



Tom Jessop

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May 11, 2022

Mr. Christopher J. Kirkpatrick, Secretary
Commodity Futures Trading Commission
Three Lafayette Center
1151 21 Street NW
Washington, DC 20581

Re: Comments Responding to Commission Publication of FTX’s Request for Amended DCO Registration Order; Release No. 8499-22

Dear Mr. Kirkpatrick,

Fidelity Investments (“Fidelity”) appreciates the opportunity to comment on the Commodity Futures Trading Commission’s (“CFTC” or the “Commission”) request for public comments on LedgerX LLC, d/b/a FTX US Derivatives (“FTX”) proposal (the “Proposal”) to amend its order of registration as a derivatives clearing organization (“DCO”) to allow FTX to clear margined products for retail participants through a model where participants clear with the DCO directly, without mandating intermediation by a future commission merchant (“FCM”).

Fidelity was founded in 1946 and is one of the world’s largest providers of financial services, providing investment management, retirement planning, portfolio guidance, brokerage, benefits outsourcing and many other financial products and services to more than 40 million individuals and institutions, as well as through 13,500 financial intermediary firms. Fidelity has a long history of investing in leading edge technologies that have shaped the evolution of the financial services industry. These investments are based on the needs and interests of our customers – from crypto to alternative investments and sustainable investing offerings. A legacy of and commitment to innovation has helped the firm grow during periods of market volatility, industry disruption, regulatory changes and shifting consumer preferences. Fidelity has developed a process of rapid and iterative productive innovation and invested heavily in innovative technology to meet evolving investor interests, including the fast-growing appetite for access to digital assets across all investor segments.

With a belief that blockchain and digital assets will represent a large and significant part of the financial industry’s future, Fidelity has been working for years to develop a blockchain ecosystem with a heavy focus on research and development. We began exploring the space in 2014 with bitcoin and, in a long-held tradition of “industry firsts,” became the first large financial firm to launch a digital assets-focused commercial offering in 2018. Today, Fidelity’s commitment to digital assets is firm-wide as it continues to develop a holistic service offering that is comparable to the solutions it provides for more traditional assets, including education, research, trading, execution, custody and investment products.

Fidelity believes that the Proposal is positive in seeking to increase investor choice by broadening access to markets directly and to reduce market risk by leveraging technology to

employ a 24/7 risk and margin model. The advancement of regulation in the rapidly growing digital asset market ecosystem and crypto-related economy is critical to the development of a sustainable marketplace and expansion of access and availability of digital asset products and services. Broader access and participation in regulated markets will increase competition and improve overall market functioning by facilitating increased liquidity, reduced market risk and improved price discovery. That said, the Proposal would represent a substantial change in market structure. We welcome the opportunity presented by the Commission to participate in the public comment process to get clarity and additional details on the new market structure and risk management model proposed and to learn more about the roles that can be played by various types of intermediaries that can help to facilitate broad adoption and access by all investors.

1. We Support Responsible Innovation in the Financial Markets.

We view FTX's proposal for a near "real time" margin model as an improvement on existing margin models in use in the traditional commodity derivatives markets, particularly with respect to the markets in virtual currency commodity derivatives. The virtual currency markets operate on a global, 24/7 basis, and a margin model for virtual currency derivatives that also operates on a 24/7 basis is appropriate for this market. We support responsible innovation in the financial markets and we view this aspect of the Proposal as representing such an innovation. We believe innovations like the proposed FTX margin model, in principle, generally help to decrease systemic risk, increase investor protection, and facilitate broader access to financial products. However, there are several questions that need further clarity to gain a better understanding of the practical operation of the risk and margin model. For example, it would be important to understand how the Proposal's risk model contemplates dealing with the basis risk arising from cross-collateral margining when a non-intermediated customer's account holds multiple derivatives with different underlying virtual currencies. Other commenters have posed several additional questions regarding the auto position reduction and close-out governance and operation, the adequacy and effectiveness of the default waterfall, and guaranty fund sizing. In addition, we believe further industry discussion would be necessary before similar "real time" margin models are adopted in other commodity derivatives markets.

