



By Electronic Mail

May 24, 2023

Mr. Christopher J. Kirkpatrick
Secretary of the Commission
Commodity Futures Trading Commission
1155 21st Street NW
Washington DC 20581

Re: Petition for Order under Section 4(c) of the Commodity Exchange Act

Dear Mr. Kirkpatrick:

Background. As you are aware, on July 19, 2018, the Commodity Futures Trading Commission (“**Commission**”) issued an Order granting derivatives clearing organizations (“**DCOs**”) an exemption from the provisions of Commission Rule 1.25(a),¹ pursuant to which DCOs are authorized to invest euro-denominated futures and cleared swaps customer funds in euro-denominated sovereign debt issued by the French Republic and the Federal Republic of Germany (“**Designated Foreign Sovereign Debt**”), subject to the terms and conditions set out in the Order (the “**2018 Order**”).² The 2018 Order further granted DCOs an exemption from the provisions of Commission Rule 1.25(d) to authorize such DCOs to enter into agreements for resale or repurchase (collectively, “**repurchase agreements**”) with respect to Designated Foreign Sovereign Debt with foreign banks and foreign securities brokers or dealers³ and to hold Designated Foreign Sovereign Debt in a safekeeping account at a foreign bank.⁴

¹ Commission rules referred to in this Petition are found at 17 CFR Chapter I (2022).

² *Order Granting Exemption from Certain Provisions of the Commodity Exchange Act Regarding Investment of Customer Funds and from Certain Related Commission Regulations*, 83 Fed. Reg. 35241 (Jul. 25, 2018). The 2018 Order was issued following receipt of an application for exemption under section 4(c) of the Act submitted by ICE Clear US Inc., ICE Clear Credit LLC, and ICE Clear Europe Limited (collectively, the “**ICE DCOs**”).

³ Commission Rule 1.25(d)(2) provides that an FCM may enter into repurchase agreements only with a bank as defined in section 3(a)(6) of the Securities Exchange Act of 1934, a domestic branch of a foreign bank insured by the Federal Deposit Insurance Corporation, a securities broker or dealer, or a government securities broker or government securities dealer registered with the Securities and Exchange Commission (“**SEC**”). Under the 2018 Order, a foreign bank must qualify as a permitted depository under Commission Rule 1.49(d)(3) and must be located in a money center country or another jurisdiction that has adopted the euro as its currency; a foreign dealer must be located in a money center country and subject to regulation by a national financial regulator.

⁴ Commission Rule 1.25(d)(7) provides that securities transferred to an FCM under a repurchase agreement must be held in a safekeeping account with a bank as referred to in Rule 1.25(d)(2), a Federal Reserve Bank, a DCO,

CME Group Inc. (“CME”) and the Futures Industry Association (“FIA”)⁵ each submitted a comment letter in response to the Commission’s request for comment on the ICE DCOs’ application, in which they generally supported the application, but also encouraged the Commission to extend any relief granted to all DCOs.⁶ FIA also urged the Commission to extend this relief to all FCM clearing members.

The Commission elected to extend the requested relief to all DCOs but declined to extend the relief to FCMs, noting that FCMs are “a separate class of registrant subject to differing regulatory obligations that the Commission would need to consider on their own terms.” Although FCMs are clearly a separate class of registrant, we submit FCMs have identical regulatory obligations with respect to the protection of customer funds. That is: (i) FCMs are required to “treat and deal with all money, securities, and property received by [an FCM] to margin, guarantee, or secure the trades or contracts of any customer . . . as belonging to such customer”; (ii) such customer funds may only be deposited with a bank or trust company, a DCO or another FCM; (iii) investments of customer funds are subject to the requirements of Commission Rules 1.25 and 1.26; and (iv) customer funds may only be held in such denominations and depositories that meet the requirements of Commission Rule 1.49.

FCMs also face the same challenges in assuring the protection of foreign currencies received from customers to margin cleared transactions. As the Commission observed in issuing the 2018 Order, cash held in an unsecured deposit account at a commercial bank is exposed to the credit risk of the bank. This risk is effectively eliminated, however, if a DCO or FCM is permitted to invest customer cash in the appropriate foreign currencies in Designated Foreign Sovereign Debt. Further, although investments through reverse repurchase agreements involve exposure to a commercial counterparty, “a DCO [or FCM] would receive the additional benefit of receiving securities as collateral against that counterparty’s credit risk”.⁷ Moreover, “in the event a securities custodian enters insolvency proceedings, [a DCO or FCM] would have a claim to specific securities rather than a general claim against the assets of the custodian”.⁸ From a risk management perspective, therefore, investing customer funds in Designated Foreign Sovereign Debt, whether

or the Depository Trust Company. Under the 2018 Order, the foreign bank must meet the location and qualification requirements set out in Commission Rule 1.49(c) and (d).

⁵ FIA is the leading global trade organization for the futures, options, and centrally cleared derivatives markets, with offices in London, Brussels, Singapore and Washington DC. 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 more than 48 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, including firms registered with the Commission as futures commission merchants.

⁶ Letter from Sunil Cutinho, Senior Managing Director and President, CME Clearing, to Christopher J. Kirkpatrick, Secretary to the Commission, dated January 16, 2018; and letter from Walt L. Lukken, President and Chief Executive Officer, FIA, to Christopher J. Kirkpatrick, Secretary to the Commission, dated January 16, 2018.

