Submitted Electronically

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Re: Request for Comment on Trading and Clearing Derivatives on a 24/7 Basis [Release Number 9068-25]

Dear Mr. Haynes, Mr. Varma, and Mr. Smith:

The International Swaps and Derivatives Association, Inc. (**"ISDA"**) the Securities Industry and Financial Markets Association (**"SIFMA"**), and the SIFMA Asset Management Group (**"SIFMA AMG"**) (collectively, the **"Associations"**)[1] appreciate the opportunity to submit these comments in response to the U.S. Commodity Futures Trading Commission's (**"CFTC or Commission"**) request for comment on trading and clearing derivatives on a 24/7 basis (the **"RFC"**).[2]

[1] A description of the Associations is available in the Appendix.
[2] Available at: https://www.cftc.gov/PressRoom/PressReleases/9068-25.

While certain market participants have recently started offering 24/7 trading and clearing,[3] and technological advancements may drive the market further in this direction, continuous trading and clearing present novel and complex issues that require careful consideration.

As a preliminary matter, we note that it is important to distinguish between 24/7 trading and 24/7 clearing. While interconnected, each has distinct implications for market infrastructure, operations and risk management. Below, we identify and explain these implications in more detail, discussing trading and clearing in turn.

In general, however, the feasibility of both 24/7 trading and clearing needs to be evaluated holistically with an understanding of the interdependencies between market participants, trading venues, middleware and software providers, clearing systems, margining frameworks, payments systems, default mechanisms and adjacent markets. It is critical for the Commission and market participants to collectively discuss and consider the full range of potential impacts, including liquidity, price transparency, collateral access and default management during non-traditional business hours; operational and technological considerations; and the costs associated with expanding trading hours to 24/7.[4] We welcome further engagement between the Commission and market participants to examine these issues more closely.[5]

24/7 Trading

The decision to move towards 24/7 trading is a commercial decision for trading platforms and market participants; however, that decision cannot occur in a vacuum. In order to offer 24/7 trading, even for a limited set of asset classes, critical market infrastructure would need to be in place 24/7 to support such trading, including middleware and other third-party service providers that are essential in facilitating matching, trade affirmations, credit checks, reporting and other key aspects of the trading lifecycle. These service providers would also need to maintain full-time technical and trading support.

In addition to trading platforms and service providers, certain market participants, such as asset managers, executing brokers, swap dealers and futures commission merchants (**"FCMs"**), would likely also need to operate on a 24/7 basis and restructure their business and staffing models both from a front office perspective (e.g., executing trades, responding to requests for quotes, handling pre-trade credit check requests) and back office perspective (e.g., settling trades, moving collateral). Other personnel such as those responsible for risk, credit, compliance and legal could also be required to be available to address any trade errors, correction trades, or any

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[3] *See* https://www.nodalclear.com/nodal-clear-announces-clearing-support-for-24x7-trading-on-coinbase-derivatives-exchange/; https://www.nasdaq.com/articles/coinbase-launches-24-7-bitcoin-futures-trading-us. SIFMA has also considered these issues in the context of securities markets and provided comments to the SEC, which may aid the CFTC in its consideration of 24/7 trading for derivatives markets. *See* SIFMA Letter to SEC June 2024; SIFMA Letter to SEC October 2024; SIFMA Letter to SEC December 2024.
[4] We would also note that some of these impacts will affect firms even if they opt not to expand their trading hours as resources will still be needed to meet requirements such as margin.
[5] This discussion could include whether and how emerging technologies such as blockchain may mitigate some of these concerns for certain asset classes.

other issues. Building and maintaining this additional infrastructure will significantly increase the cost of trading. Market participants and infrastructure providers need to further evaluate whether these additional costs are justified and should be mindful of the impacts on end-users that do not have an interest in trading outside of normal business hours.

