



7 U.S.C. §§ 6d(g) and 6k(1)
17 C.F.R. § 3.12(a)

Via Email

March 13, 2026

Thomas Smith
Acting Director
Market Participants Division
Commodity Futures Trading Commission
Three Lafayette Center
1155 21st Street, N.W.
Washington, DC 20581

Re: Request for No-Action Position Concerning Exemption from Registration
as Introducing Broker under the Commodity Exchange Act

Dear Mr. Smith:

On behalf of Phantom Technologies, Inc. (“Phantom”), we are writing to request that the Market Participants Division (the “Division”) of the Commodity Futures Trading Commission (the “Commission” or “CFTC”) issue a no-action letter pursuant to 17 C.F.R. § 140.99 confirming that the Division will not recommend that the CFTC commence an enforcement action against Phantom or any of its relevant personnel for not registering as an introducing broker (“IB”) under Section 4d(g) of the Commodity Exchange Act (“CEA”) or its relevant personnel for not registering as associated persons (“APs”) under Section 4k(1) of the CEA and 17 C.F.R. § 3.12(a) if Phantom or any of its relevant personnel engage in the activities set out below in Part II (the “Proposed Activities”), subject to the conditions described in Part V of this letter.

I. Background on Phantom

Phantom is a San Francisco-based software company that develops and distributes self-custodial digital asset wallet software applications for use on several major blockchains, including Bitcoin, Ethereum, and Solana. Phantom does not provide custody services for digital assets. Rather, akin to a password manager, Phantom’s software enables users to generate and manage cryptographic credentials for viewing, storing, and conducting self-directed digital asset transactions. It also provides a user interface for customers to

FOIA CONFIDENTIAL TREATMENT REQUESTED BY PHANTOM

transmit transaction instructions to cryptocurrency trading protocols and other decentralized applications.

II. Proposed Activities

Phantom is proposing to expand its self-custodial wallet offering for digital assets to enable its users' trading in CFTC-regulated derivatives. Specifically, Phantom proposes to act as a technology service provider to designated contract markets ("DCMs"), registered futures commission merchants ("FCMs"), or IBs (collectively, "Registrants") so that a participant of the DCM or customer of the FCM or IB (either, a "User"), respectively, can access trading in CFTC-regulated derivatives on or through the Registrant via front-end interface software developed, provided, and maintained by Phantom. Phantom proposes to engage in the following activities:

- Phantom will develop and distribute front-end interface software for Users to review market data and aggregate position information, view information about product offerings, and submit orders for CFTC-regulated derivative products directly to Registrants, including event contracts, perpetual contracts, and other CFTC-regulated derivatives. Phantom's involvement in order submission will be limited to providing software on the User's mobile device or via a browser extension, which enables the User to transmit its orders directly to Registrants. Phantom will not have any affirmative involvement with any particular orders.
- Phantom will offer this access to CFTC-regulated derivative products by contracting with one or more Registrants, which may also agree to share a specified portion of their relevant revenues with Phantom in exchange for Phantom providing this software to the Registrant's Users. Phantom will also contract with Users (e.g., via its terms of use) to authorize them to use the software, and this agreement may provide for Phantom to charge a transaction-based fee directly to Users.
- Phantom (including relevant personnel)¹ will market its services and relationships with the relevant Registrants to promote these activities, including promoting the availability of particular derivatives contracts.
- Phantom (including relevant personnel) will introduce Users to—and solicit Users to engage with—specific Registrants, but Users will face no contractual or operational restriction from accessing those Registrants directly, without Phantom's involvement.
- Phantom will offer this proposed User interface either as a standalone product or as an embedded feature of its existing wallet software. In the latter case,

¹ Activity by relevant personnel would involve discussing and demonstrating Phantom's software offering at industry conferences and other events, as well as making promotional statements on social media, in each case subject to Phantom's pre-approval and supervision.

Phantom's software interface would clearly and conspicuously distinguish when a User is engaging in CFTC-regulated activity or not.

This initial proposal is limited to circumstances where a User is transacting on a DCM either directly as a member of the DCM or indirectly as a customer of an FCM or IB that is a member of the DCM. In these instances, the User would also maintain the funds or other property securing its derivatives positions in custody with the DCM's derivatives clearing organization ("DCO") and/or an FCM that is a member of such DCO. In that sense, this proposal envisions a "custodial" model of trading that is consistent with existing market structure for exchange-traded derivatives. If, in the future, the Commission takes steps to permit peer-to-peer trading of derivatives involving decentralized finance trading protocols, then we would propose that a similar no-action or interpretive position should apply with respect to Phantom's provision of front-end interface software to facilitate that trading. Regardless, Phantom's software would serve only to passively enable Users to transact in CFTC-regulated derivative products. At no point would Phantom hold, control, or take into custody User assets, generate express "buy" or "sell" signals, or exercise discretion with respect to the routing or execution of User orders.

