March 26, 2026

Chairman Michael Selig
Commodity Futures Trading Commission
Three Lafayette Centre - 1155 21st Street, NW
Washington, DC 20581

**VIA EMAIL**

Re.: *Finalizing Amendments to Permit Money Market Funds as Eligible Initial Margin Collateral for Uncleared Swaps*

Dear Chairman Selig:

The Committee on Capital Markets Regulation (the "Committee") writes to recommend that the Commodity Futures Trading Commission ("CFTC") promptly finalize its proposed amendment to the margin requirements for uncleared swaps that would remove the "asset transfer restriction" that disqualifies most government money market funds ("MMFs") from serving as eligible initial margin ("IM"). We further urge the U.S. prudential regulators – the Federal Reserve Board ("Fed"), the Federal Deposit Insurance Corporation ("FDIC"), the Office of the Comptroller of the Currency ("OCC"), the Federal Housing Finance Agency ("FHFA"), and the Farm Credit Administration ("FCA") (collectively, the "Prudential Regulators") to adopt parallel amendments to their own uncleared swap margin rules.

Founded in 2006, the Committee is dedicated to enhancing the competitiveness of U.S. capital markets and ensuring the stability of the U.S. financial system. Our membership includes forty-five leaders drawn from the finance, investment, business, law, accounting, and academic communities. The Committee is chaired jointly by R. Glenn Hubbard (Emeritus Dean, Columbia Business School) and John L. Thornton (Former Chairman, The Brookings Institution) and is led by Hal S. Scott (Emeritus Nomura Professor of International Financial Systems at Harvard Law School and President of the Program on International Financial Systems). The Committee is an independent and nonpartisan 501(c)(3) research organization, financed by contributions from individuals, foundations, and corporations.

**Introduction**

Collateral is a central risk-management tool in the swaps market. In uncleared swaps, counterparties exchange initial margin to protect against potential future exposure in the event of a counterparty default, thus serving as a buffer that reduces counterparty credit risk. Since every uncleared swap transaction requires initial margin, the form and availability of eligible collateral play a critical role. In addition to cash, certain types of high-quality (i.e. safe and liquid) non-cash securities are also permitted to be used as eligible collateral, including securities issued by the U.S.

government (e.g. Treasuries) or certain other sovereign entities, certain publicly traded debt and equity securities, gold and shares of government money market funds ("MMFs"). Government MMFs are those funds that invest exclusively in securities issued either by the U.S. Treasury or certain other sovereign entities.[1]

However, while the CFTC's current margin rules for uncleared swaps technically permit the use of government MMFs as eligible collateral, such use is limited to government MMFs that do not engage in repurchase agreements ("repos") or securities lending transactions – the so-called asset transfer restriction. Since most MMFs engage in repo transactions as part of prudent portfolio management, the asset transfer restriction effectively excludes the majority of government MMFs from use as initial margin collateral. As result, while the CFTC's margin rules attempted to permit government MMFs as eligible collateral, the asset transfer restriction has had the consequence of barring a substantial portion of MMFs.[2]

The CFTC's Global Markets Advisory Committee ("GMAC") examined this issue and recommended in its 2020 report ("GMAC Report") that the CFTC eliminate the asset transfer restriction.[3] Following this recommendation, the CFTC proposed in August 2023 to eliminate the asset transfer restriction (the "Proposed Rule") but has yet to finalize the rule. We are encouraged by the CFTC's inclusion of the Proposed Rule in its Spring 2025 Semiannual Regulatory Agenda and strongly believe that the rule should be finalized without further delay.[4] As explained below, the asset transfer restriction was never intended to disqualify a substantial portion of the government MMF market. Finalizing the Proposed Rule would restore the margin regulation to its original purpose and deliver meaningful benefits to swaps markets and their participants.

Importantly, the CFTC margin rules only apply to non-banks, as the margin rules for banks are governed by the U.S. Prudential Regulators, who have promulgated a similar asset transfer restriction.[5] Therefore, we further believe that parallel action by the Prudential Regulators to

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[1] COMMODITY FUTURES TRADING COMMISSION, *Forms of Margin*, 17 CFR 23.156, https://www.ecfr.gov/current/title-17/part-23/section-23.156.

Other sovereign entities include the European Central Bank and sovereignties that are assigned no higher than a 20 percent risk weight under applicable capital rules.

