Robinhood

413 W. 14th Street
New York, New York 10014
robinhood.com

August 24, 2026

VIA ELECTRONIC SUBMISSION

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

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

Re: Joint Request for Comment on Further Definition of "Swap" and "Security-Based Swap" and on Alternative Compliance (RIN 3038–AF71; File No. S7–2026–21)

Dear Mr. Kirkpatrick and Ms. Countryman:

Robinhood Derivatives, LLC ("Robinhood Derivatives")[1] respectfully submits this letter in response to the joint request for comment issued by the Commodity Futures Trading Commission ("CFTC") and the Securities and Exchange Commission ("SEC," and together with the CFTC, the "Commissions") on the further definition of "swap" and "security-based swap" ("SBS") and on alternative compliance (the "Request"). As an active participant in these rapidly developing markets, Robinhood Derivatives has a direct interest in clear, administrable regulatory lines that reflect how event contracts are currently structured, listed, and traded.

[1] Robinhood Derivatives is a registered futures commission merchant ("FCM") and member of the National Futures Association ("NFA"). Robinhood Derivatives is a wholly owned subsidiary of Robinhood Markets, Inc. ("Robinhood"). Robinhood Derivatives also provides Robinhood Financial LLC's ("Robinhood Financial") self-directed retail customers access to prediction markets and other CFTC-regulated derivatives.

Robinhood Derivatives commends the Commissions for undertaking this harmonization initiative and for committing to coordinate in areas of common regulatory interest. We share the Commissions' view that financial markets are increasingly convergent — a convergence Robinhood experiences directly, operating at scale under both regulatory regimes — and that clearer regulatory lines support efficient markets and lawful innovation.

Most importantly, Robinhood Derivatives strongly supports definitional clarity. A clear and administrable delineation between the CFTC and SEC frameworks allows exchanges, intermediaries, and market participants to structure, list, and broker products with confidence. Robinhood Derivatives is not seeking a particular jurisdictional outcome. Instead, its principal comment is that the Commissions establish a workable and predictable standard for determining which event contracts should be characterized as swaps and which should be characterized as security-based swaps, applied consistently regardless of where that line ultimately falls. Robinhood Derivatives further submits that any alternative-compliance framework the Commissions adopt should rest on substantive, comparable standards, including those related to the qualifications of the personnel and standards applicable to intermediaries handling these products, so that alternative compliance functions as a genuine harmonization tool rather than a means of regulatory arbitrage.

I. Background on Robinhood Derivatives; Overview of Response

Robinhood's mission is to "democratize finance for all" by making financial markets more accessible. Robinhood Derivatives is a registered FCM that provides Robinhood Financial's[2] self-directed retail customers with access to derivatives markets regulated by the CFTC. Robinhood Derivatives enables individuals to trade derivatives on CFTC-regulated marketplaces through the Robinhood mobile and web platforms. As relevant here, Robinhood Derivatives provides prediction market offerings for its customers, allowing customers to hedge or otherwise take positions on, among other things, climate, economic, political, and sporting events through event contracts. Event contracts of this kind serve a straightforward market function: they allow dispersed and often highly specific views about a discrete future event to be reflected in a single, continuously updated price, in the same way other derivatives markets aggregate information about interest rates or commodity prices.

Robinhood Derivatives and Robinhood Financial, an affiliated registered broker-dealer, together operate at significant scale under their respective regulatory frameworks: Robinhood Derivatives under the CFTC's regulation of derivatives markets, and Robinhood Financial under the SEC's regulation of securities brokerage. They are separately exploring securities and derivatives offerings whose classification as a swap or SBS is currently unclear. The classification questions this Request raises are accordingly not academic for Robinhood Derivatives: they determine, in practice, which products can be built, on which platform, and under which regulatory framework.

[2] Robinhood Financial is a registered broker-dealer and member of the Financial Industry Regulatory Authority ("FINRA") and the Securities Investor Protection Corporation.

This letter first sets out the principles that should govern the distinction between a swap and an SBS, and then applies those principles to the Commissions' questions concerning issuer-related and index-based event contracts. Robinhood Derivatives addresses related questions together, because the Commissions' questions raise a common set of interpretive issues that are best resolved as a whole.

Robinhood Derivatives also supports the development of a well-designed alternative-compliance framework and, in Section IV, sets out the standards it believes any such framework should satisfy, including comparable personnel-qualification requirements, so that alternative compliance does not become a vehicle for regulatory arbitrage.

