



July 9, 2026

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

Re: Request for Information: Identifying Regulations to Facilitate Innovation and Competition to Financial Products and Services for Fintech Firms (RIN 3038—ZA24); 91 Fed. Reg. 36774 (June 18, 2026)

Dear Mr. Kirkpatrick:

Phantom Technologies, Inc. (“Phantom”) and Hyperliquid Policy Center (“HPC”) appreciate the opportunity to respond to the above-captioned request for information (the “RFI”) by the Commodity Futures Trading Commission (“CFTC” or “Commission”) on regulations that may unduly impede fintech firms from entering into partnerships with financial infrastructures and intermediaries regulated by the Commission. The Commission issued the RFI pursuant to Executive Order 14405 (“E.O. 14405”).¹

Phantom is a non-custodial wallet and interface provider that builds software interfaces through which users access onchain protocols and other markets. Phantom never holds user funds or controls private keys, does not execute trades between users, and does not intermediate transactions. HPC is an independent research and advocacy organization dedicated to advancing a clear, regulated path for Americans to access onchain markets, including those available on Hyperliquid. Hyperliquid is a general-purpose Layer 1 blockchain facilitating financial activity, including derivatives markets.

We write this letter together because Phantom integrates Hyperliquid on its interface (though this functionality is not available to U.S. users today) and we are working together to advocate for advancement of regulations that enable Americans to access onchain derivative markets. Phantom and other developers and builders on Hyperliquid fall within E.O. 14405’s definition of a “fintech firm.”²

Overall, the principal impediment that Commission regulations pose to partnerships involving fintech firms is that the regulations generally assume a layered, custodial market structure in which intermediaries—not customers—control handling of customers’ orders and funds. Onchain technology, however, makes it possible for customers to transact with each other on a

¹ “Integrating Financial Technology Innovation Into Regulatory Frameworks” (May 19, 2026); RFI, 91 Fed. Reg. 36774, 36775 (June 18, 2026).

² E.O. 14405 defines a “fintech firm” to include any firm that “develops technological means to offer or support the offering of financial products or services, including, but not limited to, any application or any digital or online technology that facilitates access to, management of, or data processing for financial products or services.”

peer-to-peer basis without intermediation. Given that intermediation can present risks to customers, including front-running or other mishandling of orders and lost or stolen funds, the Commission should tailor its regulations to permit broader use of onchain technology and reduce customer reliance on intermediaries. In particular, the Commission should take the following key steps:

First, confirm that developing or contributing to onchain protocol software, standing alone without any ongoing control over use of that software, does not trigger registration with the Commission or constitute the solicitation, offering, or acceptance of orders or execution or confirmation of transactions under the Commodity Exchange Act (“CEA”).

Second, issue guidance on how Commission-regulated markets and intermediaries can make use of onchain technology to perform their regulated functions in a manner consistent with applicable CEA core principles and Commission regulations.

Third, codify the functional analysis reflected in the Commission’s recent Phantom no-action letter (the “Phantom Letter”), so that non-custodial front-end interfaces and wallets are not treated as introducing brokers (“IBs”) when they merely provide the technical means of access to a Commission-regulated market or intermediary.³

Taking these steps would deliver on E.O. 14405’s mandate to identify and remove regulatory items that “unduly impede” fintech firms from integrating into federally regulated markets. The alternative is the status quo: American users continue to be walled off from onchain derivatives markets, innovation continues to take place offshore, and U.S. registrants continue to be denied the ability to modernize their infrastructure.

Onchain Protocol Software and its Developers and Contributors Should Not, Standing Alone, Trigger Registration

The CEA’s registration categories for designated contract markets (“DCMs”), swap execution facilities (“SEFs”), derivatives clearing organizations (“DCOs”), futures commission merchants (“FCMs”), IBs, and swap dealers (“SDs”) turn on regulated functions being performed by a “person,” “group of persons,” “entity,” or “organization.” Software running on a public blockchain—even if it facilitates derivatives trading—is none of those things. It has no legal personality, no capacity to enter into contracts, and no ability to respond to regulatory inquiries. Nor does it present the risks registration is designed to address, such as mishandling of customer orders, misuse of customer funds, or counterparty default.

