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April 11, 2022

By E-Mail

Mr. Christopher Kirkpatrick, Secretary
Commodity Futures Trading Commission
Three Lafayette Center
1155 21 Street NW
Washington, DC 20581

Re: Comments Responding to Commission Publication of FTX's Request for Amended DCO Registration Order

Dear Mr. Kirkpatrick,

We greatly appreciate the opportunity to comment on the above proposal ("Proposal") filed by LedgerX LLC, d/b/a FTX US Derivatives ("FTX") on December 26, 2021 and made available by the Commodity Futures Trading Commission ("CFTC") on March 10, 2022. We thank the CFTC for creating a public forum for deliberating upon the merits of whether to approve this proposal, and we applaud the CFTC's ongoing commitment to creating an environment of public participation in the pursuit of deeply considered responsible regulation in an area of rapid innovation and increasing technological development.

Bitwise Asset Management, Inc. has operated in the digital asset ecosystem since 2017 and has spent a significant amount of time and resources dedicated towards gaining approval for the listing and trading of shares of a bitcoin-related exchange traded product (ETP) on a national stock exchange.^[1] While there are many important matters that impact whether or when such approval will occur, a critical component of the analysis is whether a "regulated market of significant size"^[2] exists relative to the underlying, or spot, bitcoin market. Given the importance of regulated digital asset markets for the pursuit of its business objectives, Bitwise has spent significant time pursuing rigorous academic analysis related to the interaction between the bitcoin spot and futures markets.^[3] We believe in the value of the ongoing advancement of regulation in the context of the emerging digital asset ecosystem and crypto-related economy. More regulation, if carefully considered and implemented, will lead to greater transparency, higher levels of investor protection,

^[1] Securities and Exchange Commission Release No. 34-93445; File No. SR-NYSEArca-2021-89

^[2] See Order Setting Aside Action by Delegated Authority and Disapproving a Proposed Rule Change, as Modified by Amendments No. 1 and 2, to List and Trade Shares of the Winklevoss Bitcoin Trust ("Second Winklevoss Order"), Release No. 34-83723 (July 26, 2018), 83 FR 37579 (August 1, 2018)

^[3] Securities and Exchange Commission Release No. 34-93445; File No. SR-NYSEArca-2021-89 Page 27-59

and continued trust in and support for the American financial markets' hegemonic position in the global financial system.

Bitwise believes that the technological developments that create more choice and access to regulated commodity markets for American investors as set forth in FTX's application are consistent with this type of regulation, and we strongly support approval. Providing users with regulated domestic venues and increasing America's global leadership in these markets should create outcomes desirable to policymakers, users, and industry participants alike, increasing regulatory oversight and transparency while also driving innovation in our domestic financial markets.

Meaningful Benefits and Improvements

FTX's Proposal allows margining to happen every ten seconds while existing U.S. derivatives exchanges set margins only once daily. This represents an advancement over the current system of daily margining and is possible due to the very nature of digital assets and the technological advances afforded by the internet. The U.S. financial markets should remain the envy of the world by adapting to technological advancement at a pace that allows our financial infrastructure to support the increases in speed and transparency made possible by the internet.

This type of risk margin model reflects the shift we have seen from open outcry markets to real-time trading that occurs across the globe every minute and every second of every day. Our global marketplace now trades around the clock, and the technology now exists – as described in the proposal – to mitigate the risk of intermediaries extending credit overnight and on weekends when technology means that risk no longer needs to be taken.

The immediacy of margining at this frequency – in a matter of seconds – allows FTX to liquidate under-margined positions promptly, and the sophistication of the technology also allows positions to only be liquidated incrementally, reducing market impact and reducing instances of users being taken out of positions they would otherwise intend to maintain. This advancement also elegantly enables reduction of risk in the second part of the proposal, which should promote orderly and efficient markets and create more choice for investors.

The second part of FTX's proposal introduces a direct-to-investor model that is not currently contemplated by existing exchanges. It is simple and offers investors a straightforward and transparent way to access regulated commodities markets. Due to the real-time margining capabilities, FTX's Proposal explains that its automated monitoring system will quickly react to under-margined positions, acting on this insight quickly, and ultimately relying on its own guaranty fund (\$250 million of unencumbered cash) to address any margin shortfall that cannot be liquidated practically or laid off to liquidity providers.

Given that digital asset markets trade continuously, this model removes the dependency on intermediary FCMs, and reduces the complication of daily mark-to-market exchange of collateral that occurs on a time-lag with the moves in the underlying market and derivative margin shortfalls. The FTX proposal addresses these serious risks by operating on a real-time basis.

The Spirit of the CFTC's approach to Digital Asset Derivatives

In testimony to the U.S. Senate Committee on Agriculture, Nutrition, and Forestry, Chair Behnam said “since its inception, the CFTC and its markets have been at the forefront of innovation and technological development¹.” The CFTC has demonstrated its commitment to this approach as the technological development in the digital asset markets has accelerated in recent years, and we believe that this is an opportunity for the CFTC to continue that tradition.

More specifically, in 2020, the Staff of the Division of Swap Dealer and Intermediary Oversight – now the Market Participants Division – issued an advisory letter providing its view regarding the accepting and holding of customer virtual currency by Futures Commission Merchants (FCMs) in the context of meeting physical delivery requirements on commodity derivative contracts². The Staff of the Division took great care to guide FCMs with a series of guidelines and practices to be considered in developing risk management programs, introducing standard concepts from existing law and regulation and applying them to this emerging asset class, while stipulating that such programs be tailored to the specific business.

This guidance was an example of the CFTC's commitment to staying at the forefront of technological development, using existing requirements and applying them to new asset classes made possible by technological innovation, but not explicitly contemplated in the existing law. In its proposal, FTX does not suggest new rules for FCM, but rather builds on the spirit of the Staff letter, porting the concepts from existing derivatives clearing organization rules to the direct-to-investor model. In the same way that the Staff letter used existing concepts from traditional commodities markets and applied them to digital assets more broadly, the FTX proposal uses existing principles and applies them to a new model of enhanced margining of direct-to-investor accounts, all made possible by significant technological advancement. Such innovation should be encouraged and applauded.

We thank the Commission for facilitating a robust public debate on this matter and appreciate the opportunity to comment on this Proposal.

Sincerely,


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Paul (“Teddy”) Fusaro, President

April 11, 2022

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 Hunter Horsley, CEO

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 Katherine Dowling, General Counsel & CCO

¹ 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>

² CFTC Letter No. 20-34 (Oct. 21, 2020), available at <https://www.cftc.gov/csl/20-34/download>.