

Jon:

Please accept this e-mail as a follow-up to our telephone conversation earlier today regarding the CFTC 1.25/30.7 proposed rules.

As discussed on the phone, we would like to bring to the attention of the CFTC how the existing and proposed 1.25/30.7 rules prevent investment in non-negotiated CDs. Specifically, it is a requirement that a FCM can only purchase bank Certificate of Deposits that can be redeemed with a penalty limited only to accrued interest. The rule states that **“any penalty for early withdrawal limited to any accrued interest earned according to its written terms”**.

In our research, we are unable to find banks that offer these type of non-negotiable CDs. We conclude it is customary for banks to charge 90 days' penalty for CDs maturing one year or less and 180 days' penalty for CDs up to two years. Perhaps these penalties were not customary at the time that the 1.25 rule allowing CDs was first implemented?

As discussed on the telephone, I believe CDs are not a popular investment among FCMs today because non-negotiated CDs cannot be purchased due to the existing 1.25 penalty limitations.

For FCMs to be able to invest customer funds in non-negotiable CDs, we request that the Commission consider modifying this penalty restriction in the proposed rules.

We strongly encourage the Commission to create rules that allow bank Certificate of Deposits as 1.25/30.7 permissible investments because of the FDIC pass-through insurance to our underlying customers. Given that bank CDs incorporate FDIC insurance, a portfolio of CDs could be structured by a FCM creating an extraordinarily low counter-party risk profile. Further, we trust that the Commission will not limit the aggregate amount of CDs that can be purchased, but do encourage the Commission to limit the percentage (of customer segregated funds) that can be purchased per issuer.

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