REQUEST FOR COMMENT ON THE TRADING AND CLEARING OF "PERPETUAL" STYLE DERIVATIVES

I. Introduction

Staff of the Commodity Futures Trading Commission ("Commission") is seeking public feedback on perpetual futures or other perpetual derivatives contracts (together, "Perpetual Derivatives") to better understand this area of growing market interest. The Staff is issuing this Request for Comment ("RFC") in order to gather public feedback on a range of questions related to the use cases, challenges, and opportunities perpetual contracts may present to market participants and broader derivatives markets. The requested information will inform the work of the Commission as it considers how current regulations would best apply to Perpetual Derivatives, in cases where they had been certified, and whether additional regulations may be needed for this novel product set. The Staff welcomes any relevant comments, including related topics that may not be specifically mentioned but which a commenter believes should be considered. In addition to any general input, the Staff is interested in responses to the more specific questions found below.

This request for comment seeks to better inform the staff's understanding of these issues and seeks input on possible mitigating measures. Comments must be received on or before May 21, 2025 to be assured of consideration.

II. Background on Perpetual Contracts

A growing number of contracts traded in financial markets around the world are designed such that prices, and associated payments, are derived from an associated cash or spot market price. In contrast to 'traditional' derivatives contracts, where the price benchmarking between the derivative and underlying spot instrument is done at or around the expiration of the derivatives contract, for these newer products the pricing relationship is monitored and settled on an ongoing basis – often multiple times a day. Because this benchmarking occurs on an ongoing basis, these contracts have been, in certain cases, described as 'Perpetual Derivatives", with less need for a specific termination date associated with the given contract.

Given the often high correlation between a perpetual contract and the associated cash contract, as well as a reduced need for 'rolling' a contract from one expiration to another, perpetual contracts have become increasingly popular as a way of gaining exposure to a given market or product class. However, these distinctions between the structure of existing derivatives contracts and the structure of perpetual contracts may raise novel questions and concerns related to trading and clearing risk management. In order to ensure that the Commission adequately understands these novelties, as well as the interactions between these products and current or future relevant regulations, the Commission is requesting comment on the set of questions posed below.

III. Questions

The Staff requests comment on any or all of the below questions related to Perpetual Derivatives. In addition to the below more detailed questions, the staff is interested in comment on the following general themes: 1) any areas of key interest or concern which are not yet covered by any of the enumerated questions and 2) any areas of key interest or concern where Perpetual Derivatives may negatively impact the areas of market integrity, customer protection, or retail trading

1. What is an appropriate working definition of "perpetual derivative?" In addressing this question, please consider:
    a. What characteristics must a product have to qualify as a "perpetual" derivative?
    b. Is there a taxonomy of different kinds of perpetual derivatives and what would be key characteristics in this taxonomy?
    c. Are there specific characteristics that distinguish a perpetual futures contract from other perpetual derivatives?
2. Would Perpetual Derivatives have advantages for market participants over traditional futures contracts or spot market products? Would Perpetual Derivative products provide commercial risk management features that cannot be met with existing products?
3. Would Perpetual Derivatives products pose any unique risks for market participants or the broader markets? Are there additional protections or safeguards that the Commission or exchanges should adopt to mitigate risks associated with these products?
4. Do the current risk disclosures that futures commission merchants are required to provide customers, pursuant to Commission regulations, adequate to address risks associated with Perpetual Derivatives? If not, what additional disclosures should be required to be provided to customers?
5. Do Perpetual Derivatives pose any unique risks if they were to be offered in physical commodity markets, such as with agricultural or energy commodity derivatives?
6. Do Perpetual Derivatives raise unique concerns about susceptibility to manipulation?
    a. Are there additional protections or safeguards that should be adopted by the Commission or exchanges to mitigate concerns about susceptibility to manipulation with Perpetual Derivatives?
    b. Is there any additional guidance the Commission should adopt to clarify the regulatory treatment of Perpetual Derivatives?
    c. Would Perpetual Derivatives raise any novel concerns with regard to conflicts of interest?
7. Do Perpetual Derivatives raise unique surveillance concerns for exchanges listing perpetual products?
8. Do Perpetual Derivatives have the potential to adversely impact the liquidity or usefulness for commercial risk management purposes of traditional futures market products?

9. Please describe the likely user base for Perpetual Derivatives. Will Perpetual Derivatives attract the same array of market participants as traditional futures, including commercials, asset managers, hedge funds, speculators, and others?
10. Are some traditional futures market participants less likely to participate in Perpetual Derivatives markets? Will Perpetual Derivatives markets function as effectively and efficiently if certain traditional participants are less present or if the market is heavily weighted towards certain types of participants?
11. The aims of derivatives markets include price discovery and risk mitigation. How do Perpetual Derivatives further risk mitigation? How do they further price discovery? Please provide likely use cases for Perpetual Derivatives.
12. Futures markets can provide arbitrage opportunities between futures and cash markets, with convergence at expiration being a hallmark of a properly functioning market. What arbitrage could reasonably be expected between Perpetual Derivatives, traditional futures, and cash markets? What cash market convergence could reasonably be expected?
13. Should Perpetual Derivatives be classified as swaps or futures contracts?
14. Is a Perpetual Derivative consistent with a traditional futures contract model whereby there is a specified expiry date, and the price of the contract represents the price of the underlying commodity at the time of expiry?
15. Do Perpetual Derivatives increase customer default risk that may expose other customers to potential losses in the event of an FCM insolvency resulting from the customer default?
16. Do Perpetual Derivatives raise unique issues in the event of a futures commission merchant or derivatives clearing organization insolvency under part 190 of the Commission's regulations or the U.S. Bankruptcy Code?