CFTC Adopts Final Rule Easing Uncleared Swaps Margin Requirements for Seeded Funds and Expanding Eligible Collateral

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On July 15, 2026, the Commodity Futures Trading Commission ("CFTC") amended its margin rules for uncleared swaps applicable to swap dealers and major swap participants ("covered swap entities" or "CSEs") not subject to the margin rules of a prudential regulator (the "Amendment").[1] The Amendment, which has particular significance for sponsors, asset managers, and seeded funds, takes effect August 17, 2026, and makes three principal changes: (1) it creates a limited "eligible seeded fund" exception that relieves swap dealers and major swap participants from posting and collecting initial margin ("IM") with certain eligible seeded funds for up to three years ("Seeded Funds Amendment"); (2) it eliminates a restriction that had disqualified most money market fund securities from serving as eligible IM collateral for uncleared swaps ("Eligible Collateral Amendment"); and (3) it revises the haircut schedule for uncleared swaps to address the haircuts applicable to money market and similar funds ("Haircut Schedule Amendment"). The Amendment does not eliminate variation margin ("VM") requirements for seeded funds. This alert summarizes the key provisions of the Amendment and their implications for funds and their sponsors.

Background

Under the CFTC Rules 23.150 through 23.161 (the "CFTC Margin Rule"), adopted in 2016, CSEs must collect and post IM with certain counterparties, including US investment funds that are "financial end users"[2] with "material swap exposure."[3] A fund is treated as a "margin affiliate" of its sponsor when accounting consolidation principles require the fund's financials to be reported on a consolidated basis with the sponsor, which is typically the case during a fund's early "seeding period" when the sponsor holds most or all of the fund's ownership interest.

Because affiliate exposure is aggregated for threshold purposes, a small-seeded fund could be pulled into IM requirements based on the trading activity of its sponsor's broader group, even though the fund's own trading activity is minimal. Industry groups, through the CFTC's Global Markets Advisory Committee ("GMAC") Subcommittee, argued in a May 2020 report (the "Margin Subcommittee Report") that this treatment imposed disproportionate costs on seeded funds and put US seeded funds at a competitive disadvantage relative to non-US seeded funds which do not require this consolidation. Why did this matter in practice? Because seeded funds are often small at formation, IM operational build (custody, documentation, eligibility determinations, and monitoring) could meaningfully affect a seeded fund's ability to test strategies and establish a track record during the seeding period.

Seeded Funds Amendment

The Amendment revises the definition of "margin affiliate" in CFTC Rule 23.151 to add an "eligible seeded fund exception." The definition of "margin affiliate," as revised, provides that until the date that is three years from the date the fund's asset manager begins making investments on the fund's behalf (the "trading inception date"), an eligible seeded fund will be deemed not to have any margin affiliates and not to constitute a margin affiliate of any other entity. To qualify as an "eligible seeded fund," a fund must satisfy the following conditions:

- It must be a distinct legal entity from each sponsor entity;[4]
- It must be managed by an asset manager under an agreement requiring management in accordance with a specified written investment strategy;

- The fund's asset manager must have independence in carrying out its management responsibilities and exercising its investment discretion, and to the extent applicable, has independent fiduciary duties to the fund and other investors, such that no sponsor entity or its margin affiliates (other than the asset manager acting in its management capacity) controls or has transparency into the fund's management or trading;
- In respect of any of its obligations, it must not be collateralized, guaranteed, or otherwise supported, directly or indirectly, by any sponsor entity, sponsor margin affiliate, other collective investment vehicle, or the fund's own asset manager;
- It must not have received assets, directly or indirectly, from another eligible seeded fund that has relied on the exception; and
- It must not be a securitization vehicle.

