

July 5, 2016

Submitted Electronically

Mr. Christopher Kirkpatrick
Secretary of the Commission
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street NW
Washington, DC 201581

**Re: Notice of Proposed Order and Request for Comment on a Proposal to Exempt,
Pursuant to the Authority in Section 4(c) of the Commodity Exchange Act, the
Federal Reserve Banks From Sections 4d and 22 of the Commodity Exchange Act**

Dear Mr. Kirkpatrick:

The International Swaps and Derivatives Association, Inc. (“**ISDA**”)¹ appreciates the opportunity to comment on the above-referenced proposed order (the “**Proposal**”) published by the Commodity Futures Trading Commission (the “**CFTC**”), which would exempt Federal Reserve Banks from Sections 4d and 22 of the Commodity Exchange Act (the “**CEA**”). As discussed in greater detail below, ISDA strongly supports the Proposal and urges the CFTC to finalize it expeditiously in order to promote protection of customer funds and sound risk management process in the cleared derivatives market.

ISDA supports the work of the CFTC and other regulators, both in the United States and internationally, to ensure robust risk management standards for derivatives clearing organizations (“**DCOs**”) and other central counterparties (“**CCPs**”). Such risk management includes adequate and reliable protection of customer funds. Protection of customer funds is particularly important for systemically important CCPs, such as DCOs

¹ Since 1985, ISDA has worked to make the global derivatives markets safer and more efficient. Today, ISDA has over 850 member institutions from 67 countries. These members comprise a broad range of derivatives market participants, including corporations, investment managers, government and supranational entities, insurance companies, energy and commodities firms, and international and regional banks. In addition to market participants, members also include key components of the derivatives market infrastructure, such as exchanges, intermediaries, clearing houses and depositories, as well as law firms, accounting firms and other service providers. Additional information on ISDA is available at www.isda.org.

designated as systemically important by the Financial Stability Oversight Council (“**SIDCOs**”). In recent years, customer clearing at SIDCOs and other systemically important CCPs has increased considerably as a result of the implementation of clearing mandates, as well as other incentives to clear OTC derivatives. These CCPs now hold very large volumes of customer funds, the loss of which could be detrimental to derivatives end-users and overall financial stability.

A stated objective of Title VIII of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the “**Dodd-Frank Act**”) is to mitigate systemic risk in the financial system and promote financial stability with respect to SIDCOs and other systemically important “financial market utilities” (“**SIFMUs**”). To this end, among other things, Section 806(a) of the Dodd-Frank Act authorizes a Federal Reserve Bank to establish and maintain accounts for these SIDCOs and other SIFMUs. ISDA supported the authorization of such accounts pursuant to Federal Reserve Board Regulation HH.²

Allowing SIDCOs to hold customer funds in accounts at Federal Reserve Banks is a logical step in the full implementation of Section 806(a) of the Dodd-Frank Act. ISDA commends the CFTC for addressing technical issues in the CEA that could impede such full implementation. Accounts at Federal Reserve Banks reduce credit, operational and liquidity risks associated with traditional deposit accounts. Provided that a SIDCO’s customer funds are properly designated as such and segregated in separate accounts than proprietary funds held by a SIDCO, ISDA believes that customer accounts at Federal Reserve Banks would only benefit derivative customers and promote safety and soundness in the cleared derivatives markets. While Sections 4d and 22 of the CEA are important protections for customers if their assets are held at traditional commercial banks, ISDA believes that the unique nature of Federal Reserve Banks and the strict limitations on how they hold deposits adequately protects cleared derivatives customers without these additional statutory safeguards.

In addition to the enhanced protections afforded by accounts at Federal Reserve Banks described above and in the Proposal, ISDA notes that permitting SIDCOs to use Federal Reserve Banks as depositories for customer funds may reduce interconnectedness in the cleared derivatives markets. Such interconnectedness is particularly present when one firm simultaneously acts as a custodial bank, settlement bank and/or clearing member with respect to one CCP. Addressing any potentially negative implications of such interconnectedness is a stated objective of ongoing work to address CCP resilience and risk management. ISDA believes that the Proposal would advance this objective.

In the Proposal the CFTC requests comments regarding whether the Proposal should be expanded to include customer accounts at Federal Reserve Banks established pursuant to

² Financial Market Utilities (Regulation HH), 78 FR 14024 (March 4, 2013).



the CEA by SIFMUs for which the CFTC is not the “supervisory agency” under Title VIII of the Dodd-Frank Act. Given the benefits of such accounts discussed in the Proposal and in this letter, ISDA urges the CFTC to exercise its powers under the CEA to the full extent possible and coordinate with other U.S. agencies as necessary and appropriate to address any other statutory or regulatory impediments to holding customer funds at Federal Reserve Banks. ISDA also urges the CFTC to coordinate with Federal Reserve Banks to address any remaining impediments to full implementation of Section 806(a) of the Dodd-Frank Act.

ISDA appreciates the opportunity to provide these comments. If we may provide further information, please do not hesitate to contact the undersigned or other ISDA staff.

Sincerely,

A handwritten signature in black ink, appearing to read "Steven Kennedy".

Steven Kennedy
Global Head of Public Policy