



DIVISION OF
TRADING AND MARKETS

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, DC 20549

March 6, 2018

Mark D. Fitterman, Esq.
Senior Counsel
Morgan, Lewis & Bockius LLP
1111 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

Re: Invesco PowerShares Capital Management LLC – Net Capital Treatment of PowerShares Treasury Collateral Portfolio

Dear Mr. Fitterman:

In your March 1, 2018 letter (“Letter”) on behalf of Invesco PowerShares Capital Management LLC (“Invesco”), you request written assurance that the staff of the Division of Trading and Markets (“Division”) of the U.S. Securities and Exchange Commission (“Commission”) will not recommend enforcement action to the Commission under section 15(c) of the Securities Exchange Act of 1934 (“Exchange Act”) and Rule 15c3-1 thereunder (“Rule 15c3-1”). In particular, you request that the Division not recommend enforcement action if broker-dealers with positions in the PowerShares Treasury Collateral Portfolio (“CLTL”) apply the haircut deduction in paragraph (c)(2)(vi)(D)(1) of Rule 15c3-1 (currently 2%) for the portion of the position eligible for redemption and the highest haircut deduction in paragraph (c)(2)(vi)(A) of Rule 15c3-1 (currently 6%) for the portion of the position not eligible for redemption. I understand the following facts are relevant to your request.

CLTL

CLTL is an exchange-traded fund (“ETF”) that is an open-end management investment company registered with the Commission under the Investment Company Act of 1940 (“1940 Act”). The CLTL was developed, among other things, to serve as collateral to cover margin requirements and other obligations to post collateral. The CLTL portfolio consists solely of cash and/or U.S. Treasury fixed rate bills, notes and bonds with a remaining term to final maturity of 12 months or less.

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A broker-dealer can create and redeem shares of CLTL through authorized participants¹ on the same day (if the creation or redemption order is received before 12:00 p.m. Eastern time) or the next business day (if the creation or redemption order is received at or after 12:00 p.m. Eastern time). Creations and redemptions are made at the net asset value (“NAV”). The Bank of New York Mellon, the custodian for CLTL, calculates the ETF’s NAV twice per business day at 12:00 p.m. Eastern time and at the close of regular trading (typically at 4:00 p.m. Eastern time) each day that the New York Stock Exchange is open. Creations and redemptions must be effected in units of 10,000 shares in exchange for the deposit or delivery of a basket of securities and/or cash.² Consequently, a broker-dealer seeking to liquidate proprietary positions in CLTL shares through the redemption process can do so only by delivering units of 10,000 shares (e.g., 10,000, 20,000, 30,000).

As an alternative to the creation and redemption processes, shares of the ETF may be purchased and sold on a national securities exchange through broker-dealers, including in units other than 10,000 shares. Shares purchased and sold in this manner will trade at market prices rather than NAV and, therefore, may trade at a premium or discount in relation to the ETF’s NAV. Through the Consolidated Tape Association, the approximate, or indicative, value of CLTL’s shares is disseminated every 15 seconds throughout the trading day.³

Capital Haircuts

Pursuant to Rule 15c3-1, a broker-dealer computing its net capital is required to deduct the percentages specified in paragraphs (c)(2)(vi) and (vii) of the rule (or the deductions set forth in Appendix A to Rule 15c3-1) from the market value of all securities, money market instruments, or options in the proprietary or other accounts of the broker-dealer.

Paragraph (c)(2)(vi)(A) of Rule 15c3-1 specifies haircuts for securities issued or guaranteed as to principal or interest by the United States or any agency thereof depending on the maturity, up to a maximum haircut deduction of 6% for such securities with a maturity of 25 years or more. Paragraph (c)(2)(vi)(D)(1) provides that “[i]n the case of redeemable securities of an investment company registered under the Investment Company Act of 1940, which assets consist of cash or money market instruments and which is described in [Rule 2a-7 under the 1940 Act (“Rule 2a-7”)], the deduction will be 2% of the market value of the greater of the long or short position.” Rule 2a-7, in turn, identifies the conditions that money market funds must satisfy.

