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October 30, 2026

Vanessa Countryman
Secretary
Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549-1090

Re: File No. 4-936 — Staff Statement on Affiliations Between National Securities Exchanges and Broker-Dealers

Dear Ms. Countryman:

PTG, formerly the FIA Principal Traders Group,[1] appreciates the opportunity to respond to the staff of the Division of Trading and Markets' invitation to comment on affiliations between national securities exchanges and the entities that do business on them (the "Staff Statement").[2] PTG supports the staff's inquiry. The Staff Statement asks the right question at the right time: four futures exchanges have notice-registered as national securities exchanges under section 6(g) of the Securities Exchange Act of 1934 (the "Exchange Act"), each belongs to a corporate group that also owns a futures commission merchant ("FCM") that will intermediate customer business on the exchange, and several have filed to list single-stock perpetual futures. How the Commission applies sections 6(b)(1), 6(b)(5), and 6(b)(8) to those groups will determine whether independent liquidity providers can compete on these venues on neutral terms.

PTG's position can be stated briefly. The Commission should bar exchange-affiliated principal trading on notice-registered exchanges. It should accept affiliated FCMs and broker-dealers that are subject to the conditions the Commission set in its 2001 order approving the Archipelago Exchange, including the condition that an affiliate that becomes the sole or predominant source of access to the exchange may be treated as a facility of it. The conditions the Commodity Futures Trading Commission ("CFTC") has proposed for affiliated market makers should serve, if at all, only as a fallback floor. These positions are consistent with those PTG set

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[1] PTG is a leading trade association of principal trading firms advocating for fair, transparent, and robust markets. Members provide essential liquidity and facilitate price discovery, both critical to well-functioning markets. PTG engages with policymakers and regulators to safeguard market integrity by offering expert guidance on market structure while highlighting the positive contributions of liquidity providers.

[2] Div. of Trading & Mkts., SEC, Staff Statement on Affiliations Between National Securities Exchanges and Broker-Dealers (Sept. 30, 2026) (File No. 4-936) [hereinafter Staff Statement]. For the registrants' single-stock perpetual futures filings, *see infra* notes 8, 39, 64 and 65.

out in its October 5, 2026 letter to the CFTC on its Conflicts and Affiliations proposal, which we incorporate here by reference.[3]

This letter makes five points:

1. While the filings at issue referenced by the Staff Statement support the observation that "[n]one of the registrants disclose an affiliation with an entity that will trade security futures in a principal capacity," a look at the broader record shows that at least three of the four registrants have, or have rules permitting, affiliates that trade for their own accounts on their own exchanges.
2. Exchange-affiliated principal trading on a notice-registered exchange is inconsistent with sections 6(b)(5) and 6(b)(8) of the Exchange Act. The conflict is structural, and the appropriate remedy is a prohibition, implemented through an orderly phase-out.
3. Affiliated FCMs and broker-dealers can be consistent with the Exchange Act, but only if the exchange is not their primary examiner, their activity is surveilled independently, and they remain one point of access to the exchange among several.
4. The Commission should require notice-registered exchanges to file their affiliate rules with it, and it should apply a single standard across all notice-registered exchanges, coordinated with the CFTC's rulemaking on Conflicts and Affiliations.
5. If exchange-affiliated principal trading is allowed, then market maker programs, incentive schemes, and margin exclusions that an affiliate would be given should at least be disclosed and offered on non-discriminatory terms to independent liquidity providers.

I. PTG's Interest

PTG's members are independent principal trading firms. They provide liquidity on futures and securities exchanges in the United States and abroad, and many would likely quote security futures on the notice-registered exchanges if those markets develop. Those members would compete for the same order flow as any exchange-affiliated principal trader, on venues whose owners set the fees, the market maker program terms, the order types, and the surveillance. The implicit questions the Staff Statement raises under sections 6(b)(5) and 6(b)(8), whether an exchange's rules permit unfair discrimination between dealers and whether they impose an unnecessary burden on competition, therefore bear directly on whether our members can compete on these markets at all.

II. The Record Shows Principal Trading Affiliates at Three of the Four Registrants

The Staff Statement observes that "[n]one of these registrants disclose an affiliation with an entity that will trade security futures in a principal capacity."[4] As a description of the four Forms 1-N, that is accurate. As a description of the broader public record, it is incomplete, and PTG

[3] Letter from Joanna Mallers, Secretary, PTG, to Christopher Kirkpatrick, Sec'y, CFTC (Oct. 5, 2026) (Comment No. CFTC-2026-1686-0022) [hereinafter PTG CFTC Letter]; Conflicts and Affiliations, 91 Fed. Reg. 50,926 (proposed Aug. 6, 2026) [hereinafter CFTC Proposal].

[4] Staff Statement, *supra* note 2.

respectfully submits that the Commission should expand the scope of its inquiry in evaluating these exchanges under sections 6(b)(1), (5), and (8).

