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May 23, 2025

BY ELECTRONIC SUBMISSION

Christopher J. Kirkpatrick, Secretary
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, N.W.
Washington, D.C. 20581

Re:	Request for Comment on the Trading and Clearing of "Perpetual" Style Derivatives

Dear Mr. Kirkpatrick,

Trek Labs, Inc., d/b/a Backpack Exchange ("Backpack") is pleased to have the opportunity to submit these comments in response to the request by the Commodity Futures Trading Commission ("CFTC" or "Commission") for comments related to perpetual derivatives contracts, challenges that perpetual futures may pose in CFTC-regulated markets, and the means of addressing those challenges (the "RFC").[1] Backpack commends the release of the RFC, as it signals an openness to products that have long been in demand by many in the United States.

Although perpetual futures contracts offer several advantages as compared to traditional dated futures with fixed expiration dates, the absence of appropriate regulatory frameworks for trading them in many jurisdictions has caused this global demand to flow to unregulated trading venues that, unfortunately, can be more susceptible to manipulation and market abuse. We at Backpack believe that this global market dynamic will meaningfully change when the U.S. finalizes a comprehensive licensing framework for the trading of perpetuals on regulated exchanges overseen by the CFTC, which would allow liquidity in these instruments to form on those venues. Backpack therefore urges the Commission to permit perpetual futures to be traded on designated contract markets ("DCMs"), which offer the highest degree of protection to market participants.[2]

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[1] *See Trading and Clearing of "Perpetual" Style Derivatives*, (Apr. 21, 2025), available at https://www.cftc.gov/PressRoom/PressReleases/9069-25.

[2] Backpack also encourages the Commission to allow trading of perpetual futures contracts on foreign boards of trade ("FBOTs") that satisfy the requirements of Section 4(b) of the Commodity Exchange Act ("CEA"), 7 U.S.C. 6(b), and Part 48 of the Commission's regulations, 17 C.F.R. Part 48.

I. BACKGROUND ON BACKPACK

Backpack is a fully regulated global cryptocurrency exchange founded in 2023. Backpack launched its exchange platform in November 2023, after receiving the Virtual Asset Service Provider ("VASP") License from the Dubai Virtual Asset Regulatory Authority ("VARA"). In addition, Backpack is a registered Money Services Business (MSB) and holds various licenses in the U.S.[3], Australia, UAE, European Union, and other jurisdictions. In December 2024, Backpack was accepted as a Type 2 member of the Japan Virtual Currency Exchange Association (JVCEA). Backpack recently achieved over $100 billion in trading volume, serves customers in over 150 countries, and has completed over 500 million transactions.[4]

II. CHARACTERISTICS AND ADVANTAGES OF PERPETUAL DERIVATIVES

A perpetual derivative is a type of financial instrument that: (1) derives its value from an underlying financial instrument or asset (such as an index or interest rate); (2) does not have a fixed expiration date; and (3) includes a mechanism – typically a funding rate – that helps maintain price alignment with the underlying's spot market. These contracts are designed to mirror the pricing of traditional futures but without a fixed expiration date, with funding payments exchanged between long and short positions to keep the contract price aligned with the spot price of the underlying. Today, perpetual derivatives generally accounts for a large majority of global crypto trading volume, and are the most liquid trading markets in the crypto industry.

Backpack recommends that a taxonomy for perpetual derivatives should include these key features, and the Commission otherwise should avoid the perils of seeking to shoehorn perpetual derivatives into specific product categories. Perpetuals clearly fall within the ambit of the Commodity Exchange Act and the Commission's jurisdiction. Instead, the Commission's goal should be to provide guidance on how DCMs can compliantly list perpetual derivatives – once achieved, this goal would afford U.S. market participants access to one of the hallmark trading products in the crypto-asset ecosystem today, on venues with the highest standards of compliance that in turn optimize market integrity.

For crypto-asset trading markets, most liquidity on a global basis is in perpetual futures as opposed to traditional, dated futures contracts. These markets have evolved in this way because perpetual futures offer several advantages that distinguish them from traditional futures contracts.

First, the absence of an expiration date eliminates the complexities and market distortions associated with periodic contract expiries, which can force market participants to roll their positions. With perpetuals, market participants can gain exposure to asset price movements

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[3] Backpack is registered with the U.S. Department of Treasury's Financial Crimes Enforcement Network (FinCEN) (Registration Number: 31000294058979), as well as the states of Iowa and Missouri. Backpack is currently seeking Money Transmitter Licenses (or other State equivalent licensure) in all U.S. States and territories where a license is required to offer virtual asset exchange services.

[4] *A Brief History of Backpack*, BACKPACK, https://learn.backpack.exchange/blog/a-brief-history-of-backpack (last accessed May 23, 2025).

without dealing with the operational burdens and costs associated with acquiring the underlying asset at some predetermined date. This feature simplifies trading for participants and is particularly valuable for hedgers and long-term traders who can pass on these efficiencies to end users, rather than conversely pay them in the form of rents to exchanges that only list traditional futures that must be closed (or rolled).

Second, perpetuals increase liquidity and foster faster execution rates. Unlike traditional futures contracts, where liquidity is fragmented across various expiry dates, perpetual futures consolidate trading activity into a single, continuous market. This consolidation leads to tighter bid-ask spreads and more efficient price discovery. The continuous nature of these instruments also supports faster trade execution, allowing market participants to enter and exit positions without having to manage contract rollovers. This streamlined process enhances overall market responsiveness and reduces transactional friction.