¹ You have represented that there are currently approximately only 50 authorized participants for CLTL.

² Shares of CLTL are held in book-entry form only (shares are DTC eligible) and no physical certificates of ownership with respect to shares of CLTL are issued.

³ The approximate, or indicative value, of CLTL’s shares is an amount representing on a per share basis the sum of the current market price of the securities accepted by the ETF in exchange for shares and an estimated cash component.

Analysis

Although CLTL is not a money market fund (which has a haircut of 2%), you represent that this ETF shares certain characteristics of a money market fund, because it meets certain of Rule 2a-7's conditions applicable to money market funds.⁴ In particular, you represent that: (1) CLTL is an open-end management investment company registered under the 1940 Act that issues redeemable securities at net asset value; (2) that the CLTL portfolio consists solely of cash and/or U.S. Treasury fixed rate bills, notes and bonds with a remaining term to final maturity of 12 months or less; and (3) that the U.S. government securities comprising the portfolio are all eligible securities under paragraph (a)(11) of Rule 2a-7.

Under paragraph (c)(2)(vi)(A)(1) of Rule 15c3-1, securities issued or guaranteed as to principal or interest by the United States or any agency thereof are currently subject to a haircut of no more than 1.5% if they mature in 12 months or less. In addition, CLTL's share price on the secondary market has fluctuated by less than 2% since the ETF began trading in January 2017 (although trading data reflects that CLTL shares trade intermittently on the secondary market). Finally, as stated above, there are currently approximately only 50 authorized participants, who can redeem shares of CLTL in 10,000 share increments on the same day (if creation or redemption orders are received before 12:00 p.m. Eastern time) or the next business day (if creation or redemption orders are received at or after 12:00 p.m. Eastern time) at the NAV in exchange for the deposit or delivery of a basket of securities and/or cash.

Based on the facts and representations set forth in your letter (and without necessarily agreeing with your conclusions and analysis), Division staff will not recommend enforcement action to the Commission under section 15 of the Exchange Act and Rule 15c3-1 thereunder if broker-dealers take the haircut deduction in paragraph (c)(2)(vi)(D)(1) of Rule 15c3-1 (currently 2%) on the greater of the market value of the portion of the broker-dealer's long or short position in units of CLTL shares eligible for redemption (currently increments of 10,000 shares). In addition, based on your representation that CLTL is an ETF that only holds cash and/or U.S. Treasury fixed rate bills, notes and bonds (and without necessarily agreeing with your conclusions and analysis), Division staff will not recommend enforcement action to the Commission under section 15 of the Exchange Act and Rule 15c3-1 thereunder if broker-dealers take the highest haircut deduction in paragraph (c)(2)(vi)(A) of Rule 15c3-1 (currently 6%) on the greater of the market value of the portion of the broker-dealer's long or short position in units of CLTL shares not eligible for redemption.

This Division staff position is based strictly on the facts and representations you have made in your letter, and any different facts or representations might require a different response. This position is subject to modification or revocation at any time Division staff determines that such modification or revocation is consistent with the public interest or the protection of investors. Furthermore, this response expresses Division staff's position on

⁴ You represent that CLTL does not comply with Rule 2a-7 in two principal respects: (1) the maturity of the portfolio is longer than that of a money market fund under Rule 2a-7; and (2) CLTL does not offer or guarantee, and does not hold itself out as offering or guaranteeing, a stable value.

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enforcement action only and does not purport to express any legal conclusions on the questions presented. The Division staff expresses no view with respect to any other questions that the proposed activities may raise, including the applicability of any other federal or state laws, or self-regulatory organization rules.

