May 19, 2026 ***Delivered Electronically***

The Honorable Paul Atkins
Chairman
Securities and Exchange Commission
100 F Street NE
Washington, DC 20549

The Honorable Michael S. Selig
Chairman
U.S. Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street NW
Washington, DC 20581

Re: CFTC-SEC Harmonization

Dear Chairman Atkins and Chairman Selig:

The International Swaps and Derivatives Association, Inc. (**"ISDA"**)[1] and the Securities Industry and Financial Markets Association ("**SIFMA**")[2] (together, the **"Associations"**) appreciate your recent steps to highlight the importance of harmonizing the Commodity Futures Trading Commission (**"CFTC"**) and the Securities and Exchange Commission (**"SEC"**) rulesets with the goal of ensuring consistent treatment across the U.S. derivatives regulatory framework.[3]

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[1] Since 1985, ISDA has worked to make the global derivatives markets safer and more efficient. Today, ISDA has over 1,000 member institutions from 79 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.

[2] 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.

[3] SEC and CFTC, Submit Written Input on Harmonization to the SEC and CFTC,

We applaud the agencies' initial step towards harmonization through the signing of a Memorandum of Understanding (**"MOU"**) in March of this year. The MOU not only represents a significant advancement in the agencies' collaborative efforts to streamline regulatory oversight, but it also establishes a formal framework for information sharing, joint initiatives, and coordinated rulemaking between the two agencies. By committing to greater cooperation and transparency, the MOU serves as a structural mechanism for continued progress in addressing longstanding challenges faced by market participants who must navigate overlapping or inconsistent regulatory requirements. The Associations have long supported greater alignment between the CFTC and SEC and have consistently emphasized that harmonization would reduce unnecessary operational complexity, minimize compliance costs, and enhance market efficiencies, without compromising regulatory oversight.

While the U.S. regulatory framework distinguishes between SEC-regulated security-based swaps ("**SBS**") and CFTC-regulated swaps, these instruments are classified under the same regulatory framework in other jurisdictions. A consistent regulatory approach in the U.S. is warranted because swaps and SBS behave functionally in the same manner, have similar risk profiles, are often used by market participants for the same economic purpose, are largely priced alike, and are typically offered by the same trader at the same dealer institutions.[4] When different rules apply to similar instruments, it requires market participants to build two separate compliance programs, infrastructures, and workflows, increasing the cost and complexity of compliance, without any commensurate regulatory benefit. Harmonizing rulesets across the two agencies would not only reduce unnecessary costs but also enhance market efficiency and regulatory clarity.

Set out below are the Associations' recommendations in three priority areas where harmonization is critical: (1) reporting obligations; (2) cross-border regulation; and (3) cross-product margining arrangements. We have also included a non-exclusive list of other areas where greater alignment between the CFTC and SEC is needed in the Appendix.

(1) Transaction Reporting Obligations

Both agencies share common policy objectives in their regulatory reporting frameworks — enhancing transparency, supporting regulatory oversight and improving market integrity. However, despite these shared objectives, the CFTC and SEC transaction reporting rules diverge in a number of key technical and operational aspects. The Associations recognize and appreciate the SEC's recent efforts to move toward harmonization through the extension of the temporary no-action relief that enables market participants to rely, for the most part, on the CFTC rules to

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https://www.sec.gov/featured-topics/sec-cftc-harmonization-initiative/submit-written-input#no-back

[4] *See* ISDA White Paper: A Regulatory Safe Harbor for Derivatives (September 2018) (illustrating these similarities in more detail and with examples), *available at* https://www.isda.org/a/cpREE/A-Regulatory-Safe-Harbor-for-Derivatives.pdf

meet their SBS reporting obligations.[5] We understand that the SEC has found this arrangement to be beneficial and utilizes the SBS data it has collected through this process.[6]

While this approach marks meaningful progress, it is only a short-term fix. A permanent solution remains necessary to address the agencies' divergent reporting requirements and ensure that data collected across swaps and SBS markets is comparable, consistent, and reliable.