[2] *See generally*, GLOBAL MARKETS ADVISORY COMMITTEE, *Recommendations to Improve Scoping and Implementation of Initial Margin Requirements for Non-Cleared Swaps* (May 19, 2020) (hereinafter, "**GMAC Report**").

[3] *Id*.

[4] OFFICE OF INFORMATION AND REGULATORY AFFAIRS, *Spring 2025 Unified Agenda of Regulatory and Deregulatory Actions: Actions by Commodity Futures Trading Commission*, www.reginfo.gov/public/do/eAgendaMain?agencyCd=3038 (last visited Mar. 26, 2026).

[5] COMMODITY FUTURES TRADING COMMISSION, *Margin Requirements for Uncleared Swaps for Swap Dealers and Major Swap Participants*, 88 FR 53409, 53409 (Aug. 8, 2023), https://www.federalregister.gov/documents/2023/08/08/2023-16572/margin-requirements-for-uncleared-swaps-for-swap-dealers-and-major-swap-participants (hereinafter, "**Proposed Rule**") (noting that the margin rules promulgated

eliminate the restriction on MMFs is essential to ensure consistency, efficiency, and competitiveness across U.S. derivatives markets.

Part I of this letter explains why the CFTC now considers the restriction unnecessary given the unintended consequences. Part II explains why removing the restriction is sound policy that would expand eligible collateral and confer multiple benefits. Part III explains why coordinated action by the Prudential Regulators is necessary.

## I. The Restriction Is Unnecessary Given its Unintended Consequences

The original margin framework for uncleared swaps was designed to permit high-quality, liquid non-cash collateral as an alternative to cash, specifically including government MMFs as eligible collateral.[6] However, the CFTC was concerned about repo activities conducted by government MMFs, whereby the MMF increases returns by lending out cash on a short-term collateralized basis. The CFTC worried that a default by the MMF's repo counterparty may impose losses on the MMF, eroding the value of the MMF shares, and potentially compromising the ability of the MMF to meet redemption requests.[7] The asset transfer restriction prohibiting such repo transactions was enacted as a safeguard against these concerns.

The CFTC did not intend the asset transfer restriction to operate as a broad disqualification of government MMFs.[8] In adopting the margin framework, the CFTC emphasized that allowing government MMFs as eligible collateral would "provide flexibility while maintaining a level of safety," reflecting a clear expectation that such funds would be used in practice.[9] The CFTC has since acknowledged, however, that the asset transfer restriction has had the unintended consequence of "disqualif[ying] the securities of most MMFs and significantly restrict[ing] the ability of swap counterparties to use such form of collateral."[10]

The CFTC therefore re-evaluated the necessity of the asset transfer restriction and determined that existing regulatory safeguards are sufficient without it. As the Proposed Rule explains, the liquidity

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by the prudential regulators are "substantially similar to the CFTC [m]argin [r]ule."); For the prudential regulators' margin rule, *see* OFFICE OF THE COMPTROLLER OF THE CURRENCY et al., *Margin and Capital Requirements for Covered Swap Entities*, 80 FR 74,840 (Nov. 30, 2015), https://www.federalregister.gov/documents/2015/11/30/2015-28671/margin-and-capital-requirements-for-covered-swap-entities.

[6] *See* COMMODITY FUTURES TRADING COMMISSION, *Margin Requirements for Uncleared Swaps for Swap Dealers and Major Swap Participants*, 81 FR 636 (Jan. 6, 2016), https://www.federalregister.gov/documents/2016/01/06/2015-32320/margin-requirements-for-uncleared-swaps-for-swap-dealers-and-major-swap-participants.

[7] This example is detailed in the Proposed Rule at 53418.

[8] Proposed Rule at 53417 (noting that "unless the restriction is eliminated, this form of margin collateral would be of very limited availability to swaps counterparties, contrary to the intent of the Commission.")

[9] Proposed Rule at 53416.

