



**U.S. COMMODITY FUTURES TRADING COMMISSION**  
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## **CFTC Market Participants Division and the Division of Clearing and Risk Respond to Frequently Asked Questions Concerning Registrant and Registered Entity Activities Relating to Crypto Assets and Blockchain Technologies**

The Market Participants Division (“MPD”) and the Division of Clearing and Risk (“DCR,” and together with MPD, the “Divisions”) of the Commodity Futures Trading Commission (“CFTC,” or “Commission”) have prepared the following responses to frequently asked questions (“FAQs”) concerning registrant and registered entity activities relating to crypto assets and blockchain technologies under the Commodity Exchange Act (“CEA”).<sup>1</sup>

In December 2025, the Divisions issued two staff letters, CFTC Staff Letter 25-39 and CFTC Staff Letter 25-40 (later reissued with limited revisions as CFTC Staff Letter 26-05) to provide guidance and a no-action position, respectively, in connection with the use of certain crypto assets as collateral in the derivatives markets. Following the publication of the staff letters, the Divisions received questions seeking clarification on certain aspects of the letters. In turn, the Divisions are providing these responses in an effort to provide further clarity to market participants.<sup>2</sup>

From time to time, the Divisions may update these questions and answers. To the extent there are updates, the questions added after publication of the last version will be marked with “UPDATED” or “NEW.”

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<sup>1</sup> This FAQ represents only the views of the Divisions and is not intended to, does not, and may not be relied upon to create any rights, substantive or procedural, enforceable by law by any party in any matter. This FAQ does not provide any no-action position with respect to a recommendation by any Division that the Commission initiate an enforcement action for failure to comply with the Act or Commission regulations. Further, this FAQ is not intended to, does not, and may not be relied upon to create any new binding rules or regulations, or to amend existing rules or regulations. This FAQ does not necessarily represent the views of the Commission or of any other division or office of the Commission.

<sup>2</sup> The responses to this FAQ are intended to provide additional guidance consistent with the Commission regulations and CFTC Staff Letter 25-39 (RE: Tokenized Collateral Guidance), available at <https://www.cftc.gov/csl/25-39/download>, and CFTC Staff Letter 26-05 (RE: Staff No-Action Position Regarding Digital Assets Accepted as Margin Collateral), available at <https://www.cftc.gov/csl/26-05/download>. Note that CFTC Staff Letter No. 26-05 is the successor to CFTC Staff Letter 25-40. In developing these FAQs, the Divisions were informed by the Securities and Exchange Commission’s Division of Trading and Markets: Frequently Asked Questions Relating to Crypto Asset Activities and Distributed Ledger Technology (“SEC FAQs”). The SEC FAQs are available here: <https://www.sec.gov/rules-regulations/staff-guidance/trading-markets-frequently-asked-questions/frequently-asked-questions-relating-crypto-asset-activities-distributed-ledger-technology>.

***Q1: May an FCM apply a customer’s non-security crypto assets, including payment stablecoins, deposited as margin in futures, foreign futures, or cleared swaps accounts to secure the customer’s debit/deficit account balance?***

Yes, an FCM relying on CFTC Staff Letter 26-05 may apply the value of a customer’s non-security crypto assets, after applicable haircuts, deposited to margin futures, foreign futures, or cleared swaps accounts to secure the customer’s debit or deficit account balance. CFTC Staff Letter 26-05 states that MPD would not recommend that the Commission initiate an enforcement action if an FCM takes into account the value, after application of haircuts, of certain crypto assets, including payment stablecoins,<sup>3</sup> held as customer margin when determining whether and to what extent a customer’s futures, foreign futures, or cleared swaps account was undermargined. Consistent with Commission Regulation 1.17(c)(5)(viii)(C)<sup>4</sup> and CFTC Staff Letter 26-05, MPD clarifies that non-security crypto assets may also secure customer debit or deficit account balances.

For FCMs relying on MPD’s no-action position, the valuation and haircuts that are to be applied to the non-security crypto assets are detailed in CFTC Staff Letter 26-05.

