



May 19, 2025

BY ELECTRONIC SUBMISSION

Christopher J. Kirkpatrick, Secretary
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, N.W.
Washington, D.C. 20581

Re: Request for Comment on the Trading and Clearing of “Perpetual” Style Derivatives

Dear Mr. Kirkpatrick,

Architect Financial Technologies Inc. (“Architect”) appreciates the opportunity to respond to the Commission’s¹ Request for Comment regarding perpetual derivatives contracts (“perpetual derivatives” or “perpetuals”) and issues they present to markets regulated by the CFTC. Architect is a registrant with the Commission as well as the Securities and Exchange Commission (“SEC”) and is founded and led by financial industry professionals with deep experience in derivatives markets for traditional and digital assets.

Architect supports permitting perpetual derivatives in CFTC-supervised markets. Perpetuals offer critical solutions to known costs and inefficiencies associated with trading

¹ The term “Commission” as used in this letter will refer to the Commodity Futures Trading Commission and will be used interchangeably with the term “CFTC.”

expiring futures. We believe that perpetuals should be listed and traded in US markets subject to the robust regulatory regime established in the Commodity Exchange Act (“CEA”) and administered by the CFTC. We also recognize that perpetuals present both familiar and novel regulatory risks. We urge the Commission to consider these issues in a holistic manner and address them through comprehensive guidance, rather than allow trading and clearing of perpetuals to develop through various ad hoc orders, individual communications with staff, or one-off relief issued in response to particular circumstances.

I. Architect

Architect is a US-based company that operates entirely within financial regulatory frameworks. Architect operates two main businesses: a multi-asset US brokerage, and a soon-to-be launched perpetual futures exchange for traditional underlying assets such as interest rates and equity indices. Architect’s brokerage is supported by licenses issued by both the CFTC and the SEC. Architect’s subsidiary, Architect Financial Derivatives LLC, is a CFTC registered Independent Introducing Broker offering brokerage services and trading infrastructure for exchange-listed futures and options on futures. Another Architect subsidiary, Architect Securities LLC, is an SEC Broker-Dealer registered with the Financial Industry Regulatory Authority (“FINRA”), offering brokerage services and trading infrastructure for exchange-listed securities, such as equities, ETFs, and options on securities.

Architect recognizes and supports the CFTC’s efforts to gather further information regarding perpetual derivatives, particularly as more registered entities seek to list these products. We encourage the CFTC to issue comprehensive guidance regarding perpetuals in fulfillment of its mission “to promote responsible innovation and fair competition” as stated in

the CEA.² To assist the Commission in that endeavor, Architect appreciates the opportunity to comment on a number of issues relating to perpetual derivatives that are raised in the Request for Comment, including: (a) their characteristics, including their arbitrage mechanisms; (b) their benefits over traditional derivatives with standard expiries; and (c) their risks, including operational challenges for Futures Commission Merchants (“FCMs”) and Derivatives Clearing Organizations (“DCOs”).

II. Characteristics and Functions of Perpetual Derivatives

A perpetual is a derivatives contract with no expiry. The specification of a perpetual contract includes an underlying benchmark index, a frequency of settlement, and a settlement currency.

Periodic settlement of perpetual derivatives can occur daily or multiple times per day. The settlement amount, also commonly referred to as the “funding amount,” is the quantity of the settlement currency that long position holders pay short position holders (or vice versa) in order to maintain the perpetual position. The perpetual funding mechanism serves to keep the price of the perpetual in line with the price of the underlying asset or assets reflected in the benchmark.

At the time of settlement, an official settlement price for the derivative is recorded (as with standard settlement procedures for futures contracts traded on existing Designated Contract Markets) and an official underlying index price is recorded. Long derivative holders’ collateral accounts are debited an amount that is a function of the premium of the derivative settlement price over the underlying settlement price; short holders are credited the opposite amount. If the

² CEA § 3(b); 7 U.S.C. § 5(b).

derivative is trading at a discount instead of a premium to the underlying, long holders are credited and short holders are debited.

