REQUEST FOR COMMENT ON TRADING AND CLEARING DERIVATIVES ON A 24/7 BASIS

I. Introduction

Staff of the Commodity Futures Trading Commission ("Commission") is seeking public comment to aid with understanding potential issues related to a designated contract market ("DCM") or swap execution facility ("SEF") electing to provide trading services on a 24/7 basis.[1] In addition to the potential issues associated with 24/7 trading, Commission staff is seeking public comment on any additional concerns related to the 24/7 clearing of these products, either at the derivatives clearing organization ("DCO") providing clearing services, or at a futures commission merchant ("FCM") extending 24/7 trading and clearing services to customers. Under the Commodity Exchange Act (the "Act")[2] and the Commission's regulations, DCMs, SEFs, DCOs, and FCMs have responsibilities to ensure that their activities help foster resilient and robust marketplaces and mitigate unnecessary financial and operational risks. Extending current market activity such that it can effectively be done on a continuous basis may raise a number of questions related to market liquidity, collateral access, operational resiliency, and the implications of a default occurring outside of normal business hours.

This request for comment seeks to better inform the staff's understanding of these issues and seeks input on possible mitigating measures. Comments must be received on or before May 21, 2025 to be assured of consideration.

II. Trading on a 24/7 Basis

Commission staff recognizes that technological advancements and market demand are prompting certain DCMs and SEFs to provide trading services on a 24/7 basis. While transition to such a model may enhance market access and innovation, it also raises important questions regarding system resilience, market integrity, and the ability of the DCM or SEF to fulfill core regulatory obligations. Specifically, staff is interested in understanding how DCMs and SEFs would ensure the reliability and integrity of trading systems without extended scheduled downtime for maintenance and upgrades. Continuous trading could heighten the risk of unplanned outages, complicate patch management, and require live change deployments and rollback mechanisms. Staff is also examining how DCMs and SEFs would maintain robust market surveillance for abusive trading practices, including front-running, wash trading, pre-arranged trading, and any other manipulative or disruptive trading practices prohibited by the Act.

[1] Trading and clearing on a "24/7 basis" may have a number of interpretations. In this document, we will use, as a general definition, trading and associated clearing that is active for the vast majority of weekend and holiday hours.
[2] 7 U.S.C. 1 *et seq.*

As DCMs and SEFs are required to comply with the Act and Commission Regulations irrespective of their trading hours, staff invites comment on what governance frameworks, exchange staffing models, and technologies would be necessary to ensure market integrity and operational resilience, as well as compliance with all Core Principles, under a continuous trading model. For example, expanded trading hours could present challenges to DCMs and SEFs in performing system safeguards testing, pursuant to the requirements of Core Principles 20 and 14, respectively. DCMs and SEFs may also need to enhance their approach to business continuity-disaster recovery planning, including the testing of such capabilities, which would ordinarily be conducted during scheduled maintenance windows. Further considerations may be given to capacity and performance planning, as well as the configurability of surveillance systems to detect anomalous activity across variable conditions of trading activity and liquidity. In addition to their own staffing levels, DCMs and SEFs would need to consider procedures for coordinating with service providers and other third parties at times when those entities may be thinly staffed. Commentors are encouraged to identify risks, mitigation strategies, and any areas where additional guidance may be warranted to support the safe and orderly implementation of 24/7 trading.

III. Clearing for 24/7 Trading

Paralleling that of DCMs and SEFs, the Commission has a variety of DCO regulations that address risks that may be relevant to the extension of trading hours to a 24/7 basis. These include risk management generally (*see* Core Principle D(i),[3] "Each [DCO] shall ensure that the [DCO] possesses the ability to manage the risks associated with discharging the responsibilities of the [DCO] through the use of appropriate tools and procedures."), as well as more specific requirements. These latter include setting and collecting margin (which "shall be sufficient to cover potential exposures in normal market conditions," Core Principle D(iv)[4]), and maintenance of sufficient financial resources to withstand a default (Core Principle B).[5]

Extending the ability to clear derivatives contracts to a 24/7 basis raises a set of questions related to what would be needed to ensure that the DCO is satisfying these and other relevant statutory requirements, along with other relevant regulatory requirements set by the Commission. Compliance with these requirements may be especially challenging under 24/7 clearing, given a much more limited ability to collect additional margin, if needed, on non-business days.

In addition to questions related to the sourcing of collateral, the risks brought by clearing products that are traded on a 24/7 basis may create an elevated, or at least different, need for liquid resources. As one example, the market liquidity of trading during overnight hours (currently possible) can

[3] Sec. 5b(c)(2)(D)(i) of the Act (7 U.S.C. 7a-1(c)(2)(D)(i)).

