



Submitted Electronically via CFTC.gov

March 16, 2022

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

Re: Release Number 8499-22 CFTC Seeks Public Comment on FTX Request for Amended Derivatives Clearing Organization (DCO) Registration Order

Dear Mr. Kirkpatrick,

The Association for Digital Asset Markets (“ADAM”) appreciates the opportunity to comment on the Commodity Futures Trading Commission’s (“CFTC” or “Commission”) request for public comment on FTX US Derivatives’ (“FTX”) Request for Amended DCO Registration Order. The application presents an opportunity to open derivative markets and improve market function by applying innovative technological solutions, enabling new market structure possibilities through tools such as a unique margin system operated in near-real-time.

It is ADAM’s view that this public comment opportunity is extremely timely, and we believe the application presents an opportunity to allow deeper discussions on the design, potential, and future of commodity markets in the United States and globally. As evidenced by recent volatility in the London Metal Exchange, even the most advanced markets are subject to pricing issues, leading to negotiated haircuts and caps on price movement.¹ ADAM firmly believes that technological developments such as those contained in FTX’s application will improve market functioning, resulting in greater liquidity, risk reduction, and price discovery.

As Chairman Behnam recently noted in his testimony to the U.S. Senate Committee on Agriculture, Nutrition, and Forestry, “Since its inception, the CFTC and its markets have been at the forefront of innovation and technological development.”² Consistent with Chairman

¹ Wall Street Journal, *London Nickel Trading to Restart Wednesday, With Caps on Price Moves* (March 15, 2022), available at

<https://www.wsj.com/articles/london-nickel-trading-to-restart-wednesday-with-caps-on-price-moves-11647319846> (March 15, 2022)

² Testimony of Chairman Rostin Behnam Regarding “Examining Digital Assets: Risks, Regulation, and Innovation” (February 09, 2022), available at <https://www.cftc.gov/PressRoom/SpeechesTestimony/opabehnam20>

Behnam’s statement, approval of this application will allow the CFTC to continue this tradition, maintaining U.S. commodity markets’ position as the world’s leading standard.

About ADAM

ADAM is a private, non-profit, membership-based association of firms operating in the digital asset markets and is a standards-setting body and self-governing association³ committed to promoting market integrity and best practices. ADAM works with leading financial firms, entrepreneurs, and regulators to develop industry best practices that facilitate fair and orderly digital asset markets. In this vein, ADAM’s objectives are to: (1) protect market participants from fraud and manipulation; (2) provide clear standards for efficient trading, custody, and the clearing and settlement of digital assets; (3) encourage professionalism and ethical conduct by market participants; and (4) increase transparency and provide information to the public and governments about digital asset markets. In furtherance of these objectives, ADAM released a principles-based Code of Conduct (Code)⁴ in late 2019 that sets certain standards of professional conduct for ADAM members. In particular, the Code addresses the following areas:

- Compliance and Risk Management;
- Market Ethics;
- Conflicts of Interest;
- Transparency and Fairness;
- Market Integrity;
- Custody;
- Information Security and Business Continuity; and
- Anti-Money Laundering and Countering the Finance of Terrorism.

Every ADAM member agrees to adhere to the Code of Conduct. The goal is to bring professional standards into the nascent but rapidly-growing digital asset markets, to develop trust in those markets so that they can flourish.

Our members are at the cutting edge of innovation through the use of new technologies, such as blockchain. However, they recognize that proper regulation, conduct, and cooperation with law

³ ADAM is a broad-based industry group that includes a wide variety of market participants, including trading platforms, custodians, investors, asset managers, traders, liquidity providers, and brokers. Our members are firms that are active in digital asset markets or seek to participate in those markets. ADAM members include: Anchorage Digital, N.A.; BitGo; BitOoda; BlockFi; BTIG; CMT Digital; CoinFund; Cumberland; Digital Asset Council of Financial Professionals; Dunamis Trading; Eventus Systems; Fireblocks; FTX.com; FTX.us; Hxro Foundation; Galaxy Digital; Genesis; Grayscale; GSR; HRT; Multicoin Capital; Oasis Pro Markets; Parataxis; Paxos; Robinhood Crypto; Sarson Funds; Solidus Capital; Symbiont; Symphony Communications; WisdomTree; and XBTO. ADAM law firm partners include: Anderson Kill; DLA Piper; DLx Law; Mayer Brown LLP; McGonigle, P.C.; Morgan Lewis.