⁷ 83 Fed. Reg. 35241, 35242 (Jul. 25, 2018).

⁸ *Id.*

by direct investment or reverse repurchase transaction is often a “prudent alternative to holding cash at a commercial bank”.⁹

It is for this reason that, as a matter of appropriate risk management, and in certain cases as a result of governmental guidance, many clearing organizations located outside of the United States restrict the amount of cash that they may hold overnight.¹⁰ Consequently, clearing organizations subject to EMIR impose strict cut-off times for FCMs and other clearing members to withdraw cash margin. On the other hand, non-US clearing organizations allow an FCM later cutoff times for withdrawal of securities margin.

For other reasons, *e.g.*, capital requirements or balance sheet management, not all banks will accept foreign currencies, and those that do may place limits on the amount of foreign currencies they are willing to accept. FCMs have found that, in certain cases, banks may charge an FCM high rates for holding foreign currencies deposited by customers.¹¹ As a result, FCMs face significant challenges in appropriately managing the risks of holding foreign currencies that customers deposit.

For all of the above reasons, FCMs, no less than DCOs, should have an opportunity to invest customer funds in Designated Foreign Sovereign Debt, provided such investments would meet the objectives of Commission Rule 1.25, *i.e.*, preserving principal and maintaining liquidity.¹²

Petition for Amended Order. By means of this petition, FIA and the CME¹³ (collectively, the “**Petitioners**”) are requesting the Commission, pursuant to section 4(c) of the Commodity Exchange Act (“**Act**”),¹⁴ to adopt an order amending the 2018 Order or grant such other relief as

⁹ *Id.*

¹⁰ For example, Article 45 of the regulatory technical standards on requirements for central counterparties, which gives effect to the provisions in EMIR governing the investment policies of EU central counterparties, provides:

Where cash is maintained overnight in accordance with paragraph 1 then not less than 95% of such cash, calculated over an average period of one calendar month, shall be deposited through arrangements that ensure the collateralization of the cash with highly liquid financial instruments meeting the requirements under Article 45.

¹¹ Customers depositing such foreign currencies may absorb these costs.

¹² Commission Rule 1.25(b).

¹³ The CME is acting solely on behalf of its affiliated DCO, the Chicago Mercantile Exchange. However, the CME expects that an amended Order would apply equally to all DCOs.

¹⁴ Section 4(c) authorizes the Commission, by rule, regulation or order, to grant an exemption from any provision of the Act “[i]n order to promote responsible economic or financial innovation and fair competition”. The Commission must find that the exemption is consistent with the public interest and the purposes of the Act and will not have a material adverse effect on the ability of the Commission or any contract market to discharge its regulatory or self-regulatory responsibilities under the Act. The relief requested herein will provide an exemption from certain provisions of section 4d of the Act and Commission Rules 1.25 and 1.49 thereunder.

the Commission may deem appropriate, to: (i) authorize FCMs to invest customer funds¹⁵ in Designated Foreign Sovereign Debt and to enter into repurchase agreements with respect to such Designated Foreign Sovereign Debt to the same extent that DCOs are authorized to do so under the 2018 Order; and (ii) further extend the relief granted in the 2018 Order by authorizing both DCOs and FCMs to invest customer funds in, and enter into repurchase agreements with respect to certain “**Specified Foreign Sovereign Debt**”,¹⁶ subject to the terms and conditions below. Further, we ask that the amended Order exempt FCMs and DCOs from the provisions of Commission Rule 1.25(d)(2) and authorize such FCMs and DCOs to enter into repurchase agreements with respect to Specified Foreign Sovereign Debt with foreign banks and foreign securities brokers or dealers and to hold Specified Foreign Sovereign Debt in a safekeeping account at a foreign bank. As discussed below, however, we are also asking that the terms and conditions of this amended Order differ in certain important respects from the terms and conditions of the 2018 Order.

Separately, the Petitioners ask the Commission to codify the relief initially provided to FCMs by the Market Participants Division (“**Division**”) in CFTC Letter No. 21-02 and extended to DCOs by the Division of Clearing and Risk in CFTC Letter No. 22-21, which letters collectively authorize FCMs and DCOs to invest in adjustable rate securities that correlate closely to the Secured Overnight Financing Rate (“**SOFR**”), consistent with the provisions of Commission Rule 1.25(b)(2)(iv).¹⁷

B. Terms and Conditions under the 2018 Order. The Petitioners expect that any Order or other relief the Commission would issue in connection with this petition would contain several conditions comparable to those set out in the 2018 Order. Specifically, we anticipate that:

- A DCO or FCM would be permitted to invest customer funds only in Specified Foreign Sovereign Debt denominated in specified currencies to the extent that customers hold balances in such specified currencies in segregation.¹⁸
- Any foreign bank with which a DCO or FCM enters into repurchase agreements will qualify as a permitted depository under Commission Rule 1.49(d)(3) and will be located in a money center country; any foreign broker or dealer with which a DCO or FCM enters

¹⁵ For purposes of this request for no-action, we define the term “**customer funds**” to include both “**futures customer funds**” and the “**foreign futures and foreign options secured amount**”, as each term is defined in Commission Rule 1.3, and cleared swaps customer collateral, as defined in Commission Rule 22.1.

