May 21, 2025

Mr. Christopher J. Kirkpatrick, Secretary
Commodity Futures Trading Commission
Three Lafayette Center
1151 21 Street NW
Washington, DC 20581

Re: Request for Comment on 24/7 Trading

Dear Mr. Kirkpatrick:

The North American Derivatives Exchange, Inc. d/b/a Crypto.com | Derivatives North America ("CDNA") appreciates the opportunity to respond to the Commodity Futures Trading Commission ("CFTC" or the "Commission") Staff's Request for Comment on Trading and Clearing Derivatives on a 24/7 Basis.[1]

CDNA is a CFTC-registered designated contract market ("DCM") and derivatives clearing organization ("DCO"). CDNA currently lists fully collateralized products based on digital assets, and event outcomes, as well as traditional assets, such as foreign exchange rates, equity indices, and commodities. CDNA's comments below relate solely to its status as a registered DCM and DCO, and therefore we do not address the regulations applicable to swap execution facilities.

Crypto.com was founded in 2016 on a simple belief: it is a basic human right for everyone to control their money, data and identity. With over 140 million users on its platform today, Crypto.com provides a powerful alternative to traditional financial services, turning its vision of "cryptocurrency in every wallet" into reality, one customer at a time.

Below, we provide CDNA's responses to the Request for Comment, including the following key points:

- The existing DCM and DCO Core Principles and CFTC regulations already account for the risks associated with 24/7 trading.
- The CFTC should ensure that U.S. derivatives markets are competitive globally, and facilitate the trading and clearing of derivatives on a 24/7 basis.
- U.S. derivatives markets have already begun shifting to 24/7 trading and clearing, and substantial precedent exists for operating outside traditional business hours.

[1] CFTC Staff Seek Public Comment on 24/7 Trading, https://www.cftc.gov/PressRoom/PressReleases/9068-25 (last visited May 19, 2025).

- Auto-liquidation, properly calibrated, is a well-established and prudent risk mitigation tool and may have more benefits in a 24/7 trading and clearing environment.
- Digital assets as eligible collateral are critical to the success of 24/7 trading and clearing of margined derivatives products.

We appreciate the Commission's thoughtful approach to fostering growth by appropriately tailoring its regulation in the derivatives markets, including providing meaningful opportunities for industry participants to engage with the CFTC. Our full response to the Request for Comment follows.

I. <u>The Existing DCM and DCO Core Principles are Sufficient to Address the Risks Associated with 24/7 Trading</u>

The existing regulatory framework for DCMs, DCOs and derivatives trading is sufficient to address the risks associated with perpetual derivatives. As set forth in the Commodity Exchange Act, "[u]nless otherwise determined by the Commission by rule or regulation… boards of trade shall have reasonable discretion in establishing the manner in which they comply with the core principles."[2] This principles-based approach has been an effective means of overseeing DCMs and DCOs, while also allowing for U.S. derivatives markets to flourish and keep pace with rapidly changing technology and market needs.

The Core Principle frameworks that govern DCMs and DCOs are agnostic as to when assets are traded. For example, DCM Core Principle 4 (Prevention of Market Disruption) requires that a DCM have "methods for conducting real-time monitoring of trading; and comprehensive and accurate trade reconstructions." As it relates to 24/7 trading, this would logically mean that a DCM would need to have real-time monitoring and trade reconstruction practices active at all times, along with the technological capability and staffing resources to do so.

Likewise, DCO Core Principle D (Risk Management) requires that a DCO measure and monitor its credit exposure and monitor the adequacy of its initial margin requirements on a daily basis. For a DCO that offers clearing on a 24/7 basis, this would mean that any such measuring and monitoring would need to occur on both weekends and weekdays, which may also include technological upgrades and increased staffing as compared to clearing during business hours only.

Another example is DCM Core Principle 20 (System Safeguards), which requires that DCMs "establish and maintain a program of risk analysis and oversight … through the development of appropriate controls and procedures … that are realizable, secure and have adequate scalable capacity." As it relates to 24/7 trading of derivatives, a DCM would be required to determine what constitutes "appropriate" controls and procedures, with the scalability accounting for a shift to expanded trading hours. Presumably, a DCM's system safeguards policies and

[2] Designated Contract Market Core Principle 1, 7 U.S.C. § 7(d)(1)(B).

procedures would need to be updated and enhanced in order to account for trading activity around the clock, with scheduled downtime for upgrades and advance notices to market participants.

Multiple DCM and DCO Core Principles also require these registered entities to maintain adequate staffing based on the specific needs of the organization related to their compliance program, enforcement processes and the size and complexity of their operations. Presumably, as it relates to 24/7 trading, this would mean that the DCM or DCO would need to evaluate its staffing needs in each of these areas, and do additional hiring (potentially across various time zones, as an efficient means of handling staffing needs during non-traditional business hours in the U.S.).

