Chairman Rostin Behnam May 11, 2022
Commodity Futures Trading Commission ("CFTC", "Commission")
Three Lafayette Center
1155 21st Street NW
Washington, DC 20581

Re: FTX Request for Amended DCO Registration Order ("FTX Request")

Submitted electronically

Dear Chairman Behnam,

The Institute for Agriculture and Trade Policy ("IATP")[1] appreciates the opportunity to comment on the FTX Request and to respond to a few questions in the CFTC's request for comment about the FTX application. IATP looks forward to learning from experts at the CFTC staff roundtable on May 25 about their views on the broader topic of fully automated and collateralized Derivatives Clearing Organizations (DCOs) without intermediation by futures commission merchants (FCM).[2]

IATP's interest in the FTX request

The FTX Request, if approved by the Commission, will set a precedent for fully automated clearing and position liquidation without going through the rulemaking process. Furthermore, if approved, the FTX Request would set a precedent for the market participant's option to post initial and maintenance margin in cryptocurrencies.

IATP understands automated clearing to be a business model extension of hyper-speed computing in Automated Trading Systems (ATS). IATP first commented to the CFTC on a Notice of Proposed Rulemaking for ATS in 2013.[3] We continued to comment on the ATS rulemaking until August 2020[4], when the Commission adopted, in our view, not an enforceable ATS rule, but "Electronic Trading Risk Principles."[5] One of our concerns about de facto exchange regulated ATS was expressed by agriculture futures intermediaries at two conferences, co-organized by the CFTC in 2018 and 2019: to paraphrase, but nearly quoting: "What do I care if the [ATS] transaction costs are lower when I can't find positions to lay off risk?" Those positions had already been taken by fully automated non-commercial traders endowed with hyper-speed computers located cheek by jowl with the exchanges.[6]

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The asset classes of the FTX DCO transactions to be cleared are currently cryptocurrencies in the spot and futures markets. However, as detailed below, FTX, through its acquisition of LedgerX, has a license to apply fully automated clearing to "all commodity classes." FTX does not contemplate automated clearing and position liquidation, as necessary, of agriculture futures transactions. However, its investment in both carbon emissions offset contracts and Carbon Dioxide Removal (CDR) technologies indicate to us that the first non-crypto asset to be traded by FTX US Derivatives is likely to be CDR offset futures.[7]

IATP has written and advocated policy about emissions offset credits and offset futures, sometimes sporadically, since 1997. Most recently, in response to an Energy and Environmental Market Advisory Committee meeting on the global expansion of offset futures trading, IATP co-authored a September 2021 letter that urged the CFTC to issue a Request for Information and a staff study on the integrity of the underlying assets of emissions offset futures contracts and the certification of those contracts by exchanges.[8]

Introduction and Summary Recommendations

As a public interest group, IATP provides context for the public in regulatory matters that are already well known to the Commission and to market participants. The policy and regulatory context of the FTX Request overlaps with a debate between the Securities and Exchange Commission (SEC) and cryptocurrency trading platforms that present themselves to the investing public as exchanges but refuse to be registered as exchanges and comply with SEC rules for exchanges. The SEC points to a fundamental conflict of interest between the crypto trading platform as the custodian of client assets and as a frequent market maker, taking the opposite side of trades with those clients in contracts listed on the exchange. The SEC is considering how to prevent such conflicts of interest between the crypto exchange as custodian and as market maker, to protect investors.[9] The SEC has issued staff guidance to the unregulated cryptocurrency trading platforms advising them to classify their holdings of client funds to be liabilities on the platforms' balance sheets. The guidance would create a more level playing field in trading and accounting between regulated exchanges with relatively low-risk holdings and unregulated platforms holding cryptocurrencies that are widely regarded as high risk and price volatile investments.[10]

As the SEC has begun to consider how to regulate cryptocurrencies and cryptocurrency exchanges, an industry with a historical antipathy to regulation is now lobbying for regulation by the CFTC and oversight by Senate and House agriculture committees with scant experience in authorizing the regulation of cryptocurrencies and their trading in futures markets.[11] (Whether the previous Commission resolved the SEC identified conflict of interest prior to granting licenses for cryptocurrency futures trading and clearing is a topic for separate discussion.)