In looking towards a permanent harmonized framework, the agencies should give significant weight to the fact that CFTC's reporting framework has been in place for over a decade and has undergone multiple rounds of refinement, including technical specification updates and data standardization efforts.[7] As a result, market participants have already made significant investments in systems, controls and governance processes designed to comply with the CFTC rules. Such investments over time have led to a mature, well-tested, and operationally embedded swaps reporting framework. In contrast, while the SEC reporting rules are finalized, they have not been implemented by market participants. Instead, as noted above, the industry currently operates under temporary relief, which permits market participants to rely on the CFTC rules to report SBS transactions in lieu of certain SEC requirements until 2029.

If the agencies do not agree on a permanent, common approach, firms that are active in both swaps and SBS will eventually have to build and maintain separate reporting infrastructures, manage duplicative workflows, and reconcile inconsistencies in data fields, reporting hierarchies, lifecycle event treatment, error correction processes,[8] etc. These differences impose significant and unnecessary burdens on market participants, and perhaps more importantly, undermine the consistency, interpretability and accuracy of the data received across swaps and SBS markets, which would impact all users of that data, including the SEC and CFTC. Alignment of reporting rules for swaps and SBS is therefore essential to reduce duplicative compliance burdens, support efficient market implementation, and improve data quality. Any variations between the SEC and CFTC rules should be extremely limited and rooted in the nature of the relevant product(s) and/or a requirement upon the regulator to fulfill its regulatory mandate.[9]

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[5] 85 Fed. Reg. 6270 (Feb. 4, 2020) (https://www.govinfo.gov/content/pkg/FR-2020-02-04/pdf/2019-27760.pdf) and 90 Fed. Reg. 17225 (Apr. 24, 2025) (https://www.govinfo.gov/content/pkg/FR-2025-04-24/pdf/2025-06920.pdf)

[6] *See e.g.,* SEC, Security-Based Swap Dealer Statistics, (Apr. 16, 2025), https://www.sec.gov/files/dera-sbsd-stats-2503.pdf

[7] The CFTC's swap transaction reporting rules (Parts 43 and 45) were first adopted in 2012 following the Dodd-Frank Act, with compliance beginning on December 31, 2012.

[8] *See* CFTC Letter 25-43 (Dec. 10, 2025)

[9] For example, the Associations believe that a 24-hour timeline for public price dissemination of reported data for SBS would be more appropriate given some lower liquidity smaller trading volumes as compared to swaps. Additionally, certain CFTC reporting requirements are more expansive than what is required under the SEC rules. For example, the SEC does not require collateral and valuation data reporting. The Associations believe this divergence is appropriate and would not want to risk increasing burdens on SBS reporting for harmonizations' sake and encourage the CFTC to review their reporting requirements in this area.

For these reasons, the Associations urge the SEC to amend its reporting rules to align them with the CFTC reporting rules with appropriate adjustments to recognize varying characteristics and liquidity profiles, so that both reporting entities and data repositories can leverage the existing reporting infrastructure. Such an alignment should mean more than broad conceptual consistency. The agencies should work toward a consistent framework that relies on established reporting infrastructure, while also implementing improvements that would create additional efficiencies for market participants, such as streamlining the scope of reportable data fields and reducing complexities in the manner and form of reporting where appropriate.[10]

In addition, the agencies can further facilitate data harmonization across swaps and SBS markets through leveraging existing private sector data standardization solutions, including the ISDA Common Domain Model (**"CDM"**) and ISDA's Digital Regulatory Reporting (**"DRR"**). Put simply, these tools help turn reporting requirements into a shared digital interpretation and code that can be implemented in systems in the same way across firms. This, in turn, would allow the CFTC and SEC to receive data in a consistent format, improving their ability to monitor market activity, analyze trends, and ensure compliance. By leveraging DRR, the agencies can automate the validation and reconciliation of reported data, reduce manual processing, and increase the reliability and comparability of information gathered from market participants. This should improve the consistency and quality of reported data, reduce duplicative build and maintenance work, and lower the risk of different firms interpreting the same regulatory requirement differently.

