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REGULATORY UPDATE

CFTC Update

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CFTC Staff Issues Uniform No-Action Position on Swap Reporting for Event Contracts

On May 13, 2026, the Division of Market Oversight and the Division of Clearing and Risk (Divisions) of the Commodity Futures Trading Commission (CFTC) issued CFTC Staff Letter No. 26-14 (Letter),¹ establishing a uniform no-action position with respect to swap data reporting and recordkeeping requirements for certain fully collateralized event contracts.² The Letter consolidates and applies uniformly to all beneficiaries of previously issued no-action letters that individually addressed swap reporting relief for event contracts, and applies both retroactively to the beneficiaries of those prior letters and prospectively to designated contract markets (DCMs) and derivatives clearing organizations (DCOs) that seek and receive the same relief going forward. The Letter will remain in effect until the compliance date of any final CFTC rulemaking addressing event contract reporting.

Background and the CFTC Concerns

The Commodity Exchange Act (CEA) generally requires that all swap transactions be reported

to a registered swap data repository (SDR). Parts 43 and 45 of the CFTC's regulations implement the CEA's swap reporting and public dissemination mandates, which were established by Title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank Act). Separately, the CFTC has long maintained a distinct reporting regime for futures and options. Under this regime, DCMs provide daily trade and supporting data reports directly to the CFTC pursuant to Regulation 16.02 and publish market data on their websites.

Whether a particular contract must be reported under the SDR regime depends on whether it qualifies as a "swap" under the CEA. Many event contracts (particularly binary options on commodities) meet the statutory swap definition.³ However, these contracts are listed for trade on DCMs rather than swap execution facilities (SEFs), and share many of the characteristics of exchange-traded futures and options, including standardized terms, fungibility, and offset. Before the Dodd-Frank Act, DCM-listed event contracts structured as binary options were reported to the CFTC as options under the futures and options reporting regime.

Since 2016, the Divisions have received and granted 18 requests from DCMs and DCOs seeking relief from swap reporting requirements for fully collateralized event contracts.⁴ With a proliferating number of applications for DCM designation from entities interested in listing event contracts, the Divisions anticipate a significant number of additional requests.

The Letter identifies three principal concerns with continuing to process these requests on a serial, ad hoc basis.

1. *Operational burden from rulebook changes.* An entity that modifies its rulebook (for example, a DCM adding a new clearing arrangement with a different DCO) may find that its existing no-action letter no longer applies, requiring it to submit an additional request to modify or supplement the prior letter.
2. *Risk of inconsistency.* Addressing swap reporting for event contracts on an ad hoc basis leaves open the possibility that similarly situated firms receive no-action positions with different terms.
3. *Duplicative reporting.* Absent relief, DCMs listing binary options may face duplicative reporting obligations: once under Regulation 16.02, which applies to options listed on a reporting market, and again under Part 45, which applies to swap transactions generally.

Covered Contracts

The Letter defines a category of “Covered Contracts” eligible for the no-action position. A contract qualifies as a Covered Contract if it satisfies three criteria: (1) it is based on the outcome of an underlying occurrence, extent of an occurrence, or contingency; (2) it is listed for trade on a DCM; and (3) it trades as a fully collateralized position, as defined by CFTC Regulation 39.2.⁵

The No-Action Position

Subject to compliance with the conditions described below, the Divisions will not recommend

that the CFTC initiate an enforcement action against a DCM, a DCO, or their participants for failure to comply with the following CFTC regulations with respect to Covered Contracts:

- Regulation 38.8(b) (requiring DCMs to obtain a unique code for swap identifier creation and to generate and assign unique swap identifiers consistent with Part 45);
- Regulation 38.10 (requiring DCMs to report specified swap data as provided under Parts 43 and 45);
- Regulation 38.951 (only to the extent it requires compliance with Part 45, which governs swap data recordkeeping and reporting to an SDR);
- Regulation 39.20(b)(2) (requiring DCOs to maintain swap data in accordance with Part 45); and
- The applicable provisions of Parts 43 and 45 of the CFTC’s regulations (governing, respectively, real-time public dissemination of swap transaction and pricing data, and swap data recordkeeping and reporting to an SDR), or the underlying CEA provisions pursuant to which such regulations were promulgated.⁶

In effect, the relief permits beneficiaries to report Covered Contracts to the CFTC directly, using the futures and options reporting framework under Regulation 16.02,⁷ rather than through the SDR swap reporting regime.

The Letter currently applies to 19 entities.⁸ Entities intending to list contracts with the characteristics of Covered Contracts may request the same no-action position. If the Divisions grant such a request, an updated list reflecting additional beneficiaries will be published.

Conditions

The no-action position is subject to six conditions, each of which must be satisfied on an ongoing basis:

1. The contracts shall qualify as a Covered Contract.
2. All Covered Contracts must be cleared through a beneficiary DCO.
3. The beneficiary DCM must publish on its website post-trade transparency data for all Covered Contracts transactions promptly after execution: trade timestamp, contract, quantity, and price.⁹
4. The beneficiary DCM must provide the CFTC with all transactional information for Covered Contracts as described in CFTC Regulation 16.02 (that is, daily trade and supporting data reports consisting of transaction-level trade data and related order information).
5. The beneficiaries must comply with all reporting and recordkeeping requirements of the CEA and CFTC regulations applicable to them in their respective capacities, other than the specific regulations enumerated in the no-action position (Required Records).
6. The beneficiaries must keep the Required Records open to inspection upon request and copies of all such records must be provided, at the beneficiary's expense, to any representative of the CFTC or other applicable regulators.