A. KalshiEX

KalshiEX Rule 2.12 permits an affiliate of the exchange to trade on the exchange. In September 2021, KalshiEX filed an emergency rule certification with the CFTC that identified the affiliate as Kalshi Trading LLC and described it as supplying "a substantial portion of relevant quotations and trading volume" on most days.[5] In its notice to members, KalshiEX acknowledged that the affiliate's trading "creates specific risks with respect to the integrity and fairness of the Exchange."[6] We acknowledge that conditions at the exchange have evolved in the five years since that notice. On October 5, 2026, Kalshi told the CFTC that Kalshi Trading "has accounted for less than 2% of trading volume on KalshiEX year to date."[7] Kalshi Trading is not named in KalshiEX's Form 1-N, and KalshiEX's Form 19b-7 filing for perpetual security futures does not mention Kalshi Trading or Rule 2.12.[8]

B. Bitnomial

Bitnomial's parent, Payward, Inc., told the CFTC on October 5 that its group includes "an affiliated trading participant that provides liquidity on the designated contract market's (DCM) markets."[9] Payward also acknowledged that "an affiliate trading on a proprietary, directional basis on its own exchange presents the conflict of interest the Proposal is rightly concerned with."[10] Bitnomial's own Rule 1012 requires an affiliated participant's affiliation to be publicly disclosed. The "disclosures" section of Bitnomial's website states: "Bitnomial Trading, LLC (Trading Firm) is non-operational and is not a participant of the Exchange. The Trading Firm is wholly owned by Bitnomial. The Trading Firm is not permitted to receive any preferential treatment over other market participants. The Trading Firm comprises less than 25% of the Exchange notional trading volume on an annual basis when operational."[11] On review, we have not located that disclosure in Bitnomial's Form 1-N, its rulebook, or its Form 19b-7 filing.[12] Nor is it clear from those filings when and how Bitnomial decides to make the trading affiliate "operational."

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[5] Letter from Tarek Mansour, Chief Exec. Officer, KalshiEX LLC, to CFTC, Re: KalshiEX LLC – Emergency Rule Certification (Sept. 21, 2021), with KalshiEX LLC, Notice of Affiliate Entity Member (Sept. 21, 2021) [hereinafter Kalshi Trading Certification].

[6] *Id*.

[7] Letter from Sudhir Jain, Chief Compliance Officer & Head of Regulatory Affairs, Kalshi Inc., to CFTC, at 2 (Oct. 5, 2026) (Comment No. CFTC-2026-1686-0055) [hereinafter Kalshi CFTC Letter].

[8] KalshiEX LLC, Form 1-N (SEC File No. 10-253) [hereinafter KalshiEX Form 1-N]; Self-Regulatory Organizations; KalshiEX LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change, Exchange Act Release No. 106422, 91 Fed. Reg. 60,467 (Sept. 23, 2026) (SR-KALSHIEX-2026-02) [hereinafter KalshiEX 19b-7 Notice].

[9] Letter from Jonathan Jachym, Chief Policy Officer, Payward, Inc., to Sec'y, CFTC, at 1 (Oct. 5, 2026) (Comment No. CFTC-2026-1686-0053) [hereinafter Payward CFTC Letter].

[10] *Id*. at 4.

[11] Bitnomial, Disclosures, https://bitnomial.com/disclsoures (last visited 10.13.2026).

[12] Bitnomial Exchange, LLC, Form 1-N, Exs. C, H; Bitnomial Exchange Rulebook, R. 1012; Self-Regulatory Organizations; Bitnomial Exchange, LLC; Notice of a Filing of a Proposed Rule Change, Exchange Act Release No. 106421, 91 Fed. Reg. 60,438 (Sept. 23, 2026) (SR-BTNL-2026-001) [hereinafter Bitnomial 19b-7 Notice].

C. North American Derivatives Exchange

The North American Derivatives Exchange's Rule 2.9 permits affiliated market makers. It requires them to sign a market maker agreement and to supply their conflict policies on request, and it bars their employees from trading for their own accounts. The exchange's filings do not identify any affiliated market maker.

D. Coinbase Derivatives

Coinbase Derivatives discloses no trading affiliate. In its comment to the CFTC, however, Coinbase asked that an affiliated FCM be permitted to trade as principal on its affiliated exchange for hedging, default management, and error trades without being treated as a principal trading firm.[13]

E. The Commission should supplement the record

It may be that none of these affiliates intends to trade security futures. But the rules of each exchange permit it, nothing in the security futures filings prevents it, and section 6(b)(5) asks whether an exchange's rules are "designed" to prevent unfair discrimination, not whether an affiliate has announced its plans. The Staff Statement itself invites comment on affiliates that "trade in a principal capacity on the exchange."[14] PTG recommends that staff ask each notice-registered exchange (1) to identify every affiliate that trades, or is permitted by the exchange's rules to trade, as principal on the exchange; (2) to state whether that affiliate will trade security futures; and (3) to reconcile its Form 1-N with its rules. Rule 6a-4(b) requires a notice-registered exchange to provide ten categories of information for its corporate affiliates and to keep its list of affiliates current.[15]