II. Principles for Distinguishing Swaps from Security-Based Swaps

Title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 ("Title VII") allocated authority over derivatives between the Commissions and gave them joint authority to further define the governing terms. The Commodity Exchange Act (the "CEA") defines a "swap" broadly to include an agreement, contract, or transaction that provides for a payment or delivery "dependent on the occurrence, nonoccurrence, or the extent of the occurrence of an event or contingency associated with a potential financial, economic, or commercial consequence."[3] The Securities Exchange Act of 1934 (the "Exchange Act") defines an SBS as an instrument that is first a swap, and then is based on one of three references: an index that is a narrow-based security index ("NBSI"), including any interest therein or on the value thereof (the "SBS NBSI Prong"); a single security or loan, including any interest therein or on the value thereof (the "SBS Single-Security Prong"); or the occurrence, nonoccurrence, or extent of the occurrence of an event relating to a single issuer of a security or the issuers of securities in an NBSI, provided that such event directly affects the financial statements, financial condition, or financial obligations of the issuer (the "SBS Event Contract Prong").[4]

In 2012, the Commissions jointly adopted rules and interpretations further defining these terms.[5] The questions the Commissions now raise concern boundaries that the 2012 Adopting Release did not fully resolve with respect to event contracts, and the comments below build on that guidance.

Robinhood Derivatives urges the Commissions to resolve the uncertainty that prevails today by adopting and clearly articulating a single objective standard, as discussed further in Section III.C below.

The governing test must be objective and capable of application before a product comes to market. Exchanges classify contracts when they design and list them, not after a dispute arises. A facts-and-circumstances standard that can be applied only in hindsight denies them the

[3] 7 U.S.C. § 1a(47)(A)(ii).
[4] *See* 15 U.S.C. § 78c(a)(68).
[5] *See* Further Definition of "Swap," "Security-Based Swap," and "Security-Based Swap Agreement"; Mixed Swaps; Security-Based Swap Agreement Recordkeeping, 77 Fed. Reg. 48,208 (Aug. 13, 2012) (the "2012 Adopting Release").

certainty they need to bring products to market responsibly. An objective test also produces reasonably consistent treatment of like products across different venues.

III. Application to Issuer-Related and Index-Based Event Contracts

A. Innovative Event Contracts Require Clearer Regulatory Lines (Questions 1 and 3)

The innovative products the Commissions describe, namely single-issuer and index-based event contracts, are the principal source of the interpretive uncertainty that prompted this Request. Market participants often cannot easily determine whether such a contract is a swap, an SBS, or a mixed swap,[6] and that uncertainty discourages the development and listing of new products and complicates compliance for the intermediaries that carry them.

This uncertainty centers on the SBS Event Contract Prong as applied to issuer-related event contracts. As noted above, the SBS Event Contract Prong reaches an event relating to a single issuer of a security, or the issuers of securities in an NBSI, only where the event "directly affects the financial statements, financial condition, or financial obligations of the issuer." Clarifying the scope of that prong would eliminate the single largest source of classification risk for these products, and Robinhood Derivatives respectfully submits that it is the most valuable step the Commissions can take in response to this Request.

Robinhood Derivatives encourages the Commissions to adopt clear, objective criteria rather than a multifactor, facts-and-circumstances test. Objective criteria would let exchanges and intermediaries classify a product consistently and in advance, and would give the Commissions a workable standard to apply in their own oversight.

---

[6] A "mixed swap" is a security-based swap under the Exchange Act that is also based on the value of one or more other rates, currencies, commodities, instruments of indebtedness, indices, or other financial or economic interests (other than a single security or narrow-based security index), or on a contingency other than one described in the SBS Event Contract Prong — meaning it satisfies both the CFTC's swap definition and the SEC's security-based swap definition. See 7 U.S.C. § 1a(47)(D); 17 C.F.R. § 1.9.

B. The SBS Single-Security Prong Should Remain Distinct from the SBS Event Contract Prong (Question 6)

Robinhood Derivatives supports additional clarity regarding the SBS Single-Security Prong, which reaches a swap "based on a single security or loan, including any interest therein or on the value thereof."[7] Reading the "single security or loan" or "any interest" language too broadly would collapse the SBS Single-Security Prong and the SBS Event Contract Prong into one another and would strip the "directly affects" limitation in the SBS Event Contract Prong of independent effect. Each prong should be read to give effect to the others, not to render one surplusage.

