U.S. COMMODITY FUTURES TRADING COMMISSION
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Market Participants
Division

Thomas J. Smith
Acting Director

Eugene Ferrara
Chief Compliance Officer
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RE: Staff No-Action Position Regarding Digital Assets Accepted as Margin Collateral

Dear Mr. Ferrara:

The Market Participants Division ("MPD" or "Division") of the Commodity Futures Trading Commission ("CFTC" or "Commission") is issuing this letter in response to your request, submitted on behalf of Coinbase Financial Markets, Inc. ("CFM"), a CFTC-registered futures commission merchant ("FCM"), and other similarly registered FCMs.[1] CFM requests that MPD take a no-action position pursuant to Commission Regulation 140.99[2] confirming that the Division will not recommend that the Commission commence an enforcement action against an FCM for (a) taking into account the value, as determined by the relevant clearing organization or board of trade, of non-securities digital assets deemed eligible collateral by such clearing organization or board of trade when (i) determining whether or to what extent a customer account is

[1] Request letter dated December 8, 2025, from Eugene Ferrara, Chief Compliance Officer, Coinbase Financial Markets, Inc.

[2] 17 CFR 140.99. Commission regulations referred to in this no-action letter may be found at 17 CFR Chapter I and are available through the Commission's website, www.cftc.gov.

undermargined for purposes of Commission Regulations 1.17(c)(5)(viii) and 1.44 and (ii) performing segregation calculations as required by Commission Regulations 1.20(i)(5), 1.32(b), 22.2(f)(5) and 30.7(f)(2) or (b) depositing its own payment stablecoins into segregated customer accounts as residual interest, notwithstanding the restrictions of Commission Regulations 1.23(a)(1), 22.2(e)(3)(i), 22.17, and 30.7(g)(6) (the "No-Action Request").[3]

I. Regulatory Background

Segregation Requirements

The Commodity Exchange Act ("CEA")[4] and the Commission's regulations thereunder establish a framework to safeguard funds of customers engaged in CFTC-regulated derivatives transactions. Core elements of this framework are requirements for an FCM or a derivatives clearing organization ("DCO") to treat customer funds as belonging to customers and not as the property of the FCM or DCO, and for the FCM or DCO to segregate customer funds from its own funds in designated customer accounts maintained at certain permitted depositories.[5] The segregation of customer funds from an FCM's or DCO's own funds under the CEA and Commission's regulations creates a statutory trust and is intended to ensure that customer funds are used only to support customer trading and transactions and to facilitate the return of the funds to customers in the event of the insolvency of the FCM or DCO.

Segregated customer funds are classified as either: (i) "futures customer funds;"[6] (ii) "Cleared Swaps Customer Collateral;"[7] or (iii) "30.7 customer funds"[8] (collectively, "customer funds").

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[3] CFM also requests that the Division withdraw Staff Advisory 20-34, *Accepting Virtual Currencies from Customers into Segregation*, which MPD's predecessor division, the Division of Swap Dealer and Intermediary Oversight, issued on October 21, 2020 ("Staff Advisory 20-34"). MPD is addressing the withdrawal of Staff Advisory 20-34 through a separate staff action.

[4] 7 U.S.C. 1 *et. seq*. The CEA may also be accessed through the Commission's website, www.cftc.gov.

[5] Section 4d of the CEA, 7 U.S.C. 6d.

[6] The term "futures customer funds" is defined by Commission Regulation 1.3 to mean, in relevant part, all money, securities, and property received by an FCM or DCO from, for, or on behalf of "futures customers" to margin, guarantee, or secure futures and options on futures transactions traded on CFTC-designated contract markets, and all money accruing to futures customers resulting from trading futures and options on futures. The term "futures customer," in turn, is defined by Commission Regulation 1.3 to mean, in relevant part, any person who uses an FCM as an agent in connection with trading in any contract for the purchase or sale of a commodity for future delivery or any option on such contract. 17 CFR 1.3.

[7] The term "Cleared Swaps Customer Collateral" is defined in Commission Regulations 1.3 and 22.1 to mean, in relevant part, all money, securities, or other property received by an FCM or DCO from, for, or on behalf of, a "Cleared Swaps Customer" to margin, guarantee, or secure "Cleared Swap" positions. The term "Cleared Swap Customer," in turn, is defined to mean, in relevant part, any customer entering into a Cleared Swap. The CEA and Commission Regulation 22.1 further define the term "Cleared Swap" to mean any swap that is, directly or indirectly, submitted to, and cleared by, a DCO registered with the Commission. 7 U.S.C. 1a(7) and 17 CFR 1.3 and 22.1.

[8] The term "30.7 customer funds" is defined in Commission Regulation 30.1 to mean any money, securities, or other property received by an FCM from, for, or on behalf of a U.S. person or foreign-domiciled person (a "30.7 customer"). Commission Regulation 30.1, in turn, defines the term "30.7 customer" to mean any person located in

Section 4d(a)(2) of the CEA and Commission Regulation 1.20 require an FCM to separately account for, and segregate from its own funds, all money, securities, and property it has received to margin, guarantee, or secure the trades or contracts of its futures customers. Additionally, section 4d(a)(2) of the CEA and Commission Regulation 1.22(a) prohibit an FCM from using the money, securities, or property of one customer to margin or settle the trades or contracts of another customer. Section 4d(a)(2) of the CEA and Regulations 1.20 and 1.22 effectively require an FCM to add its own funds into segregation in an amount equal to the sum of all customer undermargined amounts, including customer account deficits, to prevent the FCM from being induced to use one customer's funds to margin or carry another customer's trades or contracts. With respect to Cleared Swaps Customer Collateral, section 4d(f) of the CEA and part 22 of the Commission's regulations establish similar segregation requirements.[9] Finally, part 30 of Commission's regulations govern the requirements imposed on FCMs that carry futures positions for customers trading on foreign markets.[10] As part of the safeguarding requirements, Commission Regulation 30.7(e)(2) requires an FCM to segregate 30.7 customer funds from the FCM's own funds.[11]