III. Legal Authority

Section 1a(31) of the CEA defines an IB as any person (1) "who is engaged in soliciting or in accepting orders" for commodity interest transactions and (2) who does not accept any money, securities, or property to margin, guarantee, or secure such trades.² Regulation 1.3 restates the definition and clarifies that a person is not an IB if its role in soliciting or accepting orders is clerical in nature. Under Section 4d(g) of the CEA, it is unlawful for any person to act as an IB unless registered as such with the CFTC in accordance with the CEA and applicable regulations.³ Among other requirements, a registered IB is subject to CFTC net-capital and recordkeeping requirements and must join the National Futures Association ("NFA"), which imposes additional marketing and suitability standards and other sales and business-conduct requirements. Section 4k(1) of the CEA and 17 C.F.R. § 3.12(a) further require APs of an IB to register with the Commission, and such APs also must become members of NFA and satisfy proficiency requirements, among other obligations.

The Futures Trading Act of 1982 amended the CEA to specifically impose the IB registration requirement.⁴ This change was motivated by Congress's concern that persons other than DCMs and FCMs were soliciting customers on behalf of registered

² 7 U.S.C. § 1a(31); 17 C.F.R. § 1.3(mm) (excluding from the definition of an IB any solicitation or acceptance of orders "in a clerical capacity").

³ 7 U.S.C. § 6d(g).

⁴ The Futures Trading Act of 1982, Pub. L. No. 97-444, 96 Stat. 2294 (1983).

actors, and doing so by engaging in “sales abuses” and other predatory activities.⁵ Congress was also worried that DCMs and FCMs would “frequently disavow any responsibility for” these third parties’ violations,⁶ leaving harmed customers without any recourse. As such, Congress created the IB registration category to “resolve[] any existing uncertainty as to the status of [these] agents”⁷ by subjecting them to CFTC oversight and imposing restrictions on their marketing activities.

But not all persons who connect customers to DCMs and FCMs raise the issues that motivated Congress to create the IB registration requirement. Between 2006 and 2008, the Division’s predecessor issued several interpretive letters stating that certain Independent Software Vendors (“ISVs”) would not be deemed to be IBs and would not need to register as such, because they merely provided passive technical access to DCMs and FCMs and did not increase the risk of customer harm (collectively, the “ISV Letters”).⁸ The Division based its analysis of the ISVs on various representations from the ISVs, including that: (1) the ISV did not have a membership with or trading privileges on any DCM that uses the order routing software; (2) the software did not provide express “buy” or “sell” signals; (3) the ISV’s customers had pre-existing relationships with their FCMs and would negotiate any and all fees for executing trades between themselves and the FCM; (4) the ISV would not solicit orders for, nor recommend, propose, or encourage customers to use, any particular FCM; and (5) the ISV would be compensated by fees paid directly by the customer, which would not be related to the fees charged by the FCM for the placement of customer orders,⁹ or, if the ISV was compensated by the FCM, its fees would not be related to any fees charged by the FCM for the execution of orders.¹⁰

⁵ H.R. Rep. No. 97-565, Part 1, at 49 (1982); *see also* CFTC Letter No. 06-29, Comm. Fut. L. Rep. ¶30,399 (Oct. 24, 2006) (“Letter 06-29”) (describing this history). *See also* Proposed Rules Pertaining to Introducing Brokers and Associated Persons, Comm. Fut. L. Rep. ¶ 21,693 (Apr. 6, 1983) (“IB Registration Proposing Release”) and Rules Pertaining to Registration and Regulatory Requirements for Introducing Brokers, and Associated Persons of Introducing Brokers, Commodity Trading Advisors and Commodity Pool Operators, Comm. Fut. L. Rep. ¶ 21,792 (Aug. 3, 1983) (“IB Registration Adopting Release”).

⁶ H.R. Rep. No. 97-565, Part 1, at 49 (1982).

⁷ *Id.*

⁸ *See* Letter 06-29; CFTC Letter No. 08-07, Comm. Fut. L. Rep. ¶ 30,832 (Apr. 4, 2008) (“Letter 08-07”); CFTC Letter No. 08-12, Comm. Fut. L. Rep. ¶ 30,888 (July 10, 2008) (“Letter 08-12”). *See also* CFTC Letter No. 02-91, Comm. Fut. L. Rep. ¶ 29,133 (Jul. 30, 2002); CFTC Letter No. 04-15, Comm. Fut. L. Rep. ¶ 29,674 (Mar. 22, 2004); and CFTC Letter No. 04-34, Comm. Fut. L. Rep. ¶ 29,916 (Sept. 16, 2004) (taking similar positions).