Key Takeaways

The Letter is a significant step toward rationalizing the reporting framework for the rapidly growing event contracts market.

- *Uniform framework replaces patchwork of prior letters.* By consolidating prior no-action letters into a single, uniform position, the Divisions have eliminated potential inconsistencies and reduced the administrative burden on both Staff and market participants. The Letter applies to, and effectively supersedes, all previously issued no-action letters on this topic.
- *Streamlined process for new entrants.* DCMs and DCOs seeking to list event contracts may request a position identical to the one set out in the Letter, reducing lead time for new market entrants. Routine DCM rulebook modifications

should no longer require separate staff-level relief, subject to continued compliance with the enumerated conditions.

- *Interim nature.* The CFTC may address event contract reporting more broadly in a proposed rulemaking consistent with the CFTC Chairman's recent statements about the CFTC's regulatory agenda for prediction markets.¹⁰ The Letter will expire upon the compliance date of any final rule.
- *Continued obligations.* The relief is limited to the specific swap-reporting regulations enumerated in the Letter, so beneficiaries must continue to comply with all other reporting and recordkeeping obligations under the CEA and CFTC regulations and must maintain all Required Records open for inspection; all other CEA and CFTC reporting and recordkeeping obligations remain in effect.
- *Inherent limitations of no-action relief.* The Letter expressly declines to address whether any Covered Contract is consistent with the CEA or CFTC Regulations, including event contract listing standards. It does not state any legal conclusion regarding the legality of any Covered Contract. The Letter is a staff-level position only and does not bind the Commission. The Divisions retain the authority to condition, modify, suspend, or terminate the no-action position at any time.¹¹

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NOTES

- ¹ Press Release No. 9131-26, CFTC Divisions of Market Oversight and Clearing and Risk Issue Uniform No-Action Position for Event Contract

Swap Reporting (May 13, 2026), available at www.cftc.gov/PressRoom/PressReleases/9131-26?utm_source=govdelivery.

² For purposes of the Letter, the Divisions use the term “event contracts” to refer to fully collateralized binary options and similar variable payout contracts based on the occurrence or non-occurrence of the events that are the subjects of the contracts.

³ See, e.g., *In re Blockratize, Inc. d/b/a Polymarket*, com, CFTC Dkt. No. 22-09, at 2 (Jan. 3, 2022) (finding that certain event contracts composed of binary options constitute swaps).

⁴ See Letter at 2 n.6 (listing all 18 prior no-action letters).

⁵ Under CFTC regulation 39.2, a “fully collateralized position” is a contract cleared by a DCO that requires the DCO to hold, at all times, funds in the form of the required payment sufficient to cover the maximum possible loss that a party or counterparty could incur upon liquidation or expiration of the contract.

⁶ The Letter’s Background section identifies Sections 2(a)(13)(G) and 2(a)(13)(D) of the CEA as the statutory provisions underlying the obligations from which relief is provided. See Letter at 3; 7 U.S.C. §§ 2(a)(13)(G), 2(a)(13)(D). Part 43 implements § 2(a)(13)’s real-time public reporting requirements; Part 45 fulfills the mandate of § 2(a)(13)(G) that each swap be reported to an SDR, and was promulgated pursuant to CEA § 4r.

⁷ Regulation 16.02 requires reporting markets to provide daily “trade and supporting data reports” to the Commission consisting of “transaction-level trade data and related order information for each futures or options contract.” 17 C.F.R. § 16.02.

⁸ As listed in the Appendix of the Letter: Aristotle Exchange DCM, Inc., Aristotle Exchange DCO, Inc., Bitnomial Clearinghouse, LLC, Bitnomial Exchange, LLC, Chicago Mercantile Exchange Inc., C.X. Clearinghouse, L.P., formerly Cantor Clearinghouse, L.P., Electron Exchange DCM, LLC, Electron Exchange DCO, LLC, FMX Futures Exchange, L.P., formerly Cantor Futures Exchange, L.P., ForecastEx LLC, Gemini Olympus, LLC, Gemini Titan, LLC, KalshiEX LLC, Kalshi Klear LLC, North American Derivatives Exchange, Inc. d/b/a Crypto.com Derivatives North America, QC Clearing LLC d/b/a Polymarket Clearing, QCX LLC d/b/a Polymarket US, Railbird Exchange, LLC, Rothera Exchange and Clearing, LLC, formerly LedgerX LLC.

⁹ The Letter defines “promptly” by reference to the “as soon as technologically practicable” standard set forth in 17 C.F.R. § 43.2(a), which provides that “as soon as technologically practicable” means “as soon as possible, taking into consideration the prevalence, implementation, and use of technology by comparable market participants.”

¹⁰ See CFTC Chairman Michael Selig Unveils the Agency’s Comprehensive Regulatory Agenda at FIA Conference (Mar. 2026), available at www.willkie.com/-/media/files/publications/2026/03/cftc-chairman-michael-selig-unveils-the-agencys-comprehensive-regulatory-agenda-at-fia-conference.pdf; and SEC and CFTC Chairmen Pledge to Harmonize U.S. Crypto Regulation (Feb. 2026), available at www.willkie.com/-/media/files/publications/2026/02/sec-and-cftc-chairmen-pledge-to-harmonize-us-crypto-regulation.pdf.

¹¹ See 17 C.F.R. § 140.99(a)(2) (“A no-action letter binds only the issuing Division ... and not the Commission or other Commission staff.”).

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