdf/2510.15984>

Prior to Congress full approval of the pending *Digital Asset Market Clarity Act*,³⁷ we disagree with the inclusion of stablecoin related crypto derivatives and repo/ secured funding exposures in narrowly scoped pilots, due to foreseeable legal, liquidity, and prudential objections. Non-stablecoin related digital assets should NOT be considered any time soon.

2. Identify the types of accounts (e.g., securities account, futures account, swap account, security-based swap account) the Commissions should consider in the further implementation of portfolio margining programs for market participants, and explain why market participants would or would not use a specific type of account for that purpose. For example, should the Commissions consider expanding the portfolio margining of futures and options on futures in a securities portfolio margin account, under SRO margin rules, or consider the expansion of the set of programs for the inclusion of certain securities, including options on securities or security futures, in a futures portfolio margin account?

In general, we have no objection to expanding the portfolio margining program across specific accounts to unlock capital efficiency and preserving US competitive advantages under the condition of a holistic review of systemic risk being acceptable by Prudential Regulators. The primary account types currently excluded or deeply restricted from comprehensive, cross-product PMgn – which are being prioritized for future implementation – include:

A. Uncleared / Non-Cleared Swap Accounts

Swaps and SBS executed on a bilateral, uncleared basis are strictly siloed in separate **OTC Swap Accounts** or **Security-Based Swap Accounts**. They cannot mix with exchange-traded futures or standard equities. For a long time, the industry wanted to permit uncleared swaps and non-cleared SBS to be portfolio-margined alongside physical equities, listed options, and futures. The objective is to allow an institutional participant to offset a customized OTC equity or rate swap directly against a liquid underlying asset or index future within a single master account structure.

A caveat though, *Prediction Market Event Contracts* as Swap, SBS or other categories of financial instruments (futures, insurance pool) have not yet been decided. Also, **Mixed Swaps** including *structured notes*, *narrow-based security indexes* (NBSI) and *Credit Default Swap* (CDS) fall in the **GRAY AREA** where its value shifts based on the underlying yields or market prices, see our August 24, 2026 response to the joint RFC on Swap and SBS.²⁸

Policy makers should remain cautious with **Uncleared (OTC) Swaps** and **Exotic and Non-Standard Swaps**. For example, if you clear USD Interest Rate Swaps at LCH (SwapClear) but hold your matching Treasury and SOFR futures at the CME, they cannot cross-margin. The margin is trapped separately at each clearinghouse, resulting in a partial exclusion by location. Do NOT conflate clients with counterparties, see [earlier section](#). Customer positions are protected by strict segregation rules (e.g., CFTC 4d(f)). An institutional customer cannot blend swap risks with a broker's proprietary (House) account, nor can they mix unapproved account classes without explicit, conditional regulatory permissions.

B. Standalone SBS Accounts

Following the implementation of Dodd-Frank Title VII, SBS (e.g., single-stock equity swaps, single-name Credit Default Swaps) are under SEC jurisdiction, while broad-based index swaps are under CFTC jurisdiction. This creates a massive structural wall. A customer's single-stock SBS account cannot efficiently cross-margin against their primary **Securities Account** (where they hold the actual physical underlying stock) or their **Futures Account**. Fully incorporate standalone customer SBS accounts into the primary **Securities PMgn Account** structure. This would allow a single-stock equity swap to net risk against listed options on that same stock or an offsetting single-stock future.

³⁷ <https://www.congress.gov/119/bills/hr3633/BILLS-119hr3633rfs.pdf>

We are not sure how the Commissions may reconcile the structural conflicts between **SIPA** versus **CEA Part 190**, see [remarks*](#). Even before a bankruptcy event occurs, daily ongoing asset segregation rules differ deeply between traditional securities and SBS. Traditional equity securities are strictly bound by the possession-or-control rules of **Exchange Act Rule 15c3-3**. Meanwhile, standalone customer SBS accounts operate under **SEC Rule 18a-4**, which dictates independent omnibus reserve accounts and distinct weekly calculation metrics for SBS. Re-engineering core back-office clearing software to seamlessly merge these two segregated customer reserve streams into a single, combined margin pool presents immense operational plumbing challenges.

Also, there are asymmetric initial margin posting requirements. Under CFTC and international Basel rules, Swap Dealers are statutorily required to post bilateral initial margin to an independent third-party custodian for uncleared exposures. Conversely, the SEC's margin architecture (Rule 18a-3) permits, but does not actively require, a SBS dealer to post initial margin when transacting with other broker-dealers or financial end-users. Trying to run a unified portfolio margin system when one side of the trade is legally barred from matching the collateral posting workflows of the other creates an insurmountable capital drag.

In additions, technical model disconnects, such as SROs enforce narrow option haircuts that do not natively map to the Monte Carlo VaR models used by swap desks, cause netting of a single-stock equity swap against an underlying cash stock or a listed option unsafe.

C. Broadened Customer Futures Accounts (Cross-Border Futures-to-Securities)

While the SEC and CFTC have authorized targeted conditional exemptions (such as the landmark approval allowing customer cross-margining of **cleared US Treasury cash securities** against **Treasury futures** inside a futures account), generic futures accounts remain walled off from securities accounts. Expand the legal capabilities of a **Futures Account** to hold cash equity products and equity options, or conversely, allow a **Securities Account** to seamlessly hold commodity futures and options on futures. Market participants are advocating for the removal of the operational friction that forces firms to run separate dual-registered entities (Broker-Dealer / FCM) just to simulate portfolio offsets across these accounts. The primary forces holding it back are:

- The Statutory Wall between the Securities Exchange Act (SEA) and the CEA.
- Incompatible Customer Protection & Bankruptcy Waterfalls.
- Clashing Segregation and Reserve Rules (SEC Rule 15c3-3 vs CFTC Rule 1.20): Co-mingling cash equities and futures in one account would require a firm to continuously break apart and re-route customer collateral to satisfy both distinct compliance calculations simultaneously.
- Clearinghouse Separation and Loss Mutualization Risks

D. Commingled Customer Swaps Accounts (Under CEA Section 4d(f))

Customer cleared swaps are highly protected in segregated accounts under CEA §4d(f). While clearinghouses have successfully built PMgn for internal cross-netting (e.g., cleared interest-rate swaps against interest-rate futures at the same clearinghouse), they are heavily restricted from blending these portfolios if the positions cross into a standard equity securities account or an uncleared bank framework.

When industry groups push for “*integration*,” they are looking at it strictly through the lens of capital efficiency in hope to create a unified XMgn framework where a 4d(f) Cleared Swap account can seamlessly communicate with an SEC-governed Securities PMgn account without requiring separate legal entities or triggering conflicting bankruptcy liquidation protocols.