During February 9 testimony to the Senate agriculture committee, FTX co-founder and CEO Sam Bankman Fried stated,

> Prior to its [LedgerX] acquisition [by FTX in 2021[12]], this business was the first crypto-native platform issued a DCO license by the CFTC in 2017, which was a milestone for the agency and the digital-asset industry. That license was later amended in 2019 <u>to permit the clearing of futures contracts on all commodity classes and not just digital assets</u>.[13] (our emphasis)

The amendment the Commission is asked to approve builds on the 2017 license and 2019 amendment. If the Commission approves the FTC Request, it will allow FTX to fully automate margining, liquidation and re-margining of client positions to clear (and trade) "futures contracts on all commodity classes, not just digital assets." Approval will allow FTX clients the option to post initial and maintenance margin in cryptocurrencies for transactions in "all commodity classes". As the Commission deliberates whether to approve the FTX Request, it must consider the possibility of the fully automated trading and clearing of not just of current FTX listed cryptocurrency products but of future FTX certified products in non-crypto asset classes. Such new products might include lithium futures, rare earth futures, bio-based jet fuel futures, carbon dioxide removal (CDR) futures (As noted above, FTX is beginning to invest in purportedly permanent CDR technologies.[14]) and perhaps even subsets of existing contracts, e.g., "climate smart" yellow corn or "carbon neutral" oil futures.

In the following comment, IATP considers only the impacts on investors and market structure of the FTX proposal to unilaterally transfer all credit risk to FTX customers in the clearing of cryptocurrency futures contracts traded on the FTX US Derivatives platform. However, the Commission, due to the FTX DCO license and 2019 amendment, must also consider the impacts of fully automated clearing and position liquidation on market structure and on customers trading in "all commodity classes."

Summary Recommendations

1. **The FTX Request entails fundamental changes to market structure affecting potentially "all commodity classes." These changes cannot be adequately deliberated in terms of a proposed amendment to a license that the CFTC granted to LedgerX prior to its acquisition by FTX. The Commission should begin a formal rulemaking process on the proposed changes to market structure in the FTX Request and any similar future requests to be called, e.g., Regulation Automated Clearing and Position Liquidation.**
2. **Given the Commission's own investigations of and penalties for violations regarding even the cryptocurrencies purportedly most similar to the dollar,**

such as Tether, the Commission should consider a separate formal rulemaking on whether to allow the posting of initial and maintenance margin in cryptocurrency for all derivatives transactions.

3. **The issues raised by the FTX Request and similar future requests should be the subject of discussion in meetings of the Market Risk Advisory Committee (MRAC), as proposed by MRAC member Tyson Slocum of Public Citizen.**

Overview

This letter is comprised of four parts. First, we comment on whether FTX software can perform the Know Your Customer (KYC) and Anti-Money Laundering (AML) risk management functions of intermediated DCOs on an ongoing basis after the client signs the KYC and AML provisions in the "Ledger X Participant Agreement". Then we comment on retail client credit risk accumulation related to the near lack of CFTC and National Futures Association (NFA) authority over the underlying assets of futures contracts, including cryptocurrency futures. Underlying assets in spot markets can be shown to mislead investors e.g., as illustrated by the CFTC investigation of Tether[15], which is traded on FTX US.[16] FTX US customers who trusted the platform's marketing information about Tether (all news and marketing information is explicitly unwarranted in the "LedgerX Participant Contract") could incur losses of a scale that would trigger automated liquidation of their spot market positions if the FTX Request is approved. (Tether critics charge that the purpose of the less than fully stable stablecoin is to inflate the price of and attract investors to Bitcoin[17], which is traded on FTX US Derivatives.) Currently crypto-exchanges are not required to issue the customer crypto-currency advisories, such as that concerning Tether, that NFA requires FCMs and other intermediaries to send to their customers.[18] Thirdly, we respond to a few of the Commission's many questions about the FTX Request. The letter concludes with a recognition of the political pressure on the Commission to approve the FTX Request and a plea to the Commission not to be swayed by that pressure.