[10] *Id*.

and value of government MMF shares are already protected by strict portfolio requirements that limit investments to cash and securities backed by the U.S. Treasury, the European Central Bank, or other qualifying sovereign entities.[11] In addition, repo agreements entered into by MMFs are short-term and typically overcollateralized, often at or above 102%, providing an additional margin of safety.[12] Swap counterparties must also monitor the value of collateral and post or collect additional eligible collateral to compensate for any deficiencies that arise due to valuation changes.[13]

Recent market reforms also reduce potential concerns about MMF repo activity. In particular, reforms promoting expanded central clearing in U.S. Treasury repo markets, together with the Fixed Income Clearing Corporation's ("FICC") Collateral in Lieu model for cash investors, reflect a broader shift toward addressing repo-related counterparty and operational risks through clearing architecture and other risk-management tools.[14] Finally, any potential risks to the valuation or liquidity of MMF collateral arising from repo activity are already addressed through existing risk management obligations. In particular, current CFTC rules require swap market participants to maintain risk management programs designed to manage valuation and liquidity risks associated with non-cash collateral, thereby encompassing the types of concerns that may be raised by MMF repo practices.[15]

Recent episodes of market stress provide evidence of the resilience and stability of government MMFs. For example, during the COVID-19 market disruption in March 2020, government MMFs experienced substantial inflows (e.g. more than $800 billion of inflows in March 2020), demonstrating their role as liquidity havens rather than sources of instability.[16] The risks historically associated with MMFs, including those occurring during the 2008-2009 global

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[11] Proposed Rule at 53418.

[12] *Id*.

[13] *Id*.

[14] *See* SECURITIES AND EXCHANGE COMMISSION, *SEC Adopts Rules to Improve Risk Management in Clearance and Settlement and Facilitate Additional Central Clearing for the U.S. Treasury Market* (Dec. 13, 2023), https://www.sec.gov/newsroom/press-releases/2023-247; *see also* DEPOSITORY TRUST & CLEARING CORPORATION, *FICC GSD Sponsored GC Service Expansion Frequently Asked Questions (FAQs)* at 3–4 (Sept. 2025), https://www.dtcc.com/USTclearing/-/media/Files/Downloads/Microsites/Treasury-Clearing/FICC-GSD-Sponsored-GC-Service-Expansion-FAQ.pdf (describing the proposed "Collateral in Lieu" service, under which a cash investor would permit FICC to take a targeted lien on U.S. Treasury collateral, with the service designed to facilitate greater access to central clearing and reduce double-margining concerns).

[15] COMMODITY FUTURES TRADING COMMISSION, *Risk Management Program for Swap Dealers and Major Swap Participants*, 17 CFR 23.600, https://www.ecfr.gov/current/title-17/part-23/section-23.600.

[16] INVESTMENT COMPANY INSTITUTE, *Experiences of US Money Market Funds During the Covid-19 Crisis* (Nov. 2020), https://www.ici.org/system/files/private/2021-04/20_rpt_covid3.pdf.

financial crisis, arose due to prime MMF investments in non-government assets such as commercial paper, which would remain ineligible under the CFTC's proposal.[17]

Finally, government MMFs have been recognized by the CFTC as safe, high-quality assets in the context of other derivatives regulations, including cleared markets. For example, the GMAC Report notes that CFTC regulations permit futures commission merchants ("FCMs") to invest customer margin in government MMFs without a similar asset transfer restriction.[18] Eliminating the asset transfer restriction would thus bring the uncleared margin framework into closer alignment with the cleared margin framework.[19] CME Clearing, for example, accepts select government MMFs as collateral for certain cleared swaps requirements, subject to standard haircuts and concentration limits.[20]

Overall, we agree with the CFTC's conclusion that "[g]iven these safeguards and the recognition that the asset transfer restriction is severely limiting the use of money market and similar fund securities as collateral…it is appropriate to eliminate the asset transfer restriction."[21]

## II. Removing the Restriction Confers Multiple Benefits

Eliminating the asset transfer restriction would confer multiple benefits on financial markets and market participants, stemming from a significant expansion of the supply of high-quality collateral available for uncleared swaps. According to the Investment Company Institute ("ICI"), as of July 2023, the asset transfer restriction limited the scope of eligible MMF collateral to 21 funds, collectively holding $649 billion in net assets.[22] Based on the ICI's estimates, removing the restriction would expand the pool of eligible collateral by nearly $700 billion to $1.348 trillion in net assets, more than doubling the MMF assets available for use as margin collateral.[23] This significant expansion of eligible government MMFs would increase returns for both swap counterparties and MMFs, while also lowering concentration risk.