However, from a systemic safety, insolvency, and customer protection standpoint, merging a CFTC 4d(f) Cleared Swap account with an SEC-governed Securities PMgn account triggers three structural problems:

- (i) **The Porting Dilemma:** A derivatives clearinghouse cannot "port" physical equities or SEC-regulated options to a futures broker over the weekend. If a broker fails, the clearinghouse would be forced to liquidate the swap hedges, leaving the customer with an unhedged, exposed, and frozen securities portfolio sitting in a bankruptcy court.
- (ii) **SIPC Asset Contamination:** SIPC funds are legally mandated to protect securities customers. If a broker defaults due to massive losses in its *swaps* book, using a unified pool means securities customer assets could be dragged into covering derivatives deficits. SIPC is not legally allowed to use its fund to bail out derivatives losses.
- (iii) **Pro-Rata Loss Contamination:** Under CFTC rules, if Customer A blows up and bankrupts the FCM's swap pool, Customer B (who only held safe, hedged positions) faces a pro-rata haircut. If Customer B's securities are in that same unified account, their physical stocks could be liquidated to pay for Customer A's swap default.

If a multi-asset broker-dealer/ FCM goes bankrupt, the liquidation frameworks of these two accounts collide head-on. The core danger of a unified account framework lies in what happens during a broker default. The US bankruptcy code handles a failing stockbroker completely differently than a failing futures broker. Because of these exact solvency and conflict concerns, regulators and exchanges are backing away from creating a single, unified account.

The Alternative: "Two Accounts, One Margin Link"

Given the increasing convergence of the financial ecosystem, when positions are trapped in separate account types, market participants must post initial margin multiple times for positions that economically hedge each other. To address this "*margin fragmentation*" issue, we support the idea of pursuing "**Cross-Margining via Inter-Account Pledges**."³⁸ This approach keeps accounts in legally separate **Securities PMgn Account** (protected by SIPC) and **4d(f) Cleared Swap Account** (protected by CFTC Part 190). The clearinghouse and broker establish a **legal XMgn agreement**. The excess margin generated by a hedge in Account A is legally pledged as collateral to Account B. If a bankruptcy occurs, the accounts are liquidated or ported according to their own native laws, and only the residual "*net*" margin equity is transferred between the estates. Modernizing these rules will reduce the liquidity strain on the banking system, especially ahead of tightening clearing mandates. This "**Two Accounts, One Margin Link**" approach achieves the capital efficiency firms want without destroying the legal firewall that protects customer money.

Cross-Margining and Cross-Product Offsets

3. While certain rules have been adopted (including SRO and DCO margin rules) and legislation has been enacted to accommodate futures in a securities portfolio margin account and securities in a futures portfolio margin account, certain operational and other regulatory challenges may remain. Please describe actions the Commissions could consider to further support the implementation of portfolio margining in a securities or futures portfolio margin account.

Instead of giving firms subjective flexibility to operate within a discretionary buffer, regulators are moving toward **dynamic, formulaic parameters**. Rather than a static 15% haircut or a loose range of 12-15% discretionary range, it is preferable to allow the floor itself to automatically adjust based on objective market data (such as trailing 30-day volatility indices or liquidity metrics). This provides the market with the macro-flexibility needed during a crisis, while ensuring that all firms remain bound to an identical, transparent, and non-negotiable risk floor. Subjective "*discretionary*" ranges fail during a fast-moving crisis. Instead, the focus turns to possible **pre-scripted, mathematical volatility dampeners**.

³⁸ <https://www.isda.org/2025/10/02/a-path-to-greater-cftc-sec-alignment/>

We are proposing a regulatory “**Smart Suspension**” connecting an **SEC/CFTC declared stress condition** to an automotive-style **adjustable damper** system. Drawing an analogy to automotive engineering, a dynamic damper automatically stiffens up over potholes (high frequency shocks) but softens during smooth highway cruising to maintain stability and prevent the chassis from cracking under **stress**. Translating this concept into financial margin plumbing – and linking it directly to **volatility interruption mechanisms** (like market-wide circuit breakers or Limit-Up/Limit-Down bands) – creates a powerful, automated framework for managing systemic risk.

By embedding this suspension system directly into automated market-wide rules, this eliminates the single largest flaw of a human-declared stress state: **the panic signal**.

- **No Regulatory Delay:** A manual declaration by a panel of regulators takes hours or days of emergency meetings. A circuit-breaker-linked damper reacts in **milliseconds**.
- **Zero Added Stigma:** Because the shift in the margin range happens automatically whenever a circuit breaker triggers, the market does not interpret the regulatory shift as an emergency bailout or a hidden banking crisis. It is simply recognized as the machine operating exactly as it was designed to.
- **Preserving Kinetic Energy:** When a car hits a massive bump, the goal of the damper is to allow the wheel to move upward quickly so the car does not flip over, then return it smoothly to the ground. A dynamic margin damper does the exact same thing: it gives the portfolio temporary breathing room to withstand a flash crash, preventing a cascade of forced margin liquidations from turning a temporary price dislocation into a permanent bankruptcy.

For a suspension-based cross-margining framework to succeed, the “**adjustable damper**” cannot be left to the complete discretion of individual broker-dealers, nor can it be controlled by a slow-moving regulatory committee. It must be built as a hard-coded, deterministic algorithm shared between the SEC, CFTC, and major central clearinghouses (OCC, CME, LCH). By treating margin not as a static legal boundary but as a dynamic fluid shock absorber tied to live exchange circuit breakers, the financial system could finally mitigate the procyclical fire sales that have characterized every major market crash in modern history. Please also see our response to [Q13](#) regarding mismatch hours.

4. What challenges do market participants face when considering the portfolio margining of uncleared swaps and security-based swaps? In your response, please describe and identify the type of account(s) and how these positions are being margined.

Hedge funds, asset managers, and prime brokers face operational, legal, and risk-modeling challenges when attempting to include CFTC-regulated **uncleared swaps** and SEC-regulated **uncleared SBS** into a PMgn framework. Currently, these positions are structurally trapped in separate, highly insulated accounts, which forces firms to post redundant collateral and destroys capital efficiency. **Institutional prime brokers use synthetic replication (like internal netting agreements)** to bypass these account boundaries. Instead of moving physical assets between conflicting legal structures, prime brokers use **Internal Netting Agreements (INAs)**, **Cross-Product Netting Agreements (CPNAs)**, and **Synthetic Prime Brokerage (SPB)** structures to mathematically and contractually simulate portfolio margining behind the scenes. The INAs and synthetic prime brokerage frameworks that banks use to bypass margin account boundaries are not invisible to regulators. The SEC tracks these structures using **Title VII of the Dodd-Frank Act** through SBS Reporting (**SBSR**).³⁹ While prime brokers **compress** physical stocks, options, and swaps into custom OTC equity or total return swaps (TRS) to grant clients a unified margin, Regulation SBSR strips away this synthetic masking to track systemic risk.⁴⁰

³⁹ <https://www.sec.gov/rules-regulations/2015/02/regulation-sbsr-reporting-dissemination-security-based-swap-information>

⁴⁰ <https://www.ropesgray.com/en/insights/podcasts/2021/06/podcast-navigating-the-new-normal-for-security-based-swaps-buy-side-considerations>

5. What challenges do market participants face when considering portfolio margining uncleared swaps and security-based swaps with other securities or derivatives positions? In your response, please describe the specific categories of securities or derivatives and the types of portfolio margin accounts.