⁹ *See* Letter 08-07 at p. 2.

¹⁰ *See* Letter 08-12 at p. 2.

IV. Need and Rationale for No-Action Position

As reflected in the ISV Letters, there is a substantial difference between software vendors, which provide passive technology services, and the sorts of sales agents traditionally regulated as IBs. The ISV Letters, however, included limitations on marketing and compensation that reflected the business models of the requesting firms, which generally focused on the foreign currency,¹¹ agricultural,¹² and financial industries.¹³ For the User base where Phantom focuses, which is active in the growing and highly competitive digital asset and prediction markets, these limitations would make it more costly for Users to access Phantom's software by preventing Phantom from entering into business arrangements with particular Registrants that subsidize the cost of the software. Requiring Phantom to register as an IB in order to enter into those arrangements would subject it to burdensome and frequently duplicative requirements that are not tailored to its business model. In contrast, the no-action position we are requesting would impose a tailored set of conditions designed to right-size the Commission's regulation of technology service providers.

A. Phantom's Business Model Is More Similar to an ISV Than an IB

Phantom's front-end interface software is very similar to the software addressed by the ISV Letters. For example, the ISV in Letter 06-29 enabled customers of an FCM to view trading data and submit orders for futures or options contracts through an order-routing system operated by the ISV on behalf of the FCM to the relevant DCMs' electronic trading facility.¹⁴ The ISV in Letter 08-12 facilitated trading in futures and options by allowing customers to gather and analyze market data and place orders for trades through the ISV's platform without having to open a separate application, which facilitated order-entry in a more efficient manner.¹⁵ Similarly, a User would use Phantom's software to view market data and directly submit orders to a Registrant without having to log onto a separate application made available by the Registrant.

Phantom would also satisfy most of the factors set out in the ISV Letters:

- Phantom would not have a membership with or trading privileges on any DCM that uses its software; instead, each User would either be a direct member of any such DCM or be a customer of an FCM or IB that is such a member.
- Phantom's software would not provide express "buy" or "sell" signals.

¹¹ See Letter 06-29 at p. 1.

¹² See Letter 08-07 at p. 1.

¹³ See Letter 08-12 at p. 1.

¹⁴ See Letter 06-29 at p. 3.

¹⁵ See Letter 08-12 at p. 2.

- Each User would establish a direct relationship with each Registrant and face no contractual or operational restriction from accessing a Registrant directly, without Phantom's involvement.
- Users would negotiate any and all fees for executing trades between themselves and any Registrant.
- Phantom would not exercise discretion with respect to the routing or execution of User orders, but rather would provide passive, clerical software enabling Users to transmit orders directly to Registrants.

The only distinctions between the activities covered by the ISV Letters and Phantom's Proposed Activities would be that Phantom (a) would recommend, propose, or encourage its Users to use particular Registrants and (b) might contract with those Registrants to share a specified portion of their relevant revenues with Phantom in exchange for Phantom providing this software to the Registrant's Users.

We respectfully submit that Phantom's business model is distinct from traditional IB activity. Despite the Commission's historically broad interpretation that the IB definition covers essentially any paid marketing on behalf of a Registrant,¹⁶ judicial precedent has more narrowly interpreted the definition to exclude "[a]dvertisers [who] were never involved in the making of an offer to enter into a commodity contract or assisting customers in carrying out such a transaction," noting that the "simple act of referral does not directly jeopardize the interests of the investing public."¹⁷ Phantom essentially combines this "customer finder" business, which does not trigger IB registration, with passive market data and order transmission software of the sort addressed by the ISV Letters, which likewise does not trigger IB registration. Unlike a traditional IB, Phantom will not recommend transactions or otherwise provide incidental trading advice, identify prospective counterparties, facilitate price discovery, exercise order routing, or other trading discretion, or negotiate or execute trades.¹⁸ Nor will Phantom engage in other intermediary functions, such as clearing, custody, or margin services.

¹⁶ See IB Registration Adopting Release ("[T]he Commission is of the opinion that the phrase 'soliciting or accepting orders,' as it is used in Section 2(a) of the Act, must be construed to encompass not just the literal solicitation or acceptance of customers' orders, but also the solicitation of customers or acceptance of their orders for referral to an FCM for the institution of a trading relationship and the execution of those orders. Similarly, the Commission believes that persons who are currently compensated on a per-trade basis or by a referral fee as described above would be deemed to be the 'agent' of a futures commission merchant for the purpose of the acceptance of these customer orders.").