III. Exchange-Affiliated Principal Trading Is Inconsistent with Sections 6(b)(5) and 6(b)(8)

A. The statutory standards apply in full

Section 6(g)(4)(A) exempts a notice-registered exchange from a defined list of Exchange Act provisions, including sections 6(b)(2), (3), (4), (7), and (9) and section 11.[16] It does not exempt the exchange from section 6(b)(1), which requires that it be "so organized and ha[ve] the capacity" to enforce compliance by its members; from section 6(b)(5), which requires that its rules be "designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade," and not be "designed to permit unfair discrimination between customers, issuers, brokers, or dealers"; or from section 6(b)(8), which bars rules that "impose any burden on competition not necessary or appropriate in furtherance of the purposes of" the Act.[17]

PTG recognizes that, because section 11 does not apply, Congress did not carry into the security futures market the securities-exchange limits on members trading for their own accounts.

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[13] Letter from Boris Ilyevsky, Head of US Futures, & Julia Hueckel, Director, Regulatory Policy, Coinbase Global, Inc., to Sec'y, CFTC, at 9 (Oct. 5, 2026) (Comment No. CFTC-2026-1686-0056) [hereinafter Coinbase CFTC Letter].

[14] Staff Statement, *supra* note 2.

[15] 17 C.F.R. § 240.6a-4(b) (2026); *see also* SEC Form 1-N, Exhibit C at 2.

[16] Securities Exchange Act of 1934 § 6(g)(4)(A) *et seq,* 15 U.S.C. § 78f(g)(4)(A)(i)-(v).

[17] Securities Exchange Act of 1934 § 6(b)(1), (5), (8), (g)(4)(A), 15 U.S.C. § 78f(b)(1), (5), (8), (g)(4)(A).

Congress preserved the application of sections 6(b)(5) and (8) to notice-registered exchanges, and those provisions reach principal trading by an affiliate of the exchange through the exchange's rules and organization.

B. The Commission's precedents tolerate member affiliation only where it is minority, non-controlling, and walled off from exchange information

In approving the Archipelago Exchange in 2001, the Commission explained that "the potential for unfair discrimination may be heightened if a national securities exchange or its affiliate owns or operates a broker-dealer," because "the financial interests of the national securities exchange may conflict with its responsibilities as an SRO." It identified, as advantages that "might constitute unfair discrimination," "greater access to information, improved speed of execution, or enhanced operational capabilities" not available to other members, and it extended that concern to an exchange that "provided a feature to all members that was designed to give its broker dealer a special advantage."[18]

The rules of the Commission's registered exchanges now codify a default prohibition. Without Commission approval, the exchange may not own a member, and a member may not become an affiliate of the exchange. The carve-outs are limited to minority member ownership within voting and ownership caps and to a single-purpose routing broker regulated as a facility of the exchange.[19] When the Commission has registered exchanges owned in part by broker-dealers that trade on them, it has called that ownership a source of "inherent conflicts of interest" and has required 20 percent ownership and voting caps on members, independent regulatory oversight, and a bar on owners' access to the exchange's trading and regulatory information.[20] Those orders mark the end of the spectrum. A wholly owned affiliate directed by the exchange's own officers would be off the spectrum entirely.

C. The conflict is structural

The CFTC reached the same conclusion in the preamble of its pending proposal. The CFTC explained that the conflict created by an affiliated principal trader "inheres in the exchange's economic position and persists, however scrupulously the exchange administers its conflicts procedures," that it is most acute where the affiliate is the dominant or sole source of liquidity, and that it is "compounded" where the exchange is also affiliated with the clearing house that clears the affiliated trading entity's trades.[21] The CFTC describes its own framework as, "in effect," a "default prohibition subject to a conditioned exception."[22] Even Kalshi has told the CFTC that a

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[18] Self-Regulatory Organizations; Order Approving Proposed Rule Change by the Pacific Exchange, Inc. Relating to the Establishment of the Archipelago Exchange as the Equities Trading Facility of PCX Equities, Inc., Exchange Act Release No. 44983, 66 Fed. Reg. 55,225, 55,233 (Nov. 1, 2001) [hereinafter ArcaEx Order].

[19] See, e.g., NYSE Rule 2B; Nasdaq Rule General 2, §§ 4, 14; MEMX Rules 2.10–2.12; Cboe Exchange, Inc. Rules 3.62–3.65; MIAX Pearl, LLC Rules 201(g)–(h), 529.

[20] In re Application of MEMX LLC as a National Securities Exchange, Exchange Act Release No. 88806, 85 FR 27451 (May 4, 2020) [hereinafter MEMX Order]; In re Application of Miami Int'l Sec. Exch., LLC for Registration as a National Securities Exchange, Exchange Act Release No. 68341, 77 Fed. Reg. 73,065 (Dec. 7, 2012) [hereinafter MIAX Order].

