U.S. COMMODITY FUTURES TRADING COMMISSION
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Division of Market Oversight
Division of Clearing and Risk

Re: No-Action Position with Respect to Commission Regulations 38.8(b), 38.10, 38.951 (in Part), 39.20(b)(2), and Parts 43 and 45, for Certain Contracts Traded on or Pursuant to the Rules of Gemini Titan LLC and Cleared by QC Clearing LLC d/b/a Polymarket Clearing

Introduction

The Division of Market Oversight ("DMO") and the Division of Clearing and Risk ("DCR" and, together with DMO, the "Divisions") of the Commodity Futures Trading Commission ("CFTC" or "Commission") are issuing this letter in response to a request[1] (the "Request") from Gemini Titan LLC ("Titan") and QC Clearing LLC d/b/a Polymarket Clearing ("QC"). Titan and QC request a no-action position, on their own behalf and on behalf of their participants, from the swap data reporting and recordkeeping requirements of regulations 38.8(b), 38.10, 38.951 (to the extent that regulation 38.951 requires compliance with Part 45 of the Commission's regulations), 39.20(b)(2), along with Parts 43 and 45 of the Commission's regulations (collectively, the "Relevant Regulations"). Titan and QC request a no-action position with respect to reporting contracts with a binary payout structure and contracts with a variable payout structure with the features described in this letter, traded and cleared pursuant to Titan and QC Clearing's rules. Gemini Titan LLC is a designated contract market ("DCM") and QC Clearing LLC is a registered derivatives clearing organization ("DCO").

Background

The Request states that Titan lists "contracts on the outcomes of various events" (the "Titan Contracts").[2] The Request also states that Titan "intends to list contracts that have a settlement structure that (i) can result in a payout to both counterparties to the contract (although by definition, only one side of the contract can profit, meaning receive a payout in excess of basis) and (ii) whose settlement obligations vary based on the amplitude by which the price at expiration exceeds the

[1] Letter from N. Ignoffo and J. Hertzberg to R. Varma and R. Haynes re: No-Action Relief from Commission Regulations 38.8(b), 38.10, 38.951 (only to the extent it requires compliance with Part 45 of the Commission's Regulations), 39.20(b)(2), and Parts 43 and 45, for Contracts Traded on or Pursuant to the Rules of Gemini Titan LLC and QC Clearing LLC (Dec. 10, 2025) (the "Request").
[2] Request at 1.

strike or strike price."[3] Titan and QC state that Titan Contracts "are fully collateralized" and that "each party to a Titan Contract is required to pay at the time of the transaction sufficient funds to cover the maximum possible loss that the party could incur upon liquidation or expiration of the contract."[4] Titan and QC further state that the Titan Contracts will have "preset price caps and floors that limit potential profit and loss."[5] In addition, the Request represented that Titan "intends to permit participants to clear Titan Contracts through third-party clearing members who are registered clearing members of QC."[6]

In the Request, Titan and QC represented that Titan Contracts are swaps under the Commodity Exchange Act ("CEA") as these "provide for a payment that is dependent on the occurrence, nonoccurrence, or the extent of the occurrence of an event or contingency associated with a potential financial, economic, or commercial consequence."[7] However, the Request stated that "the Titan Contracts share most of the characteristics of exchange traded futures or options thereon (fungibility, offset, exchange traded with standardized terms on a single marketplace) with few of the indicia of traditional swaps (bilateral, traded over-the-counter, and customized)."[8] Titan and QC further stated that "potential market participant exposures associated with the Titan Contracts are anticipated to be far lower than those associated with traditional swaps and with swaps market participants."[9] As such, Titan and QC believe that "the regulatory goals of Part 43 and Part 45 have limited to negligible application to Titan Contracts."[10]

CEA section 4c(b), in relevant part, prohibits any person from offering, entering into, or confirming the execution of a transaction involving any commodity regulated under the CEA that "is of the character of, or is commonly known to the trade as, an 'option' . . ." contrary to any Commission rule prohibiting the transaction or allowing it pursuant to specified terms and conditions. When promulgating Commission Regulation 32.2, the Commission stated that "the swap definition . . . includes options . . . (whether or not traded on a DCM)[.]"[11] Commission Regulation 32.2 states, in relevant part, that commodity option transactions must be conducted in compliance with the CEA and the Commission's regulations related to swaps.[12]

The Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank Act")[13] amended the CEA by adding a definition of "swap."[14] The Dodd-Frank Act required the Commission and the Securities and Exchange Commission to further define jointly the term "swap," and in 2012, the Commissions jointly adopted such further definition.[15]

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[3] Request at 2.
[4] Request at 1.
[5] Request at 2.
[6] *Id.*
[7] *Id.*
[8] Request at 4.
[9] *Id.*
[10] *Id.*
[11] Commodity Options, 77 Fed. Reg. 25320, 25321, n.6 (Apr. 27, 2012).
[12] 17 C.F.R. § 32.2.
[13] Public Law 111–203, 124 Stat. 1376 (2010).
[14] 7 U.S.C. § 1a(47).
[15] Further Definition of "Swap," "Security-Based Swap," and "Security-Based Swap Agreement"; Mixed Swaps; Security-Based Swap Agreement Recordkeeping, 77 Fed. Reg. 48207, 48236 (Aug. 13, 2012).