C. The Word "Directly" in the SBS Event Contract Prong Should Carry Independent Meaning (Question 7)

The meaning of the SBS Event Contract Prong is the most consequential issue the Commissions' Request raises for prediction markets. As set out above, that prong reaches an event "relating to a single issuer of a security or the issuers of securities in a narrow-based security index, provided that such event directly affects the financial statements, financial condition, or financial obligations of the issuer."[8] Robinhood Derivatives urges the Commissions to clarify the meaning of "directly."

The swap definition in the CEA reaches any event or contingency "associated with a potential financial, economic, or commercial consequence." The SBS Event Contract Prong reaches the narrower subset of those events that "directly affect" an issuer's financial statements, financial condition, or financial obligations. The Exchange Act's definition of "mixed swap" confirms that the two categories differ,[9] because it refers to an event "associated with a potential financial, economic, or commercial consequence (other than an event described in subparagraph (A)(ii)(III))," the subparagraph containing the "directly affects" language. Read together, these provisions give effect to both formulations: the "associated with" language describes the broader universe of events that fall under the "swap" definition, and the "directly affects" language identifies the narrower set that falls within the SBS Event Contract Prong.

Market participants have read "directly affects" differently, and the choice among these readings has significant consequences for how issuer-related event contracts are classified. Robinhood Derivatives outlines several potential interpretive approaches below solely to illustrate the range of outcomes at stake: (a) a narrower interpretation, (b) an intermediate interpretation, and (c) a broader interpretation. Robinhood Derivatives is not, for purposes of this letter, advocating that the Commissions adopt any particular interpretation. It instead urges the Commissions to select and clearly articulate one objective standard.

Under a narrower interpretation, informed by the 2012 Adopting Release's description of the SBS Event Contract Prong as applying "generally to event-triggered swap contracts," the prong

[7] 15 U.S.C. § 78c(a)(68)(A)(ii)(II).
[8] 15 U.S.C. § 78c(a)(68)(A)(ii)(III).
[9] 15 U.S.C. § 78c(a)(68)(D).

would apply principally to events that trigger material financial consequences for the issuer itself (e.g., bankruptcy, payment default, debt restructuring, or a covenant breach resulting in acceleration or default). Measurement- or performance-based event contracts, such as those tied to revenue or earnings, and event contracts concerning product launches, or management changes, would instead remain within the CFTC swap framework.

Under an intermediate interpretation, the SBS Event Contract Prong would encompass both event-triggered contracts involving material financial consequences and contracts tied directly to financial statement line items or metrics that function as close proxies for financial performance, such as revenue, earnings, EBITDA, or subscriber metrics closely tied to revenue generation. Operational or corporate-governance events not directly tied to financial metrics (e.g., CEO hiring or termination, product launches, or regulatory approval milestones) would generally remain within the CFTC framework.[10]

Under a broader interpretation, most single-issuer event contracts could qualify as SBS on the theory that issuer-related events generally bear some relationship, even if attenuated, to an issuer's financial condition or valuation. Under this reading, even event contracts turning on operational or governance events — such as product launches or management changes — that the narrower and intermediate interpretations would leave within the CFTC swap framework could instead be characterized as SBS.

In summary, all three interpretations would treat single-name credit default swaps, the paradigm case the Commissions addressed in the 2012 Adopting Release, as SBS; they would diverge principally as to measurement- and performance-based contracts. Whichever interpretation the Commissions adopt, Robinhood Derivatives urges the Commissions to express it as an objective, ex ante standard that exchanges and intermediaries can apply with confidence at the time a product is designed and listed, rather than as a facts-and-circumstances test that can be applied only in hindsight.

The choice among these interpretations also carries significant consequences for retail access to these products; Robinhood Derivatives discusses those consequences, together with its views on alternative compliance, in Section IV below.

D. Regulatory Treatment of Event Contracts That Reference Securities or Indices May Properly Differ by Listing Venue (Questions 2, 4, and 8)

Questions 2, 4, and 8 raise a common issue, and Questions 2 and 4 overlap substantially. Each concerns when an event contract that references a security, or a group or index of securities, falls within the statutory exclusion for options on securities and thus falls outside both the swap and SBS definitions rather than within either derivatives regime. Robinhood Derivatives asks the Commissions to clarify the boundary of that exclusion so that market participants can identify, in advance, which contracts it covers.

[10] 2012 Adopting Release, 77 Fed. Reg. at 48,267.