Limits of machine learning to detect and prevent KYC and AML associated risk

The "LedgerX Participant Agreement" states that the now FTX customer, "authorizes LedgerX to verify, on an initial and a periodic basis, by investigation, the statements in the application materials provided to LedgerX, which may include a criminal background check, a review of Participant's credit report, and such other action reasonably deemed necessary by LedgerX."[19] By implementing this provision, FTX would satisfy its KYC and AML obligations. However, as of January 2022, FTX US had 1.2 million "registered users," i.e., customers.[20] Since these KYC and AML verifications cannot be achieved manually or through semi-automation for so many users, we assume that FTX US has a highly automated KYC and AML software program.

We concede that machine learning can carry out the tasks of calculating every thirty seconds whether the retail client's FTX defined Maintenance Margin Fraction triggers automated liquidation of part of or all the client's position in a FTX listed spot or futures market contract. However, we question whether KYC and AML functions of FCMs and other intermediaries can be successfully and consistently executed by machine learning. Fei-Fei Li, chief scientist at Google Cloud, said of artificial intelligence, "It is very task-focused, it lacks contextual awareness, and it lacks the kind of flexible learning that humans have."[21] Risk controls are task focused, but they lack contextual awareness of whatever is not coded into their control program.

If machine learning cannot perform KYC and AML risk management tasks, and the FTX Request proposes not to mutualize loss coverage resulting from these and other risks, how are such risks managed? The FTX Request summary letter, in its argument that "DCOs are not required to mutualize risk among intermediaries,"[22] cites the following provision from the Commodity Exchange Act:

> (iii) otherwise provides clearing services or arrangements that mutualize or transfer among participants in the derivatives clearing organization the credit risk arising from such agreements, contracts, or transactions executed by the participants.[23]

According to both the FTX Request and the "LedgerX Participant Agreement," (December 2021) all credit risks are transferred, in the first instance, to the retail client. This unilateral risk transfer includes credit risks derived from any failure to monitor, on an ongoing basis, KYC and AML requirements, e.g., regarding the source of funds invested in FTX spot and derivatives market products. (Credit risk could also result from a rapid and major devaluation of the cryptocurrency used to post initial and/or maintenance margin.) The Participant Agreement stipulates that the client "will not fraudulently deposit funds into its Participant Account, Collateral Account, Cleared Swaps Customer Account, Proprietary Account or any other account associated with this Agreement or the use of LedgerX's services (individually, an "Account" and collectively, the "Accounts")."[24] The key word in this binding provision is "fraudulent."

In the 24/7/365 world of trading with the FTX app, it is not inconceivable that the client could unwittingly deposit funds sourced from laundered money from a friend, family, colleague or another entity. If a FTX client that usually had deposited $2,000 into one or more accounts, deposited $50,000, would the automated clearing software detect a data anomaly that would trigger an FTX AML and/or KYC inquiry? Under terms of the FTX Request, would FTX be required to report such data anomalies to the CFTC in near real time? Would FTX be liable to CFTC penalties for failure to report and to advise its clients of trading data anomalies pointing to a possible AML and KYC violation for one of more contracts on its platform?

Bio-mimetic software applied to robots is in its infancy: "Although much progress has been made on biomimetic robots, there is still a long way to go before they can be applied into diverse and complex dynamic environments."[25] The 24/7/365 global trading environment is far more complex and dynamic than the most sophisticated and multi-tasking robot. IATP is not, of course, an expert in biomimetic software. To advise the Commission on biomimetic software capabilities, we urge the Commission to request the National Science Foundation to recommend experts in biomimetic software design and the nano-electronic hardware design required to sustain the operation of such software in 24/7/365 trading. Those experts can advise the Commission about the technical feasibility of automating KYC and AML risk management requirements after customers sign the "LedgerX Participation Agreement" or similar agreements. FTX DCO technological capabilities may be adequate for risk management obligations for the data flows of this nearly four-year-old company, but not for future anticipated volumes of trading and clearing.

