

# So You Want to Apply to Become a CFTC-Registered Designated Contract Market (DCM)? Here's What You Should Know

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In 2025, applications and inquiries to register with the Commodity Futures Trading Commission (CFTC or Commission) as a derivatives exchange have noticeably increased, with several companies pursuing or obtaining a CFTC designation. But what is the cause of this increased demand?

These derivatives exchanges, known as designated contract markets (DCMs), have become much more popular due to a confluence of factors such as the regulatory attention catalyzed by the CFTC's "Crypto Sprint"<sup>1</sup> to implement the President's Working Group on Digital Asset Markets" report,<sup>2</sup> accelerating customer demand for regulated digital asset derivatives, and the recent boom of prediction markets. These factors have prompted both new entrants and existing CFTC market participants to reassess whether seeking designation as a DCM would complement their strategic objectives. In addition, DCMs can provide retail traders with access to swaps trading: a retail person who is not an eligible contract participant (ECP) generally cannot legally enter into a swap unless it is executed on a DCM.

For firms seeking to broaden retail access, list standardized futures or options on novel underliers (including digital assets), or consolidate their regulatory positioning in US markets, the DCM pathway offers a clear, albeit rigorous, route. The designation process also comes with meaningful responsibilities as a self-regulatory organization (SRO) and a comprehensive framework of DCM Core Principles (some of which are discussed below). Implementation of these rules is required as soon as a DCM is designated by the CFTC and continually maintained thereafter.

This Katten advisory situates prospective applicants in the current environment, distills the core legal and regulatory requirements under Part 38 of the CFTC's Regulations and Form DCM. We highlight the practical considerations that rarely appear in the formal instructions but often determine whether an application proceeds smoothly, stalls for rounds of supplementation, or requires material redesign during CFTC staff review.

## Beyond the Regulations and Form DCM: Practical Realities You Won't Find in the Instructions

While CFTC Regulations and Form DCM define the substantive standard and the documentary checklist, successful applications turn on a different class of questions, such as strategic scope, sequencing, and proof of readiness. Here are a few (but not all) practical tips a DCM applicant should consider.

1. **Material completeness is binary.** The 180-day statutory review period does not begin until the application is "materially complete," which in practice means firms should provide not just the listed exhibits, but also sufficiently detailed policies, systems descriptions, and governance frameworks to ***demonstrate actual operational readiness*** as a DCM. Submitting "frameworks" with to-be-determined controls, placeholder organizational charts, incomplete systems testing plans or unfinalized third-party arrangements reliably does not constitute material completeness.
2. **The applicant's story matters.** The CFTC's Division of Market Oversight (DMO) is responsible for DCM supervision. DMO staff will expect a coherent narrative linking the applicant's product set, market model, participant access design, surveillance tooling, financial resources and clearing arrangements to the DCM Core Principles. In our experience, the strongest applications read like integrated operating plans backed by concrete legal analysis rather than discrete binders of various exhibits. As an example, a DCM applicant contemplating a direct, disintermediated model should be clear throughout the application materials that no one, including futures commission merchants (FCMs), introducing brokers (IBs) or other intermediaries, can trade on behalf of customers. In contrast, a DCM applicant contemplating an intermediated model should clearly specify membership criteria and ongoing obligations for FCMs, IBs and other intermediaries trading on behalf of customers.
3. **Specificity is credibility.** General policies that do not reflect the applicant's market structure (e.g., the interplay between central limit order book and block trades; a direct electronic access model; the precise contours of the DCM's order flow and pre-trade risk controls; the cash versus physical settlement mechanics; the DCM's susceptibility to manipulation; etc.) will prompt requests by DMO staff for clarification. Tailoring policies and controls to actual practice is critical.

## High-Level Overview of the DCM Process

At a high level, becoming a DCM requires demonstrating compliance with the 23 DCM Core Principles in Section 5(d) of the Commodity Exchange Act (CEA) and Part 38 of the CFTC Regulations, supported by the exhibits in Form DCM. Key process points to consider include:

- **Application filing and format.** The filing includes a cover sheet and a full set of labeled exhibits: organizational, governance, financial, legal, compliance, operational, technology and

rulebook materials. The applicant must identify commercially sensitive content for which confidential treatment is requested.