⁴ Association for Digital Asset Markets, *Code of Conduct* (November 12, 2019), available at <http://www.theadam.io/code/>.

enforcement are essential to their businesses and to the development of a sustainable marketplace and public trust.⁵

ADAM and its members are committed to working with lawmakers, regulators, and law enforcement to promote responsible innovation in the digital asset space in a manner that expands the availability of financial services. We welcome a clear regulatory picture because our members seek full compliance.

As such, ADAM supports exercises, such as this open comment period, to publicly comment on matters of innovation in commodity markets.

Overview: Leveraging Digital Technology to Generate Positive Market Impact

FTX's proposal harnesses digital innovation present in digital asset markets and represents a fundamentally new approach to margining than exists in traditional commodity markets. The result is a new approach to market creation and management, which alleviates market concentration, limits risk build-up, broadens access and empowers users, provides users a host of protections, and sets a standard for future capital buffer insurance.

New Digital Asset Approaches to Market Creation and Management

Margin levels on existing U.S. derivatives exchanges are set once per day on regular market open trading days. This margining timeline can be problematic due to the potential for margin calls and liquidity crunches. Instead, the FTX proposal will allow margining to happen every ten seconds on a 24 hour, seven days a week basis, which will enable many of the benefits of digital asset markets to be brought to broader commodity markets.

Digital asset markets are unique in that they rely on technology and data rather than concepts like trust and relationships to facilitate activity. In other words, many digital asset markets require verified funds in accounts to support financing or margin trading. In line with the FTX application, digital asset markets compute market positions on a near-real-time basis, which minimizes market volatility. Customers' positions are marked to market nearly instantly, which reduces concepts in traditional markets like end-of-day or weekly, monthly, or quarterly financial calculations. Instead, these data points are constantly reviewed and reconciled to minimize market risk and disruption.

As technological innovation has shifted traditional markets in ways such as moving from open outcry to electronic markets, paper to electronic settlement, or communications via letter to now text or email, market practices should also shift based on the available technological innovation.

⁵ See, e.g., FTX US, *Regulations and Licensure Information*, FTX US, available at <https://help.ftx.us/hc/en-us/articles/360046877253-Regulation-and-Licensure-Information> (detailing federal and state regulatory and licensure information for FTX, an ADAM member); Diogo Mónica & Nathan McCauley, *US Marshals Choose Anchorage Digital to Custody*, Service Seized Digital Assets (July 28, 2021), available at <https://medium.com/anchorage/us-marshals-choose-anchorage-digital-to-custody-service-seized-digital-assets-70587f5faec9> (announcing Anchorage Digital as the provider of digital asset custody and financial services for the United States Marshals Service).

Some financial markets, and futures markets, in particular, have developed around an intermediated model, where a customer relies on a third party to facilitate trading and clearing of contracts. Existing laws and rules do not require this market structure; rather, they developed out of necessity based on communication and technological capabilities decades long ago.

Digital asset markets were born in an era where this arrangement is not necessary and, in fact, only adds inefficiencies and introduces operational risk. Rather, through a direct market model, customers can directly onboard to a trading platform and transact and settle their trades directly with the exchange. Customers have access to a much more level playing field than in other markets – all participants have access to the same market data, liquidity, and trading and risk management features.

Broadens Access and Reduces Risk

Direct consumer access to commodity markets without relying on intermediaries will allow broader access to markets for U.S. consumers and alleviate market concentration systemic-risk concerns.

Incumbent markets operate with an intermediated market structure that promotes reliance by investors on banks and other financial institutions for access to markets. However, these markets are sometimes reserved for institutions or wealthy individuals who are able to utilize white-glove financial services to connect to complex markets infrastructure. These limits in service restrict the markets to only sophisticated users with the ability to pay to access.