The perpetual contract's periodic settlements imply a mathematical relationship between the contract and its underlying benchmark, establishing an arbitrage mechanism: as the premium of a perpetual over its underlying increases above the fair basis, a market participant can enter a fully hedged position by selling the perpetual, buying the underlying in the spot market, and collecting the excess funding payment. This arbitrage mechanism relies on the presence of a liquid underlying spot market. In order to provide two-sided markets in a perpetual derivative, arbitrageurs require the ability to hedge both long and short perpetual positions by trading the underlying spot asset.

III. Benefits of Perpetual Derivatives versus Standard Expiries

The critical benefit of perpetuals is the mitigation of costs and operational risks associated with handling traditional futures contracts near expiry. The substantial majority of existing derivatives contract positions on DCOs are either closed before settlement or rolled to a later expiry, and thus financial or physical delivery rarely occurs.³ The resulting and needless costs to market participants include the exchange and clearing fees paid to roll futures contracts at expiry, as well as the technological and staffing costs to manage expirations.

Perpetual contracts also ameliorate the costs associated with backwardation and contango. With expiring futures, market participants pay the entirety of backwardation or contango costs at the time of roll, regardless of the duration the participant held the future before

³ See e.g., CME GROUP, *Futures Delivery & Load-Out Procedures: Effects on Contract Performance*, at 5 (2017) ("very few positions result in delivery (typically 2 percent or less)"), <https://www.cmegroup.com/education/files/futures-delivery-and-load-out-procedures-effects-on-contract-performance.pdf>.

expiry. Perpetuals offer a valuable alternative by amortizing contango and backwardation over the lifetime of the position, resulting in a lower cost to participants holding positions for short durations.

Perpetual contracts offer substantial benefits to exchanges as well as market participants. With expiring contracts, exchanges need to maintain an order book for every expiry, as well as actual and implied order books in calendar spreads. This fragments liquidity unnecessarily and poses challenges for exchanges' market making programs. Perpetuals only require one order book per underlying asset, which leads to better price discovery, tighter spreads, and lower technological costs for exchanges. The single order book also decreases slippage for market takers and increases capital efficiency for market makers.

Lastly, perpetual derivative funding amounts contain important information about the supply and demand dynamics of the underlying spot market. Historical and real-time funding rates are used in financial modeling by a wide range of market participants, including arbitrageurs and hedgers. Funding rates are a valuable tool for understanding and predicting the forward basis and, with enough liquidity in the perpetual derivative, can also predict movements in the underlying asset itself. The existence of liquid perpetuals with real-time published funding data can therefore improve price discovery and make underlying spot markets more efficient.

IV. Risks and Challenges Associated with Perpetuals

Perpetual derivatives also pose regulatory risks and operational challenges. One risk is already familiar in traditional futures markets: the price of a perpetual future may diverge arbitrarily from its underlying benchmark. The causes of such divergence can include: (a) insufficient market makers trading both the derivative and its underlying; (b) illiquid underlying spot markets; (c) differences between an underlying index calculation and actual spot market

prices; (d) execution fees in either or both of the derivative and the underlying market; and (e) capital inefficiencies across differing spot and derivatives clearing systems. The CFTC already effectively supervises this area of risk in existing derivatives markets.

A new risk posed by introducing perpetual futures markets alongside existing futures markets is the possibility of shifting liquidity away from expiring futures order books. This would pose a problem in commodities markets, where producers and consumers have specific supply and demand schedules that coincide with futures contract expiries. Unexpected shortages of liquidity in expiring commodity futures contracts may harm price discovery, increase trading slippage, and hamper hedging ability, disrupting the supply chain and trade of the underlying commodity. Given the vital importance of US physical commodities such as agricultural products to the global economy, the Commission should carefully evaluate the risks of permitting perpetual futures contracts in these assets.

