

Memorandum

CFTC Seeks Comment on a Tailored Federal Framework for Retail Crypto Trading

October 12, 2026

On October 5, 2026, the Commodity Futures Trading Commission (the “CFTC” or the “Commission”) issued an advance notice of proposed rulemaking (the “ANPRM”) seeking comment on a regulatory framework for retail commodity transactions involving crypto assets subject to Section 2(c)(2)(D) of the Commodity Exchange Act, as amended (the “CEA”) (such transactions, “CTXs”).¹ If adopted, Regulation Crypto Asset Transactions (“Reg CTX”) would clarify which transactions fall within Section 2(c)(2)(D), while Regulation Crypto Asset Markets (“Reg CAM”) would tailor exchange, intermediary and clearing requirements to those transactions.

Key Highlights

- **Fully paid transactions may remain in scope.** The Commission’s preliminary view is that a mere offer to a retail customer of a transaction on a leveraged, margined or financed basis can bring a transaction within Section 2(c)(2)(D), even if the customer declines the offer and pays in full.
- **The framework would tailor existing federal requirements.** Transactions subject to Section 2(c)(2)(D) would continue to require compliance with applicable federal requirements unless an exception applies.
- **Important design questions remain open.** The Commission seeks input on registration, financing, clearing and the treatment of customer assets.

Overview of the Contemplated Framework

BACKGROUND: SECTION 2(c)(2)(D)

Section 2(c)(2)(D) generally applies to commodity transactions entered into with, or offered to, retail customers on a leveraged or margined basis, or financed by the offeror, the counterparty or a person acting in concert with either on a similar basis.² For this purpose, a retail customer is a person that is not an “eligible contract participant” or an “eligible commercial entity,” as such terms are defined under the CEA.³ Unless an exception

¹ Commodity Futures Trading Commission, *Regulation Crypto Asset Transactions and Regulation Crypto Asset Markets*, Advance Notice of Proposed Rulemaking, RIN 3038-AF80 (Oct. 5, 2026) (“ANPRM”), available [here](#).

² CEA § 2(c)(2)(D).

³ “Eligible contract participant” and “eligible commercial entity” are defined in Sections 1a(18) and 1a(17) of the CEA, respectively. See 7 U.S.C. §§ 1a(18), 1a(17), available [here](#).

applies, such transactions must be treated “as if” they were futures contracts under certain provisions of the CEA and must therefore be conducted on or subject to the rules of a designated contract market (“DCM”).⁴ The ANPRM seeks input on rules that would clarify how Section 2(c)(2)(D) applies to transactions in crypto assets and tailor the regulatory requirements for covered transactions.

REG CTX

Reg CTX would clarify when an offer of leverage, margin or financing—a “covered offer”—brings a retail crypto asset transaction within Section 2(c)(2)(D). In the Commission’s preliminary view, the mere offer of leverage can bring a retail crypto asset transaction within Section 2(c)(2)(D). A customer’s rejection of that offer and decision to purchase the asset on a fully paid basis do not, by themselves, take the transaction outside the provision’s scope.⁵

Reg CTX would also clarify the “actual delivery” exception, which generally excludes from Section 2(c)(2)(D) a contract of sale that results in actual delivery of the purchased commodity to the buyer within 28 days.⁶ The analysis would focus on whether the customer obtains meaningful possession or control of the crypto asset. Where the purchased crypto assets are credited only through an exchange’s internal book-entry, the Commission preliminarily believes that the fully paid transaction would remain subject to the protections applicable to on-exchange futures until actual delivery occurs or another exception applies.⁷ The Commission preliminarily understands that transactions executed through onchain trading protocols typically satisfy this exception.⁸ Actual delivery would remove a transaction from the proposed framework while preserving the CFTC’s anti-fraud and anti-manipulation authority.⁹

REG CAM

Reg CAM would create a new “crypto asset market” (“CAM”) subcategory of DCM designation for trading facilities that list only CTXs. Unlike a typical futures contract, the asset listed on a CAM would be the crypto asset itself. CAMs would comply with the statutory DCM Core Principles through crypto-specific regulations, which would be known as the “CAM Core Principles.”¹⁰ Trading facilities could alternatively seek designation under the traditional DCM framework, which would permit them to offer CTXs alongside other permitted derivatives.¹¹ Existing DCMs

⁴ ANPRM, Section I.A, at 7.

⁵ ANPRM, Section III.A, at 59-60.

⁶ CEA § 2(c)(2)(D)(ii)(III)(aa); ANPRM, Section II.A, at 40 and n.170.