[21] CFTC Proposal, 91 Fed. Reg. at 50,949.

[22] Id. at 50,953.

contract market whose principal liquidity provider is an affiliate "would be operating more akin to a swap dealer."[23]

PTG agrees with the CFTC's diagnosis. When an exchange is affiliated with a firm that trades as principal on that exchange, the exchange has an economic interest in the outcome of transactions between its affiliate and the participants the exchange is obligated to treat impartially. That interest reaches the execution, surveillance, disciplinary, and, where the clearing house is affiliated, clearing functions themselves. Procedures and disclosure can reduce the risk that the exchange acts on that interest, but they cannot remove it.[24]

D. The rules as written do not prevent the advantages the Commission identified in 2001

The KalshiEX rulebook illustrates how the Archipelago factors (information, discretionary benefits, and priority) can be present even where an exchange has adopted information barriers. First, on information, Rule 2.12 requires operational separation between the exchange and its affiliate, but it carves out of its information restriction directors who serve on the boards of the exchange, the affiliate, and the holding company that owns both.[25] At the same time, Rule 12.1 bars Kalshi employees from trading on Kalshi.[26] The rules thus forbid an employee to trade on the exchange but permit the same employee to direct a firm that does. Second, for discretionary benefits, KalshiEX designates market makers "at its sole discretion," with reduced fees, "enhanced access," and higher position limits, and nothing in its market maker rules excludes an affiliate.[27] Third, for priority, KalshiEX matches orders by strict price-time priority, with no subordination of an affiliate's orders to those of unaffiliated participants.[28]

The Commission's own enforcement history shows why these features matter. In 2014, the Commission found that exchange staff trading for an affiliate's error account could view the full depth of book, including non-displayed liquidity, and that the affiliate had no policies addressing that access for an extended period.[29] The Commission has also treated an exchange affiliate's conduct of business not authorized by effective exchange rules as a violation of sections 19(b)(1) and 19(g)(1).[30]

A rule that lets the affiliate's directors receive exchange information, combined with sole discretion to confer market maker benefits and no rule excluding the affiliate from them, is not "designed" to prevent the advantage the Archipelago order forbids. At most, it relies on the exchange to refrain from conferring it. Section 6(b)(5) requires more, and the D.C. Circuit has made clear that "treating similarly situated parties differently is at the core of 'unfair

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[23] Kalshi CFTC Letter, *supra* note 7 at 7.
[24] PTG CFTC Letter, *supra* note 3 at 1–2, 4.
[25] KalshiEX LLC Rulebook, Version 1.29, R. 2.12(e) (current as of Sept. 2026) [hereinafter KalshiEX Rulebook]; Kalshi Trading Certification.
[26] KalshiEX Rulebook, R. 12.1.
[27] *Id*. R. 3.11, 4.3.
[28] *Id*. R. 5.9.
[29] In re N.Y. Stock Exch. LLC, Exchange Act Release No. 72065 (May 1, 2014).
[30] *Id*.; *see also* In re NASDAQ Stock Mkt., LLC, Exchange Act Release No. 69655 (May 29, 2013).

discrimination.'"[31] It has also made clear that the Commission must make its own findings on these questions rather than accept a self-regulatory organization's description of its controls.[32]

E. The arguments for affiliated principal trading do not overcome the conflict

PTG takes seriously the arguments that have been made for permitting affiliated principal trading elsewhere, and addresses them in turn here in the context of the Exchange Act.

Liquidity on new venues. KalshiEX has reported that spreads widened and volume fell when its affiliate stopped trading in 2021, and Payward argues on the CFTC Conflicts and Affiliations docket that new contracts need committed liquidity that an always-last rule would discourage.[33] PTG does not doubt that an affiliate can supply quotes. But contract count and quoted depth are not measures of market quality; contestable liquidity is. A two-sided quote that exists only because the venue's affiliate has been directed to post it does not show that a product supports price discovery, and an affiliate that occupies a new market first can deter the independent entry on which durable liquidity depends.[34] The phase-out PTG recommends below is designed to give independent firms time to enter while exchange affiliated trading arms wind down in an orderly fashion.

Small present share. Kalshi reports that its affiliate accounts for less than 2 percent of trading volume. The section 6(b)(5) question, however, is whether the exchange's rules are designed to prevent the advantage, not how large the share of advantaged trading is. After all, that share can change, particularly when a new product such as a single-stock perpetual future lists.

Existing safeguards. KalshiEX Rule 2.12 requires separate servers, databases, accounts, and software; no access to non-public information about order flow, settlement, or compliance; physical separation; and capital that does not come from the exchange. KalshiEX's book displays every resting order, and its liquidity and volume incentive programs exclude "Kalshi affiliates and employees."[35] Those measures address operations, and PTG welcomes them. They do not address governance, because the common-director carve-out places the conflict at the top of both firms, and they do not reach discretionary market maker designation.

