

ANNEX B

Definition of U.S. Person⁶

CFTC Margin Proposal	CFTC Cross-Border Guidance	SEC Cross-Border Definition
U.S. person means:	The Commission’s interpretation of the term “U.S. person” would generally include, but not be limited to:	Except as provided in paragraph (a)(4)(iii) of this section [relating to supranational organizations], U.S. person means any person that is:
(i) A natural person who is a resident of the United States;	(i) any natural person who is a resident of the United States;	(A) A natural person resident in the United States;
(ii) An estate of a decedent who was a resident of the United States at the time of death;	(vii) an estate or trust, the income of which is subject to U.S. income tax regardless of source	(D) An estate of a decedent who was a resident of the United States at the time of death
(iii) A corporation, partnership, limited liability company, business or other trust, association, joint-stock company, fund or any form of entity similar to any of the foregoing (other than an entity described in paragraph (a)(10)(iv) or (v) of this section) (a “legal entity”), in each case that is organized or incorporated under the laws of the United States or having its principal place of business in the United States, including any branch of such legal entity;	(ii) any corporation, partnership, limited liability company, business or other trust, association, joint-stock company, fund or any form of enterprise similar to any of the foregoing, in each case that is either (A) organized or incorporated under the laws of the United States or having its principal place of business in the United States (legal entity) or (B) in which the direct or indirect owners thereof are responsible for the liabilities of such entity and one or more of such owners is a U.S. person; (iv) any commodity pool, pooled account, or collective investment vehicle (whether or not it is organized or incorporated in the United States) of which a majority ownership is held, directly or indirectly, by a U.S. person(s); (v) any commodity pool, pooled account, or	(B) A partnership, corporation, trust, investment vehicle, or other legal person organized, incorporated, or established under the laws of the United States or having its principal place of business in the United States;

⁶ To facilitate comparison with the Margin Proposal, we reordered the U.S. person elements of both the Cross Border Guidance and the SEC Cross-Border definitions (without changing their original numbering/lettering).

	collective investment vehicle the operator of which would be required to register as a commodity pool operator under the CEA;	
(iv) A pension plan for the employees, officers or principals of a legal entity described in paragraph (a)(10)(iii) of this section, unless the pension plan is primarily for foreign employees of such entity;	(vi) a pension plan for the employees, officers or principals of a legal entity with its principal place of business inside the United States;	
(v) A trust governed by the laws of a state or other jurisdiction in the United States, if a court within the United States is able to exercise primary supervision over the administration of the trust;		
(vi) A legal entity (other than a limited liability company, limited liability partnership or similar entity where all of the owners of the entity have limited liability) that is owned by one or more persons described in paragraphs (a)(10)(i) through (v) of this section and for which such person(s) bears unlimited responsibility for the obligations and liabilities of the legal entity, including any branch of the legal entity; or		
(vii) An individual account or joint account (discretionary or not) where the beneficial owner (or one of the beneficial owners in the case of a joint account) is a person described in paragraphs (a)(10)(i) through (vi) of this section.	(iii) any individual account (discretionary or not) where the beneficial owner is a U.S. person;	(C) An account (whether discretionary or non-discretionary) of a U.S. person;