⁷ ANPRM, Sections III.B-C, at 61-64.

⁸ ANPRM, Section IV.C(ii), at 66-67.

⁹ ANPRM, Section III.C, at 64 n.279.

¹⁰ ANPRM, Section V.A.1.a, at 70-71.

¹¹ ANPRM, Section V.A.1.a, at 71 and n.289.

could likewise offer CTXs under their current designations.¹² The Commission seeks comment on whether traditional DCMs offering CTXs should receive relief from existing requirements, including permission to apply certain CAM rules to those transactions.¹³ The extent to which CTX activities would be subject to different requirements under the CAM and traditional DCM frameworks would depend on the final CAM rules and any relief made available to traditional DCMs. Transactions in CAM-listed crypto assets would be subject to the contemplated federal framework where they involve covered offers to retail customers entering into CTXs, unless a statutory exception applies.¹⁴

The contemplated model would require CTXs to be intermediated by a futures commission merchant (“FCM”) and cleared through a derivatives clearing organization (“DCO”), each operating under requirements adapted to CTX activities. These functions could be performed by the CAM itself if separately registered as an FCM or DCO, as applicable, or by affiliated or unaffiliated intermediaries.¹⁵ Leverage, margin or financing could be extended to retail customers only under arrangements administered by an FCM or an FCM-sponsored qualified banking institution, as specified in the CAM’s rulebook.¹⁶ The Commission also seeks comment on alternatives, including non-intermediated access, alternative financing providers and modified clearing arrangements.¹⁷

The Commission is considering requiring CAMs to disclose manipulation risk¹⁸ and FCMs to disclose CTX risks, the underlying technology, functionality, governance and trading characteristics of individual crypto assets and material incentives or conflicts of interest.¹⁹ Separately, it seeks comment on position limits,²⁰ proof-of-reserves practices²¹ and margin and collateral requirements.²² The ANPRM also raises several customer asset protection questions, including whether rehypothecation should be permitted and, if so, subject to what safeguards; the application of custody and segregation requirements to fully paid crypto positions, including their treatment in an FCM’s insolvency;²³ and whether intermediaries should disclose how an insolvency would affect customers’

¹² ANPRM, Appendix A, at A-1 (row titled “Traditional DCM”).

¹³ ANPRM, Section V.H(ii), at 103.

¹⁴ ANPRM, Section V.A.2, at 75-76 and n.297.

¹⁵ ANPRM, Section V.A.1, at 69-74; Appendix A.

¹⁶ ANPRM, Section V.A.1.d, at 73-74.

¹⁷ ANPRM, Section V.E(ii), at 93 (non-intermediated access); Section V.C(i), at 88 (alternative financing providers); Section V.F, at 97-100 (clearing arrangements).

¹⁸ ANPRM, Section V.B.1(ii), at 79.

¹⁹ ANPRM, Section V.E(i), at 92-93.

²⁰ ANPRM, Section V.B.2, at 81.

²¹ ANPRM, Section V.B.6, at 87.

²² ANPRM, Section V.D, at 89-92.

²³ ANPRM, Section V.D(viii)-(ix), at 91-92.

assets.²⁴ Finally, the Commission contemplates an exemption from CAM registration for trading facilities with *de minimis* CTX trading volume or notional amounts of leveraged positions.²⁵

Implications

The contemplated framework could expand opportunities for federally regulated crypto trading. Its scope and design could have several practical implications:

- **Fully paid trading.** The Commission’s preliminary interpretation of “covered offers” could bring what have traditionally been considered fully paid transactions within the CFTC’s retail customer transaction framework, as a result of the mere offer of financing through customer agreements or related arrangements. Trading platforms should assess those terms alongside customers’ actual use of leverage.
- **Trading and financing models.** The contemplated CAM, FCM and DCO structure could accommodate exchange, intermediation and clearing functions within the same corporate group. The ultimate registration, affiliation and financing requirements would shape how market participants structure these operations, including whether to combine these functions within a single entity or across affiliates, and which entities could provide financing.
- **Customer assets.** The Commission’s questions on custody, segregation and rehypothecation could affect how customer assets are held and used, as well as their treatment in an intermediary’s insolvency.

What’s Next

Comments are due within 60 days after publication in the Federal Register.²⁶ Responses will help shape whether and how the Commission proceeds with proposed rules. We will continue to monitor developments and are available to discuss the ANPRM and its potential implications for your business.

²⁴ ANPRM, Section V.F.2(vi), at 100.

²⁵ ANPRM, Section V.H(v), at 105.

²⁶ ANPRM at 1.

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