Competition among new entrants. The exchanges may argue that vertical integration lowers the cost of entry for new venues, and that these exchanges compete with one another and with the incumbent futures exchanges that have also notice-registered. PTG does not oppose vertical integration as a general matter; common ownership of an exchange and a clearing house, for example, can offer significant market efficiencies and conflicts can be managed through governance, controls, and independent oversight.[36] But a finding that competitive forces constrain an exchange requires evidence, not "a conclusion,"[37] and the burden of showing consistency with

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[31] *Grayscale Invs., LLC v. SEC*, 82 F.4th 1239, 1245 (D.C. Cir. 2023).
[32] *See Susquehanna Int'l Grp., LLP v. SEC*, 866 F.3d 442 (D.C. Cir. 2017).
[33] Kalshi Trading Certification, *supra* note 5; Payward CFTC Letter, *supra* note 9 at 3–4.
[34] PTG CFTC Letter, *supra* note 3 at 4–5.
[35] KalshiEX Rulebook R. 2.12; KalshiEX Form 1-N, Ex. D (user materials); Kalshi Trading Certification.
[36] PTG CFTC Letter, *supra* note 3 at 1–2.
[37] *NetCoalition v. SEC*, 615 F.3d 525, 541 (D.C. Cir. 2010).

the Act rests on the exchange.[38] None of the filings at issue here quantifies affiliate access, affiliate liquidity share, or market maker program terms, and Coinbase's burden-on-competition statement is three sentences.[39] A burden on competition among dealers that the exchange has not shown to be necessary does not satisfy section 6(b)(8).

Less restrictive alternatives. On the CFTC docket, Kalshi proposed a cap on affiliate activity of 5 percent of quarterly volume as an alternative to conduct conditions, and claimed the Staff Statement at issue here seeks comment on "revisiting its historical stance" of outright prohibition of such relationships.[40] Kalshi goes on to argue that the SEC's affiliation rules for registered exchanges "impede innovation and market competition."[41] We disagree with the interpretation that the Staff Statement's request for comment signals any particular view of its historical stance, much less a "revisiting" of it. Instead, the Staff Statement simply articulates the rules as they exist today. Rules that, as discussed above, prohibit exchange-affiliated principal trading – a bedrock protection of fair market competition rather than an impediment to it. Further, a volume cap alone does not address information access or discretionary benefits. PTG recognizes that a prohibition may mean that some contracts are not listed or do not trade because no independent firm will quote them. A contract that cannot attract independent liquidity on neutral and economically reasonable terms has not yet demonstrated that it supports reliable price discovery.[42]

Precedent for tolerated affiliation. Cboe's rules permit its members to be affiliated with OneChicago, a formerly notice-registered exchange (that ceased operations in 2020), subject to a cap on the Cboe group's share of OneChicago's revenues.[43] That arrangement is entirely distinguishable from the record currently before the Commission. It involved a minority, revenue-capped affiliation. It did not involve an exchange's parent owning a member that trades as principal on the exchange.

F. Recommendation: a prohibition, implemented through a phase-out

PTG recommends that the Commission take the position that exchange-affiliated principal trading on a notice-registered exchange is inconsistent with sections 6(b)(5) and 6(b)(8) of the Exchange Act. Recognizing that at least one affiliate already trades in other products and that a transition should be orderly, PTG recommends that the prohibition should either take effect before the novel contracts at issue here begin to trade, or, if that proves impracticable, because trading begins before the Commission is able to act, through a phase-out: an affiliate trading these products would be permitted to continue for a defined period, subject to a declining limit on its share of volume in each product and to the conditions the CFTC has proposed, and would cease trading at

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[38] *See, Bloomberg L.P. v. SEC*, 45 F.4th 462 (D.C. Cir. 2022); *see* 17 C.F.R. § 201.700(b)(3) (2026). Rule 700(b)(3) governs filings, such as Coinbase's margin filing, that the Commission reviews under section 19(b)(2). *See infra* note 67

[39] Self-Regulatory Organizations; Coinbase Derivatives, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change, Exchange Act Release No. 106420, 91 Fed. Reg. 60,448 (Sept. 23, 2026) (SR-COIN-2026-002) [hereinafter Coinbase 19b-7 Notice].

[40] Kalshi CFTC Letter, *supra* note 7 at 3 & n.4

[41] *Id. at* 7–9.

[42] PTG CFTC Letter, *supra* note 3 at 4–5.