Robinhood Derivatives asks the Commissions to confirm that economically similar, or even economically identical, bilateral payout instruments may properly be subject to different regulatory treatment depending on how and where they are listed. For example, depending on structure and listing venue, a bilateral contract paying out based on the level of a broad-based securities index could be: (i) an option on a future, if listed as a binary option on a futures contract on a designated contract market ("DCM"); (ii) a swap, if listed as an event contract on a broad-based index on a DCM; or (iii) a security, if listed as a binary option on a securities index on a national securities exchange ("NSE").

This variation in treatment does not undermine the case for an objective standard; it is a product of it. The instrument's structure and listing venue are objective, ex ante facts, not matters of interpretation, and a clear standard applied to those facts can properly yield different classifications for different structures even where the underlying economic exposure is similar. The interpretive uncertainty Robinhood Derivatives asks the Commissions to resolve elsewhere in this letter concerns a different problem: cases where a single structure's classification is itself unclear under the existing prongs, not cases where different structures are deliberately and knowably classified differently. For instance, the fact that an option on a security is properly characterized as a security does not itself determine how an event contract referencing the same or a similar index should be characterized; the two are different structures, and each is evaluated under its own governing test.

Robinhood Derivatives is not asking the Commissions to determine which characterization should apply to any particular product or structure. Rather, it asks the Commissions to confirm that this kind of overlap, in which similar economic exposures are available through different, and differently regulated, instruments depending on listing venue and structure, is a permissible feature of the current framework rather than an inconsistency requiring correction.

Once the Commissions confirm that this overlap is permissible, a listing venue and its self-regulatory framework can determine and stand behind a product's characterization at the time of listing, consistent with the objective, ex ante approach Robinhood Derivatives urges throughout this letter.

IV. Alternative Compliance (Questions 12–15)

Robinhood Derivatives supports, in principle, a well-designed alternative-compliance framework under which compliance with one Commission's requirements would satisfy the other Commission's substantially similar requirements. Such a framework can reduce duplicative regulation of economically related products without diminishing regulatory protection — but only if "substantially similar" is applied rigorously. Robinhood Derivatives urges the Commissions to ground that determination not merely in the scope of the two regimes' rulebooks, but in the regulatory outcomes each regime actually delivers, including comparable surveillance, examination, and enforcement, as well as comparable qualification standards for the personnel and intermediaries handling these products. An alternative-compliance framework that permits a firm to avoid one Commission's requirements without being held to a functionally equivalent standard under the other risks becoming an avenue for regulatory arbitrage rather than a genuine harmonization tool.

The Commissions already have a mechanism on which to build for the surveillance and information-sharing component of that standard. In March 2026, the SEC and the CFTC signed a Memorandum of Understanding ("MOU") establishing procedures for the agencies to share data — including data drawn from swap and security-based swap data repositories — and to coordinate examination and surveillance activity across their respective markets.[11] Robinhood Derivatives encourages the Commissions to treat that MOU as a starting point for the surveillance and enforcement-coordination component of any alternative-compliance framework for event contracts, so that a firm operating under one Commission's direct oversight remains subject to the cross-market visibility the MOU already contemplates.

The classification of ordinary corporate event contracts as SBS, as discussed in Section III.C above, would carry significant consequences for retail access. Retail access to SBS is currently foreclosed by two independent barriers. First, Section 6(l) of the Exchange Act makes it unlawful to effect an SBS transaction with a person that is not an eligible contract participant ("ECP") unless the transaction is effected on an NSE,[12] and no NSE currently lists SBS for trading. Second, and independently, Section 5 of the Securities Act, as amended by Title VII, prohibits offers and sales of SBS to non-ECPs absent an effective registration statement.[13]

Because current SBS are typically bespoke, dealer-negotiated instruments rather than standardized products, registration statements covering SBS are essentially nonexistent in the market today. Clearing the first barrier alone (e.g., through a notice-registered NSE) would therefore not permit retail access by itself; the Commissions would also need to address registration statement requirements for SBS. Robinhood Derivatives urges the Commissions to clarify their expectations with respect to registration statement requirements for any NSE seeking to list SBS, or, alternatively, to specify how a notice-registration or alternative-compliance framework could permit retail access to these products while preserving appropriate protections.

The regulatory framework for security futures products ("SFPs") may offer a useful reference point. This framework does not exempt one regime's participants from the other's standards, but instead shows how a dual-jurisdiction product can be assigned a lead regulator while preserving a genuine, defined qualification standard for the personnel and firms that handle it. An SFP is a future on a single security or on an NBSI, so it implicates the interests of both Commissions. Rather than subject SFPs to two overlapping regimes, Congress and the Commissions established a coordinated framework under which a single product can be listed, traded, and cleared, with one agency taking the lead and the other agency's interests addressed through targeted requirements. A broadly similar approach may warrant the Commissions' consideration for event contracts that implicate both agencies' interests.