Integrating **uncleared swaps** and **uncleared SBS** into a PMgn framework alongside exchange-traded derivatives or cash instruments represents a massive structural challenge. When market participants attempt this, they face operational, mathematical, and legal roadblocks across specific account structures, see our response to [Q2 point A](#).

Risk Management and Margin Methodologies

6. Are market participants interested in exploring additional portfolio margining arrangements in cleared swaps or security-based swaps with other types of securities or derivatives beyond what is already available to customers? If so, please describe these arrangements.

a. Expanded Cleared Fixed-Income & US Treasury Offsets

The most urgent demand from market participants revolves around the expanded clearing mandates for cash Treasuries. Cross-margining **cleared cash US Treasury positions and Treasury repos** against exchange-traded **Treasury and SOFR futures**. While conditional exemptive relief was granted to facilitate cross-margining between cash Treasuries and futures within specific futures accounts, participants want a seamless pipeline that captures the entire client clearing space.

We applaud the success of FSOC's inter-agency coordination (Fed, SEC, CFTC, Treasury/OFI) of the FICC–CME cross-margining pilots. It addressed the structural gap between cash Treasuries, repo (FICC) and Treasury futures (CME) were margin-segregated. In April 2026, the SEC issued a Notice of No Objection to FICC's Advance Notice for the Third Amended and Restated Cross-Margining Agreement with CME, as well as accelerated approval of FICC's proposed rule change (SR-FICC-2025-025). The SEC also granted conditional exemptive relief under Exchange Act §36, allowing Broker-Dealers-FCMs to hold customer Treasury securities and related margin in futures accounts for cross-margining purposes.

b. Broadened Security-Based Swaps (SBS) to Equities Netting

While broad-based index derivatives benefit from deep risk-offsets, single-name structures remain penalized. Currently, customer portfolio margining is largely limited to exchange-listed equity positions cleared by the OCC within a standard securities PM account. Single-stock SBS are walled off in separate SEC accounts. Asset managers and hedge funds want the ability to recognize risk offsets when an OTC swap perfectly hedges a listed security. They argue that separating these exposures miscalculates portfolio risk and increases the cash margin drag without improving systemic safety.

Our stance is that a narrow-scope **pilot** program should **prioritize highly liquid listed equity options** because their centralized clearing, public exchange pricing, and constant market maker depth allow for precise, transparent risk calculation. In contrast, **single-stock TRS** must be **excluded** due to their custom over-the-counter structures, opaque valuations, and high vulnerability to hidden leverage and complete liquidity evaporation under **stress**. Prematurely mixing custom TRS risk pools with traditional securities would dismantle mandated macroprudential safety cushions and expose the primary clearing core to cross-asset default contagion.

7. Are there any other types of new securities, derivatives, or other assets where portfolio margining with securities or derivatives would be beneficial? If yes, please identify the category of product, the type of portfolio margin account, and the nature of the positions that would be offsetting.

See our response to [Q1](#).

Customer Protection Considerations

8. Should the Commissions consider any other new account type (in addition to existing account types including securities accounts, futures accounts, swap accounts or security-based swap accounts) in which to support the implementation of portfolio margining or cross-margining of securities, derivatives, or other assets? If yes, please describe the account types.

The Commission should consider a new account type such as the **Cleared Fixed-Income and Repo (CFIR) Account** primarily used by Sovereign Wealth Funds and Primary Dealers to streamline mandatory US Treasury clearing and improve fixed-income clearinghouse interoperability.

As much as we like to see the Multi-Asset **"Omnibus Nexus" Account** to be considered, the absolute customer firewall is a legitimate concern. Instead, we recommend the **"Two Accounts, One Margin Link"** approach, see [earlier discussion](#).

The implementation of **delta-netting accounts** by prime brokers and quant funds for synthetic portfolio aggregation aims to standardize risk calculation by reducing complex option and swap exposures down to their net underlying share equivalents (their **"deltas"**). While the math looks elegant, the stability of delta under **stress (Gamma Risk)** should not be undermined. During acute systemic stress, historical asset correlations break down completely. If a quant fund uses a delta-netted account to offset short out-of-the-money options against long synthetic equity swaps, a sudden 15% market gap will cause the option deltas to explode non-linearly.

For another example, a fund could be long \$100 million of a cash stock and short \$100 million of at-the-money options. While the net-delta is zero, the portfolio is exposed to extreme **Vega risk** (a spike in implied volatility) and **Theta risk** (the passage of time). Relying strictly on delta-netting hides these multi-dimensional risks from a prime broker's risk aggregation dashboard. Reference to the 2021 Archegos collapse, if prime brokers utilize **collateral re-hypothecation** – pledging the fund's underlying cash assets to fund their own institutional operations – the systemic leverage chain multiplies, rendering single-account delta netting ineffective. Delta-netting within a single account CANNOT eliminate systemic hidden leverage if the client's overall positions remain fragmented across the street.

For digital and tokenized asset margin account, prior to Congress full approval of the pending *Digital Asset Market Clarity Act*,⁴¹ we disagree with the inclusion of stablecoin related crypto derivatives and repo/ secured funding exposures in narrowly scoped pilots, due to foreseeable legal, liquidity, and prudential objections.

9. In identifying the account types and positions where portfolio margining would be beneficial beyond what is currently available to customers and market participants, please identify and describe any regulatory issues market participants have encountered associated with portfolio margining or cross-margining in a specific account type relating to: (1) differences in statutes governing a particular security or derivative, (2) differences in regulatory requirements of the SEC, CFTC, SROs, clearing agencies, and DCOs (including differences in margin and segregation requirements), and (3) differences in the bankruptcy treatment of different securities, derivatives, or other assets. For example, the definitions of "customer property" and "net equity" in §761 of the Bankruptcy Code include cash, securities, and "other property." By contrast, the Securities Investor Protection Act of 1970 ("SIPA") includes futures and options on futures held in a portfolio margin that is a securities account pursuant to a portfolio margining program approved by the SEC (in addition to cash and securities) in the definition of "customer," "customer property," and "net equity," but does not include swaps, security-based swaps, or any other type of property. Do these differing definitions raise regulatory issues pertaining to portfolio margining?

See [remarks*](#) and [earlier section](#). We recommend the **"Two Accounts, One Margin Link"** approach, see [earlier discussion](#).

⁴¹ <https://www.congress.gov/119/bills/hr3633/BILLS-119hr3633rfs.pdf>

10. As another example of differences in bankruptcy treatment, while the bankruptcy of a DCO would proceed pursuant to Subchapter IV of Chapter 7 of the Bankruptcy Code, with specific provisions addressing the protection of customer property, the bankruptcy of a securities clearing agency would proceed pursuant to separate provisions of the Bankruptcy Code. Further, some securities clearing agencies and DCOs are also designated as systemically important financial market utilities under Title VIII of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010. Are there additional regulatory frameworks not identified above, such as frameworks built on a foundation of Article 8 of the Uniform Commercial Code, that could be considered in connection with the potential further expansion of portfolio margining to address differences in bankruptcy treatment of DCOs and securities clearing agencies?