Finally, perpetuals pose unique operational and technological challenges for the network of intermediaries that facilitate clearing and settlement of existing derivatives contracts. DCOs on behalf of their clearing FCMs, and clearing FCMs on behalf of their non-clearing FCMs and market participants, compute variation margin once per day in a batch process while futures markets are closed. Perpetuals require collateral transfer at every funding period, which may occur many times within a single day and contemporaneously with continued exchange trading. Existing back-office infrastructure solutions at most DCOs and FCMs do not support this frequency of intraday settlement. New software and upgrades to existing software for all DCOs and FCMs will be required to adequately support perpetual derivatives within CFTC-supervised markets.

V. Recommendations to the CFTC

Throughout its history the CFTC has met major technological and market structure changes with an efficacy that both protects the integrity of markets and facilitates innovation necessary for US economic growth. From approving the creation of financial futures to permitting the replacement of open outcry pits with electronic matching, the Commission fulfills its statutory mandate “to promote responsible innovation and fair competition” by undertaking thoughtful and considered analysis to bring new developments within an appropriate regulatory framework. The Commission’s adherence to these principles, especially during technological inflection points, ensures US derivatives markets will remain the largest and most robust in the world. At our current technological inflection point, these principles must be applied to the regulation of perpetual derivatives.

As described above, perpetual derivatives resemble both futures contracts and swaps. Perpetuals transfer the risk of change in the value of underlying assets without a transference of ownership of those assets, a classic characteristic of a futures contract. Perpetuals also include periodic payments between buyers and sellers, a typical characteristic of a swap contract. Futures and swaps have substantially different regulatory requirements under existing CFTC rules, and thus it is crucial for CFTC registrants and market participants to have clarity with regard to the classification of perpetual derivatives.

Architect therefore encourages the Commission to issue comprehensive guidance on the regulation of perpetuals, including: (a) the asset class or classes that are permitted for listing perpetual derivatives; (b) the platforms on which perpetual derivatives can be listed; (c) the kinds of participants that may transact in them; (d) distinctions between centrally cleared and non-centrally cleared perpetuals; (e) capital requirements for intermediaries that facilitate trading

and/or clearing of perpetuals; and (f) whether there should be additional or differentiated margin requirements for perpetual derivatives versus their expiring futures counterparts.⁴

The issuance of such guidance would allow the Commission to proactively determine the appropriate framework for the trading and clearing of perpetual derivatives, rather than needing to decide such issues in a potentially inconsistent manner in response to individual proposals, requests, and inquiries.

Architect also recommends the CFTC begin by permitting perpetual derivatives on digital asset commodities that have: (a) 24/7 liquid spot markets in multiple jurisdictions, with appropriate surveillance agreements between the listing venue and the spot markets; (b) industry standard benchmark index providers; (c) proven viability outside the US; and (d) few, if any, economic requirements for expiries at particular tenors. When sufficient time and trading have occurred in US-regulated perpetuals on digital assets, Architect urges the CFTC to assess expanding the availability of perpetual derivatives trading to additional asset classes.

VI. Conclusion

If there are any questions regarding the foregoing comments, please contact Brett Harrison at brett@architect.co. Architect appreciates the opportunity to share its views on these important issues, and we stand ready to assist the Commission as it moves forward with respect to perpetual derivatives.

⁴ Perpetual derivatives often are associated with vertically integrated entities that combine functions historically performed by separate market infrastructure providers – which raises its own set of issues. CFTC staff previously issued a Request for Comment on vertical integration. *See* Request for Comment on the Impact of Affiliations on Certain CFTC-Regulated Entities (June 28, 2023), <https://www.cftc.gov/PressRoom/PressReleases/8734-23>. Architect encourages the Commission to address vertical integration as part of a holistic analysis of, and issuance of comprehensive guidance on, perpetual derivatives.

Respectfully submitted,

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Brett Harrison, CEO of Architect

May 19, 2025