A harmonized approach to swaps and SBS reporting that is both anchored in the established framework, makes enhancements where feasible—such as minimizing redundant or unnecessary data fields, and permits market participants to utilize existing private sector solutions would provide the clearest and least disruptive path forward. Importantly, it would also achieve the agencies' stated objectives of providing regulatory clarity, enhancing market efficiencies, and reducing unnecessary burdens on U.S. market participants.

(2) <u>Cross-Border Application of Requirements</u>

The extent to which U.S. rules apply to non-U.S. transactions and the agencies' approach to substituted compliance is another key area where differences between the CFTC and SEC rules increase both the cost and complexity of compliance.[11] A harmonized recalibration of the cross-

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[10] The Associations recommend that, wherever possible, the agencies should adopt a harmonized method that utilizes existing reporting systems but also pursues improvements—including reducing the number and complexity of reportable data fields and eliminating data fields that provide little to no insight into the economics of a transaction or the broader swaps and SBS markets. In this regard, the Associations are engaging with CFTC staff to outline potential areas where the CFTC can improve its reporting framework. The Associations will also share such recommendations with SEC staff.

[11] *See* U.S. Department of the Treasury, *A Financial System That Creates Economic Opportunities: Capital Markets* at page 132 (Oct. 2017). ("[c]ross-border issues are in many ways about cooperation with foreign authorities that are implementing OTC derivatives reforms in their own jurisdictions. Such international cooperation is critical given the

border framework would make swift and meaningful progress for derivatives market participants, consistent with the MOU's guiding principles.

We identify two critical cross-border issues below and have included additional concerns in the Appendix.

a. Non-U.S. Transactions that are Arranged, Negotiated, or Executed in the United States

The SEC rules retain the concept that if a transaction between two non-U.S. counterparties is "arranged, negotiated, or executed" (**"ANE"**) using U.S.-located personnel, then that alone should form the basis for applying certain SBS rules to such transactions.[12] By contrast, the CFTC abolished the ANE concept six years ago, acknowledging that the ANE concept should not be a relevant factor for purposes of applying U.S. rules to non-U.S. transactions.[13]

The Associations have long emphasized that transactions between two non-U.S. persons do not implicate U.S. market stability or compromise U.S. counterparties simply because personnel located in the United States had some involvement.[14] The location of personnel or agents within the United States should not form the sole basis for applying the SEC's rules extraterritorially to non-U.S. transactions, where there is no further U.S. nexus and the risk of the transaction is held overseas. This ongoing overreach has practical implications—it continues to add significant costs and operational complexity to SBS cross-border trading.[15]

Critically, the unnecessary extension of U.S. regulations in this manner threatens the competitiveness of U.S. institutions, U.S. agents and U.S. markets, without any commensurate benefit to regulatory oversight. Firms often use, and would prefer to use, U.S.-located personnel to support certain trading functions for their global business. The broad ANE standard, however, disincentivizes firms from using U.S.-located personnel for such activities as the cost of

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global nature of the OTC derivatives markets. The goal is to achieve efficient and fair treatment of U.S. and foreign firms and to promote a level playing field.").

[12] Specifically, the SBS rules at-issue include: dealer registration requirements, external business conduct rule and trade reporting requirements.

[13] CFTC Letter 20-21 (July 23, 2020)

[14] *See* ISDA Comment Letter (https://www.sec.gov/comments/s7-07-19/s70719-5855216-188572.pdf) and SIFMA Comment Letter (https://www.sifma.org/advocacy/letters/cross-border-application-of-certain-security-based-swap-requirements), Re: Proposed Rule Amendments and Guidance Addressing Cross-Border Application of Certain Security-Based Swap Requirements (July 23, 2019); ISDA Comment Letter (https://www.isda.org/a/pniDE/isda-comment-lttr-sec-cross-border-proposal-7-13-15.pdf) and SIFMA Comment Letter (https://www.sifma.org/advocacy/letters/sifma-and-fsr-submit-comments-to-the-sec-on-title-vii-requirements-to-security-based-swap-transactions), Re: Application of Certain Title VII Requirements to Security-Based Swap Transactions Connected With a Non-U.S. Person's Dealing Activity That Are Arranged, Negotiated, or Executed by Personnel Located in a U.S. Branch or Office or in a U.S. Branch or Office of an Agent; Proposed Rules (RIN 3235-AL73) (July 13, 2015).