If you have any questions regarding this letter, please contact Valentina Deng, Special Counsel at (202) 551-5778, Nina Kostyukovsky, Special Counsel at (202) 551-8833, Randall W. Roy, Deputy Associate Director at (202) 551-5522, or me at (202) 551-5525.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Macchiaroli". The signature is fluid and cursive, with a long horizontal stroke at the end.

Michael A. Macchiaroli
Associate Director
Division of Trading and Markets

Morgan Lewis

Mark D. Fitterman

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March 1, 2018

Michael A. Macchiaroli
Associate Director
Division of Trading and Markets
U.S. Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

Re: PowerShares Treasury Collateral Portfolio

Dear Mr. Macchiaroli:

On behalf of our client Invesco PowerShares Capital Management LLC, we are writing to request assurance that the staff of the Division of Trading and Markets ("Staff") of the Securities and Exchange Commission ("Commission") will not recommend enforcement action to the Commission under Section 15(c) of the Securities Exchange Act of 1934 ("Exchange Act"), and Rule 15c3-1 thereunder ("Net Capital Rule"), if broker-dealers with long and short positions in the PowerShares Treasury Collateral Portfolio ("CLTL"), an exchange traded fund ("ETF") whose portfolio consists solely of cash and/or U.S. Treasury fixed rate bills, notes and bonds with a remaining term to final maturity of 12 months or less, take a haircut deduction under paragraph (c)(2)(vi)(D)(1) of Rule 15c3-1 (currently 2%) of the greater of the market value of the broker-dealer's long or short position, for the portion of the position eligible for redemption (currently in increments of 10,000 shares, such as 10,000 shares, 20,000 shares, etc.), and the highest haircut deduction in paragraph (c)(2)(vi)(A) of Rule 15c3-1 (currently 6%) of the greater of the market value of the broker-dealer's long or short position, for the portion of the position not eligible for redemption (currently less than 10,000 shares).

Background

CLTL is an ETF developed to serve as an efficient collateral pledge to cover margin requirements or non-margin collateral. It seeks investment results that generally correspond (before fees and expenses) to the price and yield of the ICE U.S. Treasury Short Term Bond Index ("Underlying Index"). It generally invests at least 80% of its total assets in the components of the Underlying Index, which is designed to measure the performance of U.S. Treasury Obligations with a

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maximum remaining term to maturity of 12 months.¹ It invests only in cash and/or U.S. Treasury fixed rate bills, notes and bonds with a remaining term to final maturity of 12 months or less.

CLTL is an open-end management investment company registered under the Investment Company Act of 1940 ("1940 Act"). CLTL offers and redeems shares only with Authorized Participants ("APs") and only in creation unit size (in increments of 10,000 shares).² CLTL offers and redeems shares on the same day (if creation or redemption orders are received before 12:00 p.m. Eastern time) or the next business day (if creation or redemption orders are received on or after 12:00 p.m. Eastern time) at the net asset value ("NAV") next calculated in creation units of 10,000 shares in exchange for the deposit or delivery of a basket of securities and/or cash.³ The Bank of New York Mellon, the fund's custodian, calculates CLTL's NAV twice per business day at 12:00 p.m. Eastern time and at the close of regular trading (typically at 4:00 p.m. Eastern time) each day that the New York Stock Exchange is open.⁴

Discussion

Paragraph (c)(2)(vi) of the Net Capital Rule provides that a broker-dealer, in computing its net capital, is required to deduct the percentages specified in paragraphs (c)(2)(vi)(A) through (M) of the Rule (or the deductions prescribed for securities positions set forth in Appendix (A), § 240.15c3-1a) of the market value of all securities, money market instruments or options in the proprietary or other accounts of the broker or dealer. With respect to positions in ETFs that are not hedged, the published interpretations to the Net Capital Rule provide as follows:

Exchange traded funds such as SPDRs, DIAMONDS, HOLDRS, WEBS, Index Shares, etc. on high-capitalization, broad-based indexes will be subject to a haircut charge of 10% and on non-high-capitalization broad-based and narrow-based or sector indexes will be subject to a haircut charge of 15%.⁵

¹ The average maturity of the U.S. Treasury securities included in the Underlying Index is 0.39 years.