When a CCP operates dually as a CFTC-regulated **DCO** and a SEC-regulated **Securities Clearing Agency**, a default triggers a jurisdictional crisis between Subchapter IV of Chapter 7 (futures liquidation) and standard Chapter 11 or Chapter 7 rules (securities clearinghouse liquidation). By shifting the regulatory foundation from bankruptcy entity types to **asset-agnostic property rights governed by Article 8 of the Uniform Commercial Code (UCC)**, the Commissions could establish a unified framework to support expanded PMgn.

(1) The UCC Article 8 Concept: Financial Assets and Securities Accounts

UCC Article 8 governs how modern investment securities are held, transferred, and pledged through intermediaries (like banks, prime brokers, and clearing agencies). Under UCC §8-102(a)(9),⁴² an intermediary can designate *any* property—whether it is a physical stock, a commodity future, a cleared interest-rate swap, or an uncleared single-stock swap—as a “**Financial Asset**” simply by agreeing to credit it to a customer’s “**Securities Account**.” If the SEC and CFTC formally leverage this provision, they can move away from treating positions based on their statutory origin.

(2) Resolving the DCO versus Clearing Agency Bankruptcy Mismatch

Under UCC §8-503, all financial assets held by an intermediary in a securities account are **not the property of the intermediary**. They are held in a statutory trust for the entitlement holders (the customers). If a dual clearinghouse fails, this Article 8 rule protects the combined swap/ equity portfolio margin pool from being sucked into the general corporate bankruptcy estate of the clearinghouse. It establishes a uniform, national property-right standard that overrides the specific differences between DCO and securities clearinghouse liquidation pools.

Under UCC Article 9 (which links directly with Article 8), a clearinghouse can establish “*Control*” over a securities account via an automated Control Agreement. Instead of physically commingling volatile swaps and physical stocks into a dangerous single account, the clearinghouse can use Article 8/9 control agreements to legally link two distinct accounts. The excess equity in the SEC clearing pool is automatically and securely pledged to cover a margin shortfall in the DCO swaps pool. In an insolvency, the trustee relies on the **Super-Priority UCC Control Agreement** (Cross-Pledging) security interest to net the positions, completely bypassing the conflicting liquidation rules of the underlying assets.

Beyond UCC Article 8, several federal and international frameworks can be layered onto this structure to resolve systemic clearinghouse default conflicts:

- A. Title VIII of Dodd-Frank (SIFMUs) and the Federal Reserve
- B. Title II of Dodd-Frank: Orderly Liquidation Authority (OLA)
- C. The UNIDROIT Convention (like LCH in London and OCC in Chicago) on Sub-mediated Securities

(3) Copyright Licensing Model to realign \$10+ Billion to Create a Robust Defaulters' Insurance Fund

⁴² <https://www.law.cornell.edu/ucc/8/8-102>

This copyright licensing mechanism turns traditional PFOF and transaction rebates that currently operates in a skewed favoritism mode to clear copyright standards. It incorporates a **Liability Pass-Through Architecture** holds both brokers and platforms accountable for algorithmic glitches. If a member defaults, the clearinghouse can seize and lease out their algorithmic catalog via an Emergency Auction Engine, recouping losses without dumping securities inventory or triggering artificial market panics. See our response to [Q15](#) and [earlier section](#) for an elaborated discussion.

11. Are market participants interested in further addressing portfolio margining of foreign exchange (FX) and other securities or derivatives whose valuations may be sensitive to global macroeconomic or geopolitical developments? In this context, do market participants have recommendations regarding safeguards or stress-testing?

See our response to [Q1](#) and [Q2 point A](#).

12. Are market participants interested in further addressing positions that may be leveraged and that can face volatility as a result of divergence between those positions (for example, a basis trade involving cash market and futures market positions)? How should cross-margining be further addressed in that context across different asset classes?

US Treasury Cash-Futures Basis Trade strategy involves taking a leveraged long position in cash market Treasury securities (typically financed through the repurchase agreement/repo market) and shorting a correlated exchange-traded Treasury future.⁴³ The primary driver for cross-margining expansion in this context is the **SEC's mandatory Treasury clearing rule**. Without comprehensive customer XMgn, requiring cash transactions and repos to clear through a CCP traps vast amounts of **Initial Margin (IM)** on offsetting sides of the exact same economic trade. This reduces market liquidity and significantly drives up funding costs.⁴⁴

To safely expand this across different asset classes (such as equity basis trades or credit index-to-single stock trades), the Commissions must move beyond one-off exemptive orders toward a structured cross-asset framework:

- **Establish Inter-Asset “Correlation Floor” Regimes:** Cross-margining should be automatically authorized for *any* dual-jurisdiction asset class pairing if the clearinghouse's risk engines can mathematically prove a persistent, long-term correlation floor (e.g., a rolling 95% R-squared relationship over a 5-year lookback) under both normal and stressed conditions.
- **Implement Joint SEC-CFTC Inter-Clearinghouse Pledges:** Instead of forcing firms to use a single dual-registered BD/FCM, the Commissions should formalize a standard **Cross-CCP Collateral Pass-Through Agreement**. If an equity swap at a bank hedges an index option at the OCC, a standardized legal bridge should allow the excess margin equity to automatically stream to the deficit account, preventing localized defaults, see our response to [Q10](#).
- **Standardize Intraday Valuations:** For basis trades to be safely cross-margined during volatile market dislocations, both clearinghouses must operate on synchronous intraday valuation cycles. If the futures house runs automated 15-minute margin updates while the cash house clears only on an end-of-day basis, the margin offset is structurally flawed, leaving the CCPs exposed to invisible overnight default risk.

Clearing Agency & Derivatives Clearing Organization (DCO)

13. Are market participants interested in further addressing securities and derivatives that are portfolio margined and have different trading hours, which could increase the probability of intraday margin calls driven by one market while others are closed?

⁴³ <https://www.chicagofed.org/publications/chicago-fed-letter/2026/516>

⁴⁴ <https://www.northerntrust.com/united-states/about-us/sec-us-treasury-clearing>

Market participants are highly focused on addressing the risk of mismatched trading hours, calling it one of the most dangerous operational blind spots in modern cross-margining architecture. Clearinghouses currently rely on the last official closing price of a closed cash market during an overnight futures spike. When a portfolio contains assets that trade on asynchronous schedules, a sharp market-move during a window when one leg of a hedge is frozen creates “*artificial*” or “*phantom*” margin calls. This puts immense liquidity stress on market participants.

