August 26, 2026

Christopher J. Kirkpatrick
Secretary
Commodity Futures Trading Commission
Three Lafayette Center
1155 21st Street, NW
Washington, DC 20581

Re: Request for Comment on the Extension of Standard Futures Contracts to 24/7 Trading and on Perpetual Contracts Referencing Physically Delivered or Storable Energy Commodities, 91 Fed. Reg. 38,334 (June 25, 2026)

Dear Mr. Kirkpatrick:

Better Markets[1] appreciates the opportunity to respond to the above-referenced request for comment.[2] The request for comment addresses the extension of standard futures contracts to 24/7 trading and the listing of perpetual contracts that reference physical commodities such as crude oil. Better Markets has expressed concerns with 24/7 trading and with perpetual futures previously, and it reincorporates those concerns here with respect to this request for comment.[3]

The problem with both expanding trading hours to 24/7 trading and allowing perpetual futures contracts on commodities such as crude oil is that these developments endanger retail investors. The "biggest danger of the 24/7 revolution is the trend toward turning oil trading into a casino-style endeavor focused on retail investors, rather than on the needs of commercial users and institutional investors, who have traditionally shouldered the price-discovery process."[4]

24/7 trading may well lead to greater retail participation in derivatives markets, but that participation may cost retail investors money. That is because they will still be trading against

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1 Better Markets is a non-profit, non-partisan, and independent organization founded in the wake of the 2008 financial crisis to promote the public interest in the financial markets, support the financial reform of Wall Street, and make our financial system work for all Americans again. Better Markets works with allies—including many in finance—to promote pro-market, pro-business, and pro-growth policies that help build a stronger, safer financial system that protects and promotes Americans' jobs, savings, retirements, and more.

2 91 Fed. Reg. 38,334 (June 25, 2026).

3 *See* Better Markets, Comment Letter re: Request for Comment on Trading and Clearing Derivatives on a 24/7 Basis (May 21, 2025), https://bettermarkets.org/wp-content/uploads/2025/05/Better-Markets-Comment-Letter-CFTC-24.7-Trading.pdf; Better Markets, Comment Letter re: Request for Comment on Trading and Clearing of "Perpetual" Style Derivatives (May 21, 2025), https://bettermarkets.org/wp-content/uploads/2025/05/Better-Markets-Comment-Letter-Perpetual-Derivatives.pdf.

4 Javier Blas, *We Don't Need 24/7 Oil Trading. It's Coming Anyway*, Bloomberg (July 20, 2026), https://www.bloomberg.com/opinion/articles/2026-07-21/we-don-t-need-24-7-oil-trading-it-s-coming-anyway?sref=mQvUqJZj.

the "oil companies, refineries and airlines" that use futures contracts to "hedge against price swings" and against "financial traders such as hedge funds" that use these futures "to bet on whether prices will rise or fall."[5] As a result, "most retail traders will lose money because they under-estimate the information and technology advantages held by professional traders and over-estimate their own trading 'edge.'"[6] All retail traders will be doing trading futures 24/7 is betting on price swings.[7] So "[l]onger trading hours, smaller contract sizes and more retail trading are likely to accelerate the wealth transfer from retail 'outsiders' to professional 'insiders.'"[8]

Retail investors also face the prospect of receiving worse prices during overnight trading. That is because market activity may be low during extended-hours trading, which "can lead to wider spreads and fewer available quotes" and "create additional execution risk for traders."[9]

> In general, a market works well if people are actually trading. Simply opening a market does not create liquidity. Instead, liquidity comes from people actively trading. When many buyers and sellers participate actively, markets work well. That is, bid-ask spreads remain narrow, large orders can be executed without dramatically moving prices, and prices reflect the collective knowledge and expectations of many participants.
>
> On the other hand, when there are only a few traders and little activity . . . [s]preads widen, prices become more volatile, and a relatively small order can move the market significantly. If 24/7 trading creates some periods of little liquidity (say, weekends), then it can bring up all these issues and lead to a less efficient market during those periods.[10]

So longer hours "risk diluting liquidity and increase the risk of sharp and unrepresentative price moves at times when trading desks are lightly staffed or not many customers want to trade."[11]

The fact that trading desks will be lightly staffed during overnight trading raises another issue. Compliance teams will need to have "contingencies for hiring additional staff to cover the extended hours, as well as increased monitoring and surveillance requirements in consideration of the potential for increased risk exposure due to the longer trading day."[12] These risks include:

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5 Malcome Moore, *Oil market opens up as retail traders pour in*, Financial Times (July 5, 2026), https://www.ft.com/content/b64227fd-3fae-4fea-bb83-4cc463fa09ed?syn-25a6b1a6=1.