² Currently, there are approximately 50 APs who can redeem shares of CLTL in creation unit size.

³ Shares of CLTL are held only in book-entry form (shares are DTC eligible) and no physical certificates of ownership with respect to shares of CLTL are issued.

⁴ Individual shares may be purchased and sold on a national securities exchange through brokers. Shares are listed on NYSE Arca, Inc. will trade at market prices rather than NAV and, therefore, shares may trade at a premium or discount in relation to the fund's NAV. Since CLTL began trading in the secondary market in January 2017, CLTL's share price has fluctuated by less than 2% (although trading data reflects that CLTL shares trade intermittently in the secondary market). Through the Consolidated Tape Association, the approximate, or indicative, value of CLTL's shares (i.e., an amount representing on a per share basis the sum of the current market price of the securities accepted by the fund in exchange for shares and an estimated cash component) is disseminated every 15 seconds throughout the trading day.

⁵ FINRA, Interpretations of Financial and Operational Rules, Rule 15c3-1(c)(2)(vi)(J)/013.

Paragraph (c)(2)(vi)(A) of Rule 15c3-1 specifies haircuts for securities issued or guaranteed as to principal or interest by the United States or an agency thereof depending on the maturity up to a maximum haircut of 6% for such securities with a maturity of 25 years or more. Paragraph (c)(2)(vi)(D)(1) provides that “[i]n the case of redeemable securities of an investment company registered under the Investment Company Act of 1940, which assets consist of cash or money market instruments and which is described in [Rule 2a-7 under the Investment Company Act], the deduction will be 2% of the market value of the greater of the long or short position.” Rule 2a-7 under the 1940 Act, in turn, identifies the conditions that money market funds must satisfy.

Because CLTL was created, among other things, to offer an efficient collateral pledge to cover margin requirements or non-margin collateral, applying a normal ETF net capital haircut of 10-15% would make CLTL uncompetitive for this purpose compared to other possible pledge vehicles, such as Treasury securities with a maturity of less than 12 months (which currently carry a maximum haircut of 1.0%) or money market funds (which, as noted above, currently carry a haircut of 2%). However, since CLTL tracks the ICE U.S. Treasury Short Term Bond Index, and the underlying index consists of cash⁶ and/or U.S. Treasury fixed rate bills, notes and bonds with a remaining term to final maturity of 12 months or less, CLTL is expected to deliver similar market and risk attributes as direct investments in Treasury securities that comprise the underlying index. As a result, we believe that a haircut closer to the haircut currently applicable to short-term Treasury securities would better reflect the market risk and liquidity associated with CLTL.

Moreover, we believe that, although CLTL is not a money market fund, it shares certain characteristics of money market funds, because it meets certain of the conditions that apply to money market funds under subparagraph (D)(1) of the Net Capital Rule, which currently calls for a 2% haircut on the greater of the long or short position.⁷ CLTL is an open-end management investment company registered under the 1940 Act that issues redeemable securities at net asset value. The securities comprising the CLTL portfolio are all either cash and/or U.S. Treasury fixed rate bills, notes and bonds with a remaining term to maturity of 12 months or less. In addition, the U.S. Treasury securities comprising the portfolio are all eligible securities under paragraph (a)(11)(iii) of Rule 2a-7 under the Investment Company Act.

For positions in creation unit size (i.e., 10,000 shares or multiples thereof), CLTL is fully redeemable at net asset value for same day or next day settlement (depending on the time of placement of a redemption order). Authorized participants can redeem directly with the fund, and other holders can redeem through an authorized participant. In either case, a redemption can be effected and settled in at most one business day. Because of this we believe that the Staff should recognize CLTL positions of creation unit size (e.g., 10,000 shares or multiples thereof) as equivalent to money market funds for net capital purposes. Accordingly, we request that the Staff provide assurance that it will not recommend enforcement action to the Commission under Section 15(c) of the Exchange Act, and Rule 15c3-1 thereunder, if broker-dealers with long and short positions in CLTL take a haircut deduction under paragraph (c)(2)(vi)(D)(1) of Rule 15c3-1

⁶ The index may contain cash which is accrued intra-month from interest and principal payments. Accumulated cash is removed from the index at month end.