Integrity issues in the underlying assets of cryptocurrency derivatives trading and clearing: a context for evaluating the FTX Request

IATP is not a market participant but shares the concerns that the Commission has expressed about crypto-currency spot and futures trading: "Beyond their practical and speculative functions, the emergence of these nascent markets has also been negatively marked by a variety of retail customer harm that warrants the Commission's attention, including, among other things, flash crashes and other market disruptions, delayed settlements, alleged spoofing, hacks, alleged internal theft, alleged manipulation, smart contract coding vulnerabilities, bucket shop arrangements and other conflicts of interest. These types of activities perpetrated by bad actors can inhibit market-enhancing innovation, undermine market integrity, and stunt further market development."[26] Beginning with the founding of LabCFTC to engage with and support fintech product developers, the CFTC has allowed exchange certification of fintech products, beginning with Bitcoin futures, to grow the cryptocurrency market, retail customer harms notwithstanding.

We are concerned that Commission staff, receiving hundreds of exchange certification applications a year, do not have the capacity to review even publicly available information about the underlying assets of some of the300 crypto spot and futures contracts traded on the FTX platform. (As noted above, IATP co-authored a September 28 letter to the CFTC that questioned whether exchange certification, rather than formal Commission approval, was appropriate for novel emissions offset futures contracts,[27] in which the underlying was composed of offset credits whose verification protocols have themselves been described as of "poor quality."[28]) The price volatility of an underlying crypto-currency is likely to be increased by the fully automated trading and clearing of a crypto currency futures contract if based on the value of a deceptively valued underlying asset.

Initial and maintenance margin posted by FTX retail investors and reviewed every 30 seconds by the FTX DCO in the 24/7/365 FTX trading world may not cover the retail client's losses, triggering the automatic liquidation of the client's position, in whole or part, if the losses breach the FTX determined client Maintenance Margin Fraction. The full collateralization of the position from the retail client's funds is the first line of defense for the FTX DCO. However, full collateralization and automated liquidation do nothing to improve the integrity of the underlying in the crypto futures contract or to reduce the price volatility that triggered the liquidation and re-margining, if the client wants to re-enter the position.

IATP is concerned not only about the retail customer impacts of fully automated clearing but about the process of tokenizing underlying assets, such as carbon emissions offset credits packaged as a crypto spot contract, such as Klima,[29] which is not traded on the FTX platform. Presently, tokenization of poor-quality carbon offsets alarms primarily climate activists, who compare such tokenization to money laundering. However, the crucial importance of care in selection of both spot market and future product listings for FTX is illustrated by what may happen to retail investors if FTX and other crypto exchanges fail to vet adequately products listed.

One of the anonymous founders of Klima said "the group is "not real" concerned about traders' understanding of the underlying market. "People get involved regardless of understanding and ask questions later."[30] In a fully automated trading and clearing environment, FTX retail customers can only ask questions about their positions or FTX rules via computer tickets. The FTC DCO may be liquidating a client position while the client waits for an answer about the contract and/or its underlying asset.