[15] *See* ISDA Cross-Border Harmonization Paper (listing key derivatives requirements from a broad range of jurisdictions).

compliance significantly outweighs the benefits derived from such support or back-office activities, thereby driving business away from the United States.

This divergence also has meaningful client-facing consequences and can inhibit end-user engagement. In particular, where a non-U.S. counterparty faces a non-U.S. firm that is dually registered as a swap dealer and security-based swap dealer, the inconsistent treatment of economically similar transactions has produced divergent outcomes: for swaps, the CFTC rules may not apply, while for SBS the SEC rules may apply solely due to ANE activity. This disconnect creates confusion for non-U.S. clients and introduces avoidable friction and operational complexity for dually registered firms seeking to provide cross-product services.

It is also important to recognize that the non-U.S. transactions at-issue are already subject to well-developed and comprehensive regulatory frameworks under their respective local laws. The imposition of U.S. requirements on these transactions is therefore unnecessarily duplicative. Such overlap complicates compliance efforts and increases the risk of regulatory conflicts, ultimately undermining both the efficiency and regulatory certainty of SBS trading.

Eliminating the ANE concept would meaningfully reduce compliance and operational costs and better align the SEC's framework with both the CFTC's approach and other international standards, without any risk to regulatory oversight.[16] The Associations believe that this change would materially enhance cross-border harmonization and support more efficient and competitive U.S. derivatives markets.

b. Comparability Determinations

Over the past fifteen years, the CFTC has repeatedly recognized that where non-U.S. firms are subject to comprehensive and comparable local regulation, requiring parallel compliance with duplicative U.S. rules provides little incremental supervisory benefit.[17] Through jurisdiction-specific substituted compliance determinations, the CFTC has permitted non-U.S. swap dealers to rely on home-country requirements in lieu of certain CFTC requirements such as swap dealer compliance obligations, disclosure and documentation obligations, and capital and margin requirements. The CFTC's comparability framework has proven effective in reducing regulatory fragmentation, operational and compliance complexities and promoting international comity, without compromising U.S. regulatory oversight.

By contrast, the SEC has taken a less expansive approach to comparability determinations for non-U.S. security-based swap dealers (**"SBSDs"**).[18] For example, this distinction is evidenced by

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[16] No other jurisdictions apply a concept similar to ANE in their regulation of derivatives transactions.
[17] *See* CFTC Comparability Determinations for Substituted Compliance Purposes, *available at* https://www.cftc.gov/LawRegulation/DoddFrankAct/CDSCP/index.htm (listing a series of broad comparability determinations that would permit substituted compliance with non-U.S. regulatory regimes).
[18] *See* SEC, Jurisdiction-Specific Applications, Orders and Memoranda of Understanding, *available at*

the SEC (i) requiring SBSDs who elect to rely on substituted compliance to apply it with respect to all the requirements covered by a designated segment of the relevant order, rather than allowing flexibility to choose to do so only with respect to some of those requirements, or (ii) imposing conditions that limit the availability of substituted compliance (i.e., the SEC margin substituted compliance orders do not permit the reliance on certain aspects of the foreign comparable regime such as any exceptions or exemptions that may be available thereunder).

Notably, foreign regulatory frameworks do not distinguish between swaps and SBS in the manner the U.S. regime does. As a result, an inconsistent approach to comparability has led to more of a patchwork quilt than seamless framework for cross border application of swaps and SBS requirements. To remedy this, the Associations urge the CFTC and SEC to jointly review existing comparability determinations to assess whether they are truly outcomes-based, rather than grounded in rule-by-rule comparisons or layered with extensive conditions.