¹⁶ For purposes of this request, the term “**Specified Foreign Sovereign Debt**” means, in addition to the sovereign debt of France and Germany, the sovereign debt of Canada, Japan and the United Kingdom (each, a “**Specified Jurisdiction**”) that, in each case, satisfy the terms and conditions set out herein.

¹⁷ CFTC No-Action Letter No. 21-02 (Jan. 4, 2021); CFTC Letter No. 22-21 (Dec. 23, 2022).

¹⁸ For the avoidance of doubt, a DCO or FCM would be permitted to purchase only Specified Foreign Sovereign Debt of the country for which the specified currency is the fiat currency. That is, for example, a DCO or FCM holding Pound Sterling on behalf of customers would be able to purchase only Gilts issued by the United Kingdom with such Pound Sterling.

into repurchase agreements will be located in a money center country and will be subject to regulation by a national financial regulator.

- A DCO or FCM must hold customer Specified Foreign Sovereign Debt in a depository that meets the location and qualification requirements of Commission Rule 1.49(c) and (d).
- If the two-year credit default spread of an issuing sovereign is greater than 45 basis points, a DCO or FCM (i) must discontinue investing customer funds in the relevant debt through repurchase agreements as soon as practicable, and (ii) may not make any new direct investments using customer funds.¹⁹

C. Additional Terms and Conditions.

1. Specified Foreign Sovereign Debt. The 2018 Order was limited to investments in the euro-denominated sovereign debt of France and Germany. It was the ICE DCOs' position that restricting the proposed relief to investments in the publicly traded sovereign debt of France and Germany would be consistent with the objectives of Rule 1.25, *i.e.*, preserving principal and maintaining liquidity. The ICE DCOs demonstrated that the euro-denominated sovereign debt of France and Germany compared favorably to the sovereign debt of the United States, particularly in presenting a low risk of default and maintaining significant liquidity. We agree with the analysis of the ICE DCOs and incorporate that analysis herein.

In addition to investments in the euro-denominated sovereign debt of France and Germany, however, the Petitioners request the Commission to extend the exemption to include investments in the sovereign debt of (i) Canada, (ii) Japan and (iii) the United Kingdom, in each case denominated in the respective currency of each country. As demonstrated below, the expanded Specified Foreign Sovereign Debt presents a low risk of default and maintains significant liquidity.

2. Time to maturity. The 2018 Order provides that the dollar-weighted average of the time-to-maturity of each DCO's portfolio of investments in Designated Foreign Sovereign Debt, both direct investments and reverse repurchase agreements, may not exceed 60 days. In lieu of the 60-day weighted-average time to maturity, the Petitioners believe that a dollar-weighted average of the time-to-maturity of six months, computed on a currency-by-currency basis, would better assure sufficient liquidity, while preserving principal consistent with the provisions of Rule 1.25(b). FIA member firms report that the 60-day weighted-average of the time-to-maturity would be too limiting. The new issuance supply of the Specified Foreign Sovereign Debt meeting this restriction is limited and would be thinly traded/quoted, forcing participants to invest in less-liquid secondary market securities.

3. Remaining maturity. The 2018 Order provided that DCO may not make a direct investment in any Specified Foreign Sovereign Debt with a remaining maturity greater

¹⁹ The 2018 Order did not indicate whether the calculation of the basis point spread was to be based on the bid, offer or mid-level. We propose that the basis point spread be determined using the mid-level.

than 180 days. The Petitioners ask that the amended order issued hereunder provide that a DCO or FCM may not make a direct investment in any Specified Foreign Sovereign Debt with a remaining maturity greater than two years. An expansion to a two-year remaining maturity standard will help assure sufficient new issuances of Specified Foreign Sovereign Debt to provide additional supply and liquidity. An expansion to a two-year remaining maturity standard is consistent, further, with the two-year weighted average time-to-maturity in Rule 1.25(b)(4).

D. Specified Foreign Sovereign Debt Compared with US Treasury Securities. As noted above, in their request for exemption, the ICE DCOs demonstrated that the euro-denominated sovereign debt of France and Germany compared favorably to the sovereign debt of the United States, particularly in presenting a low risk of default and maintaining significant liquidity. As such, authorizing investments in such sovereign debt would be consistent with the purposes of Commission Rule 1.25, *i.e.*, preserving capital and maintaining liquidity. We suggest that it similarly would be consistent with the purposes of Rule 1.25 if the Commission were to authorize FCMs to invest in Specified Foreign Sovereign Debt, subject to the terms and conditions above.

1. Low risk of default. In their request for exemption, the ICE DCOs demonstrated that the Designated Foreign Sovereign Debt, *i.e.*, the sovereign debt of France and Germany, was generally regarded as having a low risk of default by comparing the credit ratings of France and Germany with the credit ratings of the US. The credit ratings of the Specified Foreign Debt similarly compare favorably to US credit ratings. The S&P credit rating for the US and France is AA, while the credit rating for Germany is AAA. The S&P credit ratings for Canada (AAA), Japan (A+) and the United Kingdom (AA) are comparable, reflecting the view that each jurisdiction is well able to service its public debt.²⁰

We believe the low risk of default among the Specified Jurisdictions is further demonstrated by the relatively narrow spreads in credit default swaps on each jurisdiction’s sovereign debt, as reflected in the following chart. The chart shows the mid-level current spreads and historic mid-level high and low spreads for the period April 2018 – April 2023. In each case, the spreads for

²⁰ The following chart confirms that Moody’s and Fitch share the same views on the ability of each jurisdiction to service its debt.