Investopedia, a source read by the retail investors FTX seeks to attract, gives a high rating to the FTX trading platform but notes,

> As with many other cryptocurrency exchanges, FTX receives mostly negative reviews from customers. User complaints are primarily related to FTX's customer service. The common theme among the complaints was the amount of time it took customer service to respond to support tickets. As noted above, FTX provides no specific amount of time it takes to respond to customers who submit these tickets. Some customers complained of very serious issues, such as having to wait months for their withdrawal requests to be approved.[31]

Timing may not be everything in trading. But timing could be critical if you have submitted a ticket and wait 24 hours for a response to help you decide whether to increase your margin or position in a crypto-futures or spot contract that has been given rave reviews in your favorite investor chat room. Investopedia provides the customary disclaimer about investing in crypto: "Investing in cryptocurrencies,

Decentralized Finance (DeFi), and other Initial Coin Offerings (ICOs) is highly risky and speculative, and the markets can be extremely volatile. Consult with a qualified professional before making any financial decisions. This article is not a recommendation by Investopedia or the writer to invest in cryptocurrencies nor can the accuracy or timeliness of the information be guaranteed." However, it is unlikely that retail investors have a qualified professional who knows the cryptocurrency contracts they are interested in before the investors open the FTX trading smart phone app to trade.

Responses to CFTC staff questions

DCO rules

"1 c) The Cover-1 standard requires financial resources that will ensure adequate coverage in extreme, but plausible conditions. Are there scenarios or types of market events that could have an extreme effect on a non-intermediated market with near real-time settlement that would not have an extreme effect on intermediated markets?"

If FTX U.S. Derivatives begins to clear derivatives contracts in "all commodity classes," per the 2019 amendment to LedgerX, FTX and its customers ("users" in the company argot) will be exposed to both exogenous and endogenous market shocks far beyond what cryptocurrency markets experience when a major cryptocurrency owner or two sells a large position and triggers price volatility and losses among smaller crypto holding customers. A new pandemic, multiple severe weather events, a collapse in the value of collateralized loan obligations and credit default swaps markets impacting the value of corporate debt[32] are examples of the shocks that could trigger default cascades. To the extent that cryptocurrencies are used to buy and sell non-crypto assets, FTX customers losses in those asset classes could trigger default cascades that the non-intermediated market is poorly structured to manage. Even if FTC US Derivatives refrains from using its 2019 "all commodity classes" license and remains entirely within spot and derivatives cryptocurrency trading and clearing, the FTX DCO structure is strong in unilaterally shifting credit risk to its customers and liquidity providers, but poorly structured to manage price shocks outside its Default Management Plan.

"DCO Exhibit G," part of the FTX Request application, describes how the FTX DCO will rebalance its books in the event of default cascades among its products:

> The Chief Risk Officer is responsible for the default management procedures for theclearing house. Significant changes to these procedures (as defined in the Default Management Plan) require approval from the Board of Directors and the Risk Management Committee. The clearing house does not have a Default Management committee because the process is highly automated. The Chief Risk Officer will escalate to the Risk Management Committee as appropriate.[33]

If a default cascade cannot be managed by the Chief Risk Manager, following the procedures stipulated in the Default Management Plan, the Chief Risk Manager must analyze why the Default Management Plan is not adequate to the scale and other characteristics of the defaults and propose changes to default management procedures. Presumably, the three person FTX Board of Governors issues the final approval after the Risk Management Committee has reviewed, amended and voted to recommend changed procedures before sending them to the Board.

All this default management modification is occurring while the defaults are unfolding in the 24/7/365 trading environment. While it is true that default risks "rest" on the market in the intermediated DCOs and their FCM clearing members, the pause in trading, perhaps long as a weekend, allows those DCOs time to consult with their FCMs and other intermediaries about how to analyze market events and manage specific default cascades. Just In Time default management is fragile because it creates efficiencies by doing away with the cost and possibly unwelcome data and policy analysis of an experienced Default Management Committee that prepares beforehand to manage what cannot be anticipated within the confines of the FTX DCO rulebook.

"1 d) Are there unique position or risk limits that the Commission should require a DCO to impose on its participants in a non-intermediated model?"