[4] Sec. 5b(c)(2)(D)(i) of the Act (7 U.S.C. 7a-1(c)(2)(D)(i)).

[5] Sec. 5b(c)(2)(B) of the Act (7 U.S.C. 7a-1(c)(2)(B)).

often be significantly lower than that during the core business day. This can make rapid shifts in prices, and thus rapid shifts in portfolio values, more likely in a case where large directional flows exist. In a case where weekend trading had similar characteristics, DCOs and FCMs would need proportionally sized resources to cover these shifts.

IV. Questions

The Staff requests comment on any or all of the below questions related to trading and clearing on a 24/7 basis. In addition to the below more detailed questions, the staff is interested in comment on the following general themes: 1) any areas of key interest or concern which are not yet covered by any of the enumerated questions and 2) any areas of key interest or concern where 24/7 trading may negatively impact the areas of market integrity, customer protection, or retail trading

1. What risks (e.g. market, liquidity, operational) does clearing for trading on a 24/7 basis pose to the DCO and to FCM clearing members, beyond those faced during traditional business hours? What protections, or mitigants, should be in place at the DCO or FCM clearing member to ensure adequate mitigation of these novel risks?
2. Are there any pre- or post-trade risk controls that would be necessary, or highly valuable, for the DCM, DCO, or FCM clearing member to implement, beyond those used in current markets? What novel risks would these controls aim to mitigate? Should FCMs require customers with open positions going into a weekend to prefund additional margin as a cushion against adverse price moves?
3. Do the current risk disclosures provided by FCMs to customers adequately address risks associated with 24/7 trading? Should the Commission's standard customer risk disclosure template required by Regulation 1.55 be revised to explicitly address 24/7 trading? What additional risk disclosures should be included in the standard template?
4. Is auto-liquidation of customer positions an acceptable and prudent risk mitigant for FCMs that hold open positions for customers during weekends and other periods of time when customers cannot make margin deposits? Does auto-liquidation present other risks to the market or market participants?
5. How do the risks associated with 24/7 trading differ from the risks currently experienced by FCMs and DCOs from holding customer positions open during weekends or overnight?
6. Are there competitive or other issues resulting from a market structure where an affiliate of a DCM or FCM supports or guarantees margin payments on behalf of customers during non-banking hours?
7. Are there product types that are more reasonably suited to a 24/7 model? Are there others for which a 24/7 model would introduce risks which could not be adequately mitigated? What characteristics distinguish the first from the second set of products?
8. What changes in market structure or operational capabilities (e.g. broader abilities to source and exchange collateral over weekends) could potentially mitigate risks associated with 24/7 markets? Are there forms of 24/7 trading which cannot or should not be allowed prior to these structural innovations?
9. Are there any current Commission regulations which would hinder 24/7 markets?

10. Are the Commission's existing customer protection, financial integrity, net capital, and financial reporting requirements for FCM adequate for a 24/7 marketplace? If not, what should the Commission consider to enhance the above requirements?

DCMs and SEFs

1. Continuous trading requires a high-availability systems architecture with active failover, hot-swappable components, and load balancing. What generally accepted standards and best practices should DCMs and SEFs follow when developing and maintaining such systems?
2. Without windows for regular updates, patches, and upgrades, DCMs and SEFs must maintain a live deployment capability, with robust rollback mechanisms in the event of faulty updates. What generally accepted standards and best practices should DCMs and SEFs follow when developing and maintaining such a capability?
3. The lack of a planned maintenance window may increase the chance of unscheduled disruptions, which are more difficult to control and message to participants. What measures should DCMs and SEFs take to reduce the likelihood and frequency of such disruptions and mitigate their impact?
4. How can DCMs and SEFs ensure that they are adequately staffed to detect and respond to market anomalies and technical events at all hours? What procedures and contingencies should be in place for DCMs and SEFs to coordinate with service providers and other third parties during trading hours where those third parties may be thinly staffed? Is it acceptable for certain technical and compliance staff to be on-call?
5. Does 24/7 trading introduce any new or different considerations with respect to DCM and SEF self-regulatory practices, including in the areas of trade practice surveillance and market surveillance?
6. DCMs and SEFs are required to conduct certain types of system safeguards testing pursuant to Core Principles 20 and 14, respectively.
    a. How should DCMs and SEFs approach business continuity-disaster recovery testing in a high-availability environment?
    b. How should DCMs and SEFs approach penetration testing and vulnerability scanning in a high-availability environment?