It is worth noting that virtually all liquidity in perpetuals markets forms on global markets that operate 24/7. While not a product-design feature of perpetuals per se, nonetheless this round-the-clock availability facilitates participation from traders worldwide, improving liquidity and deepening the overall market.

Third and finally, the funding rate mechanism efficiently ensures more-frequent and smoother convergence of the perpetual's price with the underlying's spot price, unlike dated futures where convergence only happens at the expiration of the contract. The funding rate also enables liquidity providers to earn a yield and supports basis trades. And it serves as a real-time gauge of market sentiment – for example, a positive funding rate generally reflects bullish market expectations, while a negative rate indicates bearish sentiment.

III. PERPETUAL DERIVATIVES PRESENT POTENTIAL RISKS THAT CAN BE MITIGATED THROUGH TRADING IN A REGULATED ENVIRONMENT

Today, an overwhelming majority of trading in perpetual futures occurs on trading venues without regulatory oversight comparable to those for DCMs, which can create vulnerabilities to market manipulation and other abusive trading practices, leaving market participants – particularly retail users – at risk. The surveillance obligations and other regulatory standards required of DCMs are essential to address these concerns. Allowing DCMs to list perpetuals based on industry-standard, benchmark-index providers will build liquidity on properly surveilled platforms that are subject to the exchange's full set of self-regulatory obligations under the CEA, as well as the Commission's oversight resources.

The underlying crypto-asset marketplace can also pose unique risks unlike traditional physical commodities or energy markets that can carry through to related synthetic trading instruments like perpetuals without appropriate risk management. For example, most underlying crypto assets when first issued can be centralized and relatively concentrated in their ownership, but which gradually can become decentralized over time. Greater centralization of ownership at the time of issuance creates greater susceptibility to a risk of price manipulation and market distortion in the trading of that asset. Listing perpetuals on DCMs would address this challenge: to satisfy its statutory responsibility under the CEA's core principle not to list contracts that are readily susceptible to manipulation,[5] a DCM would need to understand the total circulation of the asset referenced by the perpetual future, and the degree to which that circulation is centralized in a small or large number of asset or token holders.

In addition, the global nature of perpetual futures involving participants from numerous jurisdictions, while fundamentally an advantage, is not without risk where the degree of regulatory oversight varies. This can make enforcement of anti-manipulation measures challenging, and necessitates robust international cooperation. Allowing DCMs to list these contracts and thereby draw liquidity to CFTC-supervised exchanges would enable better and broader protections from manipulative practices, both from the exchanges' information-sharing and surveillance with respect to spot trading platforms and from the Commission's robust program of international coordination and cooperation with its counterparts in other jurisdictions.

Funding rates also can pose unique risks. While they are essential for perpetual and spot price alignment, they can be subject to manipulation, especially in thinly traded markets. In fulfilling their self-regulatory obligations, exchanges that list perpetuals would need to monitor funding rates as well as benchmark index, and implement safeguards to mitigate this risk.

IV. DCMs' Diverse Participants Will Foster Liquidity for Perpetuals

Trading perpetual futures on regulated DCMs can be expected to foster a diverse user base, including retail traders, institutional participants, and market makers. Such broad participation significantly enhances both market resilience and liquidity. A diverse mix of participants helps to reduce concentration risk by preventing the market from being overly influenced by limited categories of trader. It also contributes to more robust and efficient price discovery, as differing strategies and risk appetites interact to create a more accurate reflection of asset value. The result is a healthier, more balanced market environment that is more attractive to all participants. This diversity also increases overall trading volume and depth, further stabilizing the market during periods of volatility.

V. Classifying Perpetuals as Futures Contracts vs. Swaps

As indicated above, Backpack recommends avoiding overly technical efforts to place perpetuals within pre-defined product definitions familiar to the Commission. Instead, the Commission should focus on the goal of creating a taxonomy that allows perpetuals to be listed by the most highly supervised trading venues, DCMs. In any case, perpetuals align closely with futures due to their margining, continuous settlement, and market structure. Further, the characteristics of perpetuals described above are consistent with the CFTC's traditional view of the nature of futures contracts. While perpetuals share some features with swaps, they can be

[5] CEA Section 5(d)(3), 7 U.S.C. § 7(d)(3).

standardized, exchange traded, with continuous mark-to-market risk management, all of which render them suitable for listing by a DCM. Equally important, as noted above, perpetuals are considered futures contracts in current trading around the world; for the CFTC to treat them as swaps would place DCMs at a competitive disadvantage and perpetuate the fragmentation of global liquidity by incentivizing the trading of perpetuals outside the CFTC's regulatory framework.

VI. CONCLUSION

Backpack urges the CFTC to provide clear guidance that the Commission and its Staff treat perpetuals as futures and that they may be listed by regulated DCMs, subject to the guardrails and protections embedded in the CEA and the Commission's regulations. This is necessary to ensure safe trading by U.S. retail users. Backpack appreciates the issuance of the RFC and the chance to provide input. If there are any questions regarding these comments, or if we can provide further assistance on a going forward basis, please contact Can Sun at can@backpack.exchange.

Respectfully submitted,

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