From a compliance perspective, determinations that require firms to map granular foreign rules to U.S. provisions—or to operationalize numerous jurisdiction-specific conditions—add unnecessary complexity, increase operational risk, and undermine the very efficiencies substituted compliance is intended to deliver. Such frameworks often require duplicative compliance infrastructures without improving regulatory oversight, particularly where the foreign regulatory regime already achieves substantively equivalent policy outcomes.

A coordinated approach in delivering outcomes-based comparability determinations represents a meaningful step towards CFTC-SEC harmonization, promotes international comity, and critically, significantly reduces compliance burdens and operational complexities in cross-border trading for both CFTC and SEC registrants.

The Associations therefore urge the Commissions to adopt a harmonized, outcomes-based substituted compliance framework, recognizing home-country regulation where it is comparable in effect and policy outcome, rather than requiring stringent rule-by-rule analysis. The Associations also recommend that the agencies coordinate closely with U.S. prudential regulators to ensure consistent substituted compliance determinations are issued across all U.S. uncleared margin rule frameworks to avoid not only competitive disparities, but also duplicative reviews and the unnecessary cost and burden associated with re-performing comparability assessments.

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https://www.sec.gov/about/divisions-offices/division-trading-markets/security-based-swap-markets/jurisdiction-specific-applications-orders-memoranda-understanding (listing the substituted compliance orders for a limited number of jurisdictions).

(3) Cross-Product Margining Arrangements

Margin requirements play a critical role in mitigating counterparty credit risk for derivatives markets. However, current margining frameworks are largely siloed by asset class and regulatory classification, which can prevent margin requirements from accurately reflecting the true risk of a portfolio. To solve for this, over the past two decades, regulators have established bespoke cross-margining programs, which are now a widely accepted mechanism in cleared markets.[19] Cross-margining arrangements ensure that the amount of initial margin posted reflects the actual risk of a portfolio of trades, even if those trades are cleared at two separate clearinghouses.

Taking a holistic portfolio approach, rather than focusing solely on individual transactions helps to ensure that the amount of margin required is appropriately calibrated. Where positions are economically offsetting, siloed margin requirements can lead to over-margining, tying up capital and increasing the costs of trading and hedging. The right-sizing of margin requirements therefore benefits market participants by optimizing collateral usage and supporting more efficient risk management practices.

Indeed, both the CFTC and SEC have recognized these efficiencies and recently extended their existing cross-margining arrangement for U.S. Treasury repos and futures to include client accounts.[20] We commend the agencies' ongoing efforts to strengthen and broaden cross-margining programs. Further, we expect there to be growing interest for more cross-margining programs as more central clearing counterparties begin to offer Treasury clearing, and also more generally, as interest in clearing more products grows as a result of recognizing the efficiencies of cross-margining.

While we applaud and appreciate the agencies' recent efforts to broaden their existing cross-margining arrangement, as a general matter, central clearing counterparties (**"CCPs"**) seeking to implement cross-margining arrangements must navigate across separate regulatory frameworks which can involve a lot of redundancies, but at the same time, different expectations, timelines and approval requirements. We therefore encourage the agencies to take a step further and establish a clear, coordinated, and predictable process for the joint-review and approval of cross-margining programs. We recommend that this formal process includes, at a minimum, a joint application framework, clearly defined regulatory requirements and standards for review, coordinated inter-agency review procedures, defined timelines for review and decision-making, and ongoing supervisory coordination.

Such a framework would avoid the inefficiencies brought about by having two separate approval schemes and would provide regulatory clarity and consistency for CCPs and market participants,

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[19] *See* CFTC GMAC GMSS Recommendation 3 – FICC-CME Customer Position Cross-Margining Structure, *available at* https://www.cftc.gov/media/9591/gmac_FICC_CME110623/download.
[20] *See* 91 Fed. Reg. 20880 (Apr. 20, 2026), *available at* https://www.govinfo.gov/content/pkg/FR-2026-04-20/pdf/2026-07643.pdf, 91 Fed. Reg. 21035 (Apr. 20, 2026), https://www.govinfo.gov/content/pkg/FR-2026-04-20/pdf/2026-07636.pdf.

in line with the agencies' harmonization goals. Critically, a formal review process would also likely facilitate the proliferation of additional and broader cross-margining programs across both CFTC and SEC cleared markets, providing margin efficiencies at a larger scale. The Associations are prepared to assist the agencies in developing this formal process to ensure it delivers the necessary efficiencies while maintaining robust regulatory oversight.

