

May 21, 2025

**Via Electronic Submission**

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

**Re: Request for Comment on the Trading and Clearing of “Perpetual” Style Derivatives**

Dear Mr. Kirkpatrick:

Paradigm Operations LP (“**Paradigm**” or “**we**”)<sup>1</sup> appreciates the opportunity to respond to the Commodity Futures Trading Commission (the “**Commission**”) staff’s request for public comment on the trading and clearing of “perpetual” style derivatives (the “**RFC**”).<sup>2</sup> Paradigm is a registered investment adviser that manages funds focused on crypto and related technologies at the frontier. We invest in, build, and contribute to companies and protocols of various sizes and stages. We are deeply committed to the broad integration of decentralized finance (“**DeFi**”) technologies in financial markets and support a clear, innovation-oriented regulatory framework that allows digital asset markets generally, and DeFi technologies specifically, to flourish.

**I. Introduction**

We commend the staff at the Commission for issuing a request for public comment to better understand the “use cases, challenges, and opportunities perpetual contracts may present to market participants and broader derivatives markets.”<sup>3</sup> The RFC’s scope is somewhat limited in that its expressed focus is on perpetual derivatives that have been certified for listing by registered entities but is silent on other issues such as participation of DeFi protocols in Commission-regulated markets. However, the RFC invites the submission of any other relevant information for the Commission to consider. It is in this spirit that we provide our comments in response to the RFC. Simply put, while perpetual contracts listed on registered entities are important, they are only the first and shallowest part of the pool that is perpetual contracts. To craft a clear and comprehensive regulatory regime for perpetual contracts, the Commission must

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<sup>1</sup> More information about Paradigm is available online at <https://www.paradigm.xyz/>.

<sup>2</sup> CFTC Release No. 9069-25, CFTC Staff Seek Public Comment Regarding “Perpetual” Contracts in Derivatives Markets (Apr. 21, 2025), <https://www.cftc.gov/PressRoom/PressReleases/9069-25>.

<sup>3</sup> *Id.* at 1.

plumb the depths of this body of water, by devising a strategy for regulating and allowing the trading of perpetuals using DeFi technologies.

As with anything else, in regulating the perpetual derivatives markets, the Commission must be guided by the purpose of the Commodity Exchange Act (the “CEA”), which includes promoting responsible innovation and fair competition among markets and market participants.<sup>4</sup> The Commission’s strategic direction and priorities should also be informed by the stated goals of this Administration. In January 2025, President Donald J. Trump signed Executive Order 14178, which directs federal agencies “to support the responsible growth and use of digital assets, blockchain technology, and related technologies across all sectors of the economy.”<sup>5</sup> The Executive Order is ecumenical in its support for the use of digital asset and blockchain technologies. That Order supports the development and promulgation of all digital assets, including DeFi and perpetual contracts, not just those accessed through centralized digital assets exchanges.

We encourage the Chairman of the Commission to align the Commission’s rules, regulations and overall policy positions on DeFi with the current Administration’s directive. The Chairman wields significant authority in the development and implementation of the Commission’s regulatory policies.<sup>6</sup> The importance of the Commission’s role in “providing regulatory clarity and certainty built on technology-neutral regulations, frameworks that account for emerging technologies” cannot be overstated.<sup>7</sup> The Commission plays a crucial role in President Trump’s push to make the United States the center of digital financial technology innovation, by supporting the development of permissionless blockchain networks and applicable protocols in markets it supervises.

Against this backdrop, the Commission should unlock the power of smart contracts and blockchain technology and catalyze the transformation of our broader financial markets, generally, and the perpetual derivatives market, specifically.

To achieve this, as discussed in more detail herein, we recommend that the Commission convene a perpetuals special advisory committee (the “PSAC”) on the subject of DeFi perpetual contracts, ideally one separate from the five existing Commission advisory committees.<sup>8</sup> This panel should be comprised of senior government, academic, industry, and nongovernmental experts who understand not just crypto, but the workings of DeFi and perpetual contracts. Its membership should be largely American, but as perpetual contracts are effectively prohibited from being traded in the United States, it should have at least one foreign expert in perpetual

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<sup>4</sup> 7 U.S.C. § 5(b).

