

August 18, 2025

**BY ELECTRONIC SUBMISSION**

Christopher Kirkpatrick  
Secretary of the Commission  
Commodity Futures Trading Commission  
Three Lafayette Centre  
1155 21<sup>st</sup> Street NW  
Washington, DC 20581

Re: Bitnomial's Comment Letter to the CFTC's Listed Spot Crypto Trading Initiative

Dear Mr. Kirkpatrick:

Bitnomial Exchange, LLC ("Bitnomial Exchange") and Bitnomial Clearinghouse, LLC ("Bitnomial Clearinghouse") (collectively, "Bitnomial") respectfully submit this comment letter in response to Acting Chairman Caroline D. Pham's announcement of the Commodity Futures Trading Commission's ("CFTC" or "Commission") Listed Spot Crypto Trading Initiative ("Initiative").<sup>1</sup> The Commission's Initiative advances the President's Working Group recommendation that the CFTC should "immediately enable the trading of digital assets at the Federal level" using existing authorities.<sup>2</sup> Bitnomial believes the Initiative can help establish U.S. leadership in digital asset markets, provide regulatory clarity for market participants, and enable innovation under federal oversight.

Bitnomial Exchange is a designated contract market ("DCM"), and Bitnomial Clearinghouse is a derivatives clearing organization ("DCO"), both registered with and regulated by the Commission. Together, Bitnomial operates the only vertically integrated DCM and DCO exclusively focused on margined and physically deliverable digital assets futures and options. As a DCM and DCO with extensive operational experience in digital asset derivatives trading, Bitnomial offers this comment letter to provide perspectives on how leveraged spot crypto trading could be implemented on CFTC-regulated exchanges.

The Commission's Initiative represents a critical opportunity to bring leveraged spot crypto trading under CFTC oversight while maintaining the investor protections that have made U.S. derivatives markets the most trusted globally. Our experience with physically-delivered crypto futures demonstrates that the current regulatory framework under the Commodity Exchange Act ("CEA") can accommodate leveraged spot crypto products effectively, and we stand ready to support their successful implementation. We explain below why the CEA already provides clear

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<sup>1</sup> CFTC, Press Release, Acting Chairman Pham Launches Listed Spot Crypto Trading Initiative (Aug. 4, 2025), <https://www.cftc.gov/PressRoom/PressReleases/9105-25>.

<sup>2</sup> President's Working Group on Digital Asset Markets, Strengthening American Leadership in Digital Financial Technology (July 2025), <https://www.whitehouse.gov/wp-content/uploads/2025/07/Digital-Assets-Report-EO14178.pdf>.

authority for these products and why the derivatives market infrastructure—from futures commission merchants (“FCMs”) and introducing brokers (“IBs”) through DCMs and DCOs—is ready to support these markets. We also address the Commission’s request for input on potential securities law implications, and describe how Bitnomial can assist the Commission to implement leveraged spot crypto trading.

## **I. Bitnomial’s Qualifications and Interest**

Bitnomial created the first exchange and clearinghouse in the U.S. designed specifically for margined digital asset derivatives. We provide regulated trading and clearing for physically-delivered bitcoin, ether, XRP, and other digital asset futures and options. Unlike traditional derivatives that settle in cash, our products deliver actual digital assets to customers upon expiration.

Bitnomial serves institutional traders, hedge funds, and other sophisticated participants seeking direct exposure to digital assets under federal regulation. Since designation as a DCM in 2020, we have processed numerous digital asset derivatives transactions. Further, in April 2025, Bitnomial self-certified and launched the first perpetual futures contract ever listed on a U.S. exchange.<sup>3</sup> Our experience also includes successfully navigating complex regulatory questions with both the CFTC and the Securities and Exchange Commission (“SEC”), including addressing securities law questions regarding Bitnomial’s XRP futures that enabled us to bring the first-ever CFTC-regulated XRP futures to market in the U.S.<sup>4</sup>

This experience gives us unique insight into how digital asset derivatives products work within the existing regulatory framework. We understand the practical challenges of clearing, settling, and safeguarding digital asset derivatives under CFTC oversight. Our success proves that current regulations can accommodate innovative digital asset products without sacrificing investor protection or market integrity.