These conditions are now codified in CFTC Rule 23.151. Notably, the CFTC dropped two conditions from its original proposal, which would have required: (i) that one or more of the seeded fund's margin affiliates is required to post and collect initial margin pursuant to Rule 23.152 IM ("Proposed Condition 2"), and (ii) that the seeded fund's investment strategy follows a written plan for reducing each sponsor entity's ownership interest in the seeded fund that stipulates divestiture targets over the three-year period after the date on which the seeded fund's asset manager first begins to make investments on behalf of the fund ("Proposed Condition 5"). Proposed Condition 2 was intended to target seeded funds that become subject to the requirement to exchange IM due to the seeded fund's affiliation with entities that are already required to post and collect IM with CSEs. However, the CFTC agreed with comments that the condition may lead to disparate treatment between seeded funds depending on the composition of their corporate group and determined that the other conditions would be sufficient to ensure that only bona fide seeded funds would benefit from the exception. The CFTC also determined not to adopt Proposed Condition 5 as it concurred with comments that there are sufficient regulatory and market incentives for the sponsor entity to reduce its ownership stake in a seeded fund, including the three-year limit on the eligible seeded fund exception, the risk-based capital charges on the equity interest in seeded funds to which a sponsor entity may be subject, and the goal of the asset manager to implement an investment strategy that attracts third party investments.

The Amendment imposes a maximum three-year limit to the availability of the eligible seeded fund exception. At the end of the three-year period, an eligible seeded fund that meets the accounting standards for consolidation due to a sponsor entity holding an equity stake in the fund, will be deemed to have margin affiliates. Accordingly, a CSE will be required to exchange IM with the eligible seeded fund for any swaps entered into following the three-year period, if on a consolidated basis with its margin affiliates, the fund has MSE and exceeds the $50 million IM threshold amount, unless a cross-border exception applies. In addition, the CFTC notes that if an eligible seeded fund's average aggregate notional amount ("AANA") of uncleared swaps, non-cleared security-based swaps, foreign exchange forwards, and foreign exchange swaps "at any point" during the three-year period from the fund's trading inception date, calculated on an individual basis, exceeds the MSE threshold and the fund, individually with its CSE counterparty and the CSE's margin affiliates, crosses the IM threshold amount, the CSE would be required to post and collect IM in accordance with the CFTC Margin Rule.[5] Key operational point – swaps entered into during the three-year eligible seeded fund period (assuming no breach of the fund's individual MSE threshold during the period) remain outside IM requirements even after the three-year period ends; however, swaps entered into after the period ends may become subject to IM if thresholds are met. Variation margin obligations are unaffected by the eligible seeded fund exception and continue to apply as noted.

Eligible Collateral Amendment — Elimination of the Asset Transfer Restriction

The Amendment also revises CFTC Rule 23.156(a)(1)(ix) by removing paragraph (C), the "asset transfer restriction," which had disqualified money market fund ("MMF") and similar fund securities as eligible IM collateral whenever the fund's manager could transfer fund assets through securities lending, repurchase agreements, or similar arrangements ("Eligible Collateral Amendment"). Because most US MMFs use such arrangements as part of ordinary portfolio management, the restriction left only a handful of funds qualifying as eligible collateral.[6] By comparison, the Adopting Release noted that as of January 2026 there were 72 "Treasury" MMFs that could potentially qualify as eligible collateral once the transfer restriction is removed, subject to the funds otherwise meeting the remaining requirements of Rule 23.156(a)(1)(ix). The CFTC determined that existing safeguards (*i.e.*, the requirement that eligible collateral is restricted to the securities of MMF and similar funds that invest only in US Treasury or comparable sovereign/European Central Bank securities and cash, ongoing collateral monitoring obligations, and CSE risk-management obligations) adequately address the risks the restriction was designed to mitigate. The CFTC also noted that the elimination of the asset transfer restriction would bring the CFTC's treatment of MMF and similar fund securities as eligible collateral more in line with the approach of the Securities and Exchange Commission ("SEC"), which does not impose asset transfer restrictions on funds whose securities are used as collateral for margining purposes and expressly permits the use of government MMF securities as collateral. Such alignment would potentially reduce the costs for those market participants dually registered as swap dealers and security-based swap dealers. As noted in the Adopting Release, only MMFs that primarily invest in securities issued or guaranteed by the US government (government MMFs) or similar funds that invest in securities issued or unconditionally guaranteed by certain other sovereign entities are addressed in the Eligible Collateral Amendment. This means that MMFs that invest in short-term corporate debt (prime MMFs) and other types of MMFs are not relevant to the Eligible Collateral Amendment.