<sup>5</sup> Exec. Order No. 14178, 90 Fed. Reg. 8647 (Jan. 31, 2025), <https://www.govinfo.gov/content/pkg/FR-2025-01-31/pdf/2025-02123.pdf>.

<sup>6</sup> 7 U.S.C. § 2(a)(2)(B).

<sup>7</sup> Exec. Order No. 14178, at 8647.

<sup>8</sup> The CFTC maintains five active advisory committees that provide input and make recommendations on a variety of regulatory and market issues that affect the integrity and competitiveness of U.S. derivatives markets. Current advisory committees include the: (1) Agricultural Advisory Committee; (2) Energy and Environmental Markets Advisory Committee; (3) Global Markets Advisory Committee; (4) Market Risk Advisory Committee; and (5) Technology Advisory Committee.

contracts, specifically how they are traded on both centralized and decentralized platforms in non-U.S. markets. The mandate of this PSAC should be to release a report with clear, concise, and actionable recommendations on how the Commission should approach the regulation and legal trading of perpetual contracts on DeFi protocols within 90 days of being created.

We propose the following three areas for further exploration by the PSAC:

- whether and in what manner the Commission should provide DeFi protocols with a public interest exemption from any requirement to register as a swap execution facility (“SEF”) or designated contract market (“DCM”);
- whether and in what manner the Commission should develop an appropriately tailored, fit-for-purpose compliance framework for DeFi protocols that separates out SEF and DCM compliance obligations and applies certain requirements to DeFi front-ends, development companies, and other requirements for centralized actors trading in the DeFi ecosystem; and
- whether and in what manner the Commission should craft a system of regulation and guidance for retail participation in decentralized perpetual contracts in the United States.

The areas described above merit careful consideration to ensure that the U.S. financial markets remain competitive and emerge as a leader in financial innovation.

## **II. Benefits of DeFi Technologies**

While DeFi and digital asset technologies are still in relative infancy compared to more traditional financial markets and methods, there is already much reason to be optimistic about their innovative and transformative potential. DeFi’s use of blockchain-based financial applications and services vastly improves upon the traditional financial systems. These financial applications are run on permissionless blockchains and use smart contracts automating the provision of financial services, obviating the need for central intermediaries that may create additional pockets of risks.

The use of permissionless blockchains has the potential to offer increased transparency and efficiency in lieu of traditional financial systems. Improving transaction efficiency by creating an immutable transaction record on the blockchain provides a superior, permanent, and tamper-proof record of transactions that cannot be altered retroactively. The use of distributed ledger technology offers atomic global settlement, which reduces transaction costs, increases composability, eliminates settlement duration risk, and benefits users.<sup>9</sup> Similarly, the fact that

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<sup>9</sup> See SUBCOMM. ON DIG. ASSETS & BLOCKCHAIN TECH., TECH. ADVISORY COMM., COMMODITY FUTURES TRADING COMM’N, *DECENTRALIZED FINANCE* (2024), [https://www.cftc.gov/media/10106/TAC\\_DeFiReport010824/download](https://www.cftc.gov/media/10106/TAC_DeFiReport010824/download). The report covers the applications and benefits of DeFi and specifically notes the following “promising opportunities” presented by DeFi: (i) “improving efficiency in the delivery of financial products and services,” (ii) promoting greater transparency within the financial services industry,” (iii) “enhancing resiliency within the financial system,” (iv) dismantling barriers to financial access and inclusion,” (v) “promoting innovation and competition” and (vi) “strengthening U.S. leadership in technology and financial services.”

much of DeFi's underlying code is publicly available not only supports transparency but can also combat the risk of manipulative and fraudulent conduct. This transparency also enables all users to view the same information, reducing information asymmetry and potential disputes.

The rapid growth of DeFi markets, fueled largely by the adoption of blockchain and other digital asset technologies, has already demonstrated DeFi's potential to revolutionize financial markets with some estimates forecasting the global DeFi market to reach \$450 billion by 2030. This is especially impressive considering these technologies are still relatively new, meaning that DeFi likely offers numerous other benefits and innovations that have not yet been realized. DeFi technologies have been central to the emergence and growth of perpetual derivatives.

