

October 6, 2026

- via Internet comment form for SEC (<https://www.sec.gov/comments/4-936/affiliations-between-national-securities-exchanges-broker-dealers>)

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

**Re: Staff Statement on Affiliations Between National Securities Exchanges and Broker-Dealers
(File Number 4-936)¹**

Dear Ms. Countryman,

On behalf of Data Boiler Technologies, I am pleased to provide the Commission with our response to the request for comment (RFC) regarding File Number 4-936 – the affiliation between registered national securities exchanges and entities that engage in broker-dealer activities on those exchanges. Data Boiler is a Pioneer in FinTech with patented inventions in signal processing, trade analytics, machine learning, time-lock cryptography, etc. Please see separate attachment for our 50-page submitted comments² to the CFTC on Conflicts and Affiliations (RIN 3038-AF76),³ which is directly relevant to this RFC and should be read in conjunction with our additional comments/ highlights below.

As pointed out in our August 24 response to the SEC-CFTC joint RFC (File No. S7-2026-21),⁴ **vertically integrated platforms** are NOT pioneering a new frontier; rather, they are accustomed to and attempting to copy the European Multilateral Trading Facility (MTF) framework under MiFID II to bypass standard U.S. customer-protection architectures. Under the European MTF and European Market Infrastructure Regulation frameworks, platforms are legally permitted to integrate execution and clearing functions into a single system, granting Direct Electronic Access to retail participants. Vertically integrated platforms attempt to legitimize **Direct Retail Clearing Model** (DRCM) via a hybrid reporting compromise does not innovate; it conflates legal boundaries between clients and counterparties, and introduces systemic vulnerabilities.

The U.S. derivatives framework is built on a fundamentally different legal philosophy anchored to the **statutory separation** mandated by the **Commodity Exchange Act** (CEA) and the **Securities Exchange Act** (SEA) – i.e., a Designated Contract Market (DCM) / National Securities Exchange (NSE): **neutral intermediary**, a Derivatives Clearing Organization (DCO) / Registered Clearing Agency / CCP: **market risk absorber**, and a Futures Commission Merchant (FCM) / Registered Broker-Dealer (BD): **customer exposure**. It views the unbundling of these roles as a non-negotiable firewall.

The U.S. framework operates on the foundational principle that if a trading venue fails or suffers a massive cyberattack, that failure must be segregated so it does not down the clearinghouse or the client's funds. The broker must be kept separate from the exchange to act as a firebreak. This together with the **default waterfall model**⁵ serve as a critical financial stability mechanism to achieve resiliency, value-chain efficiency, low transaction costs, and U.S. structural advantage over other jurisdictions. Therefore, **the U.S. cannot and should not adopt the EU/UK MTF model**.

¹ <https://www.regulations.gov/document/CFTC-2026-1354-0001> ; <https://www.sec.gov/files/rules/other/2026/34-105734.pdf>

² https://www.databoiler.com/index_htm_files/DataBoiler%20CFTC%20ConAff%2020261005.pdf

³ <https://www.regulations.gov/document/CFTC-2026-1686-0001>

⁴ https://www.databoiler.com/index_htm_files/DataBoiler%20CFTC%20SEC%2020260824.pdf

⁵ <https://globalriskinstitute.org/publication/incentives-behind-clearinghouse-default-waterfalls/>

Vertically integrated platforms create a structural incentive to favor their own echo-chambers. Instead of a free market where multiple independent participants actively compete with one another, the broader ecosystem is affected by these phenomena:

- **Asymmetric Data and Speed:** The exchange's affiliate may receive superior system architecture access, faster data pipelines, or preferential order routing. This gives them a distinct structural advantage over external participants.
- **The Coerced Collaboration Dynamic:** Instead of purely competing on price and execution quality, independent market participants are often forced to collaborate with or route through the exchange's specific affiliate just to maintain viable access to the exchange's liquidity pool.
- **Regulatory Blind Spots:** Because the exchange operates as a Self-Regulatory Organization (SRO), a conflict of interest arises. The exchange is tasked with policing the very market participants it is competing against through its affiliate, which can lead to biased enforcement, uneven fee structures, or opaque rule updates that inherently protect the affiliate's revenue.

Adverse Effects on the 4Vs of the Capital Markets Ecosystem

1. Volume (Liquidity and Depth)

Fragmentation and Liquidity Chilling: When independent institutional market makers and retail participants realize the playing field is structurally tilted in favor of the exchange's affiliate, they may withdraw capital or downsize their quoting size. This shrinks the overall market depth, leaving the ecosystem highly dependent on a single, centralized entity for liquidity, which increases systemic vulnerability during market stress.

2. Velocity (Speed of Execution and Arbitrage)

Execution Latency and Arbitrage Monopolies: Under an unfair vertically integrated model, the affiliate may enjoy microsecond advantages or internal matching priority. External participants suffer from artificial latency, meaning their orders arrive slower than the affiliate's, destroying their ability to manage risk or capture fair spreads.