Depositories of Customer Funds

The CEA and Commission regulations limit permitted depositories of customer funds to banks, trust companies, FCMs, or DCOs.[12] If located outside of the U.S., a bank or trust company must qualify as a permitted depository by maintaining regulatory capital in excess of $1 billion.[13] In addition, with respect to 30.7 customer funds, Commission Regulation 30.7(b) provides that an FCM may hold such funds with foreign brokers and clearing organizations of foreign boards of trade.[14]

Segregation Calculation and Daily Segregation Reports

Commission Regulations 1.32, 22.2, and 30.7 require FCMs to compute as of the close of each business day, on a currency-by-currency basis, and report to the Commission and the firm's designated self-regulatory organization ("DSRO") separate schedules showing:[15] (i) the total

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the U.S., its territories or possessions, as well as any foreign-domiciled person, who trades in foreign futures or foreign options through an FCM. 17 CFR 30.1.

[9] 7 U.S.C. 6d(f) and 17 CFR Part 22.

[10] 17 CFR Part 30.

[11] 17 CFR 30.7(e)(2).

[12] 7 U.S.C. 6d and 17 CFR 1.49.

[13] 17 CFR 1.49(d).

[14] 17 CFR 30.7(b).

[15] A "self-regulatory organization" is defined as a contract market, swap execution facility, or a registered futures association. 17 CFR 1.3. Each FCM is assigned to a DSRO, which, pursuant to an agreement amongst the self-regulatory organizations, has primary responsibility for examining the FCM for compliance with Commission financial requirements, including capital, segregation, and financial reporting requirements.

amount of customer funds on deposit in segregated accounts for futures customers, Cleared Swaps Customers, and 30.7 customers; (ii) the amount of customer funds required by the CEA and Commission regulations to be on deposit in segregated accounts for futures customers, Cleared Swaps Customers, and 30.7 customers; and (iii) the amount of the FCM's targeted residual interest (*i.e.*, FCM proprietary funds) in each of the respective account classification of customer funds.[16]

In computing the amount of customer funds to be in segregated accounts, an FCM may offset any net deficit in futures customer accounts against the current market value of readily marketable securities, less applicable deductions (*i.e.*, "securities haircuts") as set forth in Rule 15c3-1[17] of the U.S. Securities and Exchange Commission ("SEC").[18] Commission Regulations 22.2(f)(5) and 30.7 likewise permit FCMs to offset negative account balances by the value of marketable securities held as margin in customer accounts less applicable securities haircuts for purposes of determining segregation requirements for, respectively, Cleared Swaps Customer accounts and 30.7 customer accounts.[19]

Permitted Investments of Customer Funds

Commission Regulation 1.25 permits FCMs and DCOs to invest futures customer funds in specified categories of investments.[20] Commission Regulations 22.2 and 23.3 provide that Cleared Swaps Customer Collateral may be invested by an FCM or DCO in accordance with Commission Regulation 1.25.[21] Commission Regulation 30.7(h) similarly provides that to the extent an FCM invests 30.7 customer funds, the firm must invest such funds subject to, and in compliance with, the terms and conditions of Commission Regulation 1.25.[22]

Commission Regulation 1.25(a)(1) currently lists six categories of investments that FCMs and DCOs may enter into with customer funds: (i) obligations of the U.S. and obligations fully guaranteed as to principal and interest by the U.S.; (ii) general obligations of any State or political subdivision of a State; (iii) obligations of any U.S. government corporation or enterprise sponsored by the U.S.; (iv) interests in certain government money market funds; (v) interests in certain short-term U.S. Treasury exchange-traded funds; and (vi) foreign sovereign debt issued by Canada, France, Germany, Japan, and the United Kingdom, subject to conditions.[23]

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[16] 17 CFR 1.32, 22.2, and 30.7.

[17] 17 CFR 240.15c3-1.

[18] 17 CFR 1.32(b).

[19] 17 CFR 22.2(f)(5); 17 CFR 30.7(f)(2)(v)(A).

[20] 17 CFR 1.25.

[21] 17 CFR 22.2(e)(1) and 17 CFR 22.3(d).

[22] 17 CFR 30.7(h).

[23] 17 CFR 1.25(a)(1) (the "permitted investments").

Minimum Capital Requirements for FCMs

Commission Regulation 1.17 establishes minimum capital requirements for FCMs.[24] To ensure that an FCM meets its financial obligations as a market intermediary, Commission Regulation 1.17 requires an FCM to hold at all times more than one dollar of highly liquid assets for each dollar of liabilities (*e.g.*, money owed to customers, counterparties, and creditors), excluding certain subordinated debt. The FCM capital requirements also are intended to ensure that an FCM maintains a sufficient level of liquid assets in excess of its liabilities to effectively and efficiently wind down its operations by transferring customer positions and funds to other FCMs if the FCM voluntarily or involuntarily ceases operations.