### **III. Benefits of Perpetual Derivatives**

Perpetual derivatives, contracts without an expiration date, are useful tools for hedging and mitigating crypto-related risks and speculating and capitalizing on price movements in the crypto spot market. Perpetual derivatives are the most widely traded cryptocurrency derivatives today, characterized by widespread liquid markets that facilitate price discovery. Since their introduction, the trading of perpetual derivatives has expanded rapidly: in 2022, perpetual contracts had a median total daily trading volume of \$101.9 billion<sup>10</sup> and by 2025, perpetual contracts accounted for 93% of all cryptocurrency derivatives trading.<sup>11</sup>

Perpetual contracts offer tremendous advantages for market participants. They closely track the spot market and may even be more liquid than the spot cryptocurrency market. They allow traders to hold their positions indefinitely, while removing the friction and cost of rolling over contracts (this is particularly useful in the 24/7 crypto markets). Their capital efficiency also allows traders to take greater leveraged exposure with less collateral at risk, which makes them particularly useful for hedging.

DeFi-based, onchain perpetuals provide additional benefits beyond those provided by centralized perpetuals products by bringing predictability, transparency, and efficiency to the underlying markets. As all data, such as funding rates or open interest, is onchain and auditable, this enhances trust. DeFi perpetuals also are composable across protocols, allowing for sophisticated automated strategies and integration with decentralized lending, options, and liquidity protocols. Finally, DeFi protocols are noncustodial, so users retain control of their funds at all times, which reduces counterparty risk.

### **IV. Classification of Perpetual Derivatives**

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<sup>10</sup> Songrun He, Asaf and Manela, Omri Ross, & Victor von Wachter, *Fundamentals of Perpetual Futures* (Dec. 13, 2022), at 8, available at SSRN: <https://ssrn.com/abstract=4301150>.

<sup>11</sup> Qihong Ruan & Artem Streltsov, *Perpetual Futures Contracts and Cryptocurrency Market Quality: Insights from Emerging Markets*, CORNELL SC JOHNSON COLLEGE OF BUSINESS: EMERGING MARKETS INSTITUTE (Feb. 25, 2025), <https://business.cornell.edu/article/2025/02/perpetual-futures-contracts-and-cryptocurrency>.

One major roadblock that is throttling the growth of the perpetual derivatives market is the risk that regulators will apply an inappropriate classification to them, leaving market participants to navigate a murky legal minefield. The industry has broadly identified perpetuals as futures contracts. In contrast, the Commission has labeled perpetual contracts as futures or swaps in different circumstances that are difficult to distinguish. Rather than impose a rigid regulatory classification on perpetual derivatives, the Commission should allow industry standards to emerge before arbitrarily imposing a rigid classification that could unreasonably harm innovation.

For example, in 2004, in *CFTC v. Zelener*, the Commission argued that certain foreign currency derivatives products that had no settlement date were futures contracts and that the contracts' lack of specified settlement date was tantamount to a contract for future delivery "in practice even though not in form."<sup>12</sup> The court considered the Commission's argument that these derivatives products (which could be held open indefinitely) met the definition of futures contracts subject to the Commission's jurisdiction and rejected it.<sup>13</sup> The court ultimately ruled that these particular perpetual contracts were spot contracts outside of CFTC jurisdiction rather than futures. Subsequent legislation put these contracts back under CFTC jurisdiction but this case demonstrates that both the Commission and the Seventh Circuit have identified perpetual contracts to be instruments other than swaps, in at least certain circumstances. The line between swaps and futures remains murky, as evidenced by past CFTC regulatory actions regarding products on the edge of both, such as forwards.<sup>14</sup>

As another example, in 2023, in two enforcement actions, the Commission argued that perpetual contracts are swaps pursuant to Section 1a(47) of the CEA.<sup>15</sup> These actions, both of which pertained to DeFi digital asset trading platforms, involved respondents that were alleged to have violated Section 5h(a)(1) of the CEA and Commission regulations by operating an unregistered SEF that offered trading in perpetual contracts. Both settlement orders state that the perpetual contracts offered by the DeFi platforms are classified as swaps without providing the precise rationale in deciding to move away from the Commission's prior classification of perpetual contracts as futures.