- **Material completeness and the review clock.** The Commission's 180-day review period starts only when the application is deemed materially complete. If it is not, the clock will be stayed until the deficiency is cured. Staff may request additional information at any time.
- **Staff engagement.** The applicant should expect iterative engagement with DMO staff on its operational readiness and be prepared to respond in a fulsome and timely manner. The adequacy and timeliness of the applicant's responses heavily influence the pace of the DMO staff's review.
- **Commission action.** Within 180 days of a materially complete filing, the Commission will approve, deny or approve subject to conditions. Post designation, DCMs must comply with ongoing obligations, including Part 40 of the CFTC Regulations.

## Completing Form DCM: What "Good" Looks Like

Strong submissions share common features across the principal Form DCM exhibit sets:

- **Governance and organization.** Provide a crisp narrative and graphic depiction of the corporate structure, including control persons (including 10%+ owners), and affiliates. Include current formation documents, bylaws/operating agreements, board charters (including, at a minimum, the DCM's Regulatory Oversight Committee), conflicts policies and fitness standards.
- **Staffing and compliance.** Submit a staffing analysis that ties headcount and qualifications to the applicant's business model. Identify the chief regulatory officer (CRO) or equivalent, market surveillance leadership, investigations/disciplinary roles and technology operations heads. Generally, DMO staff expect to see qualified individuals serving in each of the key roles at the time of filing.
- **Rules and compliance documentation.** Applicants should provide a comprehensive rulebook and internal compliance policies that address all relevant regulatory requirements for operating as a DCM.
- **Contracts not readily subject to manipulation.** For each contract, applicants should be prepared to provide the market analysis contemplated by Appendix C to Part 38.
- **Trading, audit trail, and surveillance.** Describe the trading system architecture and demonstrate how the DCM complies with comprehensive audit trail reconstruction requirements (e.g., surveillance alerts, alert parameters, investigative procedures, and disciplinary frameworks).

- **System safeguards.** Applicants should demonstrate how their risk management and operational safeguards address key areas such as information security, business continuity and third-party oversight.
- **Financial resources.** Applicants should provide financial statements and evidence of sufficient capital (i.e., more than 12 months of operating expenses) to meet regulatory requirements.
- **Clearing and financial integrity.** Document the clearing model, derivatives clearing organization arrangements or clearing agency (for security futures, where applicable), and customer protection rules. Describe intermediary financial surveillance (or delegation to a regulatory service provider), and how the DCM plans to monitor FCM/customer risk and protect customer funds.
- **Records and reporting.** Commit to record retention in a form and manner acceptable to the Commission for at least five years (and for swaps, through the life of the swap plus five years thereafter), and to timely reporting under Parts 16, 43, and 45 of the CFTC Regulations where applicable.
- **Public disclosures and CFTC Regulation Part 40 readiness.** Demonstrate procedures to post accurate and timely disclosures and to self-certify or seek approval of rules and products.

## Operational and Technological Considerations

DMO staff will look past policy statements to the evidentiary spine of the DCM's operations. Applicants should be explicit about the market they will actually run on day one. If the DCM intends to list a limited product set with a central limit order book plus block trades, the application should say so, and the applicant should tailor the DCM's risk controls, surveillance alerts and disciplinary rules to that reality. Overbroad, unused rule constructs create credibility gaps.

Applicants should demonstrate robust audit trail and surveillance capabilities, including processes for detecting and addressing potential market. Trade surveillance may be conducted by a third-party service provider and outlined in the DCM's application (however, the DCM should note it will always retain final authority with respect to its trade surveillance and any escalation or disciplinary action).

Applicants must prove systems resiliency with exhibits by including BC/DR test plans, the most recent test results and remediation logs, change-management records, and vendor service level agreements. For significant third-party dependencies (e.g., matching engine, market surveillance systems), show contractual and operational pathways for meeting next-business-day recovery.

Applicants should also set up pre-trade risk controls consistent with the DCM's access model. If the applicant permits direct electronic access or sponsor access, it should document automated controls and explain how it will coordinate controls with intermediaries.

## Staffing Considerations: Calibrating Headcount, Independence and Expertise

As noted above, an applicant's staffing plan should be linked to anticipated trading hours, products, growth and alert volumes. For surveillance and investigations, the applicant should justify coverage assumptions. Applicants should address the following considerations:

- **Preserve regulatory independence.** Codify the CRO's authority and independence in the rulebook and internal compliance policies and procedures. Staff disciplinary panels must also meet composition safeguards, avoid conflicts and maintain due process.
- **Hire for the DCM's market's risk profile.** Digital asset and event/prediction markets raise unique surveillance and manipulation risks; the DCM should recruit personnel with relevant market experience.
- **Plan for growth and continuity.** The DCM should present a 12- to 24-month hiring roadmap.
- **Consider the use of a third-party service provider.** The DCM should consider whether to hire a third-party service provider to assist the DCM's CRO and compliance team with market surveillance.