Pursuant to the Dodd-Frank Act, the Commission promulgated various regulations applicable to swaps, including the Relevant Regulations. The Relevant Regulations apply swap reporting and recordkeeping obligations to DCMs, DCOs, and other market participants. In particular, Parts 43 and 45 require, respectively, real-time reporting of swap transaction and pricing data to swap data repositories ("SDRs") for purposes of public dissemination and reporting of broader swap data to SDRs for the Commission's use in fulfilling its surveillance and market analysis missions.

No-Action Position Requested

Titan and QC requested that the Divisions not recommend the Commission take enforcement action against Titan or QC or their participants for failure to report Titan Contracts to an SDR or to fulfill any of the other requirements of the Relevant Regulations. Titan and QC stated that the requested no-action position is comparable to the no-action positions concerning reporting of similar contracts provided in Commission Letters Nos. 17-31, 17-32, 21-11, and 24-09.[16] Titan and QC make the following representations:

- Titan and QC will require that all Titan Contracts be fully collateralized;

- Titan will clear the Titan Contracts only through QC;

- Titan will publish on its website the following time and sales data for all Titan Contracts transactions promptly after execution thereof: trade timestamp, contract, quantity, and price (in USD);

- Titan shall provide the Commission with transactional information as described in Commission Regulation 16.02;

- Titan and QC shall continue to comply with all swap reporting and recordkeeping requirements of the CEA and Commission regulations, other than the Relevant Regulations, including (without limitation) the applicable requirements of Parts 38 and 39 of the CFTC's regulations (the "Required Records"); and

- Titan and QC shall keep the Required Records open to inspection upon request by any representative of the Commission, the United States Department of Justice, the Securities and Exchange Commission, or by any representative of a prudential regulator as authorized by the Commission. Copies of all such records shall be provided at the expense of the producing party (Titan or QC) to any representative of the Commission upon request. The producing party (Titan or QC) shall provide copies of the Required Records either by electronic means, in hard copy, or both, as requested by the Commission, with the sole exception that copies of records originally created and exclusively maintained in paper form may be provided in hard copy only.

[16] *See* Request at 4-5; *see also* CFTC Letter No. 17-31 (Jun. 30, 2017), *available at* https://www.cftc.gov/csl/17-31/download; CFTC Letter No. 17-32 (Jun. 30, 2017), *available at* https://www.cftc.gov/csl/17-32/download; CFTC Letter No. 21-11 (Apr. 22, 2021), *available at* https://www.cftc.gov/csl/21-11/download; and CFTC Letter No. 24-09 (July 12, 2024), *available at* https://www.cftc.gov/csl/24-09/download.

No-Action Position and Related Conditions

The Divisions have decided to take a no-action position consistent with Titan's Request, subject to certain conditions described below, based on Titan and QC's representations and statements in support of the Request. The Divisions note that this no-action position is similar to previous no-action positions taken with respect to reporting certain binary options transactions and similar transactions.[17] The Divisions will not recommend that the Commission initiate an enforcement action against Titan, QC, or their participants for failure to comply with Commission regulations 38.8(b), 38.10, 38.951 (only to the extent that regulation 38.951 requires compliance with Part 45 of the Commission's regulations), 39.20(b)(2), as well as the applicable provisions of Parts 43 and 45 of the Commission's regulations, or the requirements of the relevant CEA provisions pursuant to which the Relevant Regulations were promulgated, with respect to Titan Contracts, subject to the following conditions:[18]

1) Titan will require all Titan Contracts to be fully collateralized positions, as defined by Commission regulation 39.2;[19]

2) Titan will clear all Titan Contracts through QC and QC will clear all Titan Contracts;

3) Titan will publish on its website the following time and sales data for all Titan Contract transactions promptly after execution thereof: trade timestamp, contract, quantity, and price;

4) Titan will provide the Commission with all transactional information as described in Commission regulation 16.02;