While the settlement orders spilled no ink on the matter, several weeks earlier in a filing from the *U.S. v. Avraham Eisenberg* criminal matter, the Commission laid out its theory for classifying perpetual contracts as swaps.<sup>16</sup> The Commission's memorandum argued that the perpetual instruments at issue in the case were swaps for three main reasons. First, the contracts involved an exchange of payments. Second, the purpose of the contracts was to manage financial risk by exchanging exposure between parties. Finally, there was no actual exchange of the underlier.<sup>17</sup> This broad criteria does not contain sufficient nuance to guide an industry on

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<sup>12</sup> *CFTC v. Zelener*, 373 F.3d 861, 63-64 (7th Cir. 2004).

<sup>13</sup> *Id.* at 861.

<sup>14</sup> *See, e.g.*, Forward Contracts With Embedded Volumetric Optionality, 80 Fed. Reg. 28239 (May 18, 2015), <https://www.govinfo.gov/content/pkg/FR-2015-05-18/pdf/2015-11946.pdf>.

<sup>15</sup> *In re Opyyn, Inc.*, CFTC No. 23-40, 2023 WL 5937238 (Sept. 7, 2023); *In re Deridex, Inc.*, CFTC No. 23-42, 2023 WL 5937236 (Sept. 7, 2023).

<sup>16</sup> *U.S. v. Avraham Eisenberg*, 23-CR-10 (RMB) (S.D.N.Y. Jan. 9, 2023).

<sup>17</sup> *Id.*

classification of perpetual derivatives in their different forms, especially when considered alongside other positions taken by the Commission in the past.

Given the inconsistency in how the Commission has classified perpetual derivatives, we recommend that the Commission not make a broad-based, general classification as to whether perpetual instruments are futures or swaps. The Commission should monitor perpetuals' growth and see whether they take more of the attributes of futures contracts or of swaps as time goes by. Rather than dictate whether this funny-shaped object has the clear shape of a circle or square, the Commission should withhold judgment until we can see its true features in greater relief.

## V. *Forward-Leaning Regulation of Perpetual Derivatives*

We commend the Commission's decision to end the recent practice of regulation by enforcement, including not seeking to charge entities for violations of the registration requirements under the CEA (other than in the case of a willful violation of the licensing or registration requirement at issue). But the Commission must go further. The Commission should embrace emerging technologies in order to support "a vibrant and inclusive digital economy and innovation in digital assets, permissionless blockchains, and distributed ledger technologies," as directed by Executive Order 14178.<sup>18</sup>

While we recognize that the CEA has its strictures, it is critical that the Commission continue robust engagement with the industry and carefully examine how it may work to foster a broad integration of DeFi protocols into the derivatives markets. To that end, we offer the recommendations below.

### A. *Establish a Perpetuals Special Advisory Committee ("PSAC")*

The Commission should convene a PSAC to examine the existing derivatives legal framework and evolving perpetual derivatives market and propose policy recommendations on how DeFi protocols may offer perpetual derivatives in the United States consistent with the CEA and under the supervision of the Commission. The Commission currently has five active advisory committees that serve the important role of offering recommendations on issues affecting the U.S. derivatives market. However, given the unique attributes of these products, and the novel issues they raise, the Commission should not establish the PSAC under the auspices of one or more of those committees. Instead, the Commission should create a special advisory committee for this one special financial instrument, and the committee should issue a single report outlining its recommendations.<sup>19</sup> Comprised of well-respected experts, distinguished individuals and authorities, and members of industry representing diverse viewpoints in the derivatives markets, the PSAC's findings and recommendations should guide the Commission's approach to the integration of DeFi-based perpetual derivatives into U.S. financial markets.

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<sup>18</sup> Exec. Order No. 14178, at 8647.