In response to comments, the CFTC did not add caps on MMF repo activity, require repo clearing as a condition of collateral eligibility, and did not impose additional haircuts beyond the amended schedule.

Haircut Schedule Amendment

CFTC Rule 23.156(a)(3) sets forth percentage discounts to be applied to the market value of eligible non-cash margin collateral collected or posted to satisfy IM requirements that vary according to asset class ("haircut requirements"). Although in adopting the CFTC Margin Rule, the CFTC had intended to align the haircut requirements of the CFTC Margin Rule for uncleared swaps with the haircut requirements in the margin rule adopted by prudential regulators (the "Prudential Regulators Margin Rule"), the CFTC inadvertently omitted a footnote to the haircut schedule in the Prudential Regulators Margin Rule. Thus, the CFTC proposed an amendment to CFTC Rule 23.156(a)(3) to incorporate the omitted footnote. The proposed footnote provided that the haircut for MMF and similar funds would be the weighted average discount on all assets within the funds, as specified in the rule, at the end of the prior month and would further specify that the weights to be applied in the weighted average should be calculated as a fraction of each fund's total market value that is invested in each asset with a given discount amount. However, in response to commenters' concerns regarding the challenges of applying a weighted average discount on all fund assets, the CFTC adopted specific percentage haircuts for securities representing redeemable interest in eligible investment funds. The haircut schedule requires CSEs to haircut the market value of each security by 0.5 percent, 2.0 percent, or 4.0 percent depending on whether the remaining maturity of the security is less than one year, one to five years, or greater than five years:

Fund Portfolio Maturity	Haircut
Less than one year	0.5%
One to five years	2.0%
Greater than five years	4.0%

To be consistent with the existing haircuts on direct holding of eligible securities, the CFTC amended the haircut schedule to apply the same fixed percentage haircuts to securities representing redeemable interest in pooled investment funds that are comprised of the same individual securities and cash.[7] Accordingly, a CSE must take haircuts on the market value of eligible redeemable securities in investment funds of 0.5 percent if the fund limits its investments to securities with a remaining maturity of less than one year, or 2.0 percent if the fund limits its investments to securities with a remaining maturity one to five years. CSEs may also be able to apply a 0.5 percent or 2.0 percent haircut to an investment fund, if the fund's stated investment restrictions prohibit the maximum value-weighted average time to maturity from exceeding one year or one to five years, respectively. For funds that do not restrict their investments to securities with a remaining maturity of less than five years or do not restrict the maximum value-weighted average portfolio maturity to less than five years, the applicable haircut will be 4.0 percent.

A CSE may rely on a fund's offering documents to determine which tier applies, avoiding the need for a dynamic look-through of the fund's actual holdings. The CFTC noted that this haircut schedule supersedes the interim guidance previously provided in CFTC Staff Letter 25-11, which stated that exchange-traded funds ("ETFs") that fall within the regulatory framework set forth in SEC Rule 6c-11 may qualify as eligible IM as defined in the CFTC Margin Rule, provided the ETFs meet the criteria listed in CFTC Rule 23.156(a)(1)(ix).

Practical Implications for Funds and Asset Managers

For sponsors of newly organized or start-up funds, the Seeded Funds Amendment may reduce the cost and operational burden of establishing uncleared swaps trading relationships during a fund's early track-record-building phase, since IM documentation, custodial segregation, and margin calculation processes will not be required for up to three years provided the fund satisfies the "eligible seeded fund" conditions. Fund sponsors and asset managers relying on affiliated management structures should review governance and independence arrangements closely against the final conditions, in particular the requirement that no sponsor entity or its margin affiliates (apart from the asset manager acting in its management capacity) control or have transparency into the fund's trading, as well as the prohibition on any form of guarantee or support beyond the initial seed capital. Because the exception does not require a written divestiture plan, sponsors retain flexibility in timing the reduction of their ownership stake, though the three-year clock still runs from the fund's trading inception date regardless. Funds and CSEs using MMF shares as collateral should also note the expanded universe of eligible government MMF collateral and confirm the applicable haircut tier under the new fixed schedule when structuring or amending margin/collateral documentation.

