

CFTC Letter No. 01-31

April 2, 2001

Interpretation

Division of Trading and Markets

Ms. Nancy K. Brooks, Vice-President,
General Counsel and Secretary
Board of Trade Clearing Corporation
141 West Jackson Blvd. Suite 1460
Chicago, IL 60604

Dear Ms. Brooks:

This is in response to your letter dated March 19, 2001, in which you request the Division, on behalf of the Board of Trade Clearing Corporation (“BOTCC”), to issue an interpretive letter concerning the requirement in Commission Rule 1.25(c)(5)^[1] that a money market mutual fund (“MMMF”) be able to redeem the interest of a futures commission merchant (“FCM”) or clearing organization in the MMMF by the business day following a redemption request. You note that there are no exceptions provided for in the rule to recognize extraordinary conditions that could cause a delay in redemption beyond the one day provided in the rule. You further note that most prospectuses of MMMFs reviewed by the BOTCC specifically provide for delays in redemption under emergency circumstances, including non-routine closure of the Fedwire (or Federal Reserve Banks) or the New York Stock Exchange (“NYSE”), restriction of trading on the NYSE (due to general emergency market conditions) or declaration of a market emergency by the Securities and Exchange Commission (“SEC”). You have requested the Division’s advice as to whether such exceptions to an absolute one-day requirement would disqualify such MMMF as a permitted investment under Rule 1.25(c)(5). You recommended that the Division find such qualifying language acceptable.

The Division agrees that, as suggested by many MMMF prospectuses, extraordinary circumstances may arise where it would be impossible for an MMMF to comply with a shareholder’s redemption request within the one-day time frame provided for in the rule. Accordingly, the Division will raise no issue regarding an FCM’s or clearing organization’s compliance with Rule 1.25(c)(5) based solely upon its investment of customer funds in an MMMF which provides for exceptions to next day redemption that are limited to the following: (1) non-routine closure of the Fedwire (or applicable Federal Reserve banks); (2) non-routine closure of the NYSE or general market conditions leading to a broad restriction of trading on the NYSE, i.e., a restriction of trading due to market-wide events; or (3) declaration of a market emergency by the SEC. The Division also will not object to specific reference to Section 22(e) of the Investment Company Act of 1940 or to any of the specific emergency conditions contained therein with respect to permitted exceptions to the one-day requirement, because the Division believes that the conditions cited in Section 22(e) are the same as or are very similar to those set forth above.

Nothing stated in this letter, however, will preclude the Commission, the Division or any other unit of the Commission from examining an FCM or clearing organization's investment of customer funds in an MMMF should particular circumstances suggest such a review is warranted. If you have any questions concerning this matter, please call me or Paul Bjarnason of our staff.

Very truly yours,

John C. Lawton
Acting Director

^[1] 65 Fed. Reg. 77993, 78010, 78011 (Dec. 13, 2000); *see also*, 65 Fed. Reg. 82270 (Dec. 28, 2000).