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August 31, 2026

VIA ELECTRONIC SUBMISSION

Ms. Vanessa Countryman
Secretary
Securities and Exchange Commission
100 F Street N.E.
Washington, DC 20549–1090

Mr. Christopher Kirkpatrick
Secretary
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street N.W.
Washington, DC 20581

Re: Joint Request for Comment on Further Implementation of Portfolio Margining and Cross-Margining of Securities and Derivatives (SEC File No. S7-2026-23; RIN 3038–AF72)

Dear Ms. Countryman and Mr. Kirkpatrick:

Cboe Exchange, Inc. ("Cboe"), Cboe Futures Exchange, LLC ("CFE"), and Cboe Clear US, LLC ("CCUS"), each a wholly owned subsidiary of Cboe Global Markets, Inc., respectfully submit this comment letter in response to the Joint Request for Comment on Further Implementation of Portfolio Margining and Cross-Margining of Securities and Derivatives (the "Joint Request"), issued by the Securities and Exchange Commission ("SEC") and the Commodity Futures Trading Commission ("CFTC") on June 26, 2026.[1] We strongly support this initiative and encourage the two agencies to establish a thoughtful, principles-based framework to allow the expanded use of portfolio margining and cross-margining in a manner that is both accessible and protective of market participants, infrastructure, and intermediaries alike.

Cboe and CFE

Cboe is a national securities exchange offering trading in options on individual stocks, options on exchange-traded products, and options on several broad-based market indexes, including the Cboe Volatility ("VIX") Index ("VIX Options") and the S&P 500 Index ("SPX Options") among other

[1] 91 Fed. Reg. 39579 (Jun. 30, 2026).

widely recognized equity-market indexes. CFE is a designated contract market ("DCM") registered with the CFTC and notice registered with the SEC to offer trading in security futures. Among other products, CFE offers trading in futures on the VIX Index ("VIX Futures"). Cboe and CFE clear trades through The Options Clearing Corporation ("OCC"), which is dually registered with the SEC as a covered clearing agency ("CCA") and with the CFTC as a derivatives clearing organization ("DCO"). CFE also clears trades through CCUS – a DCO that clears digital asset futures and has applied to clear binary securities options listed on national securities exchanges, such as Cboe.

Executive Summary

Margin serves an important risk-management function: it is calibrated to reflect the risk of loss and, in doing so, protects market participants, clearinghouses ("central counterparties" or "CCPs"), and the financial system more broadly against the consequences of a counterparty default. One of the most effective ways to fulfill this function while also supporting capital efficiencies is to calibrate margin to a portfolio's net risk rather than assessing each position in isolation. By recognizing economically offsetting positions or by considering additional assets held in a portfolio when determining margin requirements, we ensure that market participants are not required to post margin far in excess of their actual risk exposure.

Portfolio margining and cross-margining arrangements are two principal tools available to achieve capital efficiencies and allow actual risk exposures to determine margin requirements. However, current rules and practices have had the effect of limiting the availability and utility of these arrangements.

For example, while the Commissions have permitted commingling of customer futures and securities positions for portfolio margining in a futures account, market participants are currently unable to commingle the same positions in a securities account; administrative processes make cross-margining arrangements of any sort difficult to launch; only a limited scope of products is allowed to be held within a portfolio margin account when additional products are well-suited to portfolio margining; there is only one allowed method for calculating margin in a securities portfolio margining account, the Theoretical Intermarket Margining System ("TIMS"), which has known limitations; and existing eligibility requirements are unnecessarily preventing retail investors from accessing securities portfolio margining accounts.

We commend the Commissions for prioritizing these issues and encourage them to issue rules and standards that allow the industry to further implement portfolio margining to calibrate margin requirements to the actual risks of a given trading activity.

In summary, we recommend the Commissions:

A. implement Commodity Exchange Act ("CEA") Section 4d(h) to permit portfolio margining of futures within a securities account provided the securities are cleared through an SEC registered clearing agency, the futures are cleared through a CFTC registered DCO that satisfies Subpart C of Part 39 of CFTC regulations, and there is a cross-margining agreement in place between the CCPs;
B. take steps to permit VIX Futures, VIX Options, and SPX Options to be held in a portfolio margining account carried as a securities account;
C. streamline and coordinate the process for approving new cross-margining agreements;
D. establish an expedited, staff-delegated process for adding new products to existing, approved cross-margining arrangements;
E. expand the risk-based haircut framework under Securities Exchange Act ("Exchange Act") Rule 15c3-1a to cover additional product types with significant and reliable correlations;
F. permit alternatives to the TIMS methodology under FINRA Rule 4210(g); and
G. collaborate with SROs to eliminate their rule requirements that a customer be approved to trade uncovered short options as a prerequisite to obtaining a securities portfolio margining account.