These Core Principles (and others) create compliance obligations for DCMs and DCOs, but allow for flexibility in how DCMs and DCOs tailor their compliance programs in order to meet their regulatory requirements. As a result, when it comes to 24/7 trading and clearing of derivatives, there is no need for the CFTC to add new compliance obligations for DCMs and DCOs. The framework for a robust compliance program that includes adequate real-time monitoring, margining, staffing, financial resources, default procedures and more already exists.

That said, certain clarifications from the Commission and temporary no-action relief may be useful in order to facilitate the expansion of 24/7 trading and clearing across U.S. derivatives markets. For example, there are a number of references to time sensitive requirements for DCOs and DCMs that only account for "business days" and traditional business hours. Derivatives markets would benefit from clarity from the Commission on this, including no-action relief, as appropriate. Where there is a reference to a specific time frame that only accounts for traditional business hours, the Commission should assure DCMs and DCOs that a good faith effort to comply with these requirements, as modified to account for 24/7 trading and clearing, will not result in an enforcement action.

One example of a compliance obligation that may benefit from clarity is DCO Core Principle I (System Safeguards), which requires a DCO to have in its business continuity-disaster recovery ("BCDR") plan "a recovery time objective of no later than the next business day following a disruption [of its operations]." Similarly, DCM Core Principle 20 requires that a "[DCM's] business continuity-disaster recovery plan and resources generally should enable resumption of trading and clearing of the [DCM's] products during the next business day following the disruption [of its operations]." Here, the definition of "business day" will be particularly relevant to DCMs and DCOs attempting to comply with these rules.

Realistically, even without any changes to the DCM or DCO Core Principles or CFTC regulations, DCMs and DCOs will need to update their rules, policies and procedures in order to account for a shift to 24/7 trading and clearing of derivatives. The BCDR plan referenced above will need to have contingencies for an emergency outside of traditional business hours, when the DCM (and its third party service providers) may have the least amount of resources at its disposal. A DCM will also need to include a process in its policies and procedures for pushing patches and technology updates while minimizing downtime and notifying market participants appropriately. DCMs are capable of evaluating their markets and software update procedures to determine the correct procedures to minimize trading disruptions and remain in compliance with their CFTC regulatory obligations.

Collectively, these DCM and DCO Core Principles (and other CFTC rules, guidance and acceptable principles) provide appropriate guidance to, and require sufficient rigor from, DCMs and DCOs to enhance their rules, compliance policies and procedures, and staffing and operational resources in order to account for the risks associated with any expansion of trading and clearing hours.

II. Derivatives Markets Are Already Shifting to 24/7 Trading and Precedent Exists for Operating Outside "Traditional Business Hours"

Derivatives markets have been operating outside of "traditional business hours" for decades. Today, global trade entry and matching systems enable the operation of markets around the clock—allowing global traders to trade whenever "traditional business hours" are anywhere in the world. Many DCMs today trade on a 23/5 schedule, opening on Sunday evening and closing on Friday evening. CDNA offers the trading of certain "tradfi" products on a 23/5 basis and certain cryptocurrency contracts and event contracts on a 24/7 basis (with weekly maintenance windows).

Market participants have adapted to extended hours. Firms have hired additional personnel, or rely on personnel employed by affiliates around the world, to "pass the book" and maintain operations during hours that are not traditional business hours for U.S. markets. They have also created on-call schedules for weekends to ensure markets are properly surveilled during non-traditional business hours.

Importantly, where CDNA operates its DCM and DCO on a 24/7 basis, it has not found that its nearly-around-the-clock activity has increased the likelihood of an unscheduled disruption to its markets. However, CDNA has rules and procedures in place allowing for trading stoppages (under emergency circumstances contemplated in DCM Core Principles 4 and 6) and unscheduled maintenance to account for rare scenarios in which a technology or other issue arises and needs to be fixed. DCMs and DCOs (and their non-U.S. counterparts) in many cases have already implemented customized rules for when issues arise outside of traditional business hours, including off-hours emergencies and decision-making trees.

III. Markets Are Demanding 24/7 Trading and U.S. Derivatives Markets Need to Meet this Demand in Order to be Competitive Globally

The Commission should facilitate 24/7 trading and clearing of derivatives products to ensure that U.S. derivatives markets are competitive globally. In recent years, regulation by enforcement and regulatory uncertainty plagued U.S. derivatives markets and pushed some of the most innovative derivatives products and platforms outside the United States. In order for U.S. derivatives markets to flourish, and for innovation and investment to flow back into the United States, regulatory certainty is crucial.