Credit Ratings (UPDATED)			
Country	S&P	Moody’s	Fitch
United States	AA+u	Aaa	AAAu
Canada	AAA	Aaa	AA+u
France	AAu	Aa2u	Aau
Germany	AAAu	Aaa	AAAu
United Kingdom	AAu	Aa3u	AA-u
Japan	A+u	A1	Au

the Specified Foreign Sovereign Debt are within the 45 basis point limit the Commission set in the 2018 Order.

Mid Levels - 2Year CDS Spreads in bps (April 2018 - April 2023)				
Country	Current Level	Historical High	Historical Low	Average
Greece	59.92	344.5	28	113.1
Italy	52.13	241	26.6	85.3
Mexico	43.56	206.7	24	59.7
Portugal	20.36	96	7.3	26.4
Spain	20.52	97.6	8.4	25
China	37.92	70.8	6	20.7
Canada	93.96	92.4	5.2	15.1
US	18.56	23.6	7.3	13.9
United Kingdom	15.19	17.8	4.3	12.2
France	12.86	21.9	5.1	9.6
Japan	9.97	18.3	4.2	7.4
Germany	5.63	19.3	2.7	5.3

Based on the foregoing, the Petitioners submit that the risk of default among the Specified Jurisdictions is comparable to the risk of default by the US government. Consequently, investments in such Specified Foreign Sovereign Debt would be consistent with the objective of preserving capital, as set forth in Rule 1.25(b).

2. Significant Liquidity. As reflected in Appendix 1 to this request, the trading markets for each of the Specified Jurisdictions demonstrate high liquidity and accessibility at various maturities. Among other data, Appendix 1 sets out the outstanding debt of each Specified Jurisdiction and the US (both marketable and non-marketable) and the marketable public debt (in USD equivalents) where the time-to-maturity is two years or less.²¹ As Appendix 1 also demonstrates, there is also an active secondary market for each of the Specified Foreign Sovereign Debt. In addition, there are active repo markets for the Specified Foreign Sovereign Debt as supported by the chart set out in Appendix 2, published by the Bank of International Settlements. Appendix 2 provides data on total repurchase and reverse repurchase transactions against sovereign debt as of mid-2016.²²

²¹ Source: Bloomberg, as of April 2023.

²² Source: *Repo market functioning*, CGFS Papers, No. 59, Committee on the Global Financial System, Bank for International Settlements, dated April 2017. The depth of liquidity in the European market for repurchase and reverse repurchase transactions is described in detail in the most recent survey published by the International Capital Market Association, available at <https://www.icmagroup.org/assets/ICMA-European-Repo-Market-Survey-Number-44.pdf>.

The high level of liquidity is further reflected in the relatively tight bid-offer spreads among bills and short coupons and evidences our belief that the markets in Specified Foreign Sovereign Debt is sufficiently liquid to permit DCOs and FCMs to sell any such investments when necessary to obtain cash without substantial devaluation.²³

In sum, the Petitioners believe the Specified Foreign Sovereign Debt would constitute a conservative and prudent investment consistent with the purposes of Rule 1.25. Subject to the terms and conditions set out above, we request the Commission to authorize FCMs to invest in Specified Foreign Sovereign Debt.

II. Adjustable Rate Securities

As noted above, in January 2021, the Markets Participants Division issued a no-action letter authorizing FCMs to invest in certain adjustable rate securities that correlate to SOFR, consistent with the provisions of Commission Rule 1.25(b)(2)(iv). This no-action letter was scheduled to terminate on December 31, 2022. However, by letter dated December 23, 2022, the Market Participants Division and Division of Clearing and Risk expanded the scope of this no-action relief to cover DCOs and extended the relief to the earlier of December 31, 2024 or the effective date of any final Commission action addressing the addition of SOFR as a permitted benchmark for investments of customer funds.²⁴ For the reasons set forth in the above-referenced CFTC letters, the Petitioners ask the Commission to codify the staff's no-action relief, authorizing FCMs and DCOs to invest in adjustable rate securities that correlate to SOFR, consistent with the provisions of Commission Rule 1.25(b)(2)(iv).

III. Additional Matters

A. US Treasury ETFs. As the Commission is aware, certain DCOs, including the Chicago Mercantile Exchange, accept qualifying Short-Term US Treasury ETFs as initial margin for open positions.²⁵ Based on our analysis to date, it appears that US Treasury ETFs have

²³ We note that securities are marked-to-market daily and any change in value is reflected in the daily segregation calculation required under Commission Rules 1.32, 30.7 and 22.2. Therefore, any devaluation in Specified Foreign Sovereign Debt securities is taken into account in the FCM's relevant segregation computation. If the devaluation in securities impairs the FCM's excess residual interest, the FCM is required to increase residual interest to maintain its Targeted Residual Interest amount, effectively protecting the customer.

²⁴ CFTC No-Action Letter No. 22-21 (Dec. 23, 2022).