¹⁷ *CFTC v. Mass Media Mktg.*, 297 F.3d 1321, 1325 (11th Cir. 2002) (citations omitted).

¹⁸ See, e.g., *In the Matter of Cost Management Solutions, LLC*, CFTC Docket No. 24-09 (Aug. 12, 2024) at p. 2 (describing IB activities as including "(1) identifying counterparties; (2) price discovery; (3) negotiating trades; (4) trade execution; and (5) various back-office support functions").

B. Regulating Phantom as an IB Would Be Unduly Burdensome

Imposing wholesale IB requirements on Phantom, a passive software service provider, would result in substantial operational burdens without advancing the Commission's customer-protection mandate:

- Because Phantom offers an automated interface without brokerage or sales staff, requirements relating to the qualifications and supervision of sales and trading personnel, as well as trading and execution standards, would be irrelevant.
- Capital and financial reporting obligations—which, for IBs, are intended to “guarantee accountability and responsible conduct”¹⁹ and provide “coverage for potential liabilities arising from business operations, customer relations and the handling of proprietary accounts”²⁰—would, in light of Phantom's business model, offer little additional benefit. In particular, Phantom would not handle proprietary accounts or have customer-facing personnel, and the nature of its self-service, passive software does not present misconduct risk.
- Prescriptive recordkeeping requirements relating to, among other items, telephone calls, e-mails, text messages, and other communications and order-handling would impose significant costs to implement, even though Phantom would not be involved in any trading-related customer interactions and would merely provide software enabling Users to transmit orders directly to Registrants without affirmative involvement by Phantom.
- Mandating Phantom to implement independent anti-money laundering and know-your-customer protocols would merely duplicate the safeguards administered by Registrants when onboarding Users as members or customers.
- Likewise, at best, obligating Phantom to issue Users a risk disclosure statement under 17 C.F.R. § 1.55 merely duplicates the Registrants' issuance of the same disclosure. At worst, this duplication risks confusing Users about Phantom's role vis-à-vis the relevant FCM or IB.

C. Targeted No-Action Conditions Would Address Relevant Policy Considerations

The key policy considerations presented by Phantom's Proposed Activities relate to their marketing activities, including introducing Users to specific Registrants and related compensation arrangements with those Registrants. These considerations can be addressed through targeted no-action conditions without subjecting Phantom to the

¹⁹ IB Registration Adopting Release.

²⁰ IB Registration Proposing Release.

broader IB regulatory framework, including the requirements described above. As laid out in Part V, we propose conditions addressing the following areas:

- *Prohibition on Statutory Disqualifications:* Restricting statutorily disqualified individuals from leading Phantom's business preserves a key element of the IB regime—that individuals who solicit derivatives business meet a basic standard of fitness for engaging with customers.
- *Conflicts of Interest Disclosures:* Providing adequate disclosures will inform Phantom Users about Phantom's relationship with Registrants and explain what incentives, if any, may shape Phantom's service.
- *Marketing Requirements:* Requiring Phantom to observe similar marketing practices as an IB would appropriately mitigate the risk of User confusion or harm.
- *Independent User Access to Registrants:* As was the case in the ISV Letters, Phantom Users would continue to maintain an independent relationship with their Registrant, which ensures that these registered actors continue to control the onboarding and account management process. Plus, the nature of Phantom's partnership with Registrants would not dilute the accountability of these registered actors.
- *Joint and Several Liability:* Phantom would require its partner Registrants to agree to be jointly and severally liable with Phantom for any violations of the CEA or Commission regulations by Phantom or any of its personnel when Phantom or its personnel engage in the Proposed Activities on behalf of those Registrants. This guardrail would ensure appropriate accountability for Registrants and provide Users with a financial backstop for any claims they may have.
- *Consent to CFTC Jurisdiction:* Requiring Phantom to consent to Commission investigation and enforcement jurisdiction would likewise ensure appropriate accountability for Phantom and provide the Commission with recourse against Phantom when appropriate.

Permitting Phantom to engage in the Proposed Activities, subject to these conditions, would safely expand the public's access to Registrants, thus channeling customer demand for CFTC-regulated derivative products into the appropriate venues instead of to offshore or unregistered venues.