***Q2: May an FCM deposit its own payment stablecoins into segregated customer accounts as residual interest?***

As stated in CFTC Staff Letter 26-05, MPD would not recommend that the Commission initiate an enforcement action against an FCM that deposits proprietary payment stablecoins as residual interest in customer segregated accounts for futures, foreign futures, and cleared swaps transactions. The FCM shall impose a capital charge on the payment stablecoins deposited into customer segregated accounts as required under Commission Regulation 1.17(c)(5). MPD would not object if the FCM imposed a capital charge of at least 2% of the market value of their payment stablecoins.

MPD notes that the response to this question is consistent with the U.S. Securities and Exchange Commission’s (“SEC”) approach to the haircut applicable to a broker-dealer’s proprietary positions in payment stablecoins.<sup>5</sup>

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<sup>3</sup> The term “payment stablecoin” is defined for purposes of this FAQ to mean: (i) prior to the effective date of the Guiding and Establishing National Innovation in U.S. Stablecoins Act of 2025, 12 U.S.C. 5901 (“GENIUS Act”), a USD-denominated stablecoin that is issued by a state-regulated money transmitter, state-regulated trust company, or a national trust bank; maintains reserve assets limited to direct or indirect investments in cash, U.S. treasury securities or overnight U.S. Treasury repurchase agreements; and publishes monthly attestations regarding the composition of the reserve assets and whether the fair value of the assets held in reserve is equal to the amount of stablecoins in circulation; and (ii) following the effective date of the GENIUS Act, a stablecoin that meets the requirements contained in the GENIUS Act’s definition of “payment stablecoin” and is issued by a “permitted payment stablecoin issuer” or a “foreign payment stablecoin issuer” that complies with the GENIUS Act’s requirements applicable to such issuers.

<sup>4</sup> Commission Regulation 1.17(c)(5)(viii)(C) provides that if an FCM treats the receivable resulting from a customer’s debit or deficit account balance as a non-current asset for capital purposes, the FCM may exclude the debit or deficit balance from the undermargined capital charge calculated under Regulation 1.17(c)(5)(viii).

<sup>5</sup> See SEC FAQs, Question 5 (stating that SEC staff will not object if a broker-dealer treats a proprietary position in payment stablecoins as having a “ready market” under Rule 15c3-1, and takes a haircut of 2% of the market value of the greater of the long or short proprietary position in payment stablecoin in calculating its net capital).

***Q3: May an FCM deposit its own crypto assets, other than payment stablecoins, in segregated customer accounts as residual interest?***

No. An FCM relying on the no-action position in CFTC Staff Letter 26-05 may not deposit proprietary crypto assets (e.g., bitcoin, ether, or other crypto assets), other than payment stablecoins, in customer segregated accounts as residual interest. Under the terms of CFTC Staff Letter 26-05, only proprietary payment stablecoins may be deposited as residual interest in customer segregated accounts.

***Q4: May an FCM invest customer funds in payment stablecoins?***

No. CFTC Staff Letter 26-05 has no effect on the list of permitted investments of customer funds in Commission Regulation 1.25. An FCM may only deposit payment stablecoins in segregated customer accounts if the payment stablecoins represent the FCM's residual interest in the accounts.

***Q5: May a swap dealer exchange crypto assets as initial or variation margin for uncleared swaps entered into with a swap dealer or a financial end user?***

No. CFTC Staff Letter 26-05 has no effect on the list of eligible margin collateral for uncleared swaps enumerated in Commission Regulation 23.156. Crypto assets, including payment stablecoins, are not included in the list of eligible margin collateral.

Consistent with the staff guidance provided in CFTC Staff Letter 25-39, a swap dealer may exchange a tokenized form of an eligible collateral asset provided the asset satisfies applicable regulatory requirements and grants the holder with legal and economic rights that are the same or functionally equivalent to the rights that come with the asset in its traditional form.