²⁵ Consistent with the definition of a US Treasury ETF set out in the Securities and Exchange Commission staff no-action letter discussed immediately below, a US Treasury ETF is defined to mean: (i) an open-ended management company registered with the SEC under the Investment Company Act of 1940, as amended ("**1940 Act**") that issues securities redeemable at the net asset value ("**NAV**"); that (ii) invests solely in cash and US government securities that are eligible securities under paragraph (a)(11) of Rule 2a-7 under the 1940 Act, limited to US Treasury floating and fixed rate bills, notes, and bonds with a remaining term to final maturity of 12 months or less, government money market funds as defined in Rule 2a-7, and/or repurchase and reverse repurchase agreements with a remaining term to final maturity of 12 months or less collateralized by US Treasury securities or other government securities with a remaining term to final maturity of 12 months or less.

characteristics that may be consistent with already permitted investments under Rule 1.25 and may provide FCMs and DCOs an opportunity to diversify further their investments of customer funds. The Petitioners, therefore, request the Commission to authorize FCMs and DCOs to invest customer funds in Short-Term US Treasury ETFs.

We also ask the Commission to confirm that US Treasury ETFs will be subject to the same capital haircuts as the staff of the Securities and Exchange Commission (“SEC”) currently permits.²⁶ In this regard, the staff of the SEC’s Division of Trading and Markets recently issued a no-action letter in which the staff stated that staff would not recommend that the Commission initiate an enforcement action to under section 15(c)(3) of the Securities and Exchange Act Exchange Act and SEC Rule 15c3-1 thereunder, if a broker-dealer elects to take the haircut deduction specified in paragraph (c)(2)(vi)(D)(I) of Rule 15c3-1 (currently 2%) on the market value of the greater of the portion of the broker-dealer’s long or short position in the size of a redemption unit or multiple of a redemption unit) of US Treasury ETF shares, subject to the following conditions:

- The broker-dealer is not aware of any substantial operational problem that the US Treasury ETF may be experiencing;
- The US Treasury ETF shares can be redeemed by a broker-dealer through an authorized participant, the redemption of the US Treasury ETF’s shares can be settled in exchange for a basket of the ETF’s underlying securities and/or cash by T+1, and the US Treasury ETF has committed in its registration statement to permit shareholders, except in extraordinary circumstances, to settle transactions within that timeframe; and
- The US Treasury ETF’s shares are listed for trading on a national securities exchange and trades of such shares are settled in accordance with the standard settlement cycle prescribed by Rule 15c6-1 under the Exchange Act.²⁷

B. Cleared Repurchase Agreements

As the Commission may recall, over the past several years, FIA’s FCM member firms have been weighing the costs and benefits of cleared repurchase transactions and whether FIA should request the Commission to amend, or otherwise grant relief from, the provisions of Rule 1.25(d), which

²⁶ For the avoidance of doubt, FCMs would apply the haircuts as prescribed by the SEC staff no-action relief for qualifying US Treasury ETFs pledged by customers for purposes of initial margin, capital and segregation calculations.

²⁷ Letter from Michael A. Macchiaroli, Associate Director, Division of Trading and Markets, to Kris Dailey, Vice President, Risk Oversight & Operational Regulation, Financial Industry Regulatory Authority (“FINRA”), dated June 2, 2022. This letter, which may be accessed at <https://www.sec.gov/divisions/marketreg/mr-noaction/2022/finra-060222-15c3-1.pdf>, supersedes an earlier letter on the same issue from Michael A. Macchiaroli, Associate Director, Division of Trading and Markets to Mark D. Fitterman, Senior Counsel, Morgan, Lewis & Bockius LLP, on behalf of Invesco PowerShares Capital Management LLC, dated March 6, 2018.

restrict permitted counterparties to banks and broker-dealers.²⁸ In October 2022, the SEC proposed rules establishing standards for covered clearing agencies for US Treasury securities that may affect FCMs' ability to access cleared repurchase transactions.²⁹ Although we remain interested in cleared repurchase transactions as a permissible investment, we believe it would be appropriate to postpone further consideration until the SEC has taken final action on its proposed rules.

* * * *

The Petitioners respectfully request the Commission, pursuant to section 4(c) of the Act, to adopt an order amending the 2018 Order, or grant such other relief as the Commission may deem appropriate, authorizing DCOs, FIA's FCM member firms and similarly situated FCMs, notwithstanding sections 4d(a) and 4d(f) of the Act and the provisions of Rule 1.25, to:

- Invest customer funds in the sovereign debt of Canada, France, Germany, Japan and the United Kingdom, subject to terms and conditions set forth above;
- Buy and sell such Specified Foreign Sovereign Debt pursuant to agreements for resale or repurchase; and
- Invest in adjustable rate securities that correlate closely to the Secured Overnight Financing Rate, consistent with the provisions of Commission Rule 1.25(b)(2)(iv).

For the reasons set forth above, we believe that that requested relief is consistent with the public interest and the purposes of the Act and the Commission's rules. In particular, such relief will be consistent with the objectives of preserving principal and maintaining liquidity as required under Commission Rule 1.25(b), while permitting DCOs and FCMs to manage more efficiently the investment of customer funds. Further, because the DCOs and FCMs that will take advantage of the relief requested herein will be subject to the continued oversight of the Commission and, in the case of FCMs, the Joint Audit Committee with respect to such activities, the requested relief "will not have a material adverse effect on the ability of the Commission or any contract market . . . to discharge its regulatory or self-regulatory duties under this Act".³⁰

Separately, we ask the Commission to confirm that US Treasury ETFs will be subject to the same capital haircuts as the staff of the SEC currently permits.