V. Requested No-Action Position

For the foregoing reasons, we respectfully request that the Division issue a no-action letter pursuant to 17 C.F.R. § 140.99 confirming that it will not recommend that the Commission commence an enforcement action against Phantom or its relevant personnel

FOIA CONFIDENTIAL TREATMENT REQUESTED BY PHANTOM

for engaging in the Proposed Activities without registering as an IB under Section 4d(g) of the CEA or its relevant personnel for not registering as APs under Section 4k(1) of the CEA and 17 C.F.R. § 3.12(a), if Phantom and its relevant personnel act in accordance with the following conditions:

1. Phantom, its principals (as defined by Regulation 3.1), and any individuals involved in soliciting Users are not statutorily disqualified under sections 8a(2)-8a(4) of the CEA, absent a waiver by the Division. Phantom shall promptly notify the Division regarding the nature of the facts giving rise to such disqualification.
2. Phantom provides, and each User acknowledges, disclosures regarding Phantom's relationship with the relevant Registrants, and potential conflicts of interest (including fees).
3. Phantom provides, and each User acknowledges receipt of, a risk disclosure statement addressing the risks covered by the risk disclosure statement contained in 17 C.F.R. § 1.55(b), to the extent relevant to the trading activity facilitated by Phantom. Phantom may provide this disclosure as part of its terms of service or other User onboarding documentation, provided that Phantom shall retain a record of the User's acknowledgement of the disclosure. This condition shall not be applicable if a Registrant is registered with the Commission and obligated to provide a risk disclosure statement to the User consistent with 17 C.F.R. § 1.55.
4. Users are onboarded as direct members (for DCMs) or customers (for FCMs and IBs), and they continue to have the ability to access the Registrant independently of Phantom.
5. Phantom enforces policies and procedures reasonably designed to comply with applicable CFTC and NFA rules regarding communications with the public and marketing as if it were an IB.²¹
6. Phantom does not engage in advertising or promotions that, if it were an IB, would require pre-approval by the NFA under Compliance Rule 2-29.²²
7. Phantom and the relevant Registrants execute in writing an undertaking by which they each agree to be jointly and severally liable for any violations of the CEA or

²¹ These rules would be 7 U.S.C. § 6b; 17 C.F.R. § 180.1; NFA, Compliance Rule 2-29: Communications with the Public and Promotional Material, <https://www.nfa.futures.org/rulebooksql/rules.aspx?Section=4&RuleID=RULE%202-29>.

²² NFA, Rule 2-29: Communications with the Public and Promotional Material, <https://www.nfa.futures.org/rulebooksql/rules.aspx?Section=4&RuleID=RULE%202-29>. See also NFA, Interpretive Notice 9003 – NFA Compliance Rule 2-29: Communications with the Public and Promotional Material (Apr. 22, 2020), <https://www.nfa.futures.org/rulebooksql/rules.aspx?Section=9&RuleID=9003>.

- Commission regulations by Phantom or any of its personnel when Phantom or its personnel engage in the Proposed Activities on behalf of those Registrants. In this undertaking, the Registrants also consent to the jurisdiction of the Commission to investigate and take enforcement action against them for any violation of the CEA or Commission regulations in connection with the Proposed Activities engaged in by Phantom or any of its personnel on behalf of the Registrants. Phantom files each of these undertakings with the Division.
8. Phantom maintains records regarding its compliance with these conditions and its activity as an ISV in a manner consistent with Regulation 1.31.
 9. Phantom provides notice to the Division if the entity becomes insolvent or enters a bankruptcy proceeding.
 10. Phantom files a notice with the Division for this proposed no-action relief, in which Phantom will agree to satisfy these conditions and consent to the Commission's jurisdiction to investigate and take enforcement action against it for any violation of the CEA or Commission regulations in connection with the Proposed Activities engaged in by Phantom or any of its personnel.

* * *

Thank you for your consideration of this request. Please do not hesitate to contact Kevin Jacobs at kjacobs@phantom.app with any questions you may have. Pursuant to 17 C.F.R. § 140.99(c)(3)(ii), Phantom hereby undertakes that, if at any time prior to the issuance of a no-action letter, any material representation made in this letter ceases to be true and complete, it will promptly inform Commission Staff in writing of all materially changed facts and circumstances.

Respectfully submitted,

By: /s/ Kevin Jacobs

Name: Kevin Jacobs

Title: General Counsel, Phantom Technologies, Inc.

Certification

(Pursuant to Commission Regulation 140.99(c)(3)(i))

The undersigned hereby certifies that the material facts set forth in the attached letter, dated March 13, 2026, are true and complete to the best of his or her knowledge.

By: /s/ Kevin Jacobs

Name: Kevin Jacobs

Title: General Counsel, Phantom Technologies, Inc.