The FCM capital requirements have two components: a minimum level of "adjusted net capital" that an FCM is required to maintain at any given time[25] and the amount of adjusted net capital that an FCM actually maintains based upon the assets and liabilities of the firm.[26] In determining its adjusted net capital, an FCM is first required to compute its net worth under generally accepted accounting principles ("GAAP") as adopted in the United States and then apply certain rule-based adjustments to reduce its net worth to the extent it contains illiquid assets such as fixed assets and unsecured receivables. The resulting calculation reflects the FCM's "net capital." The FCM is then required to apply certain rule-based capital charges or haircuts to reflect market risk associated with its liquid assets. The resulting calculation reflects the FCM's "adjusted net capital."

As relevant to the No-Action Request, under Commission Regulation 1.17(c)(5)(viii), an FCM's adjusted net capital for undermargined customer accounts is subject to a capital charge in the amount of any deficiency in margin value held by the FCM for the respective account.[27] For non-cash collateral, Commission Regulation 1.17(c)(5)(viii)(D) provides that the margin value attributable to such collateral shall be the lesser of (1) the value attributable to the asset pursuant to the margin rules of the applicable board of trade or (2) the market value of the asset after application of the haircuts specified in Commission Regulation 1.17(c)(5).[28]

Commission Regulation 1.44 imposes additional requirements on an FCM when it permits a customer to maintain separate accounts, including requirements with respect to the collection of

[24] 17 CFR 1.17.

[25] The minimum adjusted net capital requirement is generally the greater of the following: (i) A fixed-dollar amount; (ii) an amount computed based upon the clearing organization margin imposed on customer and noncustomer futures, foreign futures, and cleared swap positions carried by the FCM; (iii) the amount of net capital required by the SEC for FCMs that are dually-registered as broker-dealers; or (iv) the amount of adjusted net capital required by a registered futures organization of which the FCM is a member. 17 CFR 1.17(a)(1)(i).

[26] 17 CFR 1.17(c).

[27] 17 CFR 1.17(c)(5)(viii).

[28] 17 CFR 1.17(c)(5)(viii)(D).

margin and deposit of residual interest for undermargined accounts.[29] Commission Regulation 1.44(a) defines an "undermargined amount" based, in part, on the application of the haircuts specified in Commission Regulation 1.17(c)(5) and SEC Rule 15c3-1(c)(2)(vi).[30]

II. Summary of the No-Action Request

In its No-Action Request, CFM asserts that relevant Commission regulations do not expressly address the treatment of digital assets used as margin for listed and cleared derivatives contracts, resulting in regulatory uncertainty that has made acceptance of digital asset collateral by FCMs challenging and often unworkable.[31]

To obtain regulatory clarity, CFM's No-Action Request seeks confirmation that MPD will not recommend that the Commission commence enforcement action against an FCM if:

a. The FCM takes into account the value of non-securities digital assets, including payment stablecoins, held as customer collateral when (i) determining whether or to what extent a customer account is undermargined for purposes of Commission Regulations 1.17(c)(5)(viii) and 1.44 and (ii) performing segregation calculations as required by Commission Regulations 1.20(i)(5), 1.32(b), 22.2(f)(5) and 30.7(f)(2), provided that:

    1. With respect to collateral held in futures customer accounts and cleared swaps customer accounts, the digital asset is accepted as collateral or for settlement purposes by a registered DCO and the FCM takes into account the value of the collateral as determined by, and subject to the haircuts of, the applicable DCO. To ensure a consistent approach, subject to 3. below, if the FCM accepts a specific digital asset as collateral for two or more DCOs that accept that digital asset as margin collateral, the FCM shall apply the margin haircut of the DCO that imposes the highest haircut percentage on the digital asset for margin purposes;

    2. With respect to collateral held in 30.7 customer accounts, the digital asset is accepted as collateral or for settlement purposes by a registered DCO or a foreign clearing organization established in a jurisdiction that has implemented the Recommendations for Central Counterparties of the Committee on Payment and Settlement Systems of the Technical Committee of the International Organization of Securities Commissions ("Recommendations for Central Counterparties"),[32] or the digital asset is (a) a payment

[29] 17 CFR 1.44(g).

[30] 17 CFR 1.44(a) and 17 CFR 240.15c3-1(c)(2)(vi).

[31] No-Action Request at 9.

[32] Bank of International Settlements Committee on Payment and Settlement Systems, Technical Committee of the International Organization of Securities Commissions, *Recommendations for Central Counterparties* (Nov. 2004), https://www.bis.org/cpmi/publ/d64.pdf.

stablecoin or (b) an underlying commodity of a futures contract listed on a CFTC-registered DCM, and:

i. If the FCM accepts the digital asset as margin collateral for a registered DCO, the FCM takes into account the value of the collateral as determined by, and subject to the haircuts of, the applicable DCO. Subject to 3. below, if the FCM accepts a specific digital asset as collateral for two or more DCOs that accept the specific digital asset as margin collateral, the FCM shall apply the margin haircut of the DCO that imposes the highest haircut percentage on the digital asset for margin purposes; or

ii. If the digital asset is not accepted by the FCM as margin collateral for a registered DCO but is accepted by the FCM as margin collateral for a foreign clearing organization subject to the Recommendations for Central Counterparties, the FCM takes into account the value of the collateral as determined by, and subject to the haircuts of, the applicable foreign clearing organization that is subject to the Recommendations for Central Counterparties. Subject to 3. below, if the FCM accepts a specific digital asset as collateral for two or more foreign clearing organizations that accept that digital asset as margin collateral, the FCM shall apply the margin haircut of the foreign clearing organization that imposes the highest haircut percentage on the digital asset for margin purposes; or

iii. If the digital asset is not accepted by the FCM as margin collateral for a registered DCO or a foreign clearing organization subject to the Recommendations for Central Counterparties, the FCM takes into account the fair market value of the digital asset after applying a haircut equal to the capital charge applicable to the asset in accordance with Commission Regulation 1.17(c)(5), subject to 3 below. The FCM shall develop policies and procedures to determine the fair market value of the digital assets as part of the firm's risk management program.