We discuss each recommendation, and the goals it serves, in turn below.

I. Portfolio Margining and Cross-Margining Background

Margin serves a set of common purposes: to protect market participants, infrastructure, and intermediaries from the risk of customer default, thereby protecting the financial system as a whole. Portfolio margining serves those purposes by aligning the amount of margin collateral required to be held in a market participant's account with the risk attributes of their portfolio. At a high level, it does so by recognizing offsetting exposures so margin requirements are set based on the greatest projected net loss of all positions in a portfolio, determined by a model using multiple pricing scenarios for an identified group of products with related risk characteristics. Because the risks of different products are offset, margin amounts calculated in this way are generally lower than alternative methodologies that are not risk-focused.

In the futures industry, risk-based margin has been the standard for decades. Many DCOs today calculate margin using the Standard Portfolio Analysis of Risk ("SPAN") and its successors with scanning ranges and spread credits built in, subject to CFTC standards set forth in Rule 39.13(g). Under those standards, a DCO may reduce initial margin for related positions whose price risks are shown on a conceptual basis and demonstrated by evidence to be "significantly and reliably correlated."[2]

[2] 17 C.F.R. § 39.13(g)(4)(i).

On the other hand, rules for securities margin largely are not risk-based. Regulation T sets fixed initial margin as a percentage of market value.[3] This can lead to both under-margining and over-margining when viewed in light of risk. However, the SEC has the authority to approve risk-based portfolio margining systems that apply instead of the fixed margin requirements of Regulation T,[4] and it has done so in the past. For example, the Financial Industry Regulatory Authority ("FINRA") has adopted, and the SEC has approved, FINRA Rule 4210(g), which allows FINRA-member broker-dealers ("BDs") to offer portfolio margining in a securities account.[5] The SEC has also approved Cboe rules and OCC rules and by-laws that permit portfolio margining, including for equities, listed-options on security indexes, over-the-counter options on security indexes, shares of ETFs, options on ETFs, and security futures,[6] with related futures positions in a commingled securities customer lien account.[7] There is also precedent for SEC regulated instruments and CFTC regulated instruments being commingled in a CFTC regulated customer portfolio margining account[8] and in a CFTC regulated non-customer account.[9] Currently, the only model approved to

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3 12 C.F.R. § 220.12(a).

4 12 C.F.R. § 220.1(b)(3)(i).

5 FINRA Rule 4210(g).

6 In adopting the Commodity Futures Modernization Act of 2000, Congress specifically provided that margin requirements for security futures products must "be consistent with the margin requirements for comparable option contracts traded on any [national securities exchange]"… and that initial and maintenance margin levels for a security future could not be "lower than the lowest level of margin, exclusive of premium, required for any comparable option contract[.]" *See* Section 7(c)(2)(B) of the Securities Exchange Act of 1934. These Exchange Act requirements apply to security futures in portfolio margining accounts and outside portfolio margining accounts. *See Customer Margin Rules Relating to Security Futures*, 85 Fed. Reg. 75112 (November 24, 2020). Additionally, as the SEC describes in detail, applying a risk-based approach to calculate margin for security futures would be inconsistent with the Exchange Act. *Id. at 75117-75122*.

7 *See* SEC, *Self-Regulatory Organizations; The Options Clearing Corporation; Order Granting Approval of a Proposed Rule Change Relating to a New Customers' Lien Account*, 70 Fed. Reg. 42405 (Jul. 22, 2005); SEC, *Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Order Approving a Proposed Rule Change and Amendment Nos. 1 and 2 Thereto Relating to Customer Portfolio and Cross-Margining Requirements*, 70 Fed. Reg. 42118 (Jul. 21, 2005); SEC, *Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing of Amendment Nos. 1 and 2 to the Proposed Rule Change Relating to Customer Portfolio Margining; Order Granting Accelerated Approval to the Proposed Rule Change, as Amended*, 71 Fed. Reg. 75781 (Dec. 18, 2006).

8 *See* SEC, *Order Granting Conditional Exemptions Under the Securities Exchange Act of 1934 In Connection with Portfolio Margining of Swaps and Security-Based Swaps*, 77 Fed. Reg. 75211 (Dec. 19, 2012); CFTC, *Treatment of Funds Held in Connection with Clearing by ICE Clear Credit of Credit Default Swaps* (Jan. 14, 2013).

9 *See, e.g,* CFTC, *In the Matter of the Options Clearing Corporation Proposal to Implement Non-Proprietary Cross Margining Program* (Nov. 5, 2004); Order of the Commodity Futures Trading Commission, *In the Matter of ICE Clear US, Inc. Non-Proprietary Cross-Margining Agreement with the Options Clearing Corporation* (Feb. 29, 2008).

calculate margin for purposes of a securities customer portfolio margining account is the TIMS model.

