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May 21, 2025

Mr. Christopher Kirkpatrick
Secretary of the Commission
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street NW
Washington, DC 20581

Via Electronic Submission

Re: Request for Comment on Perpetual Derivatives

Dear Mr. Kirkpatrick,

The Commodity Markets Council (CMC) appreciates the opportunity to respond to the Commodity Futures Trading Commission's (CFTC) Request for Comment regarding perpetual contracts in derivatives markets. CMC represents major commercial end-users of derivatives across the agriculture, energy, and natural resource sectors. Our members depend on stable and well-functioning derivatives markets to hedge risk and support price discovery.

CMC strongly believes that introducing perpetual derivatives into traditional commodity markets, particularly in agriculture and energy, would be inconsistent with the risk management and price discovery functions of the U.S. futures markets and could undermine existing safeguards and market integrity. CMC takes no position on the application of perpetual derivatives to digital asset markets.

Below, we respond to the Commission's specific questions.

Responses to Commission's Specific Questions

I. What is an appropriate working definition of "perpetual derivative?"
   a. A perpetual derivative is a derivative contract without a fixed maturity or expiration date, where settlement is typically achieved through frequent (often continuous) cash flows tied to an index price, such as a funding rate mechanism.
   b. A general taxonomy might include:
      i. *Perpetual swaps:* Non-deliverable contracts settled continuously via funding payments.
      ii. *Perpetual futures:* Futures-like instruments lacking expiration, often settled through price convergence mechanisms.
      iii. *Perpetual options:* Options with no expiration but subject to path-dependent triggers. Key characteristics include continuous repricing, no expiry, reliance on an index price, and margining.
   c. Perpetual futures are distinct in that they mimic futures contracts (including leverage and margining), but unlike traditional futures, they do not converge with a deliverable or spot price at maturity because there is none. This undermines the basis relationship fundamental to traditional commodity hedging.

II. Would Perpetual Derivatives provide commercial risk management features not met by current products?
   a. No. Commercial hedgers in agriculture and energy rely on instruments with defined expiries that converge with physical markets. Perpetual derivatives offer no added risk management functionality beyond existing futures and swaps. Their reliance on synthetic pricing mechanisms (e.g., funding rates) decouples them from physical supply and demand.

III. Do Perpetual Derivatives pose unique risks?
   a. Yes. Risks include:
      i. Decoupling from physical market fundamentals;
      ii. Difficulty in managing long-term exposures due to lack of expiry;
      iii. Price distortion from funding mechanisms; and
      iv. Greater susceptibility to speculative bubbles.
   b. Safeguards such as enhanced margin requirements or volatility controls may not sufficiently mitigate systemic or structural risks to commercial markets.

IV. Are current risk disclosures adequate?
   a. No. The unique risks of perpetual derivatives—particularly the lack of convergence, funding rate volatility, and heightened leverage—necessitate specialized disclosures. Customers must be explicitly warned of differences from traditional futures, including the inability to hedge physical delivery risks effectively.

V. Do Perpetual Derivatives pose risks in physical commodity markets?
    a. Yes. In physical commodities, the lack of expiration date eliminates convergence with the cash market, which is essential for hedging agricultural production cycles, harvest timelines, and storage-driven seasonality. Energy markets similarly depend on expiry-aligned hedges (e.g., for refinery operations).

VI. Do Perpetual Derivatives raise manipulation concerns?
    a. Yes. The use of funding rates and synthetic indexes presents new manipulation vectors, including index price spoofing and front-running. Traditional price convergence mechanisms are absent.
        i. Protections might include requiring public transparency of index construction and independent oversight.
        ii. The Commission should issue guidance defining perpetuals and clarifying their regulatory treatment, particularly whether they should be listed as swaps or futures.
        iii. Conflicts of interest may arise when exchanges design and administer index rates while listing contracts dependent on them.

VII. Do Perpetual Derivatives raise unique surveillance concerns?
    a. Yes. Without expiry, positions can be rolled indefinitely, obscuring buildup of extreme exposure. Surveillance tools that rely on expiration cycles (e.g., position limits, convergence analysis) may become ineffective.

VIII. Do Perpetual Derivatives threaten the liquidity or usefulness of traditional futures?
    a. Yes. Introduction of perpetuals may siphon liquidity from dated contracts, reducing the efficiency of established markets. Commercial hedgers may face wider spreads and reduced participation in key expiries.

IX. What is the likely user base for Perpetual Derivatives?
    a. Likely users include proprietary trading firms, high-frequency traders, crypto-native funds, and retail speculators. These contracts are attractive for short-term trading and arbitrage strategies, not long-term risk management.

X. Are traditional market participants likely to participate?
    a. Many traditional participants, especially commercials and asset managers, are unlikely to engage. Without convergence and expiration, these products do not suit their hedging needs. If speculative firms dominate and natural hedgers do not, market quality may decline, and volatility may increase.

XI. Do Perpetual Derivatives promote price discovery or risk mitigation?
    a. Not in traditional commodities. Lacking ties to physical flows, perpetuals offer poor price discovery and no practical use for managing inventory, production, or input price volatility. They are more suitable to synthetic assets or markets without delivery.

XII. What arbitrage or convergence opportunities exist?
    a. Because perpetuals do not expire, traditional convergence does not occur. Arbitrage may exist between perpetuals and spot prices via funding rate dynamics, but this is speculative rather than grounded in physical flows. There is no meaningful delivery-based arbitrage.

XIII. Should Perpetual Derivatives be classified as swaps or futures?
    a. That depends on structure. Many perpetual contracts resemble swaps in their continuous cash settlement features. However, if exchange-traded with daily margining, they may function like futures. Clarification is essential to avoid regulatory uncertainty.

XIV. Are they consistent with the futures contract model?
    a. No. Futures contracts are defined by a specific expiry and convergence with underlying value at that date. Perpetuals violate this principle. Their synthetic pricing breaks the core foundation of the futures market's economic utility.

XV. Do Perpetual Derivatives increase customer default risk?
    a. Yes. The reliance on high leverage and volatile funding rates increases the likelihood of rapid losses and defaults. This, in turn, increases the risk of systemic impact or contagion, particularly if exposure is not capped or subject to frequent risk checks.

XVI. Do they raise unique issues in FCM or DCO insolvency?
    a. Yes. In a perpetual market, positions may not be easily liquidated due to the lack of maturity and convergence. Funding rate volatility and unclear valuation make netting and loss allocation more complex in insolvency scenarios. The current Part 190 framework may be insufficient without updates.

Conclusion

CMC urges the Commission to exercise extreme caution in considering any introduction of perpetual derivatives into traditional agricultural or energy markets. These instruments are not structured to serve the needs of physical hedgers or price discovery functions. While they may be suitable in digital asset environments, their presence in physical commodity markets could erode long-standing protections, impair liquidity, and destabilize the futures ecosystem. Before permitting perpetual contracts in traditional futures markets, the Commission should engage in formal study and rulemaking to determine all of the risks to market quality, liquidity, and price formation and to make sure that all new risks introduced to the market from these products are adequately addressed.

We appreciate the Commission's thoughtful approach and stand ready to further assist in evaluating this matter.

Sincerely,

Dr. James E. Newsome

President
Commodity Markets Council