

October 10, 2023

Mr. Christopher Kirkpatrick
Secretary
US Commodity Futures Trading Commission
1155 21st Street, NW
Washington, DC 20581

**Re: Margin Requirements for Uncleared Swaps for Swap Dealers and Major Swap Participants
(RIN 3038-AF36)**

Dear Mr. Kirkpatrick:

Federated Hermes, Inc. and its subsidiaries ("**Federated Hermes**")¹ submit this comment letter to the U.S. Commodity Futures Trading Commission (the "**Commission**" or "**CFTC**") regarding the Commission's proposal (the "**Proposal**") to amend its initial margin requirements for uncleared swaps related to the treatment of seeded funds ("**Seeded Funds Proposal**") and eligibility of certain money market funds ("**MMFs**") as eligible collateral ("**Money Market Funds Proposal**")².

Federated Hermes appreciates the Commission's efforts to improve and clarify the CFTC Margin Rule³. As one of the largest government MMF providers, with over 45 years of experience in managing MMFs, we are particularly focused on the Money Market Funds Proposal, and believe the proposed amendment to CFTC Regulation 23.156(a)(1) to eliminate the asset transfer restriction that currently disqualifies many MMFs from being used as eligible collateral⁴ is a positive development for market participants; however, we have some observations and concerns with certain of the proposed alternative requirements to the Money Market Funds Proposal, and as such, fully support the amendments and as such endorse the comments and recommendations of the Investment Company Institute ("**ICI**") as set forth in its comment

¹ Federated Hermes, Inc. (NYSE: FHI) is a global leader in active, responsible investment management, with \$668.9 billion in assets under management as of December 31, 2022. We deliver investment solutions that help investors target a broad range of outcomes and provide equity, fixed-income, alternative/private markets, multi-asset and liquidity management strategies to more than 11,000 institutions and intermediaries worldwide. Our clients include corporations, government entities, insurance companies, foundations and endowments, banks and broker-dealers.

² Margin Requirements for Uncleared Swaps for Swap Dealers and Major Swap Participants, 88 Fed. Reg 53409 (August 8, 2023), available at <https://www.govinfo.gov/content/pkg/FR-2023-08-08/pdf/2023-16572.pdf>.

³ 17 CFR 23.150-23.161.

⁴ The CFTC Margin Rules permit covered swap entities and covered counterparties to use MMFs as initial margin collateral, provided that the MMF holds only U.S. Treasuries (or securities unconditionally guaranteed by the U.S. Treasury), and cash funds denominated in U.S. dollars or similar quality government securities. However, the Rules significantly restrict the use of MMFs as eligible collateral by requiring that "[a]ssets of the fund may not be transferred through securities lending, securities borrowing, repurchase agreements, reverse repurchase agreements or other similar means."

letter dated October 10, 2023. In particular, without limiting the foregoing, we strongly agree with, and expand upon below, the following points made in the ICI letter:

- The current regulation disallowing asset transfers significantly limits the eligible universe of MMFs to those that invest solely in direct Treasury securities. Allowing MMFs that engage in repurchase agreement transactions with Treasury securities would greatly expand the potential universe of MMFs that would be considered eligible collateral for margin without significantly increasing risk. Furthermore, such a change would be more consistent with regulations in other countries.
- The characteristics of government MMFs and other similar funds, and the manner in which they conduct Treasury repo (as outlined below) strongly mitigates against the concerns raised by the CFTC in the Proposal that settlement fails in a repo transaction (*i.e.*, failure to deliver the securities or failure to subsequently repurchase the securities) in which the fund is a counterparty would adversely affect the fund's net asset value and potentially its ability to meet redemption requests.
- A government money market fund is defined under Rule 2a-7 of the Investment Company Act of 1940 ("**1940 Act**") as a money market fund that invests 99.5 percent or more of its total assets in cash, government securities, and/or repurchase agreements that are "collateralized fully." Therefore, MMFs that invest in Treasury securities either directly or as collateral for repurchase agreements must comply with the "collateralized fully" requirement of Rule 5 (b)-3 of the 1940 Act, meaning:
 - The value of the securities collateralizing the repurchase agreement (reduced by the transaction costs (including loss of interest) that the investment company reasonably could expect to incur if the seller defaults) is, and during the entire term of the repurchase agreement remains, at least equal to the Resale Price provided in the agreement;
 - The investment company has perfected its security interest in the collateral;
 - The collateral is maintained in an account of the investment company with its custodian or a third party that qualifies as a custodian under the 1940 Act; and
 - The collateral consists entirely of:
 - Cash items
 - Government Securities.

These requirements mean that the vast majority of the Treasury repo transactions undertaken by MMFs are overcollateralized relative to the amount of money lent to a counterparty, with most transactions collateralized at 102% of the amount of the trade (with the exception of repo done with the New York Federal Reserve Reverse Repo Facility, where the collateralization requirement is 100% given the Fed is the counterparty to the trade). Furthermore, the requirements of the Rule ensure that the MMF has a perfected security interest and has access to the collateral in the event of a counterparty failure.

- Rule 2(a)-7 of the 1940 Act requires MMFs to make a minimal credit determination on the counterparty itself, irrespective of the underlying collateral. Federated Hermes' government MMFs enter into repos only with counterparties that the fund's research team determines to represent minimal credit risk to the fund. Minimal credit risk under Rule 2a-7 requires an analysis of the capacity of the issuer to meet its financial obligations, and such analysis must include, to the extent appropriate, consideration of the following factors with respect to the issuer or guarantor:

- Financial condition;
 - Sources of liquidity;
 - Ability to react to future market-wide and issuer- or guarantor-specific events, including ability to repay debt in a highly adverse situation; and
 - Strength of the issuer or guarantor's industry within the economy and relative to economic trends, and issuer or guarantor's competitive position within the industry.
- The regulatory requirements set forth above apply to all repo transactions regardless of clearing/settlement platforms. It is common to have a mix of repo transactions within a government MMF, to include bilateral, triparty, and centrally cleared transactions, with choice of clearing and settlement being determined by what is deemed to be in the best interest of the fund and its shareholders.

Given these characteristics and existing restrictions on government MMFs, the proposed restrictions on the nature of the repo that Treasury MMFs engage in as set forth in the Money Market Funds Proposal are unnecessary, and their adoption would have the opposite effect of the Proposal's purpose, as such restrictions would, again, remove most MMFs in this category from eligibility as initial margin collateral.

Please let us know if you have any questions on these comments.

Sincerely,



George Magera
General Counsel

cc: The Honorable Rostin Behnam
The Honorable Kristin N. Johnson
The Honorable Christy Goldsmith Romero
The Honorable Summer K. Mersinger
The Honorable Caroline D. Pham

Amanda L. Olear, Director, Market Participants Division

Commodities Futures Trading Commission