2. We Support Expanding Access to and Availability of Financial Products to the Retail Public.

Access to traditional commodity futures markets is currently controlled by a small number of FCMs, whose number has been decreasing in recent years. The number of FCMs through which customers may access virtual currency futures markets is even lower. The inability of the retail public to access commodity futures markets directly, combined with an ever-decreasing universe of intermediaries through which the retail public can access the commodity futures markets indirectly, has created a market structure that benefits large institutional traders over retail investors. The Proposal would democratize and thereby broaden market access by allowing retail investors to access FTX without going through an FCM. We support this aspect of the Proposal because it levels the playing field for retail investors and facilitates their access to financial products.

Fidelity has a long history and deep experience in responding to customer choice and offering a wide range of investment products and services across all market segments. A key feature of the Proposal is broadening derivatives market access to allow for a more segmented access model. Direct access, intermediated access by non-FCMs and traditional intermediated access through FCMs are all possible in the new market structure proposed. Fidelity believes that there are different investors for whom each of these access options will be preferred. Thus, an important consideration in ensuring “fair access” for all investors in this new direct access market model is to protect against discrimination against investors that prefer to access FTX through or with the assistance of an intermediary. In that regard, we believe the Commission should provide clarity in this new market structure that intermediaries can provide connectivity to FTX, whether they are acting as FCMs or in a capacity that does not require FCM registration. Intermediaries like Fidelity provide a number of benefits to investors accessing FTX, including providing a platform on which they may manage and monitor their financial lives through a single point of access and assisting investors in managing their margin collateral and monitoring their margin levels to ensure their positions are not unilaterally liquidated by FTX.

3. The Commission Must Ensure Appropriate Investor Protection and Education.

The technology at issue in the Proposal is on the cutting edge and makes possible a direct-clearing market structure that would have been impossible even a few years ago. However, in contemplating the introduction of novel technology and market innovation, the Commission’s mission to promote integrity, resilience, and vibrancy of the US derivatives market requires careful consideration of the protection and education of investors.

The Proposal indicates FTX will provide certain investor protections directly via the DCO, rather than through an FCM. Though FTX indicated it will not compromise traditional risk management nor customer protection,¹ FCMs are subject to certain obligations that FTX believes are “outside the scope of FTX’s request to amend its clearing order”,² including providing written disclosures to customers regarding the risks of trading.³ Thus, we believe the Commission should ensure there is appropriate investor education to ensure investors understand the risks that may result from the proposed margining model, particularly the possibility of forced liquidation of positions. Further, it must ensure that disclosure by FTX is provided in a meaningful and impactful way, and not simply via a click-through onboarding form that may be easily overlooked. Direct participants in FTX should not receive any less protection than they would if they were to access FTX (or another futures market) through an FCM intermediary.

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¹ LedgerX LLC dba FTX US Derivatives - Letter re: Permissibility and Benefits of Direct Clearing Model 2-8-2022; <https://sirt.cftc.gov/sirt/sirt.aspx?Topic=CommissionOrdersandOtherActionsAD&Key=47841> at 1.

² *Id.* at 9.

³ 17 CFR § 1.55

Fidelity would be pleased to provide further information, participate in any direct outreach efforts the Commission undertakes, or respond to questions the Commission may have about our comments.

Sincerely,

A handwritten signature in black ink, appearing to read 'Tom Jessop', with a stylized, cursive flourish.

Tom Jessop
President, Fidelity Digital Assets

cc: The Honorable Rostin Behnam, Chair
The Honorable Kristin N. Johnson, Commissioner
The Honorable Christy Goldsmith Romero, Commissioner
The Honorable Summer K. Mersinger, Commissioner
The Honorable Caroline D. Pham, Commissioner
Clark Hutchison, Director, Division of Clearing & Risk
Robert Schwartz, General Counsel