3. To the extent an FCM accepts a non-security digital asset that is not a payment stablecoin as collateral for a customer position in a contract that is both based on and denominated in that digital asset, the FCM shall solely be required to apply any haircut required for that digital asset by the applicable DCO or foreign clearing organization, but only to the extent the digital asset offsets a customer deficit in such a contract cleared by that DCO or foreign clearing organization. Use of the digital asset as collateral to offset a customer deficit in any other contract shall be subject to the haircut requirements set forth above.

b. The FCM deposits its own payment stablecoins into segregated customer accounts as residual interest, notwithstanding the restrictions in Commission Regulations 1.23(a)(1), 22.2(e)(3)(i), 22.17, and 30.7(g)(6), provided that the FCM imposes any applicable capital charge against the value of the payment stablecoins in accordance with Commission Regulation 1.17(c)(5). The FCM shall compute any applicable capital charge consistent with its assessment of

liquidity, price volatility, and other risks in accordance with the firm's risk management program and obligations set forth in Commission Regulation 1.11.

In addition, as part of its No-Action Request, CFM states that to rely on the requested no-action position, an FCM would be required to:

c. Prior to such reliance, file a notice of its intent to rely on the no-action position with MPD and the date at which it will commence accepting digital assets from customers as margin collateral. The FCM's notice shall be filed via the WinJammer electronic filing system.

d. For a period of three (3) months from the commencement of the FCM's reliance on the no-action positions as stated in the FCM's notice of intent submitted to MPD in accordance with condition (c) above, accept only digital assets in the form of payment stablecoins, Bitcoin, and Ether as margin collateral from customers and deposit only proprietary payment stablecoins as residual interest in futures, foreign futures, and 30.7 customer accounts. The FCM would take into account the value of the collateral in accordance with condition (a) above and take any applicable capital charge against the value of the payment stablecoins deposited as residual interest in accordance with condition (b) above.

e. For a period of three (3) months starting with the calendar month following the month in which the FCM files its notice of intent to rely on the no-action position in accordance with condition (c) above, file, as of the close of business each week, a report of the total amount of digital assets held in each of the futures, cleared swaps, and 30.7 customer funds accounts. The report shall list each digital asset type separately for each of the three customer account classes.

f. For a period of three (3) months from the commencement of the FCM's reliance on the no-action position as stated in the FCM's notice of intent submitted to MPD in accordance with condition (c) above, provide prompt written notice of any significant operation or system issue, disruption, or failure, including any cybersecurity incident, that affects the use of digital assets as customer margin collateral.[33] The notice provided by this condition shall be filed via the WinJammer electronic filing system.

With respect to the requirement of Commission Regulation 1.17(c)(5)(viii) and 1.44, CFM asserts that the lack of rules or Commission guidance regarding the margin value haircuts applicable to payment stablecoins and other non-securities digital assets has left FCMs in a quandary with respect to how to account for non-securities digital asset collateral, discouraging FCMs from accepting such customer collateral and hindering innovation in the derivatives market.[34]

[33] For purposes of this condition, a matter is "significant" if it involves a significant financial amount, significant number of customers, or indicates a control weakness with the potential to affect a significant financial amount or significant number of customers.

[34] No-Action Request at 10.

CFM further argues that Commission regulations governing FCM segregation calculations provide for unnecessary disparate regulatory treatment of marketable securities relative to digital asset collateral. CFM notes that under current regulations, FCMs are permitted to offset deficits in futures customer accounts (*i.e.*, negative balances) against the value of marketable securities less applicable haircuts. FCMs, however, are not permitted to offset deficits in customer accounts against the value of payment stablecoins or non-securities digital assets deposited by customers.[35] As a result, to the extent that FCMs accepts payment stablecoins or non-securities digital assets from customers, they are required to use their own funds to cover deficits in customer accounts, which renders the acceptance of such collateral from customers commercially unworkable.[36]

CFM also states that permitting FCMs to accept digital asset collateral would enable them to offer "inverse" contracts.[37] As CFM notes, these are contracts that are based on a specified amount of a digital asset where the settlement of profit and losses is denominated in the digital asset itself (*i.e.*, a contract that is both based on and denominated in the digital asset). An example would be a contract based on a specified amount (*e.g.*, 10) of Bitcoin in which daily mark-to-market settlement payments are made in Bitcoin. CFM asserts that requiring an FCM to accept margin in these contracts in a different asset, such as U.S. dollars, would expose the FCM and the customer to additional risk. So would applying a haircut to the digital asset when used as collateral, according to CFM.[38] CFM further argues that permitting an FCM to accept the underlying digital asset for an inverse contract would be consistent with the Commission's decision, in the context of uncleared margin rules, to permit margining in a swap's "currency of settlement," which is not subject to any haircut.[39]

Finally, CFM asserts that the restrictions in Commission Regulations 1.23(a)(1), 22.2(e)(3)(i), 22.17, and 30.7(g)(6), which limit the type of proprietary assets that an FCM may deposit in customer segregated accounts to cash or the permitted investments under Commission Regulation 1.25, impose substantial operational frictions on FCMs accepting digital asset collateral, preventing such FCMs from topping up customer accounts holding payment stablecoins with in-kind residual interest. In this regard, CFM asserts that the restrictions hinder the ability of such FCMs to ensure that customer accounts are adequately margined through residual interest deposits,

[35] Staff Advisory 20-34 at 4.