[43] Cboe Exchange, Inc. Rules 3.62(d), 3.65.

the end of that period.[44] This prohibition should apply with equal force to trading "for hedging, default management, and error trades" as Coinbase requested in its CFTC letter, because nothing in section 6 allows an exemption for trades of this type and the conflict that inheres in the relationship still exists.[45] A prohibition aligns notice-registered exchanges with the default rule that already governs the Commission's registered exchanges and with the CFTC's own characterization of its framework. Further, the Commission should continue to permit non-controlling minority investment by trading firms, as it did in the MEMX and MIAX orders, under a control-based definition of affiliation.[46]

IV. Affiliated FCMs and Broker-Dealers Should Be Subject to the Archipelago Conditions, Including the Facility Test

The Staff Statement notes that each registrant discloses an affiliated FCM that "will perform introducing broker functions, extend margin to customers and hold client funds," and recalls the Commission's 2001 question whether such an affiliate "should be considered a facility of the exchange."[47] PTG does not ask the Commission to bar affiliated intermediaries. Unlike an affiliated principal trader, an affiliated FCM generally acts as agent for its customers and does not stand on the opposite side of other participants' trades, and its conflicts can be addressed through governance, controls, independent oversight, and disclosure.[48]

A. The exchange must not be the affiliate's examiner or its surveillant

The Archipelago order held that an exchange "must not serve as the self-regulatory organization that is primarily responsible for examining its affiliated broker-dealer."[49] Each registrant has designated the National Futures Association as its affiliated FCM's designated self-regulatory organization, and the exchanges' comments to the CFTC confirm the arrangement.[50] Kalshi itself agrees that "[a] DCM serving as the regulatory examiner of its own affiliate presents obvious and significant conflicts of interest."[51] PTG welcomes those commitments.

Examination is not the whole of the exchange's capacity under section 6(b)(1), however. The exchange still surveils trading on its market, including its affiliate's customer business, and it still decides whether to bring charges. At KalshiEX and the North American Derivatives Exchange, the clearing house that holds customer funds is the exchange itself or a sister company. The CFTC has proposed to require that an affiliated FCM's activity be surveilled by an independent third party and to bar a contract market from serving as its affiliate's designated self-regulatory organization.[52] The Commission should expect the same of notice-registered exchanges. Where an affiliated clearing member trades as principal, the clearing house's margin,

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[44] PTG CFTC Letter, *supra* note 3 at 5.
[45] Coinbase CFTC Letter, *supra* note 15 at 9.
[46] *Id*. at 2; MEMX Order, *supra* note 20, MIAX Order, *supra* note 20.
[47] Staff Statement, *supra* note 2; ArcaEx Order, *supra* note 18, at 55,234-35.
[48] PTG CFTC Letter, *supra* note 3 at 2–3.
[49] ArcaEx Order, *supra* note 18 at 55,233.
[50] Payward CFTC Letter, *supra* note 9 at 5; Coinbase CFTC Letter, *supra* note 13 at 5; Kalshi CFTC Letter, *supra* note 7 at 6.
[51] Kalshi CFTC Letter, *supra* note 7 at 6.
[52] CFTC Proposal, *supra* note 21 at 50,989 (proposed 17 C.F.R. § 1.52(c)(1)(i)(C)).

auto-liquidation, and default-management rules should apply to it on the same terms as to any other clearing member.[53]

B. An affiliate that becomes the sole or predominant source of access is a facility

The Archipelago order found an affiliated broker's safeguards as sufficient on the record before the Commission, but cautioned that its analysis "would change" if the affiliate became "the sole or predominant source of sponsored access" to the exchange, in which case the affiliate "may" be considered a facility subject to Section 6.[54] A facility of an exchange includes "any system of communication to or from the exchange . . . maintained by or with the consent of the exchange," and its terms are exchange rules subject to sections 6(b)(5) and (8).[55]

The registrants' filings suggest that the test is not academic. Kalshi Prime is the only FCM listed in KalshiEX's Exhibit H, and the user materials in KalshiEX's Form 1-N state that "most retail users" trade KalshiEX's perpetual contracts through Kalshi Prime.[56] Two of Bitnomial's six clearing members are affiliates, and Bitnomial's own filing concedes that its condition requiring two unaffiliated clearing members does not "prevent an affiliate from becoming a predominant source" of access; that condition, moreover, appears in a conflict policy rather than in rule text.[57] By contrast, Coinbase Financial Markets is one of eleven clearing firms at Coinbase Derivatives, and Foris DAX FCM is one of four FCM members of the North American Derivatives Exchange.

The exchanges may respond that predominance is an empirical question that cannot be answered before launch, and that an affiliate is predominant only until unaffiliated FCMs join. That response has force where an exchange lists many intermediaries. It has less force where the exchange's own retail application is the front door to the market, because there the affiliate's predominance is a feature of the design. The answer is to measure predominance after launch, not to assume it does not exist.