²⁸ See, letter from Walt L. Lukken, President and Chief Executive Officer, FIA, to Christopher J. Kirkpatrick, Secretary to the Commission, dated September 14, 2019.

²⁹ *Standards for Covered Clearing Agencies for U.S. Treasury Securities and Application of the Broker-Dealer Customer Protection Rule With Respect to U.S. Treasury Securities*, 87 Fed. Reg. 64610 (Oct. 25, 2022).

³⁰ Act § 4(c)(2).

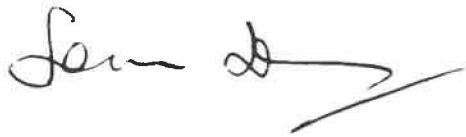
Mr. Christopher J. Kirkpatrick
May 24, 2023
Page 11

If the Commission or the staff have any questions regarding this request for exemption pursuant to section 4(c) of the Act and guidance with regard to other matters discussed herein, please do not hesitate to contact me at 202.466.5460 or alurton@fia.org; or Michael Kobida, Executive Director, Collateral Services, at 312.454.8961 or michael.kobida@cmegroup.com.

Respectfully submitted,



Allison Lurton
General Counsel and Chief Legal Officer
Futures Industry Association



Sean Downey
Managing Director
Clearing CCO, ERO & Policy
M +1 (312) 316-4948
sean.downey@cmegroup.com
CME Group

cc: Rostin Behnam, Chairman
Kristin N. Johnson, Commissioner
Christy Goldsmith Romero, Commissioner
Summer K. Mersinger, Commissioner
Caroline D. Pham, Commissioner
M. Clark Hutchison III, Director, Division of Clearing and Risk
Amanda Olear, Director, Market Participants Division

Enclosure: Appendix 1 and Appendix 2



Appendix 1

Support for Rule 1.25

Specified Sovereign Debt

Expansion



Support for Rule 1.25 Specified Sovereign Debt Expansion

	Canada		Japan		United Kingdom		France		Germany		United States	
	Bills	Short Coupons	Bills	Short Coupons	Bills	Short Coupons	Bills	Short Coupons	Bills	Short Coupons	Bills	Short Coupons
Auction Frequency	<ul style="list-style-type: none"> * 3/6/12mo bill tenors * Bi-monthly auctions: Tuesday auction, Thursday settle * The 6mo and 12mo bills are re-opened every 2 weeks to build liquidity * 3mo tenor is the largest, never new, has more liquidity 	<ul style="list-style-type: none"> * 2yr notes auction is about 4x a quarter * Frequency could change depending on government budget * Less liquid - there is still trading but it would just be more expensive 	<ul style="list-style-type: none"> * 3/6/12mo bill tenors * Weekly auctions, occur every Friday for 3mo * 6mo / twice a month * 12m/ once a month * The 6mo and 12mo bills are less liquid compared to the 3mo bill * Daily volume may be small, as buyers tend to hold to maturity 	<ul style="list-style-type: none"> * 2yr notes auctions occur monthly on month end * Very liquid market for on-the-run 	<ul style="list-style-type: none"> * 1/3/6mo bill tenors * Weekly auctions, occur every Friday 	<ul style="list-style-type: none"> * 5yr auctions are confirmed quarterly, expected to occur every ~4 weeks 	<ul style="list-style-type: none"> * 3/6/12mo bill tenors * Issued weekly on Monday * Very liquid market 	<ul style="list-style-type: none"> * More issuance and more frequently 	<ul style="list-style-type: none"> * Issued weekly and quite liquid 	<ul style="list-style-type: none"> * Very liquid and trade similarly to USTs * Short dated bunds are less frequently quoted in the screens as competitively as other markets, therefore has the widest market 	<ul style="list-style-type: none"> * 4/8/13/26 week and 119 CMB bills are issued weekly * 52 week bill issued every 4 weeks * Cash management bills do not have a regular schedule 	<ul style="list-style-type: none"> * 2yr notes are auctioned monthly
Auction size (in local currency) Primary market (issuance size)	<p>9-12Bn CAD</p> <p>There are bi-weekly auctions (3mo, 6mo, 1yr), which helps keep the current on the run bills liquid</p> <p>6mo and 1yr bills are auctioned twice (once as new and once as reopening)</p>	<p>3Bn CAD, but will depend on government budget</p>	<ul style="list-style-type: none"> * 3mo: 5.7Tn JPY * 6mo: 3.4Tn JPY * 12mo: 3.5Tn JPY 	<p>2.8Tn JPY</p>	<p>Currently £500mm 1mo/£500mm 3mo/£1bn 6m, but size varies</p>	<p>~£3-3.5Bn</p>		<ul style="list-style-type: none"> * Every 5 weeks, there is about 8 yards in supply for 2-8yrs in maturity 	<p>Size varies per tenor, ~€1-2.5Bn</p>	<p>~€4Bn on average for shorter dated securities</p>	<p>Sizes vary based on Treasury financing needs; average since beginning of 2022:</p> <p>4wk: 49Bn USD 8wk: 39Bn USD 13wk: 60Bn USD 26wk: 51Bn USD 52wk: 34Bn USD 119 day CMB: 39Bn USD</p>	
Secondary Market (volume liquidity)	<p>3mo bills are reopening of previously issued bills</p> <p>Average trading volume post When Issued (WI) trading is 1-2Bn CAD</p>		<p>Average 2 week trading volume of JGB is around ¥6Tn with average bid-ask spreads of 1bp.</p> <p>Secondary a lot less liquid. On average, 0-2y trades in ¥300-500Bn a day, or ¥3-5Tn over two weeks</p>		<p>Weekly gilt trading volumes is around ~£140Bn across end user and dealer with ~£40Bn in the front end (<7y)</p> <p>Bills – secondary market is typically thin with <£500mm-£1bn clearing per week depending on outstandings.</p>		<p>Average daily trading volume of OAT futures is around ~€14bn with activity in the underlying cash market significantly less.</p>		<p>Average daily secondary market trading volume of bunds are around historical average of ~€19Bn per day.</p>		<p>Average daily trading volume ~\$157bn for bills and \$94bn for <2yr notes.</p>	



