



## By Electronic Mail

May 10, 2024

M. Clark Hutchison, Director  
Division of Clearing and Risk  
Commodity Futures Trading Commission  
1155 21<sup>st</sup> Street NW  
Washington DC 20581

Amanda Olear, Director  
Market Participants Division  
Commodity Futures Trading Commission  
1155 21<sup>st</sup> Street NW  
Washington DC 20581

**Re: No-Action Position with regard to Commission Rule 39.13(g)(8)(iii)**

Dear Mr. Hutchison and Mrs. Olear:

As you know, the Commodity Futures Trading Commission (“**CFTC**” or “**Commission**”) recently issued a notice of proposed rulemaking entitled “Regulations To Address Margin Adequacy and To Account for the Treatment of Separate Accounts by Futures Commission Merchants” (the “**Pending Proposal**”)<sup>1</sup> that would codify the time-limited no-action relief with regard to Commission Rule 39.13(g)(8)(iii) that the Market Participants Division and Division of Clearing and Risk (together, the “**Divisions**”) adopted in CFTC Letter No. 19-17 (the “**No-Action Relief**”). The Pending Proposal was published in the Federal Register on March 1, 2024, and was open for public comment until April 22, 2024. The Commission and Divisions staff no doubt are in the process of reviewing the comment file, including the detailed comment letter filed by the Futures Industry Association (“**FIA**”)<sup>2</sup> on behalf of its members.<sup>3</sup> The No-Action relief has been extended several times since its initial adoption and is set to expire on June 30, 2024.<sup>4</sup> FIA respectfully requests that the Divisions extend the No-Action Relief to the earlier

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<sup>1</sup> 89 Fed. Reg. 15312 (Mar. 1, 2024).

<sup>2</sup> FIA is the leading global trade organization for the futures, options, and centrally cleared derivatives markets, with offices in London, Brussels, Singapore, and Washington, D.C. FIA’s mission is to support open, transparent, and competitive markets; protect and enhance the integrity of the financial system; and promote high standards of professional conduct. FIA’s membership includes clearing firms, exchanges, clearinghouses, trading firms, and commodities specialists from about 50 countries, as well as technology vendors, lawyers, and other professionals serving the industry. FIA’s core constituency consists of firms that operate as clearing members in global derivatives markets.

<sup>3</sup> See Letter from Allison Lurton, General Counsel and Chief Legal Officer, FIA, to Christopher J. Kirkpatrick, Secretary, CFTC (Apr. 22, 2024), available at <https://www.fia.org/fia/articles/fia-responds-cftc-proposed-rulemaking-fcm-separate-account-margining>.

<sup>4</sup> See CFTC Letter No. 19-17 (July 10, 2019); CFTC Letter No. 20-28 (Sept. 15, 2020); CFTC Letter No. 21-29 (Dec. 21, 2021); CFTC Letter No. 22-11 (Sept. 15, 2022).

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of December 31, 2024, or the effective date of any final Commission action relating to the Pending Proposal.

The requested extension will serve both the Commission and market participants. The extra time should allow the Commission to review the public comments filed in response to the Pending Proposal and adopt a final rule codifying the No-Action Relief. Meanwhile, market participants that currently rely on the No-Action Relief – including futures commission merchants, asset managers and their customers – will be able to continue to benefit from the No-Action Relief until such time as the Commission can act in a deliberate fashion on the Pending Proposal. We therefore ask the Divisions to extend the No-Action Relief to the earlier of December 31, 2024, or the effective date of any final Commission action relating to the Pending Proposal.

Thank you for your consideration of this request. If you have any questions or need any additional information with regard to the matters discussed herein, please contact me at 202.466.5460 or [alurton@fia.org](mailto:alurton@fia.org).

Sincerely,



Allison Lurton  
General Counsel and Chief Legal Officer

cc: Division of Clearing and Risk  
Robert B. Wasserman, Chief Counsel, DCR  
Daniel O'Connell, Special Counsel, DCR

Market Participants Division  
Thomas J. Smith, Deputy Director, MPD  
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