C. Recommendation

PTG recommends that the Commission accept affiliated FCMs and broker-dealers at notice-registered exchanges on the following conditions:

1. the exchange is not the affiliate's primary examiner, and an independent third party surveils the affiliate's activity on the exchange;
2. the affiliate is subject to functional limits of the kind in KalshiEX Rule 14.38, which bars the exchange from giving Kalshi Prime any preference in establishing or administering its platform, rules, fees, order routing, or communication systems, requires control on the flow of confidential information to it, and reserves decisions concerning it to public directors;[58]
3. access criteria and fees are the same for the affiliate and for unaffiliated members;

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[53] PTG CFTC Letter, *supra* note 3 at 2–3.
[54] ArcaEx Order, *supra* note 18 at 55,234 (treating Wave's order-routing function as a facility of the exchange).
[55] 15 U.S.C. § 78c(a)(2).
[56] KalshiEX Form 1-N, *supra* note 8, Exs. D, H.
[57] Bitnomial 19b-7 Notice, *supra* note 12, 91 Fed. Reg. 60,438.
[58] KalshiEX 19b-7 Notice, *supra* note 8, 91 Fed. Reg. at 60,479-81.

4. each exchange reports periodically the share of customer access to the exchange that runs through its affiliate and through its own retail application; and
5. an affiliate that is the sole or predominant source of access is treated as a facility of the exchange, with its terms filed as exchange rules.

KalshiEX's Rule 14.38 shows that these conditions can be written into rule text. It is, so far as we are aware, the most specific affiliate safeguard any registrant has placed in a form 19b-7 filing. Bitnomial's filing describes its Rule 1012 and an affiliate conflict-of-interest policy, and Coinbase's describes its Rule 307, but neither describes an affiliate that will trade as principal. If the Commission does not adopt periodic reporting, it should at minimum require that a condition such as Bitnomial's two-member requirement appear in a filed rule rather than a policy.

V. Affiliate Rules Should Be Filed with the Commission and Applied Consistently

The Staff Statement recites the section 6(b) standards that bind notice-registered exchanges, but it does not say how the Commission will apply them to rules it does not receive. That is a practical gap in the current framework.

Under section 6(g)(4)(B), a notice-registered exchange files with the Commission only rule changes in enumerated categories, including rules on higher margin levels, fraud or manipulation, listing standards, sales practices, and rules "effectuating [the exchange's] obligation to enforce the securities laws." Those changes take effect on CFTC action, and the Commission may abrogate one within 60 days if it "unduly burdens competition or efficiency, conflicts with the securities laws, or is inconsistent with the public interest and the protection of investors."[59] Section 6(g)(4)(A) removes the Commission's section 19(h) authority to sanction the exchange.[60]

The affiliate rules on which these exchanges rely, KalshiEX Rule 2.12, Bitnomial Rule 1012, Coinbase Rule 307, and the North American Derivatives Exchange's Rule 2.9, were adopted under the CFTC exchange rules process. None of them has been filed with the Commission. Bitnomial's and Coinbase's security futures filings describe Rules 1012 and 307 in support of their statutory findings, and none of those findings address an affiliated principal trader.[61] A rule that has not been filed cannot be abrogated. If the exchanges treat affiliate-access and affiliate-trading rules as outside the section 6(g)(4)(B) categories, the Commission may never receive them in a filing on which it can act.

In PTG's view, rules that govern who may trade on an exchange, and on what informational terms, are rules effectuating the exchange's obligation to enforce the securities laws and rules designed to prevent manipulation. They should be filed on Form 19b-7. Where a filed rule permits affiliated principal trading, the Commission should consider its abrogation authority within the 60-day window that opens on the CFTC's action on the underlying novel products.[62]

Consistency matters as much as coverage. Six exchanges have notice-registered under section 6(g) this year: the four new registrants, CME, and ICE Futures U.S. The CFTC's proposal

[59] 15 U.S.C. §§ 78f(g)(4)(B), 78s(b)(7); 17 C.F.R. § 240.19b-7 (2026).
[60] 15 U.S.C. § 78f(g)(4)(A).
[61] 91 Fed. Reg. at 60,442-44
[62] 15 U.S.C. § 78s(b)(7)(C).

does not address security futures or notice registration. If conflicts rules differ by venue, or by the agency through which a venue arrived, a corporate group can choose the most permissive door for the same product, and independent liquidity providers will face different terms for the same instrument on different venues. Long-standing principles of US Administrative law require the Commission to "treat like cases alike."[63]

PTG therefore recommends that the Commission (1) state that affiliate-access and affiliate-trading rules must be filed on Form 19b-7; (2) require notice-registered exchanges to adopt affiliation rules comparable to NYSE Rule 2B and Nasdaq General 2, section 14, adapted to the futures model; and (3) coordinate with the CFTC, under the agencies' memorandum of understanding on security futures oversight, so that a single standard applies to all notice-registered exchanges and is consistent with the CFTC's final rule on Conflicts and Affiliations. A single coordinated standard would reduce the regulatory burden on exchanges that answer to both agencies.

