

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 39

RIN 3038–AF39

Protection of Clearing Member Funds Held by Derivatives Clearing Organizations

AGENCY: Commodity Futures Trading Commission.

ACTION: Extension of comment period.

SUMMARY: On January 3, 2024, the Commodity Futures Trading Commission (Commission) published in the Federal Register a notice of proposed rulemaking (NPRM) titled Protection of Clearing Member Funds Held by Derivatives Clearing Organizations. The comment period for the NPRM was to close on February 16, 2024. The Commission is extending the comment period for this NPRM by an additional 31 days.

DATES: The comment period for the NPRM titled Protection of Clearing Member Funds Held by Derivatives Clearing Organizations is extended through March 18, 2024.

ADDRESSES: You may submit comments, identified by RIN number 3038–AF39, by any of the following methods:

- CFTC Comments Portal: <https://comments.cftc.gov>. Select the “Submit Comments” link for this rulemaking and follow the instructions on the Public Comment Form.
- Mail: Send to Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581.

- Hand Delivery/Courier: Follow the same instructions as for Mail, above.

Please submit your comments using only one of these methods. Submissions through the CFTC Comments Portal are encouraged.

All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to <https://comments.cftc.gov>. You should submit only information that you wish to make available publicly. If you wish the Commission to consider information that you believe is exempt from disclosure under the Freedom of Information Act (FOIA), a petition for confidential treatment of the exempt information may be submitted according to the procedures established in § 145.9 of the Commission's regulations.¹

The Commission reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse, or remove any or all of your submission from <https://comments.cftc.gov> that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the rulemaking will be retained in the public comment file and will be considered as required under the Administrative Procedure Act and other applicable laws, and may be accessible under the FOIA.

FOR FURTHER INFORMATION CONTACT: Eileen A. Donovan, Deputy Director, (202) 418–5096, edonovan@cftc.gov; August A. Imholtz III, Special Counsel, (202) 418–5140, aimholtz@cftc.gov; or Gavin Young, Special Counsel, (202) 418–5976, gyoung@cftc.gov; Division of Clearing and Risk, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581; or

¹ 17 CFR 145.9.

Theodore Z. Polley III, Associate Director, (312) 596–0551, tpolley@cftc.gov; Division of Clearing and Risk, Commodity Futures Trading Commission, 77 West Jackson Boulevard, Suite 800, Chicago, Illinois 60604.

SUPPLEMENTARY INFORMATION:

On January 3, 2024, the Commission published in the Federal Register an NPRM proposing amendments to its regulations that would ensure clearing member funds and assets receive the proper treatment in the event the derivatives clearing organization (DCO) enters bankruptcy by requiring, among other things, that clearing member funds be segregated from the DCO's own funds and held in a depository that acknowledges in writing that the funds belong to clearing members, not the DCO.² In addition, the Commission also proposed to permit DCOs to hold customer and clearing member funds at foreign central banks subject to certain requirements. Finally, the Commission proposed to require DCOs to conduct a daily calculation and reconciliation of the amount of funds owed to customers and clearing members and the amount actually held for customers and clearing members. The comment period for the NPRM was to close on February 16, 2024. In response to a request by commenters, the Commission is extending the comment period for this NPRM by an additional 31 days.³ This extension of the comment period will allow interested persons additional time to analyze the proposal and prepare their comments.

² Protection of Clearing Member Funds Held by Derivatives Clearing Organizations, 89 FR 286 (January 3, 2024).

³ Letter from Teo Floor, Chief Executive Officer, The Global Association of Central Counterparties, dated January 11, 2024. Available at <https://comments.cftc.gov/PublicComments/ViewComment.aspx?id=73229>. The requested extension was 30 days. The Commission is extending the comment period by 31 days to avoid having the extended closing date fall on a weekend.

Issued in Washington, DC, on January 31, 2024, by the Commission.

A handwritten signature in black ink that reads "Robert Sidman". The signature is written in a cursive, flowing style.

Robert Sidman,

Deputy Secretary of the Commission.

NOTE: The following appendix will not appear in the Code of Federal Regulations.

Appendix to Protection of Clearing Member Funds Held by Derivatives Clearing Organizations – Commission Voting Summary

On this matter, Chairman Behnam and Commissioners Johnson, Goldsmith Romero, Mersinger, and Pham voted in the affirmative. No Commissioner voted in the negative.