6 John Kemp, *Retail traders will lose money in 24/7 oil markets*, JKempEnergy.com (July 21, 2026), https://jkempenergy.com/2026/07/21/retail-traders-will-lose-money-in-24-7-oil-markets/.

7 Moore, supra note 5.

8 Kemp, supra note 6.

9 *Vantage Flags Liquidity and Execution Risks in 24/7 Trading*, Finance Magnates (Aug. 18, 2026), https://www.tradingview.com/news/financemagnates:bd0feee4e094b:0-vantage-flags-liquidity-and-execution-risks-in-24-7-trading/.

10 Fabio Mattos, *Futures markets that never sleep? The debate over 24/7 trading in futures markets*, University of Nebraska (Aug. 12, 2026), https://agecon.unl.edu/futures-markets-never-sleep-debate-over-247-trading-futures-markets/.

11 Kemp, supra note 6.

12 Paul Cottee, *24-hour Derivatives Trading—Is this Really a Good Idea?*, A-Team Insights Blog (May 16, 2025), https://a-teaminsight.com/blog/24-hour-derivatives-trading-is-this-really-a-good-idea/.

> For example, if there is a large price change during the weekend (when banks are closed), will traders receive a margin call right away? Who monitors positions around the clock? Can businesses transfer collateral when banks are closed? Further, on the futures exchange side, could they maintain cybersecurity and system reliability without regular maintenance windows? Would continuous trading make markets more vulnerable to manipulation during thinly traded periods?[13]

There is also the issue that all these questions could arise when the CFTC would be closed, so the CFTC also would need to have a plan in place in case a market disruption occurs overnight.

In light of these issues, the question is why is 24/7 derivatives trading desirable? 24/7 trading could allow speculators and traders to react to market-moving events immediately in real time, which theoretically could smooth price discovery and facilitate risk management.[14] But "price discovery tends to be more efficient when many participants are actively trading."[15] And research shows that "when trading is extended beyond regular business hours, we often see lower trading volume."[16] So because a "well-functioning futures market depends more on the active participation of buyers and sellers than on how many hours it stays open,"[17] the benefits to speculators and traders of being able to effect transactions around the clock may be minimal.

There is also the suggestion that retail customers are demanding the ability to trade futures around the clock. Although exchanges are certainly making it easier for retail customers to trade futures 24/7,[18] that may be simply because "exchanges and dealers need to recruit new customers."[19] That retail customers "are being actively courted to trade" futures around the clock does not mean that they need the ability to trade futures overnight and on the weekends.[20]

Indeed, the CFTC must recognize that for futures exchanges, "more trading hours means more trading and hence more revenues."[21] "If markets stay open 24/7, there will potentially be more trading, and this means futures exchanges have a chance to make more money."[22] Given the risks to retail customers of 24/7 trading, though, that is not a sufficient reason to allow it.

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13 Mattos, supra note 10.

14 *Id.*

15 *Id.*

16 *Id.*

17 *Id.*

18 Katherine Doherty and Yvonne Yue Li, *CME Seeks 24/7 Trading of Silver Futures in Retail Push*, Bloomberg (Aug. 11, 2026), https://www.bloomberg.com/news/articles/2026-08-11/cme-seeks-24-7-trading-of-silver-futures-in-bid-for-retail-crowd?sref=mQvUqJZj.

19 Kemp, supra note 6.

20 *Id.*

21 Mattos, supra note 10.

22 *Id.*

In this respect, exchanges may favor 24/7 trading simply to capture more trading activity and counteract the CFTC's refusal to regulate prediction markets.[23] The CFTC has allowed prediction market platforms to offer perpetual futures contracts and has treated them as futures despite the fact that they have no expiration date.[24] Nonetheless, the answer is not to allow exchanges to induce retail investors to trade futures around the clock in a manner that may harm them, especially when there is "no clear evidence" that futures markets will do a better job of producing reliable prices or providing effective hedging opportunities "if they are open 24/7."[25]