The Commission should support non-traditional corporate structures to benefit innovation and growth associated with 24/7 trading. For example, an affiliate of a DCM or futures commission merchant ("FCM") should be able to support or guarantee margin payments on behalf of customers during non-banking hours without raising fears of unfair competition. Even today, commercial banks support their FCM affiliates. This type of arrangement is not unique to 24/7 trading, but facilitates off-hours margin payments that are necessitated by 24/7 trading. Any risks associated with affiliated entities partnering with one another can be addressed by robust conflicts of interest policies and procedures that comply with the DCM and DCO Core Principles and other applicable regulations.

In order for the United States to be competitive in global derivatives markets, CDNA does not believe the Commission should create any new compliance obligations related to 24/7 trading. However, CDNA does believe it would be beneficial for the Divisions of Market Oversight, Clearing and Risk and Market Participants to issue a Staff Advisory clarifying their position on 24/7 trading and clearing of derivatives, including that it is acceptable for DCMs and DCOs to offer 24/7 trading and clearing, so long as they can demonstrate compliance with the applicable Core Principles and CFTC regulations. This certainty would greatly benefit U.S. derivatives markets and encourage trading, investment and innovation within the United States.

IV. Auto-Liquidation is Appropriate and Does Not Necessarily Come with Greater Risks in a 24/7 Trading and Clearing Environment

As it relates to auto-liquidation, there are substantial benefits in a 24/7 trading and clearing environment. For example, if a customer account is under-margined over a weekend, auto-liquidation would likely occur in a more measured fashion than it would during traditional business hours, with a smaller effect on markets as compared to a build-up and mass liquidation of positions on a Sunday night or Monday morning when trading reopens. Combined with position limits, 24/7 auto-liquidation may actually be less disruptive and offer benefits to market participants who would otherwise be much more impacted.

Further, where margin calls are not automated (meaning that a market participant or its agent needs to act in order to increase margin in an account following a margin call by their FCM or DCO), there is a greater risk of auto-liquidation in both 24/7 and traditional business hours trading and clearing environments. This is to say that if an account is under-margined on a weekday at a time when banks are open for business, there is a risk that the account owner will not be available to meet a margin call, and that risk of unavailability may be no different than on a weekend or holiday.

Here, it is appropriate for FCMs and DCOs to provide notice to market participants about their margin call and auto-liquidation processes. Auto-liquidation is acceptable and a prudent risk mitigant in a 24/7 trading and clearing environment, with potentially more benefits as compared to auto-liquidation that occurs only during traditional business hours. Although auto-liquidation has been criticized by some in recent years, it is in fact a conventional method for risk mitigation that has been widely and routinely used across the financial trading industry, including in both derivatives and securities markets. When properly calibrated, it simultaneously protects traders, intermediaries, and DCOs.

V. Optimal 24/7 Trading Necessitates Digital Asset Collateral

One mitigatable risk that has been identified as it relates to 24/7 trading and clearing of margined derivatives is the settlement risk that occurs during non-business hours. At present, U.S. derivatives markets and their participants have two suboptimal options to meet their margin obligations during non-business hours when traditional collateral cannot be transferred; they can either (i) pre-fund and over-margin FCM accounts in order to meet increased margin requirements during off hours or (ii) risk a higher probability of auto-liquidation during this time period. Pre-funding and over-margining have the benefit of mitigating settlement risk, but the margin amount may be either over- or under-estimated based on the margin model that is used and actual market conditions. Over-estimation will lock up capital unnecessarily, while under-estimation could result in liquidation of positions. Neither approach reflects how financial infrastructure is meant to operate. Auto-liquidating underfunded accounts at an increased rate over the weekend or relying on over-margined positions are both workarounds, not long-term solutions. Each introduces added costs or leads to the inefficient allocation of risk. An infrastructure--based approach built on digital assets would allow collateral to move continuously, enabling real 24/7 trading without these compromises.

A critical step toward achieving 24/7 trading of margined products is allowing for digital assets to serve as eligible collateral. Digital assets facilitate the transfer of assets in real-time using blockchain infrastructure. By obviating the need for financial intermediaries to be open for business, relying on these blockchain-based solutions would also eliminate the need for over-margining, because the collateral could settle with finality instantaneously. 24/7 trading and clearing would operate seamlessly, without friction and with less risk if the Commission proactively recognizes digital assets as eligible collateral.

VI. Conclusion

CDNA is supportive of well-crafted, effective regulation of derivatives markets, and supports the CFTC's goal to ensure that 24/7 trading and clearing of derivatives products on registered exchanges and clearinghouses does not create undue risk. The DCM and DCO Core Principles and Commission regulations as they exist are sufficient to address the risks associated with

24/7 trading and clearing, and the Commission should support this shift in U.S. derivatives markets in order to better serve the needs of its market participants.

We welcome the opportunity to discuss our comments in further detail.

Sincerely,

Steve Humenik

SVP, Global Head of Capital Markets – Legal & Head of Clearing