[36] No-Action Request at 11.

[37] No-Action Request at 4.

[38] CFM argues that the primary reason for a haircut is to account for market risk associated with using one asset (*e.g.*, USD or a stablecoin) to cover a liability in another asset (*e.g.*, Bitcoin). CFM notes that in the case of a BTC inverse contract position collateralized by Bitcoin, the asset and the liability are perfectly matched in the base currency. As such, CFM further notes, any drop in the USD price of Bitcoin simultaneously lowers the value of the Bitcoin collateral and the value of the margin liability at a perfectly correlated rate, ensuring the margin coverage remains in lockstep. No-Action Request at 5.

[39] No-Action Request at 5 (referencing 17 CFR 23.151 (defining "currency of settlement") and 17 CFR 23.156 (classifying the currency of settlement as an eligible form of margin that is not subject to any cross-currency haircut).

as required by Commission Regulations 1.11(e)(3)(i)(D), 1.22(c)(3), 22.2(f)(6)(iii) and 30.7(g). In support of its No-Action Request, CFM argues that payment stablecoins have similar risk profiles to the Regulation 1.25 instruments that FCMs are permitted to deposit into segregated customer accounts to meet residual interest requirements.[40] CFM further states that payment stablecoins also meet the overarching requirement in Commission Regulation 1.25 that permitted investments be "consistent with the objectives of preserving principal and maintaining liquidity."[41]

More generally, in support of its No-Action Request, CFM states that that the lack of regulatory clarity has prevented the benefits of digital asset collateral from being realized in the U.S. derivatives markets. In this connection, CFM notes that the President's Working Group on Digital Asset Markets report on "Strengthening American Leadership in Digital Financial Technology" ("PWG Report"),[42] the CFTC's Global Markets Advisory Committee's Digital Asset Markets Subcommittee ("GMAC DAMS") report on tokenized non-cash collateral,[43] and the CFTC's Acting Chairman[44] have each recognized the substantial benefits that digital asset collateral offers to CFTC-regulated derivatives markets. Specifically, CFM states that digital asset collateral enables real-time, 24/7/365 settlement with minimal intermediation, which increases collateral mobility by reducing operational frictions inherent in asset transfers. CFM further asserts that in non-U.S. derivatives markets, there already is significant experience with use of payment stablecoins and other digital assets as collateral for listed and cleared derivatives, including clearing organizations that accept payment stablecoins for settlement purposes on a daily and sometimes intraday basis.[45] CFM highlights the benefits of digital asset collateral for markets that operate globally across multiple time zones and over weekends, noting that accepting digital assets as collateral reduces risk in such markets by enabling more frequent and timely margining and settlement. According to CFM, there is significant demand to bring these markets onshore, under appropriate U.S. regulation.[46]

In addition, CFM asserts that risks historically associated with accepting digital asset collateral have been mitigated and even, in many cases, obviated by recent market and legal developments that have contributed to the growing maturity of the digital asset industry. In particular, CFM highlights the comprehensive framework for U.S. stablecoin regulation established by the Guiding

[40] No-Action Request at 13.

[41] 17 CFR 1.25(b).

[42] No-Action Request at 1 (referencing PWG Report at 36, 52-53 (July 2025), https://www.whitehouse.gov/wp-content/uploads/2025/07/Digital-Assets-Report-EO14178.pdf.)

[43] No-Action Request at 3 (referencing GMAC DAMS, *Recommendations to Expand Use of Non-Cash Collateral Through Use of Distributed Ledger Technology* 6, 7 (Nov. 21, 2024), https://www.cftc.gov/media/11581/GMAC_DAM_UseofDLTasDerivativesCollateral_112124/download)

[44] No-Action Request at 3 (referencing, as an example, CFTC, Press Release, *Acting Chairman Pham Launches Tokenized Collateral and Stablecoins Initiative* (Sept. 23, 2025).

[45] No-Action Request at 3.

[46] *Id*.

and Establishing National Innovation in U.S. Stablecoins Act ("GENIUS Act"), which will impose guardrails and requirements on permitted payment stablecoin issuers relating to, among other things, payment stablecoin reserves; the issuer's capital, liquidity, and risk management; and insolvency protections for holders of the issuer's payment stablecoins.[47] CFM notes that as part of this new framework, the GENIUS Act contemplates payment stablecoins issued by a permitted payment stablecoin issuer being eligible as cash or cash equivalent margin for FCMs, DCOs, broker-dealers, registered clearing agencies and swap dealers.[48]

Finally, CFM argues that subject to an appropriate risk-based and fit-for-purpose regulatory framework, digital asset collateral stands to increase the speed and liveness of collateral asset transfers relative to cash and traditional noncash collateral, which could reduce credit risk, decrease the need for collateral liquidations in stressed market conditions, and enhance the liquidity of derivatives markets for all market participants. CFM notes, however, as a rationale for its No-Action Request, that these benefits cannot be realized without clarification and modernization of certain rules and elimination of outdated guidance governing the handling of customer collateral by derivatives market intermediaries, including but not limited to FCMs.[49]

III. Staff No-Action Position

Based on the facts presented in the No-Action Request and for the reasons stated below, the Division has determined that it will not recommend to the Commission that it take enforcement action against an FCM that accepts payment stablecoins[50] and other non-securities digital assets as customer margin collateral and (a) takes into account the value of such payment stablecoins and digital assets when (i) determining whether or to what extent a customer account is undermargined for purposes of Commission Regulations 1.17(c)(5)(viii) and 1.44 and (ii) performing segregation calculations as required by Commission Regulations 1.20(i)(5), 1.32(b), 22.2(f)(5) and 30.7(f)(2) or (b) deposits its own payment stablecoins into segregated customer accounts as residual interest,

[47] Guiding and Establishing National Innovation in U.S. Stablecoins Act of 2025, 12 U.S.C. 5901. The effective date of the GENIUS Act is the earlier of January 18, 2027 or 120 days after the date on which the federal banking regulators issue implementing regulations.