---

[11] Memorandum of Understanding Between the SEC and CFTC Regarding Harmonization in Areas of Common Regulatory Interest (Mar. 11, 2026), https://www.sec.gov/files/mou-sec-cftc-2026.pdf.
[12] 15 U.S.C. § 78f(l).
[13] 15 U.S.C. § 77e.

Under the SFP framework, a DCM may notice-register with the SEC as an NSE for the limited purpose of listing SFPs by filing a Form 1-N, which becomes effective upon filing under Section 6(g) of the Exchange Act.[14] A notice-registered NSE operates under a specialized regime in which its SFP activities are governed principally by the CEA and CFTC rules, supplemented by targeted Exchange Act requirements, rather than by the full body of regulation that applies to a fully registered NSE.

In parallel, an FCM may register with the SEC as a notice-registered broker-dealer under Section 15(b)(11) of the Exchange Act solely to effect transactions in SFPs.[15] Such a firm is subject primarily to CFTC oversight and is exempt from most Exchange Act requirements, including the SEC's net capital and customer-protection rules, while remaining subject to the SEC's antifraud authority under Section 10(b) of the Exchange Act.[16] Importantly, that relief operates at the firm level. It does not relax the proficiency standard applied to the individuals who actually handle the product: associated persons effecting SFP transactions must hold either a Series 7 (or other qualifying securities registration) or a Series 3. In either case, those associated persons must complete the FINRA/NFA joint security futures training program before transacting in SFPs, and supervisory personnel must hold a General Securities Principal (Series 24), a General Securities Sales Supervisor (Series 9/10), or a comparable futures supervisory qualification. The notice-registration path thus narrows duplicative firm-level regulation without narrowing the qualification standard applied to the individuals who interact with customers.

The SFP framework provides a model for the Commissions to follow: assigning primary oversight of a dual-jurisdiction product to a lead agency while preserving the other agency's core interests, including a defined personnel-qualification standard, through targeted requirements and information sharing. Robinhood Derivatives encourages the Commissions to consider whether a comparable model could be adapted for event contracts that implicate both agencies' interests. This inquiry would include whether notice registration as an NSE offers a workable path for venues that list such products, and whether, and how, DCMs might offer both swaps and SBS.

Robinhood Derivatives urges the Commissions to preserve the SFP model's core feature: any alternative-compliance or notice-registration pathway for event contracts should require that such products be offered to customers through an intermediary whose relevant personnel meet a qualification standard comparable to that required for SFPs (e.g., a Series 7 or Series 24 registration) or hold an equivalent futures-side qualification paired with product-specific training. This is preferable to permitting such products to be offered subject to a materially lighter personnel-qualification standard simply because the offering firm has taken a notice-registration path. Robinhood Derivatives would welcome the opportunity to work through these questions with the Commissions.

---

[14] 15 U.S.C. § 78f(g).
[15] 15 U.S.C. § 78o(b)(11).
[16] 15 U.S.C. § 78j(b).

V. Conclusion

Robinhood Derivatives commends the Commissions for pursuing greater harmonization and strongly supports the adoption of a clear, administrable, and objective standard for distinguishing swaps from SBS. A clear standard will reduce legal uncertainty, support responsible product innovation, and preserve retail access to well-regulated markets, regardless of precisely where the resulting line falls.

Robinhood Derivatives further urges the Commissions to ensure that any alternative-compliance framework rests on substantive, comparable standards, including comparable personnel-qualification requirements for the intermediaries that handle these products, so that alternative compliance serves as a genuine tool for regulatory harmonization rather than a path around either Commission's investor and customer protections.

Robinhood Derivatives' overriding interest is regulatory certainty rather than any particular jurisdictional result, and it encourages the Commissions to provide that certainty through coordinated action such as a joint order or rulemaking. Robinhood Derivatives appreciates the opportunity to comment and welcomes continued engagement with both Commissions.

Please contact Lucas Moskowitz (lucas.moskowitz@robinhood.com) or Jon DeBord (jon.debord@robinhood.com) if you have any questions or comments.

Respectfully submitted,

JB Mackenzie

JB Mackenzie
President
Robinhood Derivatives, LLC