Likewise, merely developing or contributing to onchain protocol software does not by itself entail “constituting,” “maintaining,” “providing,” or “operating” a trading facility, “soliciting” or “accepting” orders, “accepting” customer funds, or “entering” into futures, swaps, or leveraged or margined transactions. Nor does it present the customer protection or systemic risks discussed above. Accordingly, onchain protocol software developers should not need to register as DCMs, SEFs, DCOs, FCMs, IBs, or SDs. They also should not fall within scope of the

³ See CFTC Letter No. 26-09 (Mar. 17, 2026) (relieving a non-custodial wallet provider from IB registration on the basis that the firm’s role is limited to providing the technical means of access).

exchange-trading requirements applicable to futures, swaps, or retail leveraged or margined transactions under CEA Sections 4(a), 2(e), or 2(c)(2)(D), respectively, although those requirements may continue to apply to transacting parties themselves.

Rather, registration requirements should apply to persons or entities actually handling customer orders or funds or entering into transactions with customers, including when they use onchain protocol software to do so. In other words, the appropriate regulatory touchpoints are the persons who use onchain protocols to perform regulated functions, not the onchain protocols themselves.

Drawing this distinction in the onchain context is consistent with the way the Commission has traditionally regulated offchain markets, where software developers routinely make available key market infrastructure technology (such as matching engines, order routing and execution algorithms, and risk and margin engines) that registered firms deploy, without the developers themselves triggering registration. The transition to onchain markets where customers can trade on a peer-to-peer basis should not lead to a different result. Preserving the traditional distinction between software development, on one hand, and financial services, on the other, is essential to ensuring a vibrant and competitive U.S. market for developing onchain infrastructure.

Commission Registrants Should Be Permitted to Perform Regulated Functions Onchain

The Phantom/Hyperliquid stack illustrates that three distinct CFTC-regulated functions—execution (DCM), access intermediation (IB/FCM), and clearing/settlement (FCM/DCO)—can be performed by onchain infrastructure in ways that satisfy, and in some respects exceed, the risk-management objectives of CEA’s core principles and Commission regulations. In particular, customers benefit from the transparency and predictability of onchain execution, margining, and default management, while self-directing the use of their funds within pre-defined margin and liquidation parameters and maintaining control over their private keys.

To-date, however, U.S. customers cannot achieve these benefits because they are required to trade through registered DCMs, DCOs, and FCMs,⁴ and these registrants have not yet been able to make use of onchain infrastructure to perform their regulated functions. The Commission should provide guidance addressing uncertainty in this space, including:

- Confirming that a DCM can use an onchain protocol as its matching and execution layer, so long as the DCM has in place measures to satisfy applicable core principles. For example, a DCM should be able to leverage onchain technology to administer access requirements, conduct market surveillance, exercise emergency authority, and publish trading information, while maintaining offchain discretion around which contracts to list, disciplining members, and otherwise enforcing its rules.

⁴ CEA Sections 4(a), 2(e), or 2(c)(2)(D) require U.S. retail participants to transact on a DCM, and CEA Section 5(d)(11)(A) require DCMs to clear transactions through a DCO. The Commission has also generally required DCOs offering leveraged contracts to retail participants to do so via an FCM.

- Confirming that a DCO can use an onchain protocol for margining, settlement, clearing and default management so long as the DCO has in place measures to satisfy applicable core principles. For example, a DCO should be able to leverage onchain technology to administer participation standards, collect and maintain margin, settle transactions, and manage defaults, while maintaining offchain discretion around which products to clear, how to calibrate margin and other financial resources, and otherwise enforcing its rules.
- Confirming that an FCM can use an onchain protocol to accept customer orders and funds so long as the FCM satisfies relevant know-your-customer, disclosure, order handling, and segregation requirements.