In theory, full collateralization and automated liquidation should obviate the need for such limits, save in situations of default cascades in which primary and secondary backstop liquidity providers fail to effectively manage the default cascades. However, the DCO Exhibit G requires FTX to monitor customers with a history of excessive liquidity risk: "the clearing house maintains a watch list for existing participants that engage in suspicious market activity, repeated or excessive liquidation in excess of the risk monitoring program, where the clearing house has the discretion to increase margin requirements, impose risk reducing transactions, and suspense [sic.] trading and clearing."[34] We don't know if the risk monitoring measures, short of suspending access to clearing and trade, are effective. While the watch list is a needed risk management tool, it is not designed to manage the anti-competitive risks of allowing positions without limits to be sold in large blocks 24/7/365, undermining the value of small retail customer positions.

FCM rules

"6) What potential market structure issues may arise from the establishment of a non-intermediated model for retail participants in which transactions are not fully collateralized? What potential impacts, if any, would these issues have on FCMs or on existing markets with FCM intermediation?"

If a non-intermediated DCO did not require full collateralization for retail participant transactions, it would be very difficult, if not impossible, for FTX to consistently apply the Maintenance Margin Fraction in the determination of when and how much of a retail participant position to liquidate to maintain full collateralization. If we assume that FXT US Derivatives will eventually use its 2019 DCO amendment to clear transactions in all asset classes, it seems likely that some derivatives trading would migrate to non-intermediated DCMs and DCOs, with a consequent decline in FCMs and other intermediaries. The lower fee structure of non-intermediated trading and clearing would be one migration factor. The decline in the number and variety of intermediaries that began before the financial industry crisis of 2007-2010 is concentrating risk management in fewer firms.[35] Since some intermediaries have extensive specialization in the underlying of specific asset classes and derivatives contracts, that specialized knowledge to manage those contract risks would be lost with the decline in the number specialized intermediaries.

"7) Due to the absence of FCMs, the participants' collateral in a non-intermediated model is not required to be segregated under section 4d of the CEA.8 The orders of registration for DCOs offering a non-intermediated model require the DCO to hold funds of its participants as member property, as that term is defined by the Bankruptcy Code. [footnote 9] Is this protection sufficient for participants' funds if a DCO begins to offer margined products?"

As noted above in the Investopedia review of FTX, "Some customers complained of very serious issues, such as having to wait months for their withdrawal requests to be approved." Segregation of client funds from DCO funds is a crucial step in investor protection. Holding client funds as member property is a poor analogue to segregation, particularly if clients must wait months to withdraw their funds from the DCO. In the event of the bankruptcy of a non-intermediated DCO, clients would be unsecured creditors. Clients must abide by the "LedgerX Participant Agreement" dispute settlement process[36], so it is unlikely that a client can use the dispute settlement process to compel FTX to release the client's funds when the client needs them.

FTX proposals

"12 c) Are there risks to a model that is designed to result in more frequent, but smaller, defaults than traditionally occur in cleared markets?"

Like an exchange that increases its price up down limits to avoid triggering "kill switches" and reporting market events to the CFTC,[37] a clearing model designed to result in more frequent, albeit smaller defaults, likewise attempts to compensate for structural imbalances in markets with technological fixes. Accumulated fees from automated clearing and position liquidation of hundreds of thousands of smaller client holdings allows FTX to provide lines of credit to the relatively few "large

users" of FTX OTC. The FTX VIPs can trade FTX OTC "without pre-funding your account with the relevant coins."[38] FTX VIPs can maintain their positions in the most reliable currencies in the FTX product list while using the line of credit to speculate in the riskier of the 300 or so products listed by FTX, of which just 30 or so are derivatives. The structural inequality between "large users" and smaller ones is enabled by the FTX clearing model.

Market Impact

"15) By potentially expanding the number of people able to participate in derivatives markets, does a non-intermediated model have an effect, positive or negative, on price discovery and efficiency?"

Will the FTX Request and similar future requests for licenses for fully automated clearing and position liquidation inaugurate a new era that "democratizes futures trading access," as claimed in the summary of the FTX Request?[39] The prospect of direct access to futures trading and the opportunity for profit, with lower fees, from automatically cleared transactions, has both popular and political appeal.[40] However, the Commission prudently poses the question about the market impact of greater numbers of market participants not in terms of "democratization," but in terms of effective and efficient price discovery.