Similarly, perpetual futures are marketed towards retail investors, yet their use of leverage means that perpetual futures contracts are inappropriate for most retail investors.[26] Leverage promises the ability to get rich quick. The problem is that it also means that a very small shift in the price of the underlying assets can very quickly lead to very large losses.[27]

Perpetual futures also pose risks to retail investors in the way they are marketed. For example, on "Tik Tok, baby-faced investors flaunt the sports cars and villas they claim to have bought with their winnings on these highly leveraged derivatives.[28] But the reality is that the way perpetual futures work simply encourages "speculative, adrenaline-fueled trading . . . that exposes small traders to losses and makes markets more volatile in times of stress."[29]

> Features such as 24/7 trading, synthetic pricing, and app-based interfaces can encourage impulsive, high-frequency trading detached from informed risk assessment. Without contract expirations to impose discipline, these products facilitate continuous speculation, heightening the risk of overtrading, rapid losses, and financial harm for unsophisticated participants.[30]

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23 Doherty and Li, supra note 18.

24 *See* Press Release, *CFTC's Approval of Crypto Perpetual Future Endangers Retail Investors*, Better Markets (May 29, 2026), https://bettermarkets.org/newsroom/cftcs-approval-of-crypto-perpetual-future-endangers-retail-investors/.

25 Mattos, supra note 10.

26 Benjamin Schiffrin, *Perpetual Futures are Inappropriate for Retail Investors, Just like Single-Stock ETFs*, Better Markets (July 13, 2026), https://bettermarkets.org/analysis/perpetual-futures-are-inappropriate-for-retail-investors-just-like-single-stock-etfs/.

27 *See Retail investors should beware perpetual futures*, The Economist (July 28, 2026), https://www.economist.com/finance-and-economics/2026/07/28/retail-investors-should-beware-perpetual-futures.

28 George Steer and Nolan Shaffer, *US day traders flock to 'the most dangerous product in crypto,'* Financial Times (Jul. 19, 2026), https://www.ft.com/content/8da4243f-820c-428c-bcfb-ba63dac48c1c?syn-25a6b1a6=1.

29 *Id.*

30 Better Markets, Comment Letter re: Request for Comment on Trading and Clearing of "Perpetual" Style Derivatives, supra note 3, at 5.

Retail customers likely do not realize that perpetual futures' "continuous trading" and "unique design" mean that a "market reversal can quickly spiral into escalating sell-offs."[31]

Perpetual futures on physical commodities are no more appropriate for institutions and traditional market participants in the derivatives market. We have warned previously that such contracts "do not promote price discovery or legitimate hedging, and may distort physical settlement markets."[32] Energy companies themselves have issued similar warnings:

> "While markets for perpetual derivatives products in the energy sector may be of interest to speculative traders and high-frequency trading firms . . . the use of these contracts could result in thinned liquidity for certain key benchmark energy futures contracts . . . . Such a situation could result in less efficient and well-functioning markets for commercial hedgers to mitigate their exposure to price risk and could increase exposure to price volatility and wider spreads at the expiry of key benchmark futures contracts."[33]

So the introduction of perpetual futures on physical commodities would only further blur the line between investing and gambling. Futures contracts are supposed to be used for "risk management, not risk-taking," with expiration the "primary feature – not bug – that allows both big and small investors to define their risk."[34] Yet perpetual futures "'do not facilitate these trading strategies' . . . because they 'do not offer contracts with different delivery dates.'"[35]

As a result, perpetual futures prevent "commercial hedgers from matching exposures to specific future dates while also limiting the ability of swap dealers and managed money firms to trade calendar spreads."[36] Instead of hedging, the speculation that perpetual futures promote is mostly "'for entertainment purposes.'"[37] Perpetual futures, with their lack of an expiration date

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31 Steer and Shaffer, supra note 28; *see also* Vicky Ge Huang, *The Hottest New Crypto Trade is 24/7 Oil Futures*, The Wall Street Journal (Mar. 13, 2026) ("'The ability to trade these assets 24/7 with leverage is very compelling for a lot of traders, particularly over the weekend when traditional markets are closed,' said Hanson Birringer, managing director of Flowdesk. 'That said, trading highly volatile assets on leverage carries real market risk and we are noticing large liquidations during sudden price moves.'"), https://www.wsj.com/finance/commodities-futures/oil-futures-perpetual-contracts-d5496e5a.