⁷ As an exchange trade fund, CLTL does not comply with Rule 2a-7 under the 1940 Act with respect to certain types of money market funds in two principal respects: (i) the maturity of the portfolio is longer than that of a money market fund under Rule 2a-7, and (ii) CLTL does not offer or guarantee, and does not hold itself out as offering or guaranteeing, a stable value.

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(currently 2%) of the greater of the market value of the broker-dealer's long or short position, for the portion of the position eligible for redemption (currently in increments of 10,000 shares, such as 10,000 shares, 20,000 shares, etc.).

For the portion of any long or short position in CLTL not eligible for redemption (i.e., less than 10,000 shares), a broker-dealer may close out its long position (or cover its short position) by effecting a secondary market trade. As noted above, CLTL is listed on NYSE Arca, which maintains a trading market for the security. A number of firms act as market makers on the exchange, with one firm acting as lead market maker. Trades executed on the exchange are booked on trade date and currently settle on T+2. Although the market price on the exchange can deviate from net asset value, the built in arbitrage based on the ability of market participants to redeem positions in creation unit size, which is a characteristic of exchange trade funds, is designed to prevent the secondary market price from deviating significantly from net asset value.

We believe that, given the characteristic of the CLTL portfolio, the availability of an exchange market for secondary trading, and the redeemability of CLTL in creation unit size, the haircut for positions of less than 10,000 shares should also be lower than the basic haircut applicable to ETFs generally. As noted above, the net capital haircuts for long and short positions in U.S. Treasury securities is set forth in paragraph 15c3-1(c)(s)(vi)(A), with a maximum haircut currently of 6%. Because CLTL is an ETF that holds only cash and/or U.S. Treasury securities, we suggest that an appropriate haircut level should be the highest haircut deduction specified in Rule 15c3-1(c)(2)(vi)(A) (currently 6%) of the greater of the market value of the broker-dealer's long or short position for the portion of a broker-dealer's position not eligible for redemption (e.g., less than 10,000 shares).⁸ Accordingly, we request that the Staff provide assurance that it will not recommend enforcement action to the Commission under Section 15(c) of the Exchange Act, and Rule 15c3-1 thereunder, if broker-dealers with long and short positions in CLTL take a haircut deduction equal to the highest deduction under paragraph (c)(2)(vi)(A) of Rule 15c3-1 (currently 6%) of the greater of the market value of the broker-dealer's long or short position for the portion of the broker-dealer's position not eligible for redemption (currently less than 10,000 shares).

Please feel free to contact me at (202.739.5019) or my colleagues Michael Philipp (312.324.1905) or John McGuire (202.373.6799) if you have any questions or require any further information.

⁸ Thus, for example, in the case of a broker-dealer holding a long position in CLTL of 12,000 shares, the broker-dealer would take a haircut deduction of 2% of the market value for 10,000 shares and 6% of the market value for the remaining 2,000 shares.

Michael A. Macchiaroli
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Sincerely,

A handwritten signature in black ink, appearing to read "Mark D. Fitterman", with a horizontal line extending to the right.

Mark D. Fitterman

MDF

Cc: W. John McGuire, Morgan, Lewis & Bockius LLP
Michael Philipp, Morgan, Lewis & Bockius LLP
Anna Paglia, PowerShares by Invesco
Lorraine Wang, PowerShares by Invesco
Randall Roy, Deputy Associate Director, Division of Trading & Markets
Valentina Deng, Special Counsel, Division of Trading & Markets
Nina Kostyukovsky, Special Counsel, Division of Trading & Markets