Price formation can be distorted by automated herds of retail customers responding to the same Twitter thread or chatroom rumor by plunging into one of the smaller trading volume spot market products listed on FTX US.[41] "Large users" can and have dramatically effected price discovery on cryptocurrency spot and futures market contracts, selling large positions to lock in profits, regardless of the "news" used to justify dumping a large position. The price of the top five cryptocurrencies, other than Bitcoin, have fallen 70% from their 2021 highs.[42] About 40% of Bitcoin investors are under water since its value peaked in 2021.[43] Retail investors in those cryptocurrencies likely would have been less informed and less likely to close out their positions than "large users" before the crypto price collapse.

Price formation by informed hedging and speculation, based on a heterogeneity of competing information sources, produces the most reliable price discovery in all asset classes, i.e., price discovery less vulnerable to excessive and automated speculation. Intermediaries in that price formation process can and do provide much of that competing information. A non-intermediated trading and clearing platform is much less likely to provide well-informed competition from the miscellany of sources posted on the FTX or other cryptocurrency websites.

Conclusion: Political pressure to grant the FTX Request

On February 9, FTX co-founder and CEO Sam Bankman-Fried testified to the Senate agriculture committee and contended that putting digital asset derivatives trading and clearing under CFTC regulation would improve U.S. competitiveness in both financial technology development and trading to the benefit of the United States.

> . . . the vast majority of trading volumes in digital-assets markets (which FTX estimates to be roughly 95% of global volume) takes place on non-U.S. trading platforms, even though much of the human and intellectual capital driving the industry comes from U.S. persons – many of whom have left the U.S. to build and grow their businesses. [footnote 7] FTX believes this current state is harmful to U.S. competitiveness and is denying our country many of the benefits from the growing digital-asset industry, including attracting to the U.S. more capital formation, the best of the global workforce, intellectual property and tax revenue.[44]

This is a politically persuasive argument for approving the FTX Request. And FTX is among the firms that is hedging their bets by setting up shop in less demanding regulatory jurisdictions, such as Dubai.[45] The argument for economic growth through re-shoring crypto in a 'business-friendly' regulatory environment will no doubt be repeated, perhaps by Members, during the House of Representatives agricultural committee hearing, "Changing Market Roles: The FTX Proposal and Trends in Clearing House Models," on May 12.[46]

However, according to a Law Library of Congress study, as of November 2021, nine jurisdictions had banned the trading of cryptocurrencies and another 42 jurisdictions had indirectly banned or restricted cryptocurrency trading.[47] For example, the Financial Conduct Authority of the United Kingdom has banned the sale, marketing and distribution of cryptocurrency derivatives to retail customers since June 2020.[48]

There are multiple reasons for these bans and restrictions, and we won't try to summarize them here. The bans and restrictions only indicate that some jurisdictions have decided that the risks of cryptocurrency spot and derivatives market trading exceeded promised spillover benefits beyond those accruing to the highly concentrated share of cryptocurrency owners.[49] As the Commission deliberates the FTX Request, it should not be swayed by political pressure or marketing promises about the future benefits of fully automated trading and clearing of digital assets ("FTX US Stocks are coming soon.[50]).

Both the questions posed in the Commission's request for comment on the FTX Request and the decision to hold a staff roundtable are strong indicators that the Commission will deliberate and rule on the FTX Request based on the Commission's

review of FTX application materials, developments in cryptocurrency spot and derivatives markets, and the applicable provisions in the Commodity Exchange Act, CFTC Core Principles and CEA authorized regulations.

IATP thanks the Commission for its consideration of these comments. We look forward to attending electronically the May 25 roundtable.