## **II. The CEA Already Supports Leveraged Spot Crypto Trading**

The President’s Working Group on Digital Asset Markets emphasized that regulatory clarity requires “technology-neutral regulations, frameworks that account for emerging technologies, transparent decision making, and well-defined jurisdictional regulatory boundaries.”<sup>5</sup> The Commission’s Initiative delivers exactly this type of clarity by applying existing regulations rather than creating new frameworks that could fragment oversight.

The CEA provides clear authority for leveraged spot crypto trading on DCMs. Section 2(c)(2)(D) requires that any leveraged retail commodity transaction involving actual delivery after

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<sup>3</sup> Bitnomial, Inc., Bitnomial Self-Certifies First Perpetual Futures Contracts on U.S. Exchange (Apr. 23, 2025), <https://bitnomial.com/news/2025-04-23/self-certification-perpetual-futures/>.

<sup>4</sup> Bitnomial, Inc., Press Release, Bitnomial Announces Launch of First CFTC-Regulated XRP Futures in the U.S. (Mar. 20, 2025), <https://bitnomial.com/news/2025-03-20/xrp-futures-launch/>.

<sup>5</sup> *Supra* note 2.

28 days be regulated as a futures contract and occur on a DCM.<sup>6</sup> Digital assets are commodities,<sup>7</sup> and leveraged spot crypto contracts involve retail customers trading commodities with leverage. These products therefore fall squarely within the CFTC's existing plenary jurisdiction over commodity futures.<sup>8</sup>

DCMs already provide comprehensive investor protection through the DCM Core Principles set forth in section 5 of the CEA.<sup>9</sup> These principles establish specific requirements, including: transparent price discovery mechanisms and fair access to trading;<sup>10</sup> comprehensive market surveillance to detect manipulation and abusive practices;<sup>11</sup> robust financial integrity safeguards including clearing and settlement procedures;<sup>12</sup> emergency powers to halt trading and liquidate positions during market stress;<sup>13</sup> and systematic recordkeeping of all transactions and participant activities.<sup>14</sup> DCMs must also deploy real-time surveillance,<sup>15</sup> and maintain adequate financial, operational, and managerial resources.<sup>16</sup>

Central clearinghouses (i.e., DCOs) provide an additional layer of protection through clearing of standardized contracts. DCOs act as central counterparties and apply comprehensive risk management under section 5b of the CEA.<sup>17</sup> The DCO Core Principles establish rigorous operational standards including: daily settlement of obligations and management of credit exposures;<sup>18</sup> maintenance of sufficient financial resources to cover potential losses from member defaults;<sup>19</sup> and real-time position monitoring with authority to require additional collateral or limit positions.<sup>20</sup> DCOs must also maintain detailed records of all cleared transactions and member

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<sup>6</sup> See 7 U.S.C. § 2(c)(2)(D)(iii).

<sup>7</sup> See *CFTC v. McDonnell*, 287 F. Supp. 3d 213 (E.D.N.Y.), adhered to on denial of reconsideration, 321 F. Supp. 3d 366 (E.D.N.Y. 2018).

<sup>8</sup> 7 U.S.C. § 2(a)(1). This framework also extends to end-of-day net settled spot trading on a leveraged basis. The Commission's 2020 guidance on actual delivery confirmed that netting does not constitute "actual delivery" under section 2(c)(2)(D), meaning such products would also be required to trade on a DCM. Given the inherent risk management requirements in leveraged trading—even with end-of-day settlement—DCO clearing remains essential to ensure proper oversight and customer protection. Retail Commodity Transactions Involving Certain Digital Assets, 85 Fed. Reg. 37,734, 37,744 (June 24, 2020).

<sup>9</sup> 7 U.S.C. § 7(d).

<sup>10</sup> 7 U.S.C. § 7(d)(2); 17 C.F.R. § 38.150.

<sup>11</sup> 7 U.S.C. § 7(d)(3)-(4); 17 C.F.R. § 38.200; *id.* § 38.250.

<sup>12</sup> 7 U.S.C. § 7(d)(11); 17 C.F.R. § 38.600.

<sup>13</sup> 7 U.S.C. § 7(d)(6); 17 C.F.R. § 38.350.

<sup>14</sup> 7 U.S.C. § 7(d)(18); 17 C.F.R. § 38.950.

<sup>15</sup> 7 U.S.C. § 7(d)(20); 17 C.F.R. § 38.1050.

<sup>16</sup> 7 U.S.C. § 7(d)(21); 17 C.F.R. § 38.1100.

<sup>17</sup> 7 U.S.C. § 7a-1.