VI. Market Maker Programs, Incentives, and Margin Exclusions Should Be Transparent and Non-Discriminatory

A benefit an exchange confers on market makers is a benefit its affiliate can share. The Archipelago order recognized as much in treating "a feature to all members that was designed to give its broker dealer a special advantage" as potentially discriminatory.[64] Yet none of the security futures filings describes the exchange's market maker programs, their participants, or their fees.

The filings do disclose benefits of exactly this kind. KalshiEX's market makers may receive reduced fees, enhanced access, and higher position limits at the exchange's discretion.[65] The North American Derivatives Exchange sets customer margin at 15.05 percent but excludes market makers and exempted persons from that floor, a benefit an affiliated market maker under its Rule 2.9 would share, and its Rule 16.11(e) permits incentive programs whose terms are not described.[66] Coinbase's margin filing, which it submitted for Commission approval under section 19(b)(2), excludes exempted persons and market makers, which must register with the exchange as "Security Futures Dealers" from its 15 percent minimum.[67] PTG does not object to market maker margin treatment as such; incumbent futures exchanges use it. Our concern is that, without disclosure, neither the Commission nor competing liquidity providers can tell whether an exchange is setting the terms of benefits it pays to its own affiliate.

The concern is heightened by recent practice. As PTG noted to the CFTC, a number of contract markets have this year sought confidential treatment for their market maker incentive programs, which raises the question whether those incentives are available fairly to all market

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[63] Grayscale, *supra note 51*, quoting *Westar Energy, Inc. v. FERC 473 F.3d 1239, 1241*

[64] ArcaEx Order, *supra* note 18, 66 Fed. Reg. at 55,233.

[65] KalshiEX Rulebook, R. 3.11, 4.3.

[66] Self-Regulatory Organizations; North American Derivatives Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change, Exchange Act Release No. 106521, 91 Fed. Reg. 62,786 (Oct. 2, 2026) (SR-OGM-2026-001).

[67] Self-Regulatory Organizations; Coinbase Derivatives, LLC; Notice of Filing of a Proposed Rule Change, Exchange Act Release No. 106443, 91 Fed. Reg. 60,670 (Sept. 24, 2026) (SR-COIN-2026-001).

makers, including affiliated trading arms.[68] PTG recognizes that fee levels may be commercially sensitive. Eligibility criteria, categories of benefit, and whether an affiliate participates are not.

PTG recommends that the Commission require each notice-registered exchange to file or publish the eligibility criteria and benefit categories of its market maker and incentive programs and its margin exclusions, and to state whether any affiliate participates. Affiliates should be excluded from those programs and exclusions, as KalshiEX already excludes "Kalshi affiliates and employees" from its liquidity and volume incentive programs.[69] If the Commission permits affiliated market making under the fallback described in Part III.F, affiliates should receive terms no more favorable than unaffiliated participants, consistent with the parity condition in the CFTC's proposal. Fee levels can be reviewed by staff under confidential treatment.

VII. Timing

The Staff Statement sets no comment deadline, but the Commission's opportunity to act is time-limited. Each of the security futures rule filings awaits CFTC approval. Absent extension, the CFTC's initial review periods end on November 2 and November 9, 2026. As filed, each section 19(b)(7) filing takes effect on the CFTC's approval, and the Commission's 60-day window to abrogate it opens only then, so that the window may still be open after products have begun trading.[70] PTG respectfully urges the Commission to make its expectations known before the CFTC acts.

VIII. Conclusion

PTG supports the staff's inquiry. Exchange-affiliated principal trading on notice-registered exchanges is inconsistent with sections 6(b)(5) and 6(b)(8) and should be prohibited either before these novel products are approved or through an orderly phase-out if such a prohibition proves impossible; the CFTC's proposed conditions should serve, if at all, only as a floor. Affiliated FCMs and broker-dealers are consistent with the Act on the conditions the Commission set in 2001, including independent examination and surveillance and treatment as a facility where the affiliate becomes the predominant point of access. The Commission should also require that affiliate rules be filed with it, apply one standard across all notice-registered exchanges in coordination with the CFTC, and require transparency in market maker programs and margin exclusions.

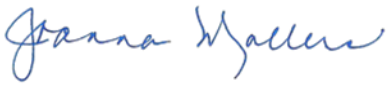
PTG appreciates the opportunity to comment and would welcome the opportunity to meet with the Commission and its staff to discuss these recommendations and to provide further information on how affiliate advantages arise in practice. Please contact the undersigned at jmallers@ptgmarkets.org with any questions.

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[68] PTG CFTC Letter, *supra* note 3 at 6 & n.9.
[69] KalshiEX Form 1-N, *supra* note 8, Ex. D (user materials).
[70] 15 U.S.C. § 78s(b)(7)(B)–(C).

Sincerely,

PTG



Joanna Mallers
Secretary

cc: Hon. Paul S. Atkins, Chairman
Hon. Mark Ueyda, Commissioner
Jamie Selway, Director, Division of Trading and Markets