While we believe that the current regulatory framework applicable to Designated Contract Markets (**"DCMs"**) and Swaps Execution Facilities (**"SEFs"**) could generally apply to an extended trading environment, the manner in which DCMs and SEFs comply with the Commission's rules will certainly change. DCMs and SEFs will likely need to restructure staffing models, trading protocols, and surveillance and compliance mechanisms to ensure adequate compliance coverage 24/7. The Commission would also need to clarify the definition of a "business day" in the context of 24/7 trading. This definition has a widespread impact on interpretations of contractual and regulatory obligations, including DCM and SEF obligations related to market data and the publication of trading information.[6]

Another key consideration is that, in a 24/7 trading environment, there would be a lack of downtime for platform maintenance and upgrades. As the Commission points out, uninterrupted trading could heighten the risk of unplanned outages, complicate patch management, and require live change deployments and rollback mechanisms. Market participants would therefore need to take additional steps to avoid these risks and ensure the reliability and integrity of their trading systems.

Critically, with respect to market impacts, continuous trading may result in low volume periods, especially during weekends. The current concentration of derivatives trading activity within specified hours has historically supported efficient price discovery and market liquidity. Extending access outside of regular business hours and over the weekend—when fewer market participants are likely available—could result in diminished liquidity, leading to wider spreads, increased volatility, and reduced price transparency. From a best execution or fiduciary perspective, there may be very little incentive to trading outside of traditional business hours given the likelihood of diminished liquidity and wider bid/offer spreads. To mitigate these outcomes, the Associations believe that any extension of trading hours should be considered on a product-by-product and measured basis, taking into account pricing and liquidity concerns.[7]

Further, absent a coordinated regulatory approach to 24/7 derivatives trading that ensures access to other related markets, such as the security-based swaps market, repo markets, or underlying

[6] For example, in the context of Core Principle 8, how should DCMs now define "daily" (or trading day) which is generally defined as "business day"? Should it be redefined from the execution point of view? In addition, should "weekend trading" be treated as an extension of the bank holiday methodology or should exchanges be prepared to publish weekend trading information each day? These questions require careful consideration and would benefit from public roundtable discussion, including market participants and other stakeholders.

[7] In this regard, we believe the Commission's existing product and rule self-certification processes may be inappropriate in this context given the complex market structure issues associated with 24/7 trading. This novel concept requires input and consideration by all market participants, and thus, at a minimum, any product listed for 24/7 trading should automatically be subject to an additional 90-day stay for review and public comment. *See* 17 CFR Part 40.

markets, it would be extremely challenging to trade and value certain derivatives products such as package transactions or conduct portfolio margining across swaps and security-based swaps.

24/7 Clearing

If the market determines that 24/7 trading is commercially desirable, infrastructure for 24/7 clearing would be necessary for the relevant products. An essential prerequisite to effective 24/7 clearing is the ability for market participants to transfer cash and collateral continuously throughout the clearing period, and for clearinghouses to be able to manage real-time margining and collateral continuously.[8] However, current banking and payment infrastructures do not operate on a 24/7 basis, significantly limiting the ability to move collateral promptly during non-business hours. Moreover, while FCMs currently post margin multiple times intraday, asset managers and other end-users are generally only called once in a traditional business day. Any shift from this could pose significant costs and implementation challenges, especially given the inability to access banking and payment systems outside of business hours.

Market participants will also need to be able to convert non-cash collateral to cash during extended trading hours and over the weekend. Thus, similar to 24/7 trading, in order for 24/7 clearing to work for derivatives markets, repo and other markets will also need to be accessible.

In addition, currently some clients rely on "give up" models that give them certainty regarding acceptance by their FCM of certain trades for clearing. However, the feasibility of risk controls that are critical to these models (e.g., position limits, activity thresholds) must be considered outside of traditional business hours. Changes or alternatives to these controls may ultimately be required.[9]

These challenges aside, 24/7 clearing may also pose risk management concerns. As noted above, markets can become highly volatile during periods of low volume. This volatility, combined with limited asset mobility, could result in increased defaults where clearing members or their clients lack sufficient margin to cover their positions. In the event of a default during periods of thin market liquidity, either the FCM (in the case of client default) or the Derivatives Clearing Organization (**"DCO"**) (in the case of FCM default) would likely be faced with limited ability to close out positions or hedge associated risks. Default management processes require either a market that is liquid and accessible to trade and close out positions, or coordination across various stakeholders, such as auction participants, which may not be available overnight or during a given weekend.