3. Variety (Product Innovation and Access)

Monopolistic Product Gates: While vertical platforms initially boast novel products (such as retail derivatives or perpetual futures⁶), they often gate the most efficient access to these instruments behind their proprietary broker-dealers. This restricts the variety of clearing pathways available to investors and prevents independent firms from engineering competing or complementary financial products.

4. Veracity (Data Integrity and Price Discovery)

Degraded Price Discovery and Informational Opacity: Veracity relies on a transparent tape where prices reflect genuine, arms-length supply and demand across diverse participants. When an exchange and its affiliate manipulate internal order flows, cross orders internally, or obscure the true depth of the book, the "*public tape*" loses its integrity. Market participants can no longer accurately gauge true market sentiment, leading to mispriced assets and reduced investor confidence.

- The prohibition on affiliate principal trading firms and market makers under the CFTC RIN 3038-AF76 Proposal addresses one of our key concerns – automated / designated market makers "*leaning with the wind*" in widening

⁶ A traditional annuity trades a premium to extinguish risk; a *perpetual contract* does the opposite, creating an Annuity Inversion – unbounded, infinite volatility horizon. Traditional futures rely on contract expiration to force speculative paper bubbles to periodically reconcile with physical supply and demand. Removing expiration turns a risk-management tool into an unanchored derivatives casino. Such products are **not suitable for retail** and will **introduce systemic vulnerabilities**, sever the vital economic anchors tied to physical logistics, and expose the US financial infrastructure to asymmetric cross-border warfare. See our [38-page comment letter](#) to the CFTC for details. We caution the SEC on a series of ([KalshiEx](#), [Coinbase](#), [Bitnomial](#), [Nadex](#)) SROs' requests about *Securities Perpetual Futures*.

spreads to avoid “*pick-off*” rather than complying with exchange rules and DCM Core Principle 9 to continuously providing tight two-sided quotes in both good and bad times – that is substantiated by the empirical **Whelan Paper**.⁷ The CFTC this time deserves a high praise for it. The independent third-party oversight provision aligns with our “*peer-review*” suggestion. To avoid “*inter-affiliate capture*” (where two vertically integrated platforms elect each other as SROs), we recommend strengthening the requirement with a mandatory, time-bound rotation schedule.

- The CFTC RIN 3038-AF76 proposal, however, does not require *vertically integrated* platforms to *spin-off* its client-facing brokerage unit. We caution the Commissions that relying on enumerated textual categories of information (e.g., customer position logs or formal risk-management policy documents) is an outdated, document-reliant methodology. Predatory internal affiliate trading bots exploit the market by harvesting real-time transaction telemetry, order book queues, and microsecond-level margin vulnerability data directly from shared IT infrastructure.
- We have reservations with removing the word “*continuously*” in the CFTC Regulation 38.604. Relaxing surveillance to an intermittent, risk-based cadence creates critical systemic blind spots. Liquidity is a hyper-dynamic target that static or episodic frameworks cannot capture. Real-time risk control must be driven by superfast, automated surveillance powered by agentic AI, rather than retrospective oversight loops that look through a rearview mirror.
- There are rooms for improvement in both the CFTC RIN 3038-AF76 and AF78 proposals, including consideration if *Prediction Markets’ event contracts* can be packaged inside our suggested alternative of a **100% pre-funded Series LLC** structured managed by a CPO, and exempting such **fiduciary CPO-Matchmaker** – that acts as a passive, parametric insurance pool – from mutualized banking default funds while addressing prudential regulators’ concerns. We believe this model offers a highly effective alternative compliance **safe harbor** that eliminates vertical conflicts of interest and prevents dangerous “*closed-loop liquidity traps*” while actively promoting FinTech innovation and U.S. market competitiveness.

While the CFTC’s intentions in the proposal are stellar, Data Boiler believes that both the RIN 3038-AF76 (Conflicts and Affiliations) and AF78 (CPO and CTA Exemptions)⁸ proposals can be significantly improved by adopting the alternative compliance pathways detailed in our August 24, 2026 and October 5, 2026 submission. Rather than relying on prescriptive check-the-box compliance requirements, the CFTC can achieve its core oversight goals more effectively by embracing a structural vehicle built on capital physics and fiduciary math.

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%20SEC%20Affiliations%2020261006.pdf

CC: The Honorable Paul S. Atkins, Chairman of the SEC
The Honorable Mark T. Uyeda, Commissioner of the SEC
Mr. Jamie Selway, Director of the Division of Trading and Markets
Mr. Brian T. Daly, Director, Division of Investment Management

⁷ <https://www.karlwhelan.com/Papers/Kalshi.pdf>

⁸ <https://www.regulations.gov/document/CFTC-2026-1849-0001>