The reliance on intermediaries also creates market concentration within the U.S. banking sector, which can lead to issues of systemic-risk concerns. Risk management and liquidity concerns are amplified in situations of market concentration, something that U.S. policymakers have attempted to address since the 2008 financial crisis.

In the Bitcoin and Ethereum Futures markets, in particular, ADAM notes that most of the U.S. volume trades on a single exchange, largely due to the network advantages of one centralized trading exchange. Many retail consumers without access to the trading venues of large financial institutions have relied on access to this exchange and the U.S. Bitcoin Futures Market through a recently approved "Bitcoin Futures ETF," which has been subject to significant supply and demand imbalances.⁶ Assets that are trading on markets 24 hours a day, seven days a week need a margin model that matches the asset activity. It is ADAM's view that it is too risky to have lightly-regulated intermediaries extending credit overnight and over weekends in a world where world events influence price action in the underlying spot markets.⁷

⁶ Bloomberg, *Bitcoin ETF is Already in Danger of Breaching a Limit on Futures* (October 21, 2021) <https://www.bloomberg.com/news/articles/2021-10-21/bitcoin-etf-is-already-in-danger-of-breaching-a-limit-on-futures>

⁷ Reuters, *Investors Turn to Crypto Funds as Russia-Ukraine Crisis Escalates* (March 15, 2022) <https://www.reuters.com/business/finance/investors-turn-crypto-funds-companies-russia-ukraine-crisis-escalates-2022-03-14/>

The FTX proposal mitigates these concerns and advances many of the public policy goals in this space by broadening access to markets. The proposal's direct-to-investor market structure reduces operational risks because of its relative simplicity compared to other models, presenting fewer risks to the platform as well as the end investor, and making it easier for the platform to manage risk overall. With less intermediation of markets as offered by FTX, the number of interconnection risks between financial institutions in the overall market ecosystem is minimized, reducing system risk. Additionally, the direct-to-investor model enables investors to access the market through an app on their mobile device, offering retail consumers a much more straightforward access point to commodity products. ADAM believes that the direct-to-consumer approach will allow FTX to attract liquidity for its derivative products, thereby positioning FTX to compete with the incumbent exchanges.

Protects Users

ADAM strongly believes that competition should be on products and services and not a "race to the bottom" on AML, KYC, financial resources, and market integrity. As such, customer protection must remain paramount for digital asset markets, particularly as the potential for the markets is discovered, and new products and services are created. As such, ADAM believes that terms of service and risk statements must be comprehensive, accessible, understandable, and, importantly, accurate. The FTX proposal appropriately informs and protects consumers through stringent risk disclosures, advanced AML/KYC compliance, and market integrity through rigorous market surveillance for all users accessing the proposed platform. Additionally, it is ADAM's view that the FTX capital buffer insurance proposal in the application represents an appropriate risk buffer that protects consumers and provides stability. ADAM believes that the Commission could use this as a standard practice for future DCO applications.

Finally, commodity price volatility threatens margin calls, which can leave an entire position being liquidated for missing a single margin call, leading to last result requests for lending.⁸ Such situations are especially present in times of geopolitical turmoil. FTX's partial step-wise approach to liquidation explained in the proposal will end up protecting the end-users of these future projects because users will experience a staggered liquidation system, as opposed to entire position calls. Such a system will become ever more necessary as the future geopolitical outlook remains unclear.

ADAM appreciates the Commission's considerations of the comments above, and we strongly believe FTX's application should be approved by the Commission. ADAM and its members stand ready to answer any questions you may have, and we look forward to continued collaboration with Commission.

⁸ Bloomberg, *Trafigura Seeks Funding From Private Equity as Commodities Soar* (March 15, 2022) <https://www.bloomberg.com/news/articles/2022-03-15/trafigura-seeks-funding-from-private-equity-as-commodities-soar>

Sincerely,

A handwritten signature in black ink that reads "Michelle Bond". The signature is written in a cursive, flowing style.

Michelle Bond

Chief Executive Officer

Association for Digital Asset Markets (ADAM)