Sincerely,

Steve Suppan

Senior Policy Analyst

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[1] IATP is a nonprofit, 501(c)(3) nongovernmental organization, headquartered in Minneapolis, Minnesota, with offices in Washington, D.C. and Berlin, Germany. IATP participated in the Commodity Markets Oversight Coalition (CMOC) from 2009 to 2015, and the Derivatives Task Force of Americans for Financial Reform since 2010.

[2] https://www.cftc.gov/PressRoom/PressReleases/8519-22

[3] https://comments.cftc.gov/PublicComments/ViewComment.aspx?id=59442&SearchText=

[4] https://www.iatp.org/documents/comment-cftc-principles-electronic-trading

[5] Steve Suppan, "CFTC proposes allowing self-regulation of automated trading," Institute for Agriculture and Trade Policy, August 26, 2020.

[6] Suppan, "Regulating agricultural futures markets to benefit producers, processors and consumers," Institute for Agriculture and Trade Policy, May 9, 2019.

[7] https://www.ftx-climate.com/

[8] https://comments.cftc.gov/PublicComments/ViewComment.aspx?id=65876&SearchText=

[9] Paul Kiernan, "SEC Weigh Path Forward on Crypto Trading Platforms," *Wall Street Journal*, April 4, 2022.

[10] Kiernan, "SEC Tells Exchanges to Treat Cryptocurrency Holdings as Liabilities," *Wall Street Journal*, March 31, 2022.

[11] Robert Schmidt and Allyson Versprille, "Crypto Platforms Ask for Rules But have a Favorite Watchdog," Bloomberg , March 31, 2022

[12] Vildana Hajric, "FTX Acquires First U.S.-Approved Crypto Derivatives Platform," Bloomberg, August 31, 2021.

[13] Sam Bankman Fried, Written testimony for "Examining Digital Assets - Risks, Regulation, and Innovation." Hearing Before the U.S. Senate Committee on Agriculture, Nutrition and Forestry," p. 3. https://www.agriculture.senate.gov/imo/media/doc/Testimony_Bankman-Fried_0209202211.pdf

[14] https://www.ftx-climate.com/

[15] "Tether to Pay $41 million Over Claims that Tether Stablecoin was Fully Backed by U.S. Dollars," https://www.cftc.gov/PressRoom/PressReleases/8450-21 October 15, 2021.

[16] https://time.com/nextadvisor/investing/cryptocurrency/ftx-review/

[17] Elisabeth Lopatto, "The Tether Controversy Explained," *The Verge*, August 16, 2021.

[18] "Virtual Currency," National Futures Association, https://www.nfa.futures.org/%5C/members/ib/regulatory-obligations/virtual-currency.html Accessed on May 7, 2022.

[19] "LedgerX Participant Agreement, VI. Participant Acknowledgments," paragraph J, p. 3

[20] Ryan Brown, "Coinbase rival FTX valued at $8 billion as investors brace for 'crypto winter," CNBC, January 26, 2022.

[21] Fei-Fei Li, cited in "Q+A," ("The Artificial Intelligence Issue") *MIT Technology Review*, Vol. 120:6, November-December 2017, at 26.

[22] FTX Derivatives U.S.A., "Permissibility and Benefits of Direct Clearing Model under Commodity Exchange Act and CFTC Regulations," February 8, 2022, p. 3

[23] https://www.law.cornell.edu/uscode/text/7/1a

[24] "LedgerX Participant Agreement," paragraph M, p. 3.

[25] J. Wang et al, "A survey of the development of biomimetic software and robotics," *Biomimetic Intelligence and Robotics*, June 2021. https://www.sciencedirect.com/science/article/pii/S2667379721000012

[26] https://www.cftc.gov/sites/default/files/idc/groups/public/@lrfederalregister/documents/file/2017-27421a.pdf, pp. 60338-60339.

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[29] Camilla Hodgson, "Carbon-linked crypto tokens alarm climate experts," *Financial Times*, April 15, 2022. https://www.ft.com/content/ed76933e-43ed-4e72-ac19-ef47a731a595

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