<sup>19</sup> If there are challenges in forming a standalone committee, the PSAC could be established as a joint working group under the Technology Advisory Committee and the Market Risk Advisory Committee.

In crafting its recommendations, the PSAC should urge the Commission to explore whether and in what manner the Commission should (i) exercise its exemptive authority under Section 4(c) of the CEA to provide DeFi protocols with a public interest exemption from any requirement to register as a SEF or DCM; (ii) establish an appropriately tailored, fit-for-purpose compliance framework for DeFi protocols; and (iii) craft a system of regulation and guidance for retail participation in DeFi perpetual derivatives markets in the United States. Each item is discussed in more detail below.

### *B. Consider a Time-Limited, Conditional Public-Interest Exemption*

The PSAC should recommend that the Commission consider providing DeFi protocols with a time-limited, conditional public-interest exemption from the SEF and DCM registration requirements. Under Section 4(c) of the CEA, the Commission is empowered to “exempt any agreement, contract, or transaction (or class thereof)” from the requirements of the CEA, either unconditionally or on stated terms or conditions or for stated periods.<sup>20</sup> The Commission may also exempt “any person or class of persons offering, entering into, rendering advice or rendering other services with respect to, the agreement, contract, or transaction”, including DeFi protocols, from various CEA requirements.<sup>21</sup> Of course, any time-limited, conditional exemption would also include certain guardrails and safeguards to protect our markets and users while the Commission considers the best path going forward.

Applying the current SEF or DCM registration requirements and core principles in Parts 37 and 38 of the Commission’s regulations to DeFi—decentralized financial protocols and applications built on blockchain technology—is impractical if not impossible. And the Commission’s recent litigation and enforcement posture suggests that perpetual derivatives may only be offered by traditional market structures, which would severely restrict the growth of these markets. There is significant market appetite for trading perpetual derivatives on DeFi protocols, and we recommend that the Commission strongly consider other methods through which DeFi protocols may be able to offer perpetual contracts outside of the traditional registered SEF and DCM regimes. This will provide greater transparency, efficiency, and predictability for market participants and regulators alike.

It is not the Commission’s role to outlaw new, innovative products for which there is a clear market appetite specifically for decentralized derivatives trading options. Instead, it is the Commission’s duty to develop a robust and effective regulatory framework that enables the trading of those products, while also protecting consumers and preventing fraudulent and manipulative market conduct. This is underscored by the fact that the United States Congress is currently crafting market structure legislation that may profoundly reshape the regulatory framework for digital assets, a key priority for the country.<sup>22</sup> While this legislative process is underway, it is important that the Commission avoids inadvertently stifling a particular aspect of the digital asset markets.

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<sup>20</sup> 7 U.S.C. § 6(c)(1).

<sup>21</sup> *Id.*

<sup>22</sup> On May 5, 2025, French Hill, G.T. Thompson, Bryan Steil and Dusty Johnson released a discussion draft of a bill to establish a regulatory framework for digital assets in the United States. The press release is available online at <https://financialservices.house.gov/news/documentsingle.aspx?DocumentID=409719>.

Embracing a pragmatic approach that advances the benefits of technology, in the absence of a clearly articulated, well-defined legislative or regulatory framework, is not a novel proposition. For example, in 2017 when Bitcoin futures were first proposed, some argued that the Commission should block exchanges from self-certifying those products out of fear that “legitimizing” those products would have negative repercussions. Instead, the Commission simply enacted a heightened review standard for evaluating cryptocurrency derivatives and years later the market is deep, liquid, transparent, and well-regulated. None of those naysayers’ fears have come to pass.