[48] No-Action Request at 4.

[49] *Id*.

[50] For purposes of MPD's no-action position, the term "payment stablecoin" means: (i) prior to the effective date of the GENIUS Act, a USD-denominated stablecoin that is issued by a state regulated money transmitter or trust company; maintains reserve assets limited to direct or indirect investments in cash, U.S. treasury securities or overnight U.S. Treasury repurchase agreements; and publishes monthly attestations regarding the composition of the reserve assets and whether the fair value of the assets held in reserve is equal to the amount of stablecoins in circulation; and (ii) following the effective date of the GENIUS Act, a stablecoin that meets the requirements contained in the GENIUS Act's definition of "payment stablecoin" and is issued by a "permitted payment stablecoin issuer" or a "foreign payment stablecoin issuer" that complies with the GENIUS Act's requirements applicable to such issuers.

notwithstanding the restrictions of Commission Regulations 1.23(a)(1), 22.2(e)(3)(i), 22.17, and 30.7(g)(6). MPD's no-action position is subject to the following conditions.

1. The FCM takes into account the value of non-securities digital assets, including payment stablecoins, when: (i) determining whether or to what extent a customer account is undermargined for purposes of Commission Regulations 1.17(c)(5)(viii) and 1.44, and (ii) performing segregation calculations as required by Commission Regulations 1.20(i)(5), 1.32(b), 22.2(f)(5), and 30.7(f)(2), subject to the following:

   1.1. With respect to collateral held in futures customer accounts and Cleared Swaps Customer accounts, the digital asset is accepted as collateral or for settlement purposes by a registered DCO and the FCM takes into account the value of the collateral as determined by, and subject to the haircuts of, the applicable DCO. To ensure a consistent approach, if the FCM accepts a specific digital asset as collateral for two or more DCOs that accept that digital asset as margin collateral, the FCM shall apply the margin haircut of the DCO that imposes the highest haircut percentage on the digital asset for margin purposes.

   1.2. With respect to collateral held in 30.7 customer accounts, the digital asset is accepted as collateral or for settlement purposes by a registered DCO or a foreign clearing organization established in a jurisdiction that has implemented the Recommendations for Central Counterparties, or the digital asset is (a) a payment stablecoin or (b) an underlying commodity of a futures contract listed on a CFTC-registered designated contract market ("DCM"), and:

      1.2.1. If the FCM accepts the digital asset as margin collateral for a registered DCO, the FCM takes into account the value of the collateral as determined by, and subject to the haircuts of, the applicable DCO. Subject to 1.3 below, if the FCM accepts a specific digital asset as collateral for two or more DCOs that accept that digital asset as margin collateral, the FCM shall apply the margin haircut of the DCO that imposes the highest haircut percentage on the digital asset for margin purposes; or

      1.2.2. If the digital asset is not accepted by the FCM as margin collateral for a registered DCO but is accepted by the FCM as margin collateral for a foreign clearing organization subject to the Recommendations for Central Counterparties, the FCM takes into account the value of the collateral as determined by, and subject to the haircuts of, the applicable foreign clearing organization that is subject to the Recommendations for Central Counterparties. Subject to 1.3 below, if the FCM accepts a specific digital asset as collateral for two or more foreign clearing organizations that accept that digital asset as margin collateral, the FCM shall apply the margin haircut of the foreign clearing organization that imposes the highest haircut percentage on the digital asset for margin purposes; or

1.2.3. If the digital asset is not accepted by the FCM as margin collateral for a registered DCO or a foreign clearing organization subject to the Recommendations for Central Counterparties:

1.2.3.1. With respect to payment stablecoins, the FCM takes into account the fair market value of the payment stablecoin, determined in accordance with the appropriate policies and procedures implementing the FCM's risk management program, after applying any haircut determined in accordance with such policies and procedures.

1.2.3.2. With respect to non-securities digital assets other than payment stablecoins, the FCM takes into account the fair market value of the digital asset, determined in accordance with the appropriate policies and procedures implementing the FCM's risk management program, after applying a haircut determined in accordance with such policies and procedures. Consistent with Commission Regulation 1.17(c)(5), the applicable haircut shall be equal to at least 20 percent,[51] subject to 1.3 below.

1.2.3.3. With respect to non-securities digital assets that are not Bitcoin or Ether or payment stablecoins the FCM submits to MPD revised risk management policies and procedures developed pursuant to Commission Regulation 1.11, prior to accepting the digital asset as margin collateral and taking into account their value in reliance of this no-action letter. The revised policies and procedures shall be filed via the WinJammer electronic filing system.

1.3 To the extent an FCM accepts a non-security digital asset that is not a payment stablecoin as collateral for a customer position in a contract that is both based on and denominated in that digital asset, the FCM shall solely be required to apply any haircut required for that digital asset by the applicable DCO or foreign clearing organization, but only to the extent the digital asset offsets an undermargined amount or a customer deficit in such a contract cleared by that DCO or foreign clearing organization. Use of the digital asset as collateral to offset a customer deficit in any other contract shall be subject to the haircut requirements set forth above.