*Increased returns for swap counterparties and MMFs*

Government MMFs commonly engage in repo transactions to generate additional yield, so expanding the pool of eligible MMFs to include such funds would allow swap counterparties to

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[17] *See* SIFMA, SIFMA AMG & ISDA, *Comment Letter on Margin Requirements for Uncleared Swaps for Swap Dealers and Major Swap Participants* (Oct. 10, 2023), https://www.sifma.org/advocacy/letters/margin-requirements-for-uncleared-swaps-for-swap-dealers-and-major-swap-participants-sifma-sifma-amg-and-isda.

[18] GMAC Report at 26.

[19] *Id*.

[20] CME GROUP, *Acceptable Collateral*, https://www.cmegroup.com/solutions/clearing/financial-and-collateral-management/acceptable-collateral.html (last visited Mar. 26, 2026).

[21] Proposed Rule.

[22] INVESTMENT COMPANY INSTITUTE, *Comment Letter on Margin Requirements for Uncleared Swaps for Swap Dealers and Major Swap Participants* (Oct. 10, 2023), https://www.ici.org/letters/23-cl-umr-proposal.

[23] *Id*.

earn higher returns on pledged collateral, directly benefitting swap end users (e.g., pension funds, insurance companies and asset managers).[24] In addition, government MMFs may benefit from the increased flexibility to engage in transactions that are in the best interest of the fund, including maximizing returns and managing fund liquidity, without forgoing investment dollars from swap market participants.[25]

*Reduced concentration risk*

The GMAC Report and CFTC Proposed Rule highlight the concentration risks that arise due to the asset transfer restriction.[26] By limiting eligible collateral to a limited number of qualifying MMFs, the current rule concentrates collateral in a few vehicles, creating avoidable concentration risk. A significant expansion of the pool of eligible collateral that would result from eliminating the asset transfer restriction would substantially diminish concentration risks and promote diversification of collateral.

## III. Parallel Action by Prudential Regulators Is Essential

Banks commonly participate in swap markets as dealers, intermediating transactions with end users.[27] When a bank-affiliated swap dealer is the party collecting the initial margin, the prudential regulators' margin rules govern the eligibility of collateral. As a result, even if the CFTC were to eliminate the asset transfer restriction, government MMFs would remain ineligible in transactions involving bank-regulated dealers, unless the Prudential Regulators adopt a parallel amendment. Absent such action, government MMFs would remain effectively unusable for a substantial portion of the uncleared swaps market.

Divergence of collateral regimes between non-banks and banks would fragment the market, complicating collateral management and increasing operational costs for swap end users. Since market participants routinely transact with both bank and non-bank counterparties, inconsistent collateral rules would necessitate the management of two separate schedules of permissible collateral, imposing additional operational costs and undermining the efficiency and effectiveness of the margin framework.[28] In addition, the regulatory divergence would create an uneven playing field that disadvantages banks, potentially driving swap activity toward non-bank dealers solely due to regulatory arbitrage rather than fundamental economic reasons. Therefore, it is critical that the Prudential Regulators also eliminate the asset transfer restriction.

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[24] *See* Proposed Rule at 53423.
[25] Proposed Rule at 53426.
[26] GMAC Report; Proposed Rule at 53417.
[27] *See* CONGRESSIONAL RESEARCH SERVICE, *Derivatives Trading in U.S. Banking* (Oct. 17, 2024), https://www.congress.gov/crs-product/IF12786 (noting that "[m]ajor swap dealers are often affiliates of large banks.").
[28] *See* Proposed Rule at 53423.

## IV. Conclusion

The asset transfer restriction on government MMFs undermines the efficiency of the uncleared swaps margin and imposes unnecessary costs on financial market participants. Removing it would expand access to high-quality collateral, increase returns and reduce concentration risk, without increasing systemic risk.

For these reasons, the Committee urges the CFTC to promptly finalize its proposal to eliminate the asset transfer restriction and urges the Prudential Regulators to adopt parallel changes to their margin rules. Doing so would strengthen the resilience and competitiveness of U.S. derivatives markets while preserving the core safeguards established in the post-crisis reform framework.

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Thank you very much for your consideration of the Committee's position. Should you have any questions or concerns, please do not hesitate to contact the Committee's President, Professor Hal S. Scott (hscott@capmktsreg.org) or its Executive Director, John Gulliver (jgulliver@capmktsreg.org) at your convenience.

Respectfully submitted,

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| John L. Thornton | Hal S. Scott | R. Glenn Hubbard |
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