Support for Rule 1.25 Specified Sovereign Debt Expansion

(Continued)

	Canada		Japan		United Kingdom		France		Germany		United States	
	Bills	Short Coupons	Bills	Short Coupons	Bills	Short Coupons	Bills	Short Coupons	Bills	Short Coupons	Bills	Short Coupons
Bid offer spread	0.5-1bp	1-2bps	* 3mo: 1-2bps * 6/12mo: 3-4bps	1bp	2bps	3-4bps	Can vary but for on the run, it is expected to be 1-2bps	3-4.5bps for on the run	~3bps in the screen; ~5bps in the shortest maturity	Dependent on issue	0.5-1bp	on the run: 0.5bp
Auction website	https://www.bankofcanada.ca/markets/government-securities-auctions/calls-for-tenders-and-results/		https://www.mof.go.jp/english/jgbs/auction/calendar/index.htm		https://www.pwlb.gov.uk/data/pdffdatareport?reportCode=D5D		https://www.aft.gouv.fr/en/dernieres-adjudications		https://www.deutsche-finanzagentur.de/en/institutional-investors/primary-market/auction-results/		https://www.treasurydirect.gov/indiv/products/prod_auctions_glance.htm	
Total Outstanding Debt (in USD, as of March 22, 2022 by Bloomberg)	1.196Tn		10.179Tn		2.836Tn		2.452Tn		1.803Tn		24.110Tn	
Total Amount Outstanding for 2yrs or less (in USD of March 22, 2022 by Bloomberg)	454Bn		2.8Tn		360.296Bn		540.514Bn		579.754Bn		10.379Tn	
Pricing	Trading desk uses FIT more than BVAL; FIT may be few bps wider than internal desk's pricing		Trading desk references BGN pricing		Trading desk references BGN pricing, does not use BVAL		Desk uses internal pricing and references external vendor (Tradeweb)		Desk uses internal pricing and references external vendor (Tradeweb)		Desk uses internal pricing and external vendor (Tradeweb), sometimes FIT	
Rating (S&P/Moody's/Fitch)	AAA/Aaa/AA+		A+/A1/A		AA/Aa3/AA-		AA/Aa2/AA		AAA/Aaa/AAA		AA+/Aaa/AAA	
Other Comments	The Bank of Canada participates in weekly repurchases for the short coupons and can buy up to 18mos in duration Market stress in the market recently has obviously made the products slightly less liquid but this is the case across Canada's as a whole and not limited to the front-end.		Bank of Japan participates in weekly repurchases, ~¥500Bn-2.0Tn JGBs relatively liquidity with healthy trading volume and tight bid-ask spreads. BoJ owns ~44% of outstanding with Banks and Insurance Companies owned a combined 34%. Foreign investors own ~50% of the outstanding T-Bill market. BOJ conducts purchasing operation called Rinban with the following amount and frequency for March. They have been reducing the size and frequency since July 2018.		Bills are used more frequently for liquidity compared to short coupons. Gilts relatively liquidity with BOE, Insurance/Pensions, and Overseas investors holding 90% of the market. Trading volume has been relatively stable with gradual increase over the past few years.		Compared to German debt, daily trading volumes for French government securities have been relatively more volatile with significantly smaller notional amounts. Minimal trading in short term OATs.		Among European debt, bunds are one of the most liquid. This is shown from the relatively stable historical trading volume along with tight bid-offer spreads.		Daily trading volumes for U.S Treasuries are stable with very tight bid-ask spreads. Strong liquidity with robust domestic and foreign demand.	