32 Better Markets, Comment Letter re: Request for Comment on Trading and Clearing of "Perpetual" Style Derivatives, supra note 3, at 8.

33 Maya Weber, *US energy companies urge caution on use of perpetual derivatives*, S&P Global (May 29, 2025), https://www.spglobal.com/energy/en/news-research/latest-news/crude-oil/052925-us-energy-companies-urge-caution-on-use-of-perpetual-derivatives (quoting the Commercial Energy Working Group).

34 Oliver Renick, *Wall Street's existential crisis over perpetual futures – the 24/7 security on steroids – just got urgent*, CNBC (Aug. 21, 2026), https://www.cnbc.com/2026/08/21/wall-streets-existential-crisis-over-perpetual-futures-the-24/7-security-on-steroids-just-got-urgent.html.

35 Zak Jakubowski, *Perpetual futures unlikely to disrupt traditional commodity markets, analysis finds*, FOW (July 31, 2026) (quoting University of Houston Finance Professor Craig Pirrong), https://www.fow.com/insights/perpetual-futures-unlikely-to-disrupt-traditional-commodity-markets-analysis-finds.

36 *Id.*

37 *Id.* (quoting ICE chairman and chief executive Jeffrey Sprecher).

and use of leverage, turn exchanges into casinos by encouraging reckless speculation while offering little utility for any trader looking to hedge the price of an underlying commodity.[38]

This means that approving perpetual futures on physical commodities risks transforming the nature of the derivatives market. That market is fundamentally about hedging risk.[39] But perpetual futures "'are in no way substitutes for the institutional hedging tools'" that customers rely on.'"[40] They "'do not provide price or time certainty, two necessary components of hedging exposures.'"[41] Perpetual futures on physical commodities would turn derivatives trading into "a global casino."[42] A derivatives market that is purely for speculation is not in anyone's interest.[43]

Again, since perpetual futures on physical commodities would benefit neither retail customers nor institutional traders, it begs the question of why the CFTC would approve them. The answer appears to be that the crypto industry favors perpetual futures. That is no reason to approve perpetual futures on physical commodities. Regardless of what the CFTC does with perpetual futures on crypto assets, we agree with the futures exchanges and industry firms who have urged the CFTC "'to exercise extreme caution in considering any introduction of perpetual derivatives into traditional agricultural or energy markets.'"[44] The presence of perpetual futures, which do not serve hedging or price discovery functions, in such markets "could erode long-standing protections, impair liquidity, and destabilize the futures ecosystem."[45]

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38 Joseph Adinolfi and Christine Idzelis, *This hot new financial product has Wall Street spooked. What you should know before trying it out.*, Morningstar (June 5, 2026), https://www.morningstar.com/news/marketwatch/20260605215/this-hot-new-financial-product-has-wall-street-spooked-what-you-should-know-before-trying-it-out; *see also* Jakubowski, supra note 35 (quoting Pirrong saying perpetual futures are "of little value to commercial and institutional market participants").

39 *See* Jakubowski, supra note 35.

40 Katherine Doherty, *CME's Duffy Says Its Clients Aren't Demanding Perpetual Futures*, Bloomberg (July 22, 2026) (quoting CME CEO Terrence Duffy), https://www.bloomberg.com/news/articles/2026-07-22/cme-s-duffy-says-its-clients-aren-t-demanding-perpetual-futures?sref=mQvUqJZj.

41 *Id.*

42 Ronald J. Kruszewski, *For Too Many Young People, Investing Is Like Gambling. It's a Warning Sign*, Barrons (Oct. 21, 2025), https://www.sifma.org/news/blog/barrons-oped-for-too-many-young-people-investing-is-like-gambling-its-a-warning-sign.

43 Anirban Sen and Pritam Biswas, *CME Group's CEO, Duffy, warns of systemic risk from new crypto 'perps,'* Reuters (June 4, 2026), https://www.reuters.com/legal/government/cme-groups-ceo-duffy-warns-systemic-risk-new-crypto-perps-2026-06-04/ (quoting CME CEO Terrence Duffy).

44 Weber, supra note 33 (quoting the Commodity Markets Council).

45 Commodity Markets Council, Comment Letter re: Request for Comment on Perpetual Derivatives (May 21, 2025); *see also* Weber, supra note 33 (summarizing the Commodity Markets Council comment letter).

Conclusion

We hope these comments are helpful as the Commission considers this matter.

Sincerely,

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