2. The FCM deposits its own payment stablecoins into segregated customer accounts as residual interest, notwithstanding the restrictions in Commission Regulations 1.23(a)(1), 22.2(e)(3)(i), 22.17, and 30.7(g)(6), provided that the FCM imposes an applicable capital charge against the

[51] This condition is consistent the SEC's approach to the haircut applicable to a broker-dealer's proprietary positions in Bitcoin or Ether. SEC, Division of Trading and Markets: Frequently Asked Questions Relating to Crypto Asset Activities and Distributed Ledger Technology ("SEC FAQs"), Question 4 (stating that SEC Staff will not object if a broker-dealer treats a proprietary position in Bitcoin or Ether as being readily marketable for purposes of determining whether the 20 percent haircut applicable to commodities under Appendix B of SEC Rule 15c3-1 applies). The SEC FAQs are available here: https://www.sec.gov/rules-regulations/staff-guidance/trading-markets-frequently-asked-questions/frequently-asked-questions-relating-crypto-asset-activities-distributed-ledger-technology.

value of the payment stablecoins consistent with Commission Regulation 1.17(c)(5). The FCM shall compute any applicable capital charge consistent with its assessment of liquidity, price volatility, and other risks in accordance with the firm's risk management program and obligations set forth in Commission Regulation 1.11.

3. Prior to relying on this no-action position, the FCM files a notice of its intent to rely on this no-action position with MPD and the date at which it will commence accepting digital assets from customers as margin collateral. The FCM's notice shall be filed via the WinJammer electronic filing system.

4. For a period of three (3) months from the commencement of the FCM's reliance on this no-action letter as stated in the FCM's notice of intent submitted to MPD in accordance with condition (3) above, the FCM accepts only digital assets in the form of payment stablecoins, Bitcoin, and Ether as margin collateral from customers and deposits only proprietary payment stablecoins as residual interest in futures, foreign futures, and 30.7 customer accounts. The FCM takes into account the value of the collateral in accordance with condition (1) above and takes any applicable capital charge against the value of the payment stablecoins deposited as residual interest in accordance with condition (2) above.

5. For a period of three (3) months starting with the calendar month following the month in which the FCM files its notice of intent to rely on this no-action position in accordance with condition (3) above, the FCM files, as of the close of business each week, a report of the total amount of digital assets held in each of the futures, Cleared Swaps, and 30.7 customer funds accounts. The report shall list each digital asset type separately, including payment stablecoins, for each of the three customer account classes. The report provided by this condition shall be filed via the WinJammer electronic filing system.

6. For a period of three (3) months from the commencement of the FCM's reliance on this no-action letter as stated in the FCM's notice of intent submitted to MPD in accordance with condition (3) above, the FCM provides prompt written notice of any significant operation or system issue, disruption, or failure, including any cybersecurity incident, that affects the use of digital assets as customer margin collateral.[52] The notice provided by this condition shall be filed via the WinJammer electronic filing system.

MPD is issuing this letter in consideration of existing requirements and minimum standards in Commission regulations and the principles of the Recommendations for Central Counterparties that will continue to apply with respect to the types of non-securities digital asset collateral that an FCM may accept from customers and an FCM's treatment of such collateral. As stated above, the no-action position in this letter applies only to non-securities digital asset collateral that is accepted as margin collateral or for settlement purposes by a registered DCO or a foreign clearing

[52] For purposes of this condition, a matter is "significant" if it involves a significant financial amount, significant number of customers, or indicates a control weakness with the potential to affect a significant amount or significant number of customers.

organization, as applicable, or is the underlying commodity of a futures contract listed for trading by a registered DCM. MPD staff believes that the existing requirements, standards, and principles, as discussed below, are designed, in relevant part, to ensure that assets accepted as customer margin collateral are readily marketable in times of market stress with minimal loss in value.

Commission Regulation 39.13(g)(10) requires a DCO to limit the assets it accepts as initial margin to "those that have minimum credit, market, and liquidity risks."[53] In addition, Commission Regulation 39.13(g)(11) requires a DCO to use prudent valuation practices to value assets posted as initial margin on a daily basis.[54] Further, Commission Regulation 39.13(g)(12) requires a DCO to apply appropriate haircuts to reflect credit, market, and liquidity risks to the assets that it accepts in satisfaction of initial margin obligations, taking into consideration stressed market conditions, and to evaluate the appropriateness of the haircuts on at least a monthly basis.[55] Finally, Commission Regulation 39.13(g)(13) requires a DCO to apply appropriate limitations or charges on concentration of assets posted as initial margin, as necessary, in order to ensure its ability to liquidate such assets quickly with minimal adverse price effects, and to evaluate the appropriateness of any such concentration limits or charges on at least a monthly basis.[56]

Foreign clearing organizations established in jurisdictions that have implemented the Recommendations for Central Counterparties are similarly required to limit the assets accepted as collateral to those with high liquidity.[57] The Recommendations for Central Counterparties further require clearing organizations to mark margin assets to market daily and apply haircuts to the market values of the assets to adequately reflect the potential for their value to decline over the interval between their last revaluation and the time by which they can reasonably be assumed to be liquidated.[58]

For assets that are not accepted as margin collateral by a DCO or a foreign clearing organization subject to the Recommendations for Central Counterparties, the condition requiring the digital asset to be referenced as an underlying commodity of a futures contract listed on a DCM would ensure that the market for the digital asset had been subject to an analysis of size and liquidity, with respect to cash-settled contracts, or deliverable supply, with respect to physical delivery contracts.[59] For both cash-settled and physical delivery contracts, the DCM must submit

[53] 17 CFR 39.13(g)(10). *See, also* 17 CFR 39.14 (addressing DCO settlement procedures).