Reference to our August 26, 2026 comment letter to the CFTC,⁴⁵ project *mBridge* has graduated from experimental phases into a functional, blockchain-based cross-border settlement rail.⁴⁶ Multi-billion dollar shipments of crude oil and LNG now settle instantly outside the Western financial perimeter, bypassing SWIFT and stripping away the absolute necessity of the petrodollar. In a frantic push to match this round-the-clock digital cadence, Western exchanges are rushing toward continuous execution, creating severe microstructural hazards.

This sparked the push by major derivatives venues, spearheaded by the CME Group, to introduce 24/7 trading for standard futures contracts alongside highly exotic “*perpetual futures*” referencing physically delivered or storable energy commodities. It was a play designed to match the round-the-clock cadence of the digital asset era. Yet, as the CFTC stepped in to stay these contracts, a deeper reality became clear.⁴⁷ In their haste to construct an operational defense, the architects of this liberalization had unwittingly opened the gates to a devastating form of asymmetric financial warfare.

Continuous 24/7 derivatives trading runs directly into a structural gridlock over weekends when legacy commercial banking facilities, Fedwire, and CHIPS remain closed. In the event of an off-hours geopolitical shock or a targeted liquidity raid, market participants face an operational impossibility when trying to transfer margin collateral or satisfy sudden variation demands. This lack of financial backing forces a dangerous delay in risk recognition, threatening to trigger automated liquidation cascades that can push mid-tier clearing firms and FCMs into immediate insolvency. State-backed adversaries can use massive leverage to ram thin weekend order books, settling instantly via non-Western rails like *mBridge* while US desks are dark. On Monday morning, domestic market makers face warped forward curves. Forced to maintain delta-neutrality, their automated hedging programs trigger self-reinforcing liquidation loops.

Nevertheless, traditional futures use contract expiration as a vital safety valve, forcing paper speculation to ultimately reconcile with real-world physical delivery and supply constraints at key storage nodes like Cushing, Oklahoma. By completely removing expiration, perpetual contracts eliminate the forward curve and introduce an “**annuity inversion**” that exacerbates risk across an unbounded volatility horizon. Furthermore, because physical cash trading does not occur 24/7, off-hours perpetual derivative models are forced to rely on stale prices, turning the continuously observed index into a microstructural “*hallucination*” open to severe manipulation.

Amid we proposed a regulatory “**Smart Suspension**” connecting an **SEC/CFTC declared stress condition** to an automotive-style **adjustable damper** system per our response to [Q3](#), it should NOT apply to scenario of mismatched hours.

14. Identify and describe the relative benefits and risks of further implementation of portfolio margining in different account types, as well as how the benefits and risks compare to margining under existing margin requirements. For example, how, and to what extent, might current or future portfolio margining decrease or increase market risk in certain conditions? Are there certain positions for which portfolio margining would increase or decrease market risk and if market risk would be increased in those positions, how should that risk be managed?

⁴⁵ https://www.databoiler.com/index.htm_files/DataBoiler%20CFTC%2024xPP%2020260826.pdf

⁴⁶ https://www.bis.org/about/bisih/topics/cbdc/mcbdc_bridge.htm

⁴⁷ <https://www.cftc.gov/PressRoom/PressReleases/9265-26>

Because the cash asset and the derivative contract are bound by identical underlying macroeconomic interest-rate exposures, treating them as a single package prevents erratic, disjointed margin calls that would otherwise force a trader to dump bonds during an overnight liquidity crunch. PMgn structurally decreases market risk if the implementation reduces **Collateral Drag (Capital Velocity)**, mitigate **Liquidity Squeezes** and **"Phantom" Margin Calls** with true risk transparency. Yet, certain instruments suffer from steep non-linear risk (Gamma/ Vega) and can become completely illiquid during a **crash**. If a PM model grants a heavy margin discount on a single-stock swap because it is *"hedged"* by a liquid S&P 500 future, it introduces severe **basis risk**. When a crash occurs, the liquid future can be easily priced and traded, but the illiquid swap position cannot be closed out, causing hidden losses to multiply inside the clearing pool.

Opaque, convex, or illiquid derivatives increase Market Risk Vulnerability if the implementation amplifies **Procyclicality (The Margin Cliff)**, or correlation breaks during **market stress (Basis Mismatch Risk)**, and the **interconnectedness** threatens to reach a **macro-stability** concern via **contagion channels**. To safely capture the benefits of expanded portfolio margining without exposing the clearing system to catastrophic tail-risk defaults, the SEC, CFTC, and clearing agencies must enforce the following risk-mitigation guardrails:

- Mandate Anti-Procyclicality (APC) Margin Floors
- Impose Liquidity and Concentration Add-Ons
- Deploy Inter-Account Pledging Over Commingling, see our response to [Q10](#).
- Adopt a **"Smart Suspension"** connecting an **SEC/CFTC declared stress condition** to an automotive-style **adjustable damper** system. By linking it directly to **volatility interruption mechanisms** (like market-wide circuit breakers or Limit-Up/Limit-Down bands), it creates a powerful, automated framework for managing systemic risk, see our response to [Q3](#).

Please also see [earlier sections](#) about realigning \$10+ Billion to create a robust Defaulters' Insurance Fund, incorporating a centralized discretionary Claw backs mechanism and using market ostracism as a defense.

Operational & Technical Implementation Issues

15. Identify and describe what types of margin methodologies may be appropriate for further implementation of portfolio margining and cross-margining by clearing agencies, DCOs, and market intermediaries (e.g., broker-dealers) to determine the appropriate margin, consistent with the applicable regulatory requirements in each of the account types commenters identify. Similarly, identify and describe any considerations related to the interaction of portfolio margining and cross-margining on liquidity risk of a covered clearing agency or DCO.

Traditional surveillance uses *"Z-score"* anomalies to flag *spikes*.⁴⁸ However, decoupled risks introduce noise. A price shift often happens in response to **alternate data**⁴⁹ rather than internal trade mechanics. A gradual deterioration of odds (*chronic*) and sudden anomalies (*acute*) caused by *misinformation campaigns* or the use of Material Non-Public Information (MNPI) are not easily distinguishable even after the fact. High capital **concentration** can move prices faster than official news **disclosures**, especially in *"thin"* markets with *low liquidity*. Small, legitimate trades can look like aggressive manipulation (*price bias*) under traditional rules, leading to a flood of **false positives**.

All models have some degree of tradeoffs between tractability and realism.⁵⁰ In practice, calibrating liquidity is a moving target, no static mathematical framework will ever outsmart live market mechanics. The Clearinghouses' two biggest modern operational threats: the *rising cost of clearing member defaults* and the *risk of systemic flash crashes*.