### C. Explore a Tailored, Fit-For-Purpose Compliance Framework

The PSAC should also recommend that the Commission explore the development of an appropriately tailored, fit-for-purpose compliance framework for DeFi perpetual derivatives. We acknowledge that there are challenges in applying the existing regulatory regime to DeFi protocols, given their unique technological infrastructure. Nevertheless, the Commission should tailor its regulatory jurisdiction over these products so as to harness the benefits of the smart contract functionalities of DeFi protocols while mitigating risks and preserving market integrity. One regulatory approach, which has been explored by other jurisdictions, is to introduce a compliance framework that “recognizes technology-mediated organizational structures (*e.g.*, DAOs) as legal entities, making it possible to define entities’ and actors’ liabilities for their activities.”<sup>23</sup>

The PSAC should parse through the existing DCM and SEF regulatory obligations and allocate compliance responsibilities across different actors in the DeFi ecosystem. Structuring a regulatory compliance framework that distinguishes between DeFi front-ends, development companies, and other actors offers a workable solution to DeFi supervision and oversight.

### D. Develop a System of Regulation that Allows Retail Participation

The PSAC should also advise the Commission on how it may craft reasonable, common-sense regulations to allow retail participation in decentralized perpetual derivatives markets in the United States. Historically, derivatives markets were driven by large, institutional entities—banks, trading houses, energy companies, and agricultural producers—and the Commission designed its regulatory regime in turn to oversee these financially sophisticated firms. In recent years, this norm has been flipped on its head as retail (nonprofessional) consumers—motivated by an interest in digital asset trading as well as other retail-oriented products, such as minis and event contracts—have increased their market share in Commission jurisdictional markets.

To address these changes, the PSAC should study ways in which the use and trading of decentralized perpetual derivatives by retail participants can be brought under the Commission’s

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<sup>23</sup> Denise G. Ocampo, Nicola Branzoli & Luca Cusmano, *Crypto, tokens and DeFi: navigating the regulatory landscape*, FSI Insights, No. 49 (Bank of Int’l Settlements, May 17, 2023), <https://www.bis.org/fsi/publ/insights49.pdf>.

oversight and supervision as well as any regulatory changes needed to facilitate broader retail participation whether by way of no-action relief or otherwise. For example, the Commission may draw from the Securities and Exchange Commission's disclosure-based framework. (This assumes that the SEC Crypto Task Force continues in its work to update the SEC's crypto regulations, as the current disclosure framework only works for traditional, centralized entities – and not DeFi.) By ensuring that retail users have all material information necessary to understand the potential risks associated with perpetual contracts traded on DeFi protocols, retail customers will be empowered to make trading decisions that accurately reflect their own investing strategies and objectives. The Commission should abandon a paternalistic approach to retail participation in the decentralized perpetual derivatives market and opt for economic autonomy and empowerment, within reasonably designed regulatory safeguards and guardrails.

## VI. Conclusion

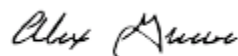
As the Commission considers a number of issues related to the trading and clearing of perpetual derivatives, we respectfully request that the Commission also consider ways it can support the broad integration of DeFi technologies into financial markets. Many significant developments in the trading of perpetual derivatives were accomplished via DeFi protocols. As such, we believe that the continued evolution of DeFi, within the bounds of the Commission's regulatory jurisdiction, is critical to the future of perpetual contracts. Accordingly, we respectfully request that the Commission consider as part of this RFC ways to involve DeFi protocols and applications in the offering of perpetual derivatives.

As discussed herein, we recommend the Commission convene a PSAC to examine the Commission's existing regulatory framework and propose recommendations on how it might synergize that framework with DeFi technologies. Three areas the panel might consider exploring are whether and in what manner the Commission should provide DeFi protocols with a public interest exemption from certain registration requirements, whether the Commission should develop an appropriately tailored, fit-for-purpose compliance framework for DeFi that exists separately from the SEF and DCM frameworks, and implement regulations to permit retail participation in perpetual contracts traded on DeFi protocols in the United States. By embracing innovation and crafting light-touch, future-proof regulation, the Commission can ensure that the United States is not left behind in fully recognizing the transformative potential that DeFi offers our financial markets.

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Paradigm appreciates the Commission's consideration of our comments, and we would be pleased to engage with the Commission on these critical issues. If you have questions or would like to discuss these comments further, please reach out to [agrieve@paradigm.xyz](mailto:agrieve@paradigm.xyz).

Sincerely,



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*Justin Slaughter*

Justin Slaughter  
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