Cross-margining is similar to portfolio margining, except that offsets are recognized between positions cleared at an SEC regulated CCP and a CFTC regulated CCP, with each applying its own model to the combined portfolio and the more conservative result controlling. The Commissions have permitted these arrangements as well.[10] The discussion below of the benefits of, and obstacles to, portfolio margining applies to cross-margining as well, except as indicated.

II. There Is a Strong Public Interest in Expanded Portfolio Margining and Cross-Margining.

As the Commissions stated in the Joint Request, the efficiencies gained from the use of offsets "can align margin requirements and other costs more closely with overall risks that a customer's portfolio presents."[11] Margin substantially in excess of portfolio risk is a misallocation of resources. In situations where portfolio margining would be appropriate but is unavailable, collateral is immobilized when it could otherwise support market liquidity.

The Commissions also appear to recognize that instruments with the same or highly correlated underlyings are natural offsets.[12] Both Commissions have existing rules that reflect the understanding that such correlations can be empirically observed and tested. The "significantly and reliably correlated" standard of CFTC Rule 39.13(g)(4)(i) is a good example.[13] The SEC applies a similar standard at the CCA level under Rule 17Ad-22(e)(6), which requires margin methodologies to account for portfolio effects across products.[14] The SEC has stated regarding Rule 17Ad-22(e)(6) that clearing agencies should consider margin offsets where the risks of different products are (as under the CFTC's standard) "significantly and reliably correlated."[15]

Portfolio margining can be a powerful risk mitigant, including at a systemic level. Where market participants can access portfolio margining, lower margin requirements create compelling

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10 *See, e.g.*, CFTC, *Order Providing Exemptive Relief To Facilitate Cross-Margining of Customer Positions Cleared at Chicago Mercantile Exchange, Inc. and Fixed Income Clearing Corporation*, 91 Fed. Reg. 20880 (Apr. 20, 2026) ("CFTC CME-FICC Order").

11 91 Fed. Reg. at 39580.

12 *Id*. at 39580 & n.5 ("A related position may include a security or derivative that references the same underlying or reference asset, or positions with similar economic uses.").

13 17 C.F.R. § 39.13(g)(4)(i).

14 *Id*. § 240.17ad-22(e)(6).

15 *Standards for Covered Clearing Agencies*, 81 Fed. Reg. 70786, 70819 (Oct. 13, 2016). It is true that correlation may lessen in periods of market stress. However, CCPs may account for that through appropriate basis-risk and concentration charges, stress testing, sensitivity analysis, model validation, and other margin add-ons. It is counterproductive to refuse altogether to recognize reliable offsets.

incentives to hold more balanced or hedged portfolios, thereby reducing the size of their credit exposures. In addition, during market stress, margin calls may be smaller and less frequent with respect to portfolio margining accounts, reducing the risk of forced liquidations that can amplify market volatility. Fewer margin calls also mean reduced operational risk from an otherwise increased number of margin payments and settlements. And by freeing up capital, portfolio margining may mitigate liquidity risk and the risk of collateral shortfalls under stressed circumstances – precisely when such risks are most acute. Further mitigating risk, SRO and CCP-set margin is the minimum that must be carried; it is industry standard for brokers to impose higher margin requirements as necessary.

These benefits do not come at the expense of sound risk management. Existing CFTC and SEC standards already require that the correlation assumptions underlying any margin offset be supported by rigorous backtesting and stress testing, and both Commissions retain authority to review and approve the models before they may be used. CCPs, for their part, retain full discretion to impose additional margin or intraday calls whenever a portfolio's risk profile changes, and nothing about an expanded portfolio-margining framework would displace that discretion. Expanded portfolio margining therefore does not mean unchecked leverage; it means capital is deployed more efficiently within a risk-management framework that regulators continue to test, validate, and enforce.

Finally, at a basic level, market participants – including customers – should have more freedom to allocate their resources as they see fit, subject to reasonable, principles-based guardrails. Under the Commissions' watch, this flexibility can be permitted without compromising asset segregation principles or systemic integrity.

III. Recommendations

We make the following recommendations for the expanded use of portfolio margining, which would serve the important public interests described above. They share one principle: the Commissions should adopt a principles-based framework that focuses on the reliability of the methodology as a risk management tool rather than relying on rigid models that may be unnecessary to regulatory objectives. Many of these recommendations fall well within the goals of the Commissions' Harmonization Initiative and Memorandum of Understanding Regarding Harmonization in Areas of Common Regulatory Interest, and portfolio margining is a model program for attaining those goals.