## Preparing for the Staff Presentation: Tell a Coherent, Evidence-Backed Story

Once an applicant has submitted its Form DCM application and supporting exhibits, the next step is preparing for the DMO staff presentation. The DMO staff presentation is an applicant's opportunity to knit the exhibits into a unified operational narrative. At a minimum, the presentation should address the following elements:

- **Market model and rules.** The applicant must describe the DCM's execution model, participant categories, access criteria and trade practice rules.
- **Surveillance and enforcement.** During the presentation, it is important to walk through the DCM's surveillance alert system, disciplinary processes and time-to-close metrics.
- **Technology and resiliency.** The applicant should present the DCM's full technology architecture.
- **Financial resources and clearing.** The applicant should also explain the DCM's financial resources and clearing arrangements.

In addition, an applicant should anticipate staff asking questions that cover multiple parts of the CFTC's regulations and applicable guidance.

## Managing Expectations Around Timing

One question Katten attorneys often hear regarding the DCM application process is: How long will it take to receive a DCM designation? Unfortunately, the answer to that question is often "it depends." While the DCM registration timeline has fixed statutory anchors, the statutory clock is rarely decisive in practice. Applicants should keep the following considerations in mind:

- **The statutory 180-day clock.** As explained above, the Commission's 180-day review period begins only when the application is materially complete.
- **Material completeness standard.** The application must include all required Form DCM exhibits and sufficient evidence to demonstrate readiness to comply with the DCM Core Principles.
- **Notification of incompleteness.** If the application is incomplete, Commission staff will notify the applicant and stay the review period until the applicant has cured the deficiencies.
- **Commission action.** Once deemed materially complete, the Commission may approve, deny or approve subject to conditions. However, applicants should plan for a multi-month to multi-year process, with timing contingent on the depth and speed of responses and the novelty of products and market model.
- **Reality check on timing.** Recent experience indicates full reviews commonly extend well beyond the statutory period (often north of two years), driven by iterative staff inquiries, technology and surveillance validations, and refinements to other parts of the applicable based on DMO staff feedback.

As a practical tip, applicants should develop a pre-filing "material completeness" checklist, which includes dry runs of audit trail reconstruction, surveillance alert output, BC/DR test evidence and a mock staff presentation. The fastest paths to designation are characterized by precise scoping, few rounds of post-filing revisions, timely and fulsome responses to staff follow-up informational requests, and by resourcing for a prolonged review timeline (e.g., sustained subject matter expert availability, staged vendor commitments, and budget for extended testing).

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For deeper guidance on the topics outlined above and several additional issues not covered in this advisory,<sup>3</sup> please contact Katten's Financial Markets and Regulation attorneys. We assist prospective DCMs from early feasibility assessments through designation and day-two compliance, bringing practical insights from recent applications and examinations to help applicants move efficiently and credibly through the process.

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1 See Katten's Quick Reads coverage of the CFTC's Crypto Sprint [here](#) and [here](#).

2 See Katten's Quick Reads coverage of the President's Working Group Report [here](#).

3 Some of the topics not covered in this Advisory include product strategy, contract design for novel underliers, clearing options, rulebook drafting and governance, rule and product submission strategies, regulatory service provider selection, privacy and data governance, launch sequencing, the Commission voting process, and the importance of getting the right language in the designation order.

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## CONTACTS

For deeper guidance on the topics outlined above and several additional issues not covered in this advisory, please contact Katten's [Financial Markets and Regulation](#) attorneys.



**Carl E. Kennedy**  
+1.212.940.8544  
[carl.kennedy@katten.com](mailto:carl.kennedy@katten.com)



**Daniel J. Davis**  
+1.202.625.3644  
[daniel.davis@katten.com](mailto:daniel.davis@katten.com)



**James M. Brady**  
+1.312.902.5362  
[james.brady@katten.com](mailto:james.brady@katten.com)



**Robert Bourret**  
+1.312.902.5568  
[robert.bourret@katten.com](mailto:robert.bourret@katten.com)



**Alexander C. Kim**  
+1.212.940.6535  
[alexander.kim@katten.com](mailto:alexander.kim@katten.com)

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