(4) Other Areas

In addition to the areas discussed above, there are a number of other areas where the SEC and CFTC regulatory frameworks diverge, each presenting challenges that merit the agencies' attention. Even minor discrepancies between rulesets can translate into significant operational impacts and costs for market participants. Moreover, even where rules are the same, such harmonization is impeded if the obligations are not interpreted consistently. As we have routinely emphasized, the need to implement distinct compliance mechanisms for each regime increases complexity and cost of compliance, without any benefit to regulatory oversight or risk management. Instead, these differences often result in duplicative processes and strained resources, making it more difficult for firms to operate efficiently across swaps and SBS markets.

We encourage the agencies to undertake a comprehensive review of their swaps and SBS rules, informed by the significant practical experience that market participants have accumulated over many years of compliance. This experience provides valuable insights into which provisions truly enhance market integrity and resiliency, and which have become burdensome without tangible regulatory benefits. Streamlining and harmonizing the rulesets would not only reduce unnecessary costs but also facilitate the development of more robust and globally competitive U.S. markets. For the agencies' consideration, we have included in the appendix a non-exclusive list of additional areas that would benefit from harmonization and urge a principles-based approach to future amendments.

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The Associations appreciate the opportunity to provide recommendations to the CFTC and SEC on how the agencies can better align their swaps and SBS rules. We strongly support the agencies' harmonization initiative and believe that a harmonized approach will improve and strengthen the U.S. regulatory framework for derivatives, thereby enhancing the competitiveness and integrity of U.S. derivatives markets.

Our members are strongly committed to maintaining the safety and efficiency of the U.S. derivatives markets and hope that you will consider our suggestions, as they reflect the extensive knowledge and experience of derivatives professionals within our membership.

Please do not hesitate to contact Nicolette Cone (ncone@isda.org), Christopher Young (cyoung@isda.org), or Kyle Brandon (kbrandon@sifma.org) should you have any questions or require more information.

Sincerely,

Scott O'Malia
Chief Executive Officer
International Swaps and Derivatives Association (**ISDA**)

Kenneth E. Bentsen, Jr.
President & CEO
Securities Industry and Financial Markets Association

APPENDIX

(Issues are listed in alpha order)

Rule/Area	Approach to Harmonization
"Associated Persons" Definition	Align the SEC definition of "Associated Person" with that of the CFTC by focusing on front office personnel involved in soliciting or accepting SBS rather than all the other personnel in the existing SEC definition, which may apply to back-office functions.
Chief Compliance Officer Annual Report Submission	The agencies should harmonize the timing requirement for when the Chief Compliance Officer Annual Report should be furnished to the audit committee (or equivalent body) in the context of the report being filed with the CFTC and SEC.
Coordination in Examinations	The agencies and self-regulatory organizations should develop a process for coordination, particularly in the area around similar findings.
Cross-Border Rules	Harmonize the CFTC rules to the SEC approach by eliminating the requirement that dealers have to count their counterparty trades with non-U.S. persons that have a U.S. person guarantee towards the *de minimis* threshold.
Definition of "U.S. Person"	CFTC should codify NAL 25-42[21] to align the "U.S. person" definition under its rules with SEC's definition of a "U.S. person."
De Minimis Thresholds for Dealer Registration	The SEC's current *de minimis* thresholds are scheduled to fall well below the CFTC's $8 billion swap dealer threshold.[22] The SEC issued a staff report soliciting public comment on whether substantially lower thresholds—particularly for non-CDS SBS—are appropriate.[23] Given the risk that unduly low thresholds would capture firms engaged in limited client facilitation activity, reduce market liquidity, and create unnecessary regulatory