A. The CFTC Should Allow Portfolio Margining with Futures in a Securities Account Provided There Is a Cross-Margining Agreement in Place Between an SEC Registered CCA and a CFTC Registered Subpart C DCO.

In Section 713(b) of the Dodd-Frank Act, codified as Section 4d(h) of the CEA, Congress instructed the CFTC to adopt rules or regulations, or to issue an exemptive order, permitting

futures commission merchants ("FCMs") that are also registered BDs ("BD/FCMs") to hold futures and options "in a portfolio margining account carried as a securities account" along with "any money, securities or other property received from a customer to margin, guarantee or secure such a contract, or accruing to a customer as the result of such a contract."[16] The CFTC has not yet issued such rules or regulations, but it should do so now.

However, it is important that the rules and regulations adopted to implement Section 4d(h) only permit futures to be held in a portfolio margining account carried as a securities account where the securities are cleared through an SEC registered clearing agency, the futures are cleared through a CFTC registered DCO that satisfies Subpart C of Part 39 of CFTC regulations, and there is a cross-margining agreement in place between those CCPs.

When futures and securities positions are viewed together for portfolio margining purposes, this can reduce the minimum margin the dually registered BD/FCM collects from the customer. This is generally appropriate because the customer's margin reflects the portfolio's actual net risk. However, this margin reduction is matched by real risk-sharing at the clearing level only if the two CCPs clearing the respective transactions have agreed to it. Absent such an agreement, each CCP will independently seize and margin its own leg of the position at full standalone risk, and the margin benefit the customer received evaporates precisely when it matters most – at the moment of stress – leaving the position under-margined exactly when a shortfall is most likely. In addition, the BD/FCM may be required to meet outsized initial margin requirements at the CCPs while collecting a significantly smaller initial margin deposit from its customer. This creates unnecessary liquidity and capital risks for the BD/FCM.

The same dynamic can also produce uncoordinated margin calls that undermine the hedge rather than protect it. In a volatility spike, each CCP would raise margin based solely on its own book, and the futures CCP could issue a call sized as though the securities leg did not exist (and vice versa), potentially forcing the customer or BD/FCM to liquidate one leg to meet the call – destroying the hedge and crystallizing the very loss that portfolio-margin treatment is intended to prevent. Without an actual cross-margining agreement between the CCPs, the BD/FCM would be left to bridge the gap with its own capital. If each CCP continues to require full standalone margin absent a netting agreement while the BD/FCM has already extended the customer the benefit of the netted, lower requirement, the BD/FCM must fund the difference itself. This could result in a capital and liquidity strain on the intermediary that surfaces during periods of market stress, when its own liquidity is already under pressure. In this way, any margin savings a BD/FCM passes through to a customer by combining products cleared at two unrelated CCPs without a cross-margining agreement reflects a regulatory capital convenience rather than a genuine offset of risk – the kind of hidden leverage and regulatory-arbitrage risk that raises systemic risk concerns.

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[16] Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. No. 111-203, tit. VII, § 713(b), 124 Stat. 1376, 1646 (2010), *codified at* 7 U.S.C. § 6d(h).

Subpart C DCOs are clearinghouses that have voluntarily elected to comply with enhanced risk management standards that are normally required only of systemically important DCOs. These standards implement the Principles for Financial Market Infrastructures ("PFMIs") – the internationally recognized benchmark for CCP soundness – and include heightened requirements for financial resources, liquidity risk management, default procedures, and risk governance. In particular, CFTC Regulation 39.36 requires Subpart C DCOs to maintain a comprehensive risk management framework with board-level oversight, establish risk tolerance limits, and implement policies and procedures to identify and manage the full range of risks arising in or borne by the DCO. These requirements parallel the SEC's standards for covered clearing agencies under SEC Rule 17Ad-22(e)(3), which similarly requires board-approved risk management policies, a chief risk officer with appropriate authority and independence, and procedures for identifying, measuring, monitoring, and managing risks. Both regulatory frameworks implement the same PFMI principles, ensuring that portfolio margining is supported by CCPs operating under the most robust and internationally harmonized risk management standards.

In other words, expanding access to portfolio margining should be accompanied by cross-margining agreements between CCPs that satisfy these internationally recognized standards for systemic risk management.

1. Protection of Customer Property

Under the CEA, robust segregation requirements are designed to "ensure that customer funds are used only to support customer trading and transactions and to facilitate the return of the funds to customers in the event of the insolvency of the FCM or DCO."[17] For its part, the SEC administers a similarly robust rule (Exchange Act Rule 15c3-3),[18] which is designed to prevent "brokers and dealers from using customer assets to finance any part of their businesses unrelated to servicing securities customers" and to ensure that "[i]f the broker-dealer fails financially, the securities and cash should be readily available to be returned to the customers" and, in a liquidation proceeding, "isolated and readily identifiable as 'customer property' … distributed to customers ahead of other creditors."[19]

The CEA's main segregation requirements are that FCMs and DCOs must treat customer funds as belonging to customers, separately account for those funds, and not commingle them with their own funds or use a particular customer's funds to margin or guarantee the trades or contracts of any other customer or of the FCM or DCO.[20]

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17 *Investment of Customer Funds by Futures Commission Merchants and Derivatives Clearing Organizations*, 90 FR 7810, 7810 (Jan. 22, 2025).