⁴⁸ <https://arxiv.org/pdf/2308.08683>

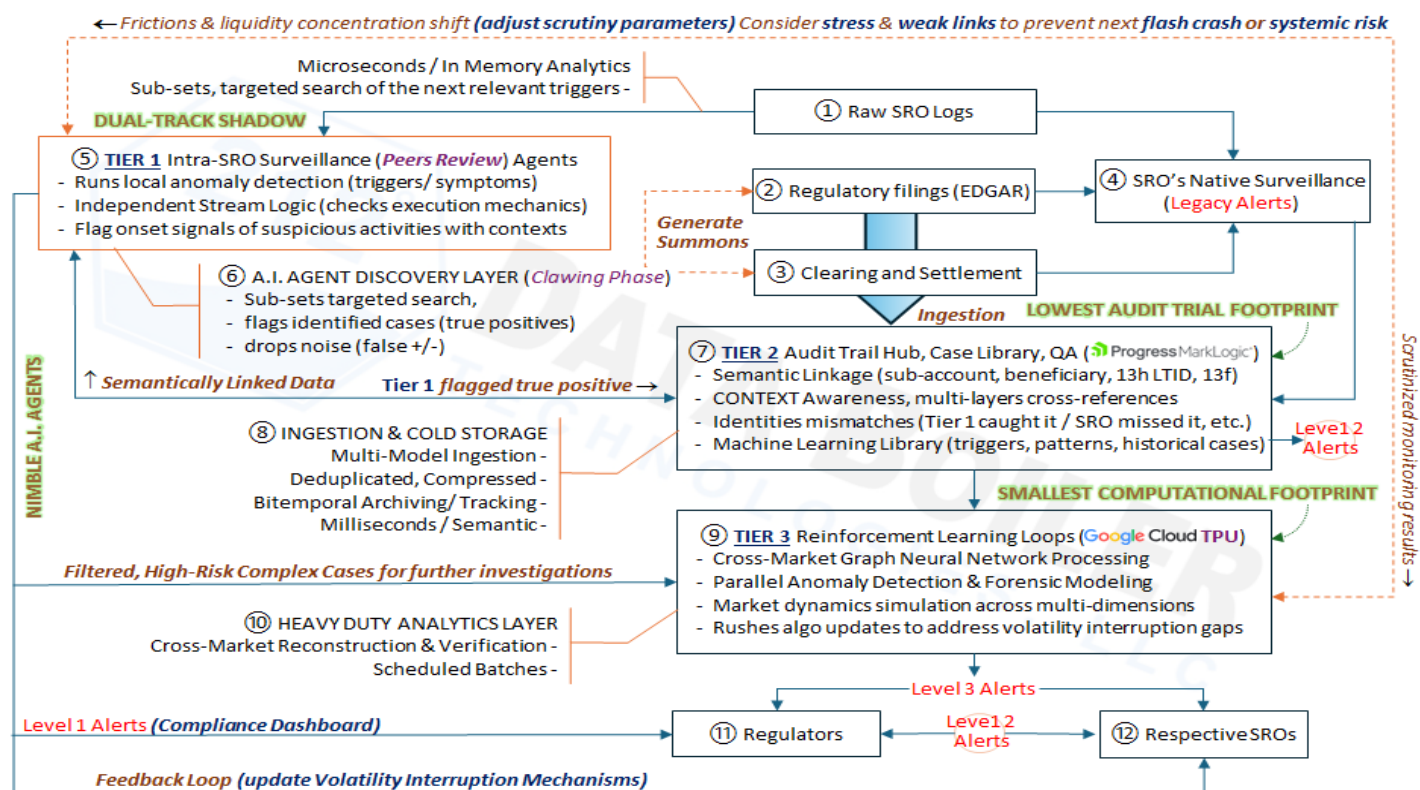
⁴⁹ <https://corpgov.law.harvard.edu/2024/04/23/alternative-data-a-coso-perspective/>

⁵⁰ <https://www.amazon.com/Complexity-Financial-Markets-Psychological-Agent-Based/dp/3319032739>

In additions, to our recommendations in [earlier sections](#) about realigning \$10+ Billion to create a robust **Defaulters' Insurance Fund**, incorporating a centralized discretionary **Claw backs** mechanism and using market ostracism as a defense, it is crucial to understand where *frictions* and *liquidity concentration* may shift at rapid pace or irregularities and dysfunctional market behaviors occur. Analyze the **stress** points and **weak links** where the next *flash crash* or systemic risks may emerge, and develop mitigation protocols with more effective and timely **volatility interruption mechanisms**.⁵¹

We are fully aware of industry pushbacks on forcing CCPs and clearing brokers to provide clients with open-access, **VaR-based margin simulation tools** and their worries about another Consolidated Audit Trail (CAT) project laying heavy data reporting burden on market participants. Therefore, regulatory market monitoring ought to be modernized alongside market and technology evolutions (Agentic Overlay). Our recommended **copyright licensing model** assesses market dynamics continuously and holistically *in the background* when enforcing intellectual property rights and administering royalty payments, it architects true **layers of intelligence**.

To create an **anonymized, cross-market, cross-asset class forensic tool** in fulfilling the post-2010 Flash Crash Congress's mandate, CAT's replacement must be nimble and effective with **agentic AI**, **Model Context Protocol (MCP)** to connect and orchestrate workflows across systems, **Retrieval-Augmented Generation (RAG)** for knowledge retrieval to avoid wasting tokens on hallucinations, and surround both with **Zero-Trust** cyber defense to safely manage what the AI can see and do. Please see below for our schematic drawing, collectively these components form the "layers of intelligence" to address the challenges of today and the future.



⁵¹ **NOTE: Volatility interruption mechanisms** (e.g., replacing Single-Stock Circuit Breakers with the LULD Mechanism; overhauling Market-Wide Circuit Breakers; banning Stub Quotes and regulating Market Maker obligations; standardizing "Clearly Erroneous" trade executions) were piloted or implemented before the Congress' CAT mandate in 2012. The subsequent transitioning from "pilots" to [permanent laws](#) was a [natural progression](#). Credits should be given to [Reg. SCI](#) that mandates all major proprietary trading firms and broker-dealers to participate in at least one coordinated cross-market Level 1 and Level 2 circuit breaker test per year.

See [Annex 2](#) on page 52-60 of our June 22, 2026 comment letter⁵² to the SEC on CAT for details of our design for a **Distributed/ Federated, Event-Driven Agent Topology**. In short, the surveillance routine into – **TIER 1** Intra-SRO Surveillance (**Peer Review**) Agents → ⑤ in the drawing; **TIER 2** Audit Trail Hub, Case Library, Quality Assurance for macro-filing lookup → ⑦; and **TIER 3** Reinforcement Learning Loops for cross-market Tensor Processing Unit (TPU) verification → ⑨. Our proposed architecture seeks to minimize the audit-trail footprint, reduce computational load, eliminate unnecessary trade reporting, and shift regulators from manual data processors to strategic gatekeepers. It emphasizes context-aware AI, Zero-Trust security, and selective ingestion of only high-value, anomaly-linked data. The system is designed to accelerate anomaly detection, reduce false positives, and identify emerging liquidity stresses or flash-crash precursors in real time. This three-tier distributed design **eliminates CAT's honeypot vulnerabilities, reduces alert fatigue,** and matches the pace of modern, cross-market manipulation by isolating identities and patterns across venues.