<sup>18</sup> 7 U.S.C. § 7a-1(c)(2)(E); 17 C.F.R. § 39.14.

<sup>19</sup> 7 U.S.C. § 7a-1(c)(2)(B); 17 C.F.R. § 39.11.

<sup>20</sup> 7 U.S.C. § 7a-1(c)(2)(D); 17 C.F.R. § 39.13.

activities, ensuring complete transparency and accountability in the clearing process.<sup>21</sup>

The CEA’s existing regulatory framework extends beyond exchanges and clearinghouses to encompass all types of market intermediaries. FCMs must segregate customer funds and comply with strict customer protection requirements under section 4d of the CEA.<sup>22</sup> Although IBs do not accept customer funds, they operate under similar regulatory oversight and must comply with certain disclosure, recordkeeping, and supervision requirements under Parts 3 and 30 of the CFTC regulations.<sup>23</sup> This comprehensive, integrated framework gives retail investors the same protections that have made U.S. derivatives markets the global standard.

Bitnomial’s experience confirms that this framework works effectively for digital asset derivatives. We have successfully operated under these requirements since designation as a DCM in 2020 and a DCO in 2023,<sup>24</sup> demonstrating that digital asset products can trade safely within existing CFTC regulations while providing appropriate investor protection and market oversight.

Moreover, Bitnomial’s proven track record with physically-settled digital asset futures—which involve many of the same operational challenges as leveraged spot crypto contracts, including digital asset custody, delivery, and settlement—shows that the current regulatory framework can readily accommodate leveraged spot crypto trading without requiring new regulatory structures.

### **III. FCMs and IBs Can Handle Leveraged Spot Crypto Products Under Current Authority**

The Commission should confirm that FCMs and IBs can handle leveraged spot crypto products under their existing registrations. These intermediaries already possess the capabilities and infrastructure needed for these products. As a DCM and DCO that relies on FCMs and IBs to serve our customers and facilitate market access, Bitnomial has direct experience working with these intermediaries and observing their operational capabilities in digital asset markets.

Importantly, Bitnomial’s market infrastructure already successfully supports physically-settled digital asset futures. Bitnomial’s settlement facility directly handles the operational aspects of digital asset delivery, including managing delivery logistics, monitoring digital asset custody during the settlement process, and transferring digital assets to recipient addresses.<sup>25</sup>

FCMs play a critical role within Bitnomial’s settlement infrastructure. They are

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<sup>21</sup> 7 U.S.C. § 7a-1(c)(2)(K); 17 C.F.R. § 39.20.

<sup>22</sup> 7 U.S.C. § 6d(a)(2).

<sup>23</sup> 17 C.F.R. pts. 3, 30.

<sup>24</sup> See Order of Designation, Bitnomial Exchange, LLC (Apr. 17, 2020), <https://www.cftc.gov/sites/default/files/filings/documents/2020/orgdcmibitnomorderde200417.pdf>; Order of Registration, Bitnomial Clearinghouse LLC (Dec. 15, 2023), <https://www.cftc.gov/media/9936/Bitnomial%20Clearinghouse%20Order%20of%20DCO%20Registration%2012-15-23/download>.

<sup>25</sup> Bitnomial, “Digital Asset Delivery,” Bitnomial Exchange Market Operations Documentation, <https://bitnomial.com/exchange/docs/market-operations/digital-asset-delivery/> (last visited Aug. 17, 2025).

responsible for approving accounts for delivery and settlement—only FCM-authorized representatives can approve accounts for delivery.<sup>26</sup> FCMs also oversee customer risk management, financial disclosures, account setup, and updating delivery addresses. While FCMs do not directly handle the movement or custody of digital assets, delivery cannot occur without FCM authorization. IBs complement this structure by soliciting customer orders and coordinating with FCMs to ensure proper execution of delivery instructions and compliance with regulatory requirements.

This framework demonstrates that the CEA and CFTC rules can accommodate leveraged spot crypto products without major modifications, with IBs bringing customers to the market, FCMs handling customer funds and delivery authorization, and Bitnomial’s settlement facility managing delivery. The Commission can thus accelerate market development by confirming that qualified FCMs and IBs can offer these products under their current CFTC registrations.

#### **IV. Securities Law Considerations and Bitnomial’s Experience**

The Commission’s Initiative specifically requests stakeholder input on “whether there are any implications under the securities laws or regulations with respect to an SEC framework for trading of non-security assets that are part of an investment contract.”<sup>27</sup> Bitnomial has extensive experience navigating exactly these types of securities law questions and can provide valuable insights on this critical issue.