18 17 C.F.R. § 240.15c3-3.

19 *Financial Responsibility Rules for Broker-Dealers*, 78 Fed. Reg. 51824, 51826 (Aug. 21, 2013).

20 7 U.S.C. §§ 6d(a)(2) & (b).

Exchange Act Rule 15c3-3 imposes segregation requirements on BDs through two general requirements that achieve a comparable result to the CEA's requirements: (1) a requirement to maintain physical possession or control of customers' fully paid securities and their excess margin securities;[21] and (2) a requirement to establish a "Special Reserve Bank Account for the Exclusive Benefit of Customers," known as a "Reserve Bank Account," in which the BD deposits and at all times maintains funds or qualified securities in the amount by which "credits" exceed "debits" based on a specialized formula.[22]

Both regimes specify acceptable depositories for holding customer funds,[23] require written acknowledgements from those depositories of the protections applicable to those funds,[24] limit the use of customer funds to specified classes of allowable investments,[25] place the investment risk on the intermediary or CCP rather than the customer,[26] require the computation of account balances at least weekly and reporting of those balances to the applicable regulator and self-regulatory organization on a recurring basis,[27] and impose strict requirements to address shortfalls.[28]

2. Protection of Customer Property in Insolvency

The applicable insolvency laws also achieve comparable outcomes: the reliable and expeditious return of customer funds in the event of an FCM's, BD's, or CCP's insolvency.

FCMs are liquidated in accordance with the "Commodity Broker Liquidation" provisions of the Bankruptcy Code, Subchapter IV of Chapter 7 ("Subchapter IV")[29] and Part 190 of the CFTC regulations,[30] while BDs are liquidated under the Securities Investor Protection Act ("SIPA").[31]

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21 17 C.F.R. §§ 240.15c3-3(b)-(d).

22 *Id*. §§ 240.15c3-3(e), 240.15c3-3a. The credits in the formula generally consist of amounts that the BD owes to customers (*e.g.*, free credit or cash balances in customers' accounts), amounts relating to the BD's use of customer securities (*e.g.*, loans collateralized by customer securities), and certain penalty items (*e.g.*, securities failed to receive). The debits in the formula generally consist of amounts that customers owe to the BD (*e.g.*, from margin loans) and amounts relating to the BD's financing of customer positions (*e.g.*, securities borrowed to effect customer short sales).

23 *Id*. § 1.20(d); *id*. § 240.15c3-3(e).

24 *Id.* § 1.20(d) & Appx. A; *id.* § 240.15c3-3(f).

25 *Id.* § 1.25 & 1.28; *id*. §§ 240.15c3-3(a)(6), (e)(1).

26 *Id*. § 1.29; *see id.* §§ 240.15c3-3(e)(1), (j)(1), 240.15c3-3a.

27 *Id.* §§ 1.32(a) & (d); *id.* §§ 240.15c3-3(e)(3) & 240.17a-5(a)(1)(i)-(ii).

28 *Id.* § 1.23; *id.* §§ 240.15c3-3(g), (i).

29 11 U.S.C. §§ 761-767.

30 17 C.F.R. §§ 190.00-.10.

31 15 U.S.C. §§ 78aaa–78lll

SIPA applies to BD/FCMs, but the appointed trustee is generally "subject to the same duties" as a trustee under Subchapter IV.[32] As a result, futures positions held by a BD/FCM should be treated in the manner of futures accounts held by any other FCM.

OCC is approved by the SEC to clear exchange-traded options, and it is also registered with the CFTC as a DCO. In the unlikely event of its insolvency, special provisions of Subchapter IV and Part 190 would apply unless the Federal Deposit Insurance Corporation ("FDIC") sought to resolve the company under Title II of Dodd-Frank. However, that possibility is not part of the CFTC's comparability determination under CEA Section 4d(h).[33]

Below is a simplified comparison.