Our recommended 3-Tier Distributed Architecture shifts surveillance **from hindsight to active prevention**, enabling **dynamic recalibration of guardrails and volatility controls**. By storing only anomaly-linked data and offloading heavy computation to targeted TPU jobs, the architecture **cuts CAT's cloud-hosting costs by an estimated 70–80%** while delivering far stronger security, privacy, and analytical capability than any centralized repository could achieve.

Historical stress events like the 2022 UK LDI crisis prove that market participants frequently suffer from a blind spot regarding how initial margin (IM) and variation margin (VM) escalate during a market disruption. Our recommended Copyright mechanism/ 3-Tiers distributed Agentic approach is an **indirect way to conduct a simulation**, including a TPU for **Client Margin Simulation** and **reverse engineering of portfolio compression** to gauge where risks may shift. It deciphers where customer accounts are exposed to sudden, procyclical margin spikes and enhances buy-side liquidity preparedness. By generating alerts to prompt the volatility interruption mechanisms to timely intervene, it prevents automated liquidations and forced asset fire-sales, dampens systemic procyclical spirals, and reduces the risk of default cascades.

16. Identify and describe any conditions the Commissions should consider with respect to the further implementation of portfolio margining programs to mitigate risk and address regulatory or operational issues. For example, discuss whether the Commissions should consider requiring certain customer disclosures or additional risk management requirements in determining whether to approve expanded portfolio margining or cross-margining programs. Discuss how a potential condition would relate to a specific account type and why it would be needed for that account. Discuss how the benefits

When proprietary accounts net positions across different asset classes – such as tying CFTC-regulated interest-rate swaps to SEC-regulated cash bonds – a severe default can cause losses to bleed across distinct asset pools. If a firm's equity book collapses, it should not drain resources from its fixed-income clearing line. This condition enforces a structural firewall, ensuring that loss mutualization remains contained and does not spill over to contaminate unrelated clearing house default waterfalls. A **Dual-Subordinated Shortfall Indemnification Agreements** is an expansion condition targeted at **Proprietary / House Accounts** used by market makers, prime brokers, and large relative-value dealers. It insulates the systemic clearing core, prevents cross-asset contagion, and protects non-defaulting clearing members from bearing unrelated credit losses at the expense of increases the cost of capital and requires dedicated capital allocations for high-leverage relative-value traders. It restricts maximum leverage, which may slightly reduce trading volume in highly specialized arbitrage strategies. We are not sure if firms would agree to a regulatory mandate to execute explicit, **cross-guarantee shortfall indemnification structures** funded solely by proprietary capital at this time.

Another high-cost ticket is **Real-Time, Automated Intraday Settlement Bridges**. Currently, the operational plumbing of the financial system is fragmented. SEC-regulated securities clearing agencies and CFTC-regulated DCOs run on completely

⁵² https://www.databoiler.com/index_html_files/DataBoiler%20SEC%20CAT%2020260622.pdf

independent margin call timelines and settlement windows. During periods of extreme volatility, a manual bottleneck or data delay across these disconnected networks can prevent a firm from routing an available cash credit at one clearinghouse to cover an urgent margin debit at another. March 2020 market stresses proved that uncoordinated settlement cycles actively worsen liquidity spirals.

Again, we have reservations with burdensome data reporting requirements. To orchestrate a synchronized, real-time **automated intraday settlement loops** between participating clearing networks is no easy task. By enforcing this “*bridge*” universally across **All Combined Portfolios** that utilize multi-clearinghouse or cross-CCP linkages (e.g., matching cash treasury repos with listed futures), it eliminates operational friction, reduces intraday settlement uncertainty, and unlocks massive volumes of trapped back-office capital. Yet, no one wants to pay for the high upfront capital expenditures and a total structural overhaul of legacy clearing ledger infrastructure to support real-time cross-CCP data exchange.

We believe the Commissions are already using no action or other **Legal Waivers**, as well as push for **Statutory Incompatibility Disclosures** in attempts to resolve statutory conflict between the SIPA for securities and CFTC **Part 190** commodity customer priority rules. We recognize the well-intend of making sure the Clients must explicitly understand that by mixing products, they are accepting unique legal risks regarding collateral porting and shortfall sequencing during a liquidation. However, such disclosure is more of a formality than an effective measure. As we pointed out in our July 31, 2026 comment letter to the CFTC,¹⁶ the **maximum loss** for a direct retail participant on a vertically integrated “*Direct Retail Clearing Model*” extends well beyond **100% of their active wagers**, encompassing **100% of the uninvested cash sitting idle in their platform account balance**, amid the account is fully collateralized. Retail generally lacks the sophistication to understand these disclosures and its fine prints.

Alternatively, we reiterate our recommendation for “*Two Accounts, One Margin Link*” per our response to [Q2](#). We also urge the Commissions to adopt a “*Smart Suspension*” connecting an **SEC/CFTC declared stress condition** to an automotive-style **adjustable damper** system. By linking it directly to **volatility interruption mechanisms** (like market-wide circuit breakers or Limit-Up/Limit-Down bands), it creates a powerful, automated framework for managing systemic risk, see our response to [Q3](#). Also, we suggest realigning \$10+ Billion to create a robust Defaulters' Insurance Fund, incorporating a centralized discretionary Claw backs mechanism and using market ostracism as a defense; see [earlier sections](#) and our response to [Q15](#).

Impacts on Market Liquidity, Competition, and Efficiency

17. Identify and describe any potential efficiency or competitive impacts of implementation of different portfolio and cross-margining programs that are not currently available to customers, and that market participants have indicated an interest in offering. Discuss how various portfolio and cross-margining scenarios could affect market intermediaries based on their size, business model, or registration status. For example, how would competitive impacts vary among firms registered solely as broker-dealers or futures commission merchants (or swap dealers or security-based swap dealers) and firms with multiple registrations, and how can the Commissions address any such competitive impacts?

The deployment of these programs introduces political-economy strains, altering the competitive landscape based entirely on a firm's regulatory registration status and asset specialization.

Large, Dually Registered Conglomerates (BD-FCM / SBS-D)

Firms maintaining multiple registrations with both the SEC and CFTC stand as the undisputed beneficiaries of expanded XMgn. Because they possess the internal back-office infrastructure to operate across both regulatory domains, they can offer institutional clients a unified “prime brokerage” wallet. Clients can pass cash treasury, listed options, and cleared interest rate swaps to a single entity, capturing structural margin offsets that minor competitors

cannot replicate. This structural advantage accelerates client concentration among a small circle of global, systemically interconnected G-SIFIs.

Sole Broker-Dealers (BD)

Firms registered exclusively as broker-dealers face a defensive disadvantage if cross-margining favors derivatives-heavy portfolios. For instance, if a dually registered firm can significantly reduce margin requirements on an equity index future because it holds an offsetting cash equity block, the sole broker-dealer – lacking access to the futures clearing node – cannot offer that capital relief. This operational barrier creates a risk of margin-driven client defection, forcing long-only asset managers and hedge funds to route execution order flow exclusively to multi-registered bank clearers.

