

January 17, 2024

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General Counsel

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ssga.com

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

Submitted via <https://comments.cftc.gov>.

**Re: Proposed Amendments to Regulation 1.25 on the Investment of
Customer Funds by Futures Commission Merchants and Derivatives
Clearing Organizations**

Dear Mr. Kirkpatrick:

State Street Global Advisors (“SSGA”), the investment management division of State Street Corporation,¹ appreciates the opportunity to provide comments on the proposed amendments to Regulation 1.25 (the “Regulation”) under the Commodity Exchange Act (“CEA”) on the Investment of Customer Funds by Futures Commission Merchants (“FCMs”) and Derivatives Clearing Organizations (“DCOs”), issued by the Commodity Futures Trading Commission (the “Commission”) on November 3, 2023 and published in the Federal Register on November 21, 2023 (the “Proposal”).² The Proposal would amend the Regulation under the CEA governing the safeguarding and investment by FCMs and DCOs of funds held for customers engaging in futures and cleared swaps transactions (“Customer Funds”).

Acting on behalf of its clients, SSGA is a customer of FCMs and an indirect participant of DCOs, and as such, we have a strong interest in the protection of collateral and funds held by FCMs and DCOs. Because government short-term Treasury exchange-traded funds

¹ Headquartered in Boston, Massachusetts, State Street Corporation is a bank holding company that through subsidiaries serves institutional investors through two core business lines, investor servicing (the provision of custody and related services) and asset management. State Street Bank and Trust Company, State Street’s principal banking subsidiary, had approximately \$40.0 trillion in assets under custody and/or administration as of September 30, 2023. SSGA had \$3.69 trillion in assets under management* as of September 30, 2023.

* Assets under management as of September 30, 2023, includes approximately \$58 billion of assets with respect to SPDR® products for which State Street Global Advisors Funds Distributors, LLC (“SSGA FD”) acts solely as the marketing agent. SSGA FD and SSGA are affiliated.

² Investment of Customer Funds by Futures Commission Merchants and Derivatives Clearing Organizations, 88 Fed. Reg. 81236 (Nov. 21, 2023) available at <https://www.govinfo.gov/content/pkg/FR-2023-11-21/pdf/2023-24774.pdf>.

(“Treasury ETFs”) are consistent with the regulatory objectives of the Regulation requiring permitted investments under the Regulation to be safe, short-term investments “consistent with the objectives of preserving principal and maintaining liquidity,” SSGA fully supports the Commission’s proposed amendment to add Treasury ETFs to the list of permitted investments (“Permitted Investments”) of Customer Funds by FCMs and DCOs pursuant to the Regulation.³

While we are highly supportive of the Proposal’s addition of Treasury ETFs to the list of instruments that will qualify as Permitted Investments under the Regulation, we believe that revisions to the Proposal are necessary to make it more effective. Below we provide clarifying revisions that SSGA requests that the Commission consider.

I. Treasury ETFs as Permitted Investments under Regulation 1.25

As highlighted in the Proposal and the Investment Company Institute (“ICI”) comment letter (“ICI Comment Letter”) ⁴, Treasury ETFs share many characteristics with other instruments that qualify as Permitted Investments that are already accepted by CME Group as eligible collateral to meet margin requirements. Additionally, we believe, consistent with the Commission’s rationale set forth in the Proposal, that Treasury ETFs offer FCMs and DCOs intra-day trading and liquidity, the opportunity for diversification of Customer Funds, price and investment transparency and safeguards based on the protections provided by the Investment Company Act of 1940, as amended.

However, we believe that a number of the Proposal’s conditions for Treasury ETFs to qualify as Permitted Investments are unnecessary and would unduly restrict the ability of FCMs and DCOs to effectively utilize such ETFs. These specific conditions include:

- (i) the requirement for the FCM or DCO to be an authorized participant (“AP”) of a Treasury ETF - SSGA would recommend instead that FCMs and DCOs be allowed to purchase Treasury ETFs for purposes of customer cash collateral management and/or margining posting purposes *either* (a) by having an agreement with an AP of the Treasury ETF to execute transactions in the Treasury ETF on an agency basis on the FCM’s or DCO’s behalf, or (b) by being permitted under the Regulation to buy and sell Treasury ETF shares in the secondary market;

³ SSGA is a global leader in asset management, managing as of September 30, 2023 approximately \$3.69 trillion in assets from corporations, endowments and foundations, third-party asset gatherers, pension funds, sovereign wealth funds and registered investment companies. SSGA is the world’s fourth-largest asset manager and sponsor of the well-recognized SPDR[®] family of exchange-traded funds (“ETFs”). In addition, SSGA manages government money market funds (“MMFs”) which already qualify as Permitted Investments for purposes of the Regulation.

⁴ Investment Company Institute Comment Letter dated January 17, 2024 to the Proposal available at <https://comments.cftc.gov/PublicComments/ViewComment.aspx?id=73213&SearchText=>

- (ii) the requirement for Treasury ETFs to redeem in cash – SSGA would recommend instead that, consistent with customary Treasury ETF redemption practices, Treasury ETFs that permit redemptions either in cash or in-kind be included as Permitted Investments under the Regulation; and
- (iii) the redemption exceptions for MMFs also be made available with respect to Treasury ETFs.

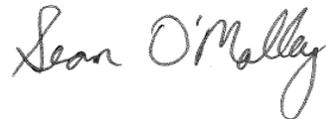
We recommend that the Commission, in finalizing its Proposal, revise the aforementioned conditions for Treasury ETFs to qualify as Permitted Investments seeking to align with existing regulatory frameworks established by the Securities and Exchange Commission.

II. Conclusion

SSGA appreciates this opportunity to provide comments to the Commission on the Proposal. We request the Commission to carefully consider our clarifying revisions of the Proposal as discussed herein and the ICI Letter.

Please feel free to contact me at sean_o'malley@ssga.com should you wish to discuss our submission in further detail.

Sincerely,



Sean O'Malley
General Counsel
State Street Global Advisors