Across all three regimes, the outcome for customers is substantially the same: FCM insolvency under Subchapter IV and CFTC Part 190 empowers the trustee to prioritize prompt transfer of customer accounts to a solvent FCM and requires pro-rata distribution of customer property ahead of general creditors, with no dollar cap on a customer's share of segregated property. BD insolvency under SIPA likewise empowers the trustee to transfer customer accounts promptly and requires ratable distribution of customer property based on net equity claims, backed by protection from the Securities Investor Protection Corporation of up to $500,000 per customer (including a $250,000 sublimit for cash). And because OCC, as a clearing organization, is itself a "commodity broker" for purposes of Subchapter IV, an OCC insolvency would be administered under the same prompt-transfer and pro-rata priority framework as an FCM insolvency, with clearing members treated as "customers" with respect to margin and collateral.

a) FCM Insolvency

Under the CFTC's Part 190 Rules, the trustee has an obligation to attempt prompt transfer of all customer accounts to a solvent FCM.[34] With respect to customer claims against the bankruptcy estate, accounts are divided into classes.[35] If there is a shortfall in customer property, the assets must be allocated on a pro-rata basis to the estate of the account class for which it is segregated or traceable.[36] All other property is allocated among account classes to equalize the percentage paid on each allowed net equity claim for each account class.[37] The trustee is required to pay the

32 *Id*. § 78fff-1.

33 7 U.S.C. § 6d(h).

34 17 C.F.R. § 190.04(a).

35 *Id.* § 190.01.

36 *Id.* § 190.09(c)(1)(i).

37 *Id.* §§ 190.09(c)(2)(i)–(iii).

allowed customers' claims in priority to all other claims against the estate, other than claims for administration of the estate itself in bankruptcy.[38]

b) BD Insolvency

In the event of a BD's insolvency, a SIPA trustee also has the authority to promptly transfer customer accounts to a solvent entity.[39] Like Subchapter IV and Part 190, SIPA requires the priority distribution of a BD's customer property ratably to customers on the basis and extent of their allowed net equity claims.[40] Importantly, the term "customer property" subject to ratable distribution includes "a futures contract or an option on a futures contract received, acquired, or held by or for the account of a debtor from or for such portfolio margining account, and the proceeds thereof."[41] In addition to the protections that are directly comparable to those of Subchapter IV and Part 190, the Securities Investor Protection Corporation protects individual BD customer accounts up to $500,000 (which includes a $250,000 sublimit for cash).[42]

c) CCA Insolvency

In the unlikely event of OCC's insolvency, the CCP's estate would be administered pursuant to Subchapter IV and Part 190. Section 101(6) of the Bankruptcy Code defines "commodity broker" to include, among other things, a clearing organization,[43] while Sections 190.11 through 190.19 of the CFTC's bankruptcy rules apply specifically to DCOs. As a result, if the CCP were liquidated, its members would be "customers" for purposes of Subchapter IV to the extent of any claims against OCC "on account of cash, a security, or other property received by such clearing organization to margin, guarantee, or secure a commodity contract in such clearing member's proprietary account or customers' account."[44] Property forming the basis of such claims would fall within the Subchapter IV's definition of "customer property," *i.e.*, "cash, a security, or other property, or proceeds of such cash, security, or property, received, acquired, or held by or for the account of the debtor, from or for the account of a customer."[45] Because futures customer funds held in a portfolio margining account fit these definitions, the same rules would apply as in any other commodity broker liquidation.

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38 11 U.S.C. § 766(h).

39 15 U.S.C. § 78fff-2.

40 *Id*. § 78fff-2(c)(1)(B).

41 15 U.S.C. § 78lll(4)(D).

42 *Id.* § 78fff-3(a).

43 11 U.S.C. § 101(6).

44 *Id*. § 761(9)(D).

45 11 U.S.C. § 761(10).

B. Allow VIX Futures, VIX Options, and SPX Options to Be Held in a Portfolio Margining Account Carried as a Securities Account.

The ability to combine VIX Futures, VIX Options, and SPX Options in a portfolio margining account carried as a securities account is of substantial benefit to customers, who would realize meaningful capital efficiencies from margining these products on a portfolio basis. We encourage the Commissions to prioritize this issue and take steps to permit these products to be held in a portfolio margining account carried as a securities account. While the rulemaking to implement CEA section 4d(h) discussed above is important, the Commissions need not wait for that rulemaking to take this step.