Sole Futures Commission Merchants (FCM)

Standalone FCMs face a mirroring operational bottleneck. Under CFTC rules (such as Part 1 or Part 22 regimes), an FCM cannot natively pool customer cash equity securities to offset derivatives risk. If expanded programs require the physical commingling of cash and derivatives collateral in a single account structure, a sole FCM is statutorily disqualified from hosting the business. They are forced to build costly joint-venture clearing bridges with external broker-dealers, adding layers of operational cost and credit risk.

We are skeptical about authorizing “**Partial Recognition with Conservative Haircuts**”, such *haircut* would erode the capital efficiency, making the expansion program ineffective (delusional/ slogan-based diplomacy). To expand capital efficiency without creating artificial market winners or accelerating industry marginalization, we reiterate our recommendation for “**Two Accounts, One Margin Link**” per our response to [Q2](#). This **Inter-Agency, Cross-CCP Margin Linkages** steer away from *broker-centric models* (where the margin offset only works internally within a massive, dually registered bank) and push toward *CCP-centric models*. By approving interoperable clearing links between distinct utilities – such as a XMgn bridge between the FICC (cash) and CME (futures) – a sole broker-dealer or a sole FCM can retain their single-agency status while routing client trades into an integrated, market-wide capital offset network.

Other concrete actions we recommend:

- Adopt a “**Smart Suspension**” connecting an **SEC/CFTC declared stress condition** to an automotive-style **adjustable damper** system. By linking it directly to **volatility interruption mechanisms** (like market-wide circuit breakers or Limit-Up/Limit-Down bands), it creates a powerful, automated framework for managing systemic risk, see [Q3](#).
- Realign \$10+ Billion to create a robust Defaulters' Insurance Fund, incorporating a centralized discretionary Claw backs mechanism and using market ostracism as a defense; see [earlier sections](#) and our response to [Q15](#).

Last but not least, all actions need to practically consider the implementation timeline to accommodate different stakeholders' operational and tech packs, financial and human resources to support the change without undue burdens.

18. As discussed above, financial markets are evolving rapidly and becoming more interconnected through global technologies. Comments are invited about how the further expansion of portfolio margining could affect competition between U.S.-registered broker-dealers, futures commission merchants, swap dealers, security-based swap dealers, covered clearing agencies, DCOs, and foreign financial institutions, including foreign banks, foreign broker-dealers, and foreign clearing organizations that offer portfolio margining to customers.

As financial markets become more interconnected through global technology, the expansion of PMgn represents a shift from localized capital rules to a competitive arena where **capital efficiency dictates order flow**. Regulatory and operational differences between the US and foreign jurisdictions create potential market imbalances. The following

analysis explores how further expansion could reshape competition among US dually registered firms, single-registration intermediaries, domestic clearing infrastructures (Covered Clearing Agencies and DCOs), and foreign financial institutions.

1. Competition Among US Intermediaries

The primary domestic competitive fault line is determined by an intermediary's regulatory registration footprint. Large, bank-affiliated conglomerates holding multiple registrations – as a SEC-regulated Broker-Dealer, a CFTC-regulated FCM, and a Swap Dealer/ SBS Dealer – benefit from expanded portfolio margining. Using integrated back-office technology, these firms can consolidate a client's cash bonds, listed options, futures, and cleared OTC swaps into a single risk pool.

Conversely, mid-tier intermediaries registered solely as broker-dealers or standalone FCMs are restricted by the structural divide between the SEA and the CEA. A standalone broker-dealer cannot natively offset a client's cash equity portfolio against a CFTC-regulated index future held at an external derivatives clearing organization.

As global algorithmic execution engines route order flow based on instantaneous cost-of-capital calculations, **capital will automatically bypass single-registration intermediaries** in favor of multi-registered firms. This dynamic could accelerate consolidation, reducing the diversity of the US intermediary ecosystem. Our recommended Copyright Licensing mechanism can counter that in preserving a healthy balance between hunters and farmers type of firms.

2. Domestic versus Foreign Competition

The competitive landscape is further complicated by differences between the fragmented US regulatory model and the unified architecture used in foreign jurisdictions. We do NOT believe Europe in their present stage can in any way cause a cross-border liquidity squeeze to the US or challenge the US prominent position. Amid foreign CCPs like Eurex and LCH operate under a single EMIR regulatory umbrella that allows them to apply portfolio-based VaR risk engines across interest-rate swaps, government bonds, listed futures, and repo transactions within a single clearing node. Their models and haircut are conservative, eroding their expected capital efficiencies.

However, as technology lowers the barrier to cross-border trading, US asset managers, hedge funds, and multi-national corporations can route their positions to foreign affiliates or foreign clearing organizations with less frictions. The US should closely observe the growth of *mBridge*. If US PMgn remains restricted by domestic regulatory silos, **global capital will gravitate toward foreign alternative platforms** to secure lower initial margin requirements. This creates a risk of regulatory arbitrage, potentially shifting trading volume and risk management functions away from US-regulated entities.

3. Competition and Risk Accumulation at the Clearinghouse Level (CCPs vs. DCOs)

Expanded portfolio margining also transforms competition among the infrastructure utilities themselves: SEC-regulated Covered Clearing Agencies (such as the OCC and FICC) and CFTC-regulated DCOs (such as CME and ICE).

- **The Race to the Bottom Hazard:** Clearinghouses compete globally for trading volumes. If the Commissions grant unrestricted discretion to expand cross-product offsets, clearinghouses may face competitive pressure to aggressively relax correlation assumptions, shorten VaR lookback windows, or under-calibrate margin requirements to attract order flow from rival venues.
- **Loss Mutualization and Cross-Asset Contagion:** Modern technological linkages mean that a failure at one node of a clearing network can spread quickly. If a clearing house expands portfolio margining across unrelated product lines without robust firewalls, an extreme default in one asset class (such as equity options) could drain the default waterfall of an unrelated asset class (such as interest-rate derivatives), spreading losses across non-defaulting clearing members.

We firmly believe our recommended strategic actions, include the following, would enhance the US competitiveness:



- “**Two Accounts, One Margin Link**” per our response to [Q2](#);
- Adopt a “**Smart Suspension**” connecting an **SEC/CFTC declared stress condition** to an automotive-style **adjustable damper** system. By linking it directly to **volatility interruption mechanisms** (like market-wide circuit breakers or Limit-Up/Limit-Down bands), it creates a powerful, automated framework for managing systemic risk, see [Q3](#).
- Realign \$10+ Billion to create a robust Defaulters' Insurance Fund, incorporating a centralized discretionary Claw backs mechanism and using market ostracism as a defense; see [earlier sections](#) and our response to [Q15](#).

These asymmetries with the rigid EMIR, liquidity and clearing activity will shift onshore for the advantage of US venues.

Legal, Statutory, and Boundary

19. Should the Commissions consider distinguishing between single-stock and narrow-based index futures in considering potential approval of further implementation of portfolio margining or cross-margining of securities and derivatives? If yes, please describe.

Please see [Q2 Points A and B](#).