[17] *See* CFTC Letter No. 17-31 (June 30, 2017), *available at* https://www.cftc.gov/csl/17-31/download; CFTC Letter No. 17-32 (June 30, 2017), *available at* https://www.cftc.gov/csl/17-32/download; CFTC Letter No. 21-11 (Apr. 22, 2021), *available at* https://www.cftc.gov/csl/21-11/download; CFTC Letter No. 24-09 (July 12, 2024), *available at* https://www.cftc.gov/csl/24-09/download; CFTC Letter No. 24-12 (Sept. 3, 2024), *available at* https://www.cftc.gov/csl/24-12/download; CFTC Letter No. 24-15 (Oct. 4, 2024), *available at* https://www.cftc.gov/csl/24-15/download; CFTC Letter No. 25-02 (Jan. 31, 2025), *available at* https://www.cftc.gov/csl/25-02/download; CFTC Letter No. 25-23 (Jul. 22, 2025), *available at* https://www.cftc.gov/csl/25-23/download; CFTC Letter No. 25-26 (Aug. 7, 2025), *available at* https://www.cftc.gov/csl/25-26/download; CFTC Letter No. 25-28 (Sept. 3, 2025), *available at* https://www.cftc.gov/csl/25-28/download; and CFTC Letter No. 25-35 (Sept. 30, 2025), *available at* https://www.cftc.gov/csl/25-35/download.

[18] Some of these conditions regarding the no-action position may constitute a collection of information, as that term is defined in the Paperwork Reduction Act, 44 U.S.C. §§ 3501 et. seq. The Office of Management and Budget ("OMB")—in accordance with 44 U.S.C. § 3507(d) and 5 C.F.R. §§ 1320.8 and 1320.10—has approved collection 3038-0049, entitled "Procedural requirements for requests for interpretative, no-action and exemptive letters," for such purposes. This collection would encompass collections made as part of exemptive or no-action position from the Commission or its staff. The public is not required to respond to a collection of information that does not have a valid OMB control number.

[19] Commission regulations define "fully collateralized position" as "a contract cleared by a derivatives clearing organization that requires the derivatives clearing organization to hold, at all times, funds in the form of the required payment sufficient to cover the maximum possible loss that a party or counterparty could incur upon liquidation or expiration of the contract." 17 C.F.R. § 39.2.

5) Titan and QC will comply with all reporting and recordkeeping requirements of the CEA and CFTC regulations applicable to them in their respective capacities as a DCM and a DCO, other than the Relevant Regulations, including, but not limited to, the applicable requirements of Parts 38 and 39 of the Commission's regulations (the records required to be retained by this condition (5) are referred to below as the "Required Records"); and

6) Titan and QC keep the Required Records open to inspection upon request by any representative of the Commission, the United States Department of Justice, or the Securities and Exchange Commission, or by any representative of a prudential regulator as authorized by the Commission. Copies of all such records shall be provided, at the expense of Titan and QC, to any representative of the Commission upon request. Titan and QC shall provide copies of the Required Records either by electronic means, in hard copy, or both, as requested by the Commission, with the sole exception that copies of records originally created and exclusively maintained in paper form may be provided in hard copy only.

This letter expresses a staff position only with respect to enforcement of the Relevant Regulations. This letter does not state any legal conclusion regarding the characteristics or legality of Titan Contracts or the conduct of any person covered by the no-action position.[20] This letter and the no-action position taken herein represent the views of the Divisions only, and do not necessarily represent the positions or views of the Commission or of any other Commission division or office. This letter and the no-action position taken herein are not binding on the Commission.[21] Except as explicitly provided in this letter, the no-action position taken herein does not excuse persons from compliance with any applicable requirements of the CEA or Commission regulations. Further, this letter, and the no-action position contained herein, are based upon the representations made to the Divisions. Any different, changed, or omitted material facts or circumstances may render this letter void. As with all no-action letters, the Divisions retain the authority to, in their discretion, further condition, modify, suspend, terminate or otherwise restrict the terms of the no-action position provided herein.

If you have any questions concerning this letter, please contact Paul Chaffin, Division of Market Oversight, at (202) 418-5185 or pchaffin@cftc.gov; Alicia Viguri, Division of Market Oversight, at (202) 418-5219 or aviguri@cftc.gov; Owen Kopon, Division of Market Oversight, at (202) 418-5360 or okopon@cftc.gov; or Jon Kramer, Division of Clearing and Risk, at (312) 596-0563 or jkramer@cftc.gov.

Sincerely,

Rahul Varma	Richard Haynes
Acting Director	Acting Director
Division of Market Oversight	Division of Clearing and Risk

[20] For the avoidance of doubt, this letter is not intended to address whether any of the Titan Contracts are consistent with any statutory or regulatory requirement, including with respect to the requirements of CEA section 5c(c)(5)(C) or Commission regulation 40.11. 17 C.F.R. § 40.11.

[21] *See* 17 C.F.R. § 140.99(a)(2) ("A no-action letter binds only the issuing Division . . . and not the Commission or other Commission staff.").