C. The Commissions Should Coordinate to Streamline the Process for Approving New Cross-Margining Agreements.

The current process for approval of new cross-margining agreements between SEC-regulated clearing organizations and CFTC-regulated DCOs is unduly cumbersome. The recent CME-FICC exemptive orders are illustrative.[46] Under the proposed cross-margining arrangement, ultimately approved by the Commissions, eligible BD/FCMs would be permitted to carry FICC-cleared Treasury securities and related customer margin in a CFTC-regulated futures account so that those positions could be cross-margined with CME Treasury futures. The Treasury securities themselves and certain related funds would be held by FICC. Implementing that structure required a spectrum of regulatory relief from entirely separate sets of rules. From the CFTC, exemptive relief was required because (1) CEA Section 4d generally prohibits the commingling of futures customer funds and positions with other property and positions; and (2) FICC, as an SEC-registered clearing agency rather than a DCO, is not a "permitted depository" for futures customer property. From the SEC, relief from Exchange Act Section 15(c)(3) and Rule 15c3-3 was required because, absent relief, the Treasury securities and associated customer property could not be carried solely within the CFTC futures-account and customer-protection regime. Both CCPs also required formal approval from their respective regulators for rule changes to implement the arrangement.[47] Notably, this was not a new program. It was an extension of an existing arrangement that previously applied only to proprietary positions of clearing members and certain affiliates. The process nevertheless took approximately eleven months, *excluding* any pre-filing discussions with staff, which typically would be extensive.

The Commissions should promote efficiency by streamlining a single coordinated review process. There should be a single application, coordinated comments, joint staff review, defined timelines,

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46 91 Fed. Reg. 20880; SEC, *Order Under Section 36 of the Securities Exchange Act of 1934 (the "Exchange Act") Granting Conditional Exemptive Relief from Section 15(c)(3) of and Rule 15c3–3 Under the Exchange Act for Cross-Margining of Cleared U.S. Treasury Securities and Related Futures*, 91 Fed. Reg. 21035 (Apr. 20, 2026) ("SEC CME-FICC Order").

47 17 C.F.R. § 39.13(i); *see, e.g.*, *CFTC CME-FICC Order*, 91 Fed. Reg. 20880; *SEC CME-FICC* Order, 91 Fed. Reg. 21035.

and contemporaneous decisions. The Commissions should also establish and publish common criteria for cross-margining arrangements such as compatible margin models, intraday information sharing, default coordination, stress testing, and periodic validation.

D. The Commissions Should Coordinate to Streamline the Process of Expanding Approved Cross-Margining Arrangements to New Products.

Another hurdle is that to expand a given cross-margining arrangement to include additional products, CCPs must follow the same approval process as applies to initial approval of the program itself.[48] But approval of a new product for cross-margining does not pose the same challenges to the Commissions as the original approval of program-wide legal, operational, collateral, margin, and default-management arrangements between CCPs. In the context of simply adding a new product to an existing, approved program, further streamlining is warranted.

With an approved framework already in place, the CCPs should need to show that the new products have a significant and reliable economic relationship, that the offset is supported by backtesting and stress testing, and that the addition does not materially change liquidity, default-management, segregation, or customer-protection risks. Although these are serious tasks that require close scrutiny, the process should not be as lengthy and cumbersome as the initial approval. The Commissions should accordingly establish an expedited path, and approval of new products within an existing cross-margining arrangement should be subject to delegated authority of staff rather than requiring full Commission approval.

E. The SEC Should Ease the Requirements for Adding Products to Existing Risk-Based Haircut Frameworks.

Exchange Act Rule 15c3-1a (Appendix A of the SEC's Net Capital Rule) provides for risk-based haircuts for options and related positions, but does not allow for many types of securities and futures risk offsets.[49] With respect to positions involving listed options, the rule prescribes only five product categories of permissible offset: (1) equity options on a given underlying with positions in that underlying instrument; (2) options on the same major market foreign currency, positions in that major market foreign currency, and related instruments within those options classes; (3) high-capitalization diversified market index options, related instruments within the option's class, and qualified stock baskets in the same index; (4) non-high-capitalization diversified index options, related instruments within the index option's class, and qualified stock baskets in the same index; and (5) narrow-based index options, related instruments within the

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48 *See, e.g.*, 17 C.F.R. § 39.13(i) ("A derivatives clearing organization that seeks to implement *or modify* a cross-margining program with one or more clearing organizations shall submit rules for Commission approval pursuant to § 40.5." (emphasis added)).

49 *Id.* § 240.15c3-1a.

index option's class, and qualified stock baskets in the same index.[50] Even within those categories, offsets are restricted by a narrow definition of "related instruments," which Exchange Act Rule 15c3-1a(a)(3) restricts to "futures contracts, options on futures contracts, security-based swaps on a narrow-based security index, and swaps *covering the same underlying instrument*," plus forward contracts on the same currency for FX options.[51]

Other types of instruments are well suited to offsets, and the SEC should amend the rule to include them. These include fixed income securities and related derivatives; volatility and variance instruments; digital currencies and related derivatives; and defined outcome ETFs. At a minimum, the SEC should amend Rule 15c3-1a(a)(3) to allow these and other additional product types. Far preferably, however, the SEC should codify a principles-based standard resembling the CFTC's Rule 39.13(g)(4)(i), which permits reductions for related positions where the price risks are "significantly and reliably correlated."[52]