In March 2025, we launched the first-ever CFTC-regulated XRP futures in the U.S., becoming the first exchange to successfully bring XRP derivatives to market under federal oversight.<sup>28</sup> This achievement required resolving complex questions about the intersection of securities law and derivatives regulation, including filing a lawsuit against the SEC.<sup>29</sup>

Our litigation demonstrated the practical challenges that can arise when digital asset derivatives encounter overlapping regulatory frameworks. The SEC initially asserted that XRP futures were security futures based on their position that offers and sales of XRP constituted investment contracts and therefore a security. This position would have created significant implementation challenges, as listing security futures would require XRP to be registered as a security—something that Bitnomial or a similar entity could not accomplish since we are not the issuer of XRP.

However, Bitnomial’s successful resolution of these securities law issues demonstrates that the CEA and CFTC rules can readily accommodate innovative digital asset products when there is clarity about jurisdictional boundaries. When digital assets are treated consistently as non-security commodities, it prevents unnecessary litigation and uncertainty that can delay innovative products from reaching traders and impede market development. Further, the CFTC’s existing

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<sup>26</sup> Bitnomial, “Customer Roles,” Bitnomial Exchange Market Operations Documentation, <https://bitnomial.com/exchange/docs/market-operations/customer-roles/> (last visited Aug. 17, 2025).

<sup>27</sup> *Supra* note 1.

<sup>28</sup> *Supra* note 4.

<sup>29</sup> Complaint, *Bitnomial Exch., LLC v. SEC*, No. 1:24-cv-09904 (N.D. Ill. Oct. 10, 2024).

authorities under CEA section 2(c)(2)(D) provide a clear and workable framework for leveraged retail crypto products without requiring complex coordination between multiple agencies.

## **V. Supporting Policy Development**

We would like to commend the Commission for its leadership in fostering transparent and inclusive policy development through public engagement. Acting Chairman Pham’s announcement in January 2025 to launch a series of public roundtables on evolving trends and innovation in market structure represents exactly the kind of forward-looking, collaborative approach that strengthens U.S. derivatives markets. As Acting Chairman Pham noted, “[t]he CFTC will get back to basics by hosting staff roundtables that will develop robust administrative records with studies, data, expert reports, and public input.”<sup>30</sup>

The Commission’s commitment to industry engagement—including the Crypto CEO Forum held earlier this year—reflects the Commission’s dedication to developing well-informed policy through meaningful stakeholder input.<sup>31</sup> We believe the Commission’s approach to understanding evolving market trends helps establish regulatory clarity and safeguards while promoting innovation and American competitiveness.

Building on this foundation, Bitnomial would welcome the opportunity to participate in the Commission’s roundtables, discussions, and policy development processes for leveraged spot crypto trading. Our experience with physically-delivered crypto futures trading and clearing may offer valuable practical insights that can inform the Commission’s policy objectives.

We stand ready to contribute technical expertise, operational insights, and market data to support the Commission’s Initiative. Our experience positions us to provide input on product design standards for leveraged retail spot crypto products, risk management best practices for these instruments, market structure improvements specific to retail crypto trading, and international coordination efforts that establish U.S. leadership in leveraged spot crypto product regulation.

## **VI. Conclusion**

Bitnomial strongly supports the Commission’s Initiative. Our experience as the only integrated DCM-DCO focused on deliverable digital assets demonstrates that leveraged spot crypto products can operate successfully under the CEA and CFTC regulations. The Commission can implement this Initiative rapidly using CEA section 2(c)(2)(D), providing American investors with world class digital asset trading under proven federal oversight while strengthening U.S. leadership in crypto markets.

We appreciate this opportunity to comment and look forward to contributing our expertise to support the successful implementation of the Initiative.

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<sup>30</sup> CFTC, Press Release, Acting Chairman Pham to Launch Public Roundtables on Innovation and Market Structure (Jan. 27, 2025), <https://www.cftc.gov/PressRoom/PressReleases/9038-25>.

<sup>31</sup> Commodity Futures Trading Commission, Press Release No. 9049-25, CFTC Announces Crypto CEO Forum to Launch Digital Asset Markets Pilot (Feb. 7, 2025), <https://www.cftc.gov/PressRoom/PressReleases/9049-25>.

Respectfully submitted,

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