Market participants should also be aware that US prudential regulators have not adopted parallel amendments, so funds trading with both CFTC-only CSEs and prudentially regulated swap dealers should anticipate potentially different seeded-fund treatment and different eligible collateral schedules depending on the dealer's regulator.

For More Information

We are available at any time to answer questions, discuss scenarios, and provide guidance. If you would like further information concerning the matters discussed in this article, please contact the following attorneys or the Chapman attorney with whom you regularly work:

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1 Margin Requirements for Uncleared Swaps for Swap Dealers and Major Swap Participants, 91 FR 45134 (July 17, 2026) ("Adopting Release").

2 As noted in the Adopting Release, CFTC Rule 23.151 contains a full list of entities subject to the "financial end user" ("FEU") definition as well as a list of entities excluded from the definition. Among other entities, persons, and arrangements, whose business is financial in nature, the definition of FEU includes counterparties that are not an SD or MSP and are: (i) investment companies registered with the Securities and Exchange Commission ("SEC") under the Investment Company Act of 1940; (ii) private funds as defined in section 202(a) of the Investment Advisers Act of 1940; (iii) entities that would be investment companies under section 3 of the Investment Company Act of 1940 but for section 3(c)(5)(C); (iv) entities that are deemed not to be investment companies under section 3 of the Investment Company Act of 1940 pursuant to SEC Investment Company Act Rule 3a–7; (v) commodity pools; and (vi) entities, persons, or arrangements that are, or hold themselves out as being, entities, persons, or arrangements that raise money from investors, accept money from clients, or use their own money primarily for investing, or trading, or facilitating the investing or trading, in loans, securities, swaps, funds, or other assets. Under CFTC Rule 23.160, IM requirements apply to cross-border transactions if specified criteria for US nexus are met.

3 CFTC Rule 23.151 provides that "material swap exposure" ("MSE") for an entity means that the entity and its margin affiliates have an average month-end aggregate notional amount of uncleared swaps, uncleared security-based swaps, foreign exchange forwards, and foreign exchange swaps with all counterparties for March, April, or May of the current calendar year that exceeds $8 billion, where such amount is calculated only for the last day of the month, subject to an exclusion for certain exempt swaps and security-based swaps and to a prohibition on activities not in the regular course of business and willfully designed to circumvent the month-end calculation.

4 Although the Adopting Release appears to describe "distinct legal entity" by referring to the other conditions of the "eligible seeded fund" definition, the term is commonly used to refer to an organization or person that the law treats as separate from its owners, managers, or members, such as corporations and limited liability companies.

5 Although the Federal Register preamble discusses a fund's AANA exceeding the MSE threshold "at any point" during the three-year period, the regulatory text did not change the existing MSE observation framework (March/April/May AANA with status determined as of September 1). As a practical matter, market participants should expect CSEs may nevertheless monitor seeded fund activity more frequently for risk and operational reasons.

6 *See* Adopting Release at n. 180 (citing a 2020 report of a GMAC subcommittee established to consider issues raised by the implementation of margin requirements for uncleared swaps ("Margin Subcommittee Report"), noted that a leading custodial bank researched all the US MMFs currently available to its institutional clients in the US and found that only four would meet the requirements of CFTC Rule 23.156(a)(1)(ix)).

7 As discussed in the Adopting Release, CSEs currently are permitted to post and collect as IM redeemable securities in investment funds that limit their investments to cash and securities that are issued by, or unconditionally guaranteed as to the timely payment of principal and interest by, the US Department of Treasury. CSEs are also permitted to post and collect as IM securities in investment funds that limit their investments to securities denominated in a common currency and issued by, or fully guaranteed as to principal and interest by, the European Central Bank or a sovereign entity that is assigned no higher than a 20 percent risk weight under the capital rules applicable to swap dealers subject to regulation by a prudential regulator, and cash funds denominated in the same currency as the securities.