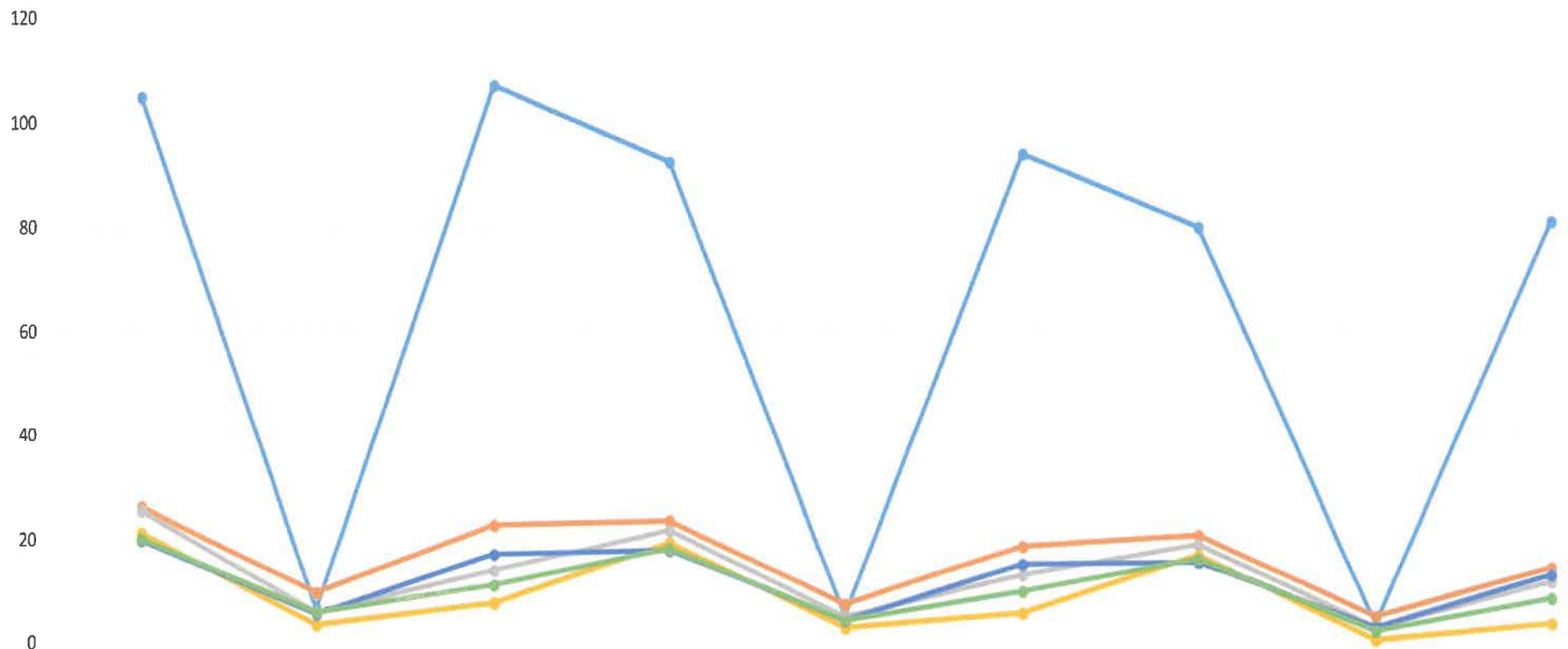


2 Year Sovereign CDS Spreads (April 2018 – April 2023)

Current, Historical & Low - Ask/Mid/Bid Spreads

Country	Ask - Historical High	Ask - Historical Low	Ask - Current Level	Mid - Historical High	Mid - Historical Low	Mid - Current Level	Bid - Historical High	Bid - Historical Low	Bid - Current Level
United States	104.9	6.8	107.23	92.4	5.2	93.96	79.9	3.6	80.69
Canada	26.5	9.7	22.85	23.6	7.3	18.56	20.7	4.8	14.26
France	25.6	6.1	14.14	21.9	5.1	12.86	19.1	2.7	11.58
Germany	21.6	3.6	7.8	19.3	2.7	5.63	17	0.3	3.46
United Kingdom	20.2	5.8	17.29	17.8	4.3	15.19	15.5	2.9	13.1
Japan	20.5	6.1	11.4	18.3	4.2	9.98	16.2	2.1	8.55

Historical Ask/Mid/Bid 2yr Sovereign CDS Spreads from April 2018 to April 2023 and the Current Spreads



Appendix 2 - Total Repurchase and Reverse Repurchase Transactions Against Sovereign Debt as of Mid-2016

Source : The Bank of International Settlements

Size of repo markets Table 1

Jurisdiction	Repo and reverse repo transactions against government bonds (mid-2016)		
	Amounts outstanding (in USD billions)	As a share of global total (in %)	As a share of outstanding government debt securities in jurisdiction (in %)
Euro area	2,800	32	32
United States	2,700	30	16
Japan ¹	2,200	23	21
United Kingdom	900	10	33
Canada	211	2	18
Australia	106	1	18
Mexico	79	1	21
Sweden	74	1	44
Switzerland ²	10	0.1	11
Total	8,800	100	

Only repos against securities issued by the central government are included. Euro area repos include those backed by the central governments of Austria, Belgium, Finland, France, Germany, Italy, the Netherlands and Spain. The global total is defined as the total of the jurisdictions in the table. The numbers may not add up due to rounding.

¹ Includes transactions against non-government bonds; however, most repo transactions in Japan are made against government bond collateral. ² Comprises only repo transactions denominated in Swiss francs against high-quality liquidity asset (HQLA) collateral (which does not exclusively consist of government debt) conducted in Switzerland.

Sources: Bank of England Sterling Money Market Survey (United Kingdom); other national central banks; ICMA Repo Survey (euro area); Tokyo Money Market Survey (Japan); SIFMA (United States); BIS debt securities statistics.