Three areas where it may be particularly helpful for the Commission to provide guidance are system safeguards, segregation rules, and recordkeeping requirements:

- System safeguards rules generally assume that a registrant is using its own proprietary systems or contracting with a third-party vendor, not connecting to a public onchain protocol. The Commission should make clear that a registrant can, through testing, risk assessment, and other measures, have sufficient controls around the security, scalability, and continuity of the onchain protocols it uses even if they are not in a contractual relationship with a third-party vendor.
- Segregation rules generally assume that a registrant is directly or indirectly holding customer funds at a bank or other depository, and that a customer cannot access his or her funds without a registrant instructing that depository. In an onchain environment, however, no third-party depository is needed, and a customer need not cede control over his or her funds except as necessary to ensure appropriate margining and default management. This difference is a feature, not a bug, in terms of protecting customer assets from loss or misuse. The Commission should confirm that these onchain custody arrangements satisfy DCO and FCM segregation and risk management rules.
- Recordkeeping rules generally assume that a registrant preserves its records on storage systems it owns and controls, an approach historically anchored in a “write once, read-many” (or, “WORM”) format standard. As native features of the technology, public blockchains provide the guarantees that standard was designed to achieve, including immutability, authenticity, and independent verifiability. The Commission should confirm that a registrant can maintain Commission-required records on a public blockchain, consistent with the President’s Working Group recommendation that the Commission use its authorities under the CEA to allow “the use of blockchain technology to satisfy recordkeeping obligations under CFTC Regulation 1.31.”⁵

⁵ President’s Working Group on Digital Asset Markets, *Strengthening American Leadership in Digital Financial Technology* at 53 (July 30, 2025).

Non-Custodial Front-End Interface Software Providers Should Not Trigger Registration

For many years, the Commission has consistently recognized that fintech firms can offer passive software tools enabling users to engage in self-directed activity without the fintech firm triggering registration obligations.⁶ More recently, the Commission extended this precedent by granting similar relief to Phantom in connection with offering non-custodial front-end interface and wallet software connecting its users to DCMs, FCMs, and IBs.⁷ The Phantom Letter represented a significant step forward by establishing appropriate conditions under which a fintech firm can not only provide connectivity services but also enter into business arrangements, including co-marketing and revenue sharing, with Commission registrants. These arrangements help subsidize the cost of software for users.

The Commission should build on the Phantom Letter through a rulemaking that codifies the relief for all similarly situated fintech firms. This rulemaking should also give fintech firms the flexibility to partner with the full range of CFTC registrant categories—an outcome the RFI itself invites when it asks which Regulatory Items “unduly impede Fintech Firms from entering into partnerships with CFTC Registrants and Registered Entities.”

Conclusion

The three-pronged approach described above represents a comprehensive roadmap to enabling fintech firms to partner with Commission registrants to deliver the benefits of onchain infrastructure to the U.S. derivatives markets: prong one provides legal certainty for software developers to build the protocol infrastructure deployed by others; prong two enables Commission registrants to deploy that infrastructure; and prong three enables front-end providers to facilitate access to regulated, onchain markets. Together, they bring the benefits of responsible innovation and competition onshore, consistent with the Commission’s mandate under the CEA and E.O. 14405.

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⁶ See CFTC Letter No. 06-29 (Oct. 24, 2006); CFTC Letter No. 08-07 (Apr. 4, 2008); CFTC Letter No. 08-12 (July 10, 2008); CFTC Letter No. 02-91 (Jul. 30, 2002); CFTC Letter No. 04-15 (Mar. 22, 2004); and CFTC Letter No. 04-34 (Sept. 16, 2004) (IB registration relief for independent software vendors).

⁷ Phantom Letter, *supra* note 3.

Mr. Christopher Kirkpatrick
July 9, 2026
Page 6

Phantom and HPC appreciate the Commission's consideration of these comments and welcome the opportunity to discuss any of the recommendations above with the Commission and its staff.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Kevin Jacobs", is positioned above a horizontal line.

Kevin Jacobs
General Counsel
Phantom Technologies, Inc.

A handwritten signature in black ink, clearly legible as "Brad Bourque", is positioned above a horizontal line.

Brad Bourque
Policy Counsel
Hyperliquid Policy Center