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May 21, 2025

VIA ELECTRONIC SUBMISSION

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

Re: Request for Comments: Trading and Clearing of Derivatives on 24/7 Basis

Dear Mr. Kirkpatrick:

I. INTRODUCTION

On behalf of The Commercial Energy Working Group (the "**Working Group**"), Eversheds Sutherland (US) LLP submits this letter in response to the request for comments issued by the Commodity Futures Trading Commission (the "**CFTC**" or "**Commission**") on April 21, 2025 regarding trading and clearing of derivatives twenty-four (24) hours a day and seven (7) days a week.[1] The Working Group appreciates the opportunity to provide input and aid the Commission's efforts to identify and understand potential issues related to a designated contract market ("**DCM**") or swap execution facility ("**SEF**") that elects to provide trading services on a 24/7 basis.

The Working Group is a diverse group of commercial firms in the energy industry whose primary business activity is the physical delivery of one or more energy commodities to others, including industrial, commercial, and residential consumers. Members of the Working Group are producers, processors, merchandisers, and owners of energy commodities. Among the members of the Working Group are some of the largest users of energy derivatives in the United States and globally. The Working Group advocates for regulatory, legislative, and market developments with respect to the trading of energy commodities, including derivatives and other contracts that reference energy commodities.

II. COMMENTS OF THE WORKING GROUP

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1 *See Request for Comment on Trading and Clearing on 24/7 Basis*. CFTC Press Release Number 9068-25 (Apr. 21, 2025)("**RFC**"), found at: https://www.cftc.gov/PressRoom/PressReleases/9068-25.

The Working Group welcomes policy questions raised by the Commission that seek to facilitate innovation with respect to the design and operation of derivatives markets. As commercial hedgers in the energy sector, the Working Group's primary interest gravitates towards innovations that allow for more effective price discovery and efficient hedging of exposures to price risk in underlying physical markets. The Working Group, however, fully recognizes the significant growth of new asset classes, most notably cryptocurrency and other digital assets (collectively, "**Digital Assets**"), and fully supports efforts by the Commission to ensure that markets for the trading and clearing of Digital Assets are appropriately designed and fit for their intended purpose.

For the reasons discussed herein, the Working Group recommends that the Commission avoid the adoption of a "one-size-fits-all" market design that would superimpose a 24/7 trading and clearing structure onto traditional futures markets for energy and other commodities. Specifically, a 24/7 trading and clearing structure would result in the creation of new and unnecessary risks, as well as the imposition of additional costs and burdens, on commercial participants transacting in traditional energy and commodity futures markets.

In this context, the Working Group adopts and incorporates by reference comments submitted in response to the RFC by the Commodity Markets Council ("**CMC**").[2] As noted by CMC, although the implementation of a 24/7 trading and clearing structure may be appropriate for certain spot Digital Assets,[3] the extension of this paradigm, however, to traditional futures markets for energy and other commodities could adversely impact:

- market liquidity;
- market integrity;
- customer protection; and
- operational resilience.[4]

Liquidity, integrity, customer protection, and resilience are core elements of well-functioning derivatives markets. Over the past several years, certain events have injected substantial volatility and uncertainty into domestic and international markets for energy and other commodities. The ability of commercial participants to utilize traditional futures markets during these unsettling events to manage unforeseen, dynamic shifts in exposure to price risk and obtain the protections of centralized clearing has been critical to mitigating significant economic disruption for a large number of Americans at the corporate and consumer levels.

Consistent with the CMC Comments, the Working Group is concerned that the movement to a 24/7 market structure in traditional energy and commodity futures markets would:

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2 *See* Commodity Markets Council, Request for Comment on 24/7 Trading and Clearing in CFTC-Regulated Markets (May 21, 2025)("**CMC Comments**").

3 CMC Comments at 2.

4 *Id.*

- Exacerbate already thin liquidity conditions that exist during off-hours trading by extending trading hours to weekends and holidays which would harm fair and orderly price formation, increase susceptibility to manipulation or other disruptive trading practices, and leave commercial hedgers unnecessarily exposed to periods of enhanced price risk.

- Require commercial hedgers to incur potentially substantial and unnecessary additional costs to ensure that their trading functions are appropriately staffed from compliance, risk and IT perspectives, and meet any requirements associated with the pre-funding of margin.

- Negatively impact market participants' day-to-day operating cash flows and potentially reduce market participation as a result of any requirements to pre-fund margin during off-hour periods where access to funds from banks and other financial institutions is not available.

- Force a market participant to realize unintended gains or losses associated with the potential auto-liquidation of positions for a counterparty's (or their own) failure to meet margin requirements during off-hour periods where access to funds from banks and other financial institutions is not available.[5]

The Working Group does not take a position on whether the use of a 24/7 trading and clearing structure is appropriate as a matter of market design and public policy for futures markets offering Digital Assets. Rather, as the Commission reviews responses submitted to the RFC, it should do so with the clear recognition that energy and commodity markets have fundamental structural and operational differences from decentralized markets in Digital Assets. Accordingly, the Working Group respectfully submits that a 24/7 trading and clearing futures paradigm is not appropriately suited to, and should not be imposed on, traditional futures markets for energy or other commodities.

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[5] *See* CMC Comments 3-5.

III. CONCLUSION

The Working Group appreciates this opportunity to comment in this proceeding and looks forward to working with the Commission as it considers new policy initiatives or regulatory proposals with respect to the design of commodity derivative markets. The Working Group reserves the right to further supplement its comments filed herein.

If you have any questions, please contact the undersigned.

Respectfully submitted,
/s/ R. Michael Sweeney, Jr.

R. Michael Sweeney, Jr.
Aleeza Kanner
John Coffron

Counsel to
The Commercial Energy Working Group