F. The SEC Should Allow Alternatives to the TIMS.

Currently, TIMS is the only method approved for calculating margin in a securities customer portfolio margining account. The TIMS framework prescribes how profits and losses are calculated, the assumed market moves (*i.e.*, price shocks) to apply, and how offsets are applied. It requires that options, futures, and stock positions, with the same underlying interest, be grouped into classes, which are then combined into product groups. It then recognizes offsets between class groups within the product group. Then, TIMS calculates the total risk of each account as the sum of the worst scenario outcomes of each product group. Offsets between product groups are limited. This method is effectively hard-wired into FINRA Rule 4210(g), approved by the SEC, which dictates a model with those parameters. FINRA describes Rule 4210(g) as a "prescribed portfolio margin methodology."[53]

However, although TIMS has produced consistently sufficient base margin requirements, it nevertheless has shortcomings as it relates to portfolio margin. Among other things:

- Because TIMS requires that each class group belong to only one product group, it ignores any offsetting effects among instruments in different product groups within a portfolio. But since portfolio risk can never be larger than the sum of portfolio components' risk, this upwardly biases the model and results in unnecessarily high margin requirements.

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50 *Id*. § 240.15c3-1a(b)(1)(ii)

51 *Id.* § 240.15c3-1a(a)(3) (emphasis added).

52 *Id*. § 39.13(g)(4)(i).

53 FINRA Regulatory Notice 19-21, *FINRA Requests Comment on Proposed Amendments to the Margin Requirements for Certain Options Transactions and Related Interpretations* (July 11, 2019).

- Aggregating by product groups can lead to illogical results. For example, a portfolio may contain a long position in a broad-based index group and a short position in the individual equities group. Aggregating those risks separately by product group results in margin amounts calibrated for a scenario in which a decline in all broad-based indices could exist simultaneously with a rise in all individual equities, which is impossible.
- TIMS assumes perfect correlation of price movements for underlying interests belonging to the same product group, which is an inaccurate assumption. As a result, it can overstate margin requirements for unhedged product group portfolios and understate margin requirements for hedged product group portfolios.
- TIMS does not consider dynamic price shocks, making it unresponsive to changes in price volatility. The impact of this is that during times of subdued volatility, products can be over-margined, and during times of heightened volatility, products are often under-margined. Additionally, TIMS provides no mechanism for shocking option volatility, which has the effect of understating the price changes to options at the different underlying price shocks considered by TIMS.

The SEC (in coordination with FINRA) should act to provide that flexibility. Again, the CFTC's "significantly and reliably correlated" standard (with no rigid, required model) is a superior formulation.[54]

G. Collaborate with SROs to Eliminate Their Rule Requirements that a Customer Be Approved to Trade Uncovered Short Options as a Prerequisite to Obtaining a Securities Portfolio Margining Account.

Existing SRO rules are a barrier to portfolio margining by retail customers. The principal issue is an ill-fitting requirement that a customer be approved by the BD to trade uncovered short options before it may offer the customer a portfolio margining account at all.[55] This means that even a customer using portfolio margining to maintain *risk-reducing* positions must first qualify for the option strategy with the greatest unhedged downside. Firms therefore must assess customers against rigid criteria calibrated to a high-risk profile that is not necessarily relevant.

Requirements calibrated to a customer's actual portfolio would open the door to many more participants. This could include requirements based on financial resources, trading experience, and/or the ability to understand margin risk and the functioning of an offset-based system. That, in turn, may benefit markets through increased liquidity and smaller bid-ask spreads, and it would allow customers to choose how to use their own cash and other assets. Importantly, if SRO rules are amended consistent with this recommendation, BDs would remain free to maintain stricter qualification criteria for access to portfolio margining accounts.

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54 17 C.F.R. § 39.13(g)(4)(i).

55 FINRA Rule 4210(g)(4)(C), (g)(5)(B); see FINRA Rule 2360(b)(16).

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Thank you for the opportunity to comment. Changes to the rules for portfolio margining and cross-margining are long overdue, and careful reforms would benefit markets and the public alike. We commend the Commissions for initiating this process through the Joint Request and look forward to assisting the Commissions as they move forward.

Sincerely,

s/Patrick Sexton

Patrick Sexton
EVP, General Counsel, and Corporate Secretary
Cboe Global Markets, Inc.

CC: The Honorable Paul S. Atkins, Chairman, Securities and Exchange Commission
The Honorable Hester M. Peirce, Commissioner, Securities and Exchange Commission
The Honorable Mark T. Uyeda, Commissioner, Securities and Exchange Commission
The Honorable Michael S. Selig, Chairman, Commodity Futures Trading Commission
Mr. Jamie Selway, Director, Division of Trading and Markets, Securities and Exchange Commission