[54] 17 CFR 39.13(g)(11).

[55] 17 CFR 39.13(g)(12).

[56] 17 CFR 39.13(g)(13).

[57] Recommendations for Central Counterparties, Recommendation 4: Margin Requirements, 4.4.6. *See*, *also id*. at Recommendations 9 (Money settlements) and 10 (Physical deliveries).

[58] Recommendations for Central Counterparties, Recommendation 4: Margin Requirements, 4.4.6.

[59] Commission Regulations 38.200 and 38.201, 17 CFR 38.200 and 17 CFR 38.201, and Appendix C to Part 38 of Commission's regulations (Demonstration of Compliance that a Contract is Not Readily Susceptible to Manipulation), 17 CFR Appendix C to Part 38.

information demonstrating that the contract is not readily susceptible to manipulation.[60] To this end, the DCM must demonstrate that the cash settlement price of cash-settled contracts is an accurate and reliable indicator of prices in the underlying cash market. As to physical delivery contracts, the DCM should design the terms and conditions of the contract to avoid impediments on the delivery of the commodity such as to promote convergence between the price of the futures contract and the cash market value of the commodity at the expiration of a futures contract.[61] In addition, in determining the margin requirements for a contract listed on a DCM, a DCO must consider the risks of each product and portfolio, including any unusual characteristics of, or risk associated with, particular products or portfolios.[62] As such, a DCO clearing a DCM-listed futures contract, had presumably conducted a sufficient analysis of the liquidity, volatility, and other potential risks associated with the underlying commodity of the listed futures contract. As to payment stablecoins, the FCM would be able take into account the value of these assets only if the assets meet the definition of payment stablecoin adopted for purposes of this no-action letter and subject to the appropriate valuation determined in accordance with the FCM's risk management policies and procedures.[63]

With respect to "inverse" contracts that are based on a specified amount of a digital asset where the settlement of profit and losses is denominated in the digital asset itself (*i.e.*, contract that is both based on and denominated in the digital asset), MPD is including condition 1.3 above based on the No-Action Request's representations regarding the terms of such contract and in consideration of the match between the asset and the liability associated with the position.

Additionally, Commission Regulation 1.11 requires an FCM to have a risk management program to address segregation, operational, settlement, capital, and any other applicable risk. Importantly, the program must include policies and procedures for assessing the liquidity, marketability and mark-to-market valuation of all non-cash assets held as segregated funds by an FCM.[64] Such policies and procedures must also ensure that all non-cash assets held in customer segregated accounts are readily marketable and highly liquid.[65] Accordingly, pursuant to Commission Regulation 1.11, an FCM may only accept as customer collateral a particular non-securities digital asset following a determination that such digital asset is readily marketable and highly liquid. In addition, FCMs must monitor collateral on an ongoing basis, including by daily measurement of liquidity needs with respect to customers, assessment of procedures to liquidate all non-cash collateral in a timely manner and without significant effect on price, and application of appropriate

[60] 17 CFR Appendix C to Part 38.

[61] *Id*.

[62] 17 CFR 39.13(g).

[63] *See* fn. 47.

[64] 17 CFR 1.11(e)(3)(i)(J). The risk management requirements of Commission Regulation 1.11 also apply to instruments that are permitted investments under Commission Regulation 1.25.

[65] 17 CFR 1.11(e)(3)(i)(J).

collateral haircuts that accurately reflect market and credit risk.[66] FCMs must also develop periodic risk exposure reports, which are issued to both senior management and the Commission.[67] Commission Regulation 1.11 requires review and testing of the risk management program, at least annually or upon material change in the business of the FCM, to ensure continued effectiveness.[68]

For the avoidance of doubt, FCMs remain fully subject to the requirements in Commission Regulation 1.11. In particular, when assessing the value of non-securities digital assets not accepted as margin collateral by a registered DCO or a foreign clearing organization subject to the Recommendations for Central Counterparties, the FCM must implement a robust process for assessing the volatility of, and other risks associated with, the assets. As with other applicable requirements, the FCM's application of its risk management program with respect to the valuation of non-securities digital assets will be subject to oversight by the FCM's DSRO and the Commission.

In addition, FCMs must continue to comply with all relevant regulations in Parts 1, 22, and 30 of Commission's regulations, including Commission Regulation 1.49, addressing permitted depositories of customer funds, and Commission Regulation 1.25 addressing permitted investments of customer funds. For clarity, this letter and the no-action position herein have no effect on the requirements applicable pursuant to Commission Regulation 1.25 with respect to permitted investments of customer funds.

This no-action position will expire upon the effectiveness of any Commission action addressing the acceptance and holding by FCMs of digital asset collateral in segregated customer accounts, including any such Commission action to implement the GENIUS Act.

This letter and the position taken herein represent the view of the Division only and do not necessarily represent the views of the Commission or those of any other division or office of the Commission. This letter and the no-action position taken herein are based upon the facts and circumstances represented to the staff of the Division. Any different, changed, or omitted material facts or circumstances may require a different position or render this letter void. As with all staff letters, the Division retains the authority to condition further, modify, suspend, terminate, or otherwise restrict the interpretation provided herein, in its discretion.

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[66] *Id.*

[67] 17 CFR 1.11(e)(2).

[68] 17 CFR 1.11(f).

If you have any questions concerning this correspondence, please contact Lily Bozhanova, Associate Director, at lbozhanova@cftc.gov or Christine McKeveny, Attorney-Advisor, at cmckeveny@cftc.gov.

Sincerely,

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Thomas J. Smith
Acting Director
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