[21] CFTC Letter 25-42 (Dec. 9, 2025)

[22] Paul Atkins, Chairman, SEC, Statement Regarding Phase-In Termination Date for the De Minimis Exception to the Security-Based Swap Dealer Definition (Oct. 29, 2025), https://www.sec.gov/newsroom/speeches-statements/atkins-102925-statement-regarding-phase-termination-date-de-minimis-exception-security-based-swap-dealer#_ftn1 and CFTC, CFTC Staff Issues Report Regarding the Swap Dealer De Minimis Exception and On-Venue and Cleared Swaps (July 8, 2019), https://www.cftc.gov/PressRoom/PressReleases/7958-19#

[23] SEC, Staff Report on the Definitions of ''Security-Based Swap Dealer'' and ''Major Security-Based Swap Participant'' (May 4, 2026), https://www.sec.gov/files/rules/other/2026/34-105315.pdf.

Rule/Area	Approach to Harmonization
	divergence, the SEC should at the least maintain alignment with the CFTC's $8 billion threshold.
Dual Registration of Certain Investment Advisers and Commodity Pool Operators/Commodity Trading Advisors	Codify CFTC Letter 25-50, which grants interim no-action relief to certain investment advisers registered with the SEC. This relief allows these advisers to operate commodity pools without having to register as commodity pool operators or commodity trading advisors, provided the pools are offered exclusively to qualified eligible persons. Enabling this reduces compliance burdens for these investment advisers without compromising regulatory oversight given that these advisers are already subject to comprehensive regulation under the SEC's regime.
External Business Conduct Rules	1. Special Entity (**"SE"**) matters: • Align the SEC definition of SE with the CFTC by including certain opt-out clauses that currently only apply under the SEC regime through no-action relief; • SEC should tailor various provisions regarding the scope of advisory services and safe harbors to align to the CFTC's text; and • CFTC and SEC should harmonize their approach to qualified independent representative, allowing for affiliates of swap dealers to qualify subject to reasonable conditions. 2. The SEC should harmonize its daily mark definition and scope to align it with the recent amendments finalized by the CFTC, which include an exception from the obligation to provide daily marks to counterparties who are subject to variation margin. 3. SEC should align its institution suitability safe harbor to the CFTC eliminating its limitation relating to certain "institutional counterparties" (aligned to FINRA requirement rather than CFTC swap dealer rules).
Equivalency for foreign trading venues	The SEC should defer to the CFTC approach and permit foreign trading venues that have been approved to operate as exempt swap execution facilities (**"SEFs")** to operate as exempt security-based swap execution facilities (**"SBSEFs"**). Where the same foreign regulatory framework applies to the venue's trading in swaps and SBS, separate SEC review should

Rule/Area	Approach to Harmonization
	not be necessary absent an SEC-specific investor-protection or market-integrity concern. Harmonized treatment would reduce market fragmentation, avoid duplicative venue approvals, and allow U.S. persons to access foreign liquidity on a consistent cross-border basis.
Rule Interpretations	The agencies should coordinate when providing interpretations of similar rules and ensure that such interpretations are consistent for swaps and SBS.
SBSEF Designation as Brokers	The SEC rules deem SBSEFs to be brokers, subjecting them to broker registration and other related obligations. This approach is unnecessary as SBSEFs operating solely as trading facilities do not perform core broker-dealer functions, and it is inconsistent with the treatment of SEFs under the CFTC rules. A CFTC-registered SEF is not automatically deemed to be an introducing broker or futures commission merchant merely because it operates a swaps trading facility. The CFTC regulates SEFs as trading facilities, while separately regulating intermediaries that perform introducing broker or FCM functions. The SEC should adopt the same functional approach for SBSEFs. This would align the SBSEF framework more closely with the CFTC's SEF regime, eliminate unnecessary knock-on broker-dealer consequences and reduce duplicative regulatory obligations.