***Q6: What capital charge should an FCM take on proprietary non-security crypto assets, including payment stablecoins, in computing its regulatory capital?***

Consistent with the SEC FAQs, MPD would not object if an FCM applies a minimum 20% capital charge specified in Commission Regulation 1.17(c)(5)(ii) for inventory positions in bitcoin and ether and a 2% capital charge for payment stablecoins.<sup>6</sup>

In the spirit of inter-agency harmonization, the Divisions believe that it is important to align the haircut treatment applicable to proprietary positions in bitcoin, ether, and payment stablecoins,

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<sup>6</sup> SEC FAQs, Question 4 (stating that SEC staff will not object if a broker-dealer treats proprietary positions in bitcoin or ether as being "readily marketable" for purposes of determining whether the 20% haircut applicable to commodities under Appendix B of Rule 15c3-1 applies).

with the haircut framework reflected in the SEC FAQs addressing the same proprietary positions held by securities broker-dealers.

***Q7: May a DCO accept crypto assets, including payment stablecoins, as initial margin for cleared transactions?***

Yes, a DCO may accept crypto assets, including payment stablecoins, as initial margin for cleared transactions provided that such margin collateral meets the requirements of Commission Regulation 39.13(g)(10), which provides that a DCO must limit the assets it accepts as initial margin to those that have minimal credit, market, and liquidity risks.

***Q8: What haircut should a DCO apply to a crypto asset, including payment stablecoins, deposited as initial margin for cleared transactions?***

Pursuant to Commission Regulation 39.13(g)(12), a DCO is responsible for setting haircuts on assets it accepts as initial margin. A DCO is required to apply haircuts to assets deposited as initial margin, including crypto assets and payment stablecoins, that provide appropriate reductions in value to reflect credit, market, and liquidity risks, taking into consideration stressed market conditions. A DCO is required to evaluate the appropriateness of the haircuts on at least a monthly basis.

***Q9: Is an FCM required to take any action prior to relying on CFTC Staff Letter 26-05?***

Yes. CFTC Staff Letter 26-05 states that prior to relying on the no-action position therein, the FCM must file a notice with MPD, which includes the date on which it will commence accepting crypto assets from customers as margin collateral. This notice must be filed via the WinJammer electronic filing system.

***Q10: What conditions are imposed on FCMs that accept crypto assets as margin collateral under CFTC Staff Letter 26-05?***

FCMs that rely on CFTC Staff Letter 26-05 are subject to several conditions, including three that apply during the initial period of reliance on the letter. First, for a period of three months commencing on the date the FCM first accepts crypto assets from customers, the FCM may accept only crypto assets in the form of payment stablecoins, bitcoin, or ether as margin collateral from customers and may deposit only proprietary payment stablecoins as residual interest in futures, foreign futures, and cleared swaps customer accounts.

Second, during the initial three-month period the FCM must provide prompt written notice, via the WinJammer electronic filing system, of any significant<sup>7</sup> operation or system issue, disruption, or failure, including any cybersecurity incident, that affects the use of crypto assets as customer margin collateral.

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<sup>7</sup> For this purpose, a matter is “significant” if it involves a significant financial amount, significant number of customers, or indicates a control weakness with the potential to affect a significant amount or significant number of customers.

Third, for three months starting with the calendar month following the month in which the FCM files its notice, the FCM files, via the WinJammer electronic filing system, as of the close of business each week a report of the total amount of crypto assets held in each of the futures, foreign futures, and cleared swaps accounts. The report shall list each crypto asset type separately, including payment stablecoins, for each of the three customer account classes.

***Q11: What happens after expiration of the three-month period from the commencement of the FCM's reliance on the no-action position in CFTC Staff Letter 26-05?***

After expiration of the three-month period from the commencement of the FCM's reliance on the no-action position in CFTC Staff Letter 26-05, the conditions limiting acceptable crypto asset margin collateral to payment stablecoin, bitcoin, and ether, as well as the condition requiring the filing of a notice of significant operation or system issue, disruption, or failure, will no longer apply. Therefore, an FCM may accept other crypto assets as margin collateral provided the FCM meets conditions (1) through (3) of CFTC Staff Letter 26-05 as applicable. The margin value and applicable haircuts for purposes of determining whether and to what extent a customer's account is undermargined or in debit or deficit would continue to follow the process outlined in CFTC Staff Letter 26-05.

The FCM's weekly reporting requirements begin with the calendar month following the month in which the FCM files its notice of intent to rely on CFTC Staff Letter 26-05, and they would terminate at the end of the third calendar month (at which point the FCM is no longer required to file a weekly report).