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[8] At a minimum, it would require increased resources to support margin transfers, and increased wires and settlement charges for end-users.

[9] Similar to our concerns noted above in the context of trading, given the complex and novel risk and market infrastructure issues associated with 24/7 clearing, the certification of DCO rulebook changes pursuant to Rule 40.6 may also be an inappropriate process to facilitate clearing on a 24/7 basis. *See* supra note 7.

While auto-liquidation may be a useful risk management tool in certain cases,[10] it is not an appropriate solution for derivatives markets. In the case of an FCM default, auto-liquidation would most likely lead to a rushed auction, potentially generating losses that could tap into mutualized resources. If the DCO has to use mutualized resources to cover the default, this would expose all members to the risks of 24/7 trading, even if they themselves do not participate in it. Additionally, end users in these markets value the dependability that central clearing provides and do not want to lose their carefully assembled positions due to an operational issue or the inability to make margin calls over a weekend. To avoid these issues in the derivatives markets, DCOs and FCMs already generally have the ability to increase margin requirements or apply risk add-ons due to market volatility, concentration risks or outsized positions; liquidation should only be used when the customer does not meet these heightened requirements.

A default without a true cure period could quickly lead to a close-out that may override limited recourse and other lock-up provisions and potentially trigger cross-defaults to other trading agreements. Auto-liquidation in the context of derivatives would therefore not improve financial stability outcomes, nor mitigate any of the aforementioned risk management considerations related to 24/7 clearing.

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[10] Auto-liquidation can be a prudent risk mitigation strategy for FCMs and DCOs, provided they have sufficient capacity to manage or close out the risk acquired through the auto-liquidation. It is preferable in a situation where the FCM or DCO takes on the risk of an under-margined client or FCM in the case of a DCO.

We appreciate the opportunity to submit our comments in response to the RFC. Our members are strongly committed to maintaining the safety and efficiency of the U.S. derivatives markets and hope that the Commission will consider our comments, as they reflect the extensive knowledge and experience of trading and clearing professionals within our memberships.

Please feel free to contact us, or Nicolette Cone, Associate General Counsel, (ncone@isda.org), should you have any questions or seek any further clarifications.

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Appendix: Information Regarding the Associations

Since 1985, ISDA has worked to make the global derivatives markets safer and more efficient. Today, ISDA has over 1,000 member institutions from 76 countries. These members comprise a broad range of derivatives market participants, including corporations, investment managers, government and supranational entities, insurance companies, energy and commodities firms, and international and regional banks. In addition to market participants, members also include key components of the derivatives market infrastructure, such as exchanges, intermediaries, clearing houses and repositories, as well as law firms, accounting firms and other service providers. Information about ISDA and its activities is available on the Association's website: www.isda.org.

SIFMA is the leading trade association for broker-dealers, investment banks and asset managers operating in the U.S. and global capital markets. On behalf of our industry's one million employees, we advocate on legislation, regulation and business policy affecting retail and institutional investors, equity and fixed income markets and related products and services. We serve as an industry coordinating body to promote fair and orderly markets, informed regulatory compliance, and efficient market operations and resiliency. We also provide a forum for industry policy and professional development. SIFMA, with offices in New York and Washington, D.C., is the U.S. regional member of the Global Financial Markets Association (GFMA). For more information, visit http://www.sifma.org.

SIFMA's Asset Management Group (SIFMA AMG) brings the asset management community together to provide views on U.S. and global policy and to create industry best practices. SIFMA AMG's members represent U.S. and global asset management firms that manage more than 50% of global AUM. The clients of SIFMA AMG member firms include, among others, tens of millions of individual investors, registered investment companies, endowments, public and private pension funds, UCITS and private funds such as hedge funds and private equity funds. For more information, visit http://www.sifma.org/amg.