

August 18, 2025

Hon. Caroline Pham, Acting Chairman
Commodity Futures Trading Commission
1155 21st Street NW
Washington DC 20581

Re: Response to Request for Input on Digital Asset Trading

Dear Acting Chairman Pham:

EDX Markets, LLC (“EDX”) appreciates the opportunity to respond to the Commodity Futures Trading Commission (“CFTC”) request for input on the trading of spot digital assets on CFTC registered designated contract markets (“DCMs”).

For American investors, the greatest impediment to participation in digital asset markets has not been a lack of exchanges, but a lack of access through regulated intermediaries. The past ten years have seen an explosion in the number of venues on which investors can trade digital assets, with hundreds of centralized and decentralized exchanges executing over \$150 billion in transactions per day globally.

However, regulatory uncertainty has hampered the ability of broker-dealers and futures commission merchants (“FCMs”) to offer access to those digital asset exchanges, including US based exchanges. As a result, American investors can access digital assets only through state licensed money transmitters or trusts, not through the intermediaries they use for futures and securities markets. EDX believes that a focus on improving access through established regulatory frameworks such as FCM licenses or broker dealers will be a more effective and straightforward initially than focusing on adding a new venue where trading can occur. Furthermore, allowing access to digital assets via an FCM or broker dealer, with appropriate conflicts of interest and customer protection rules, will bring a more normalized market structure to digital assets. Exchanges could compete for FCM customers’ order flow and customer assets would be segregated away from the FCM’s funds.

While the CFTC has the statutory authority to open the path for FCMs to offer digital assets, the path for regulatory clarity for spot digital asset exchanges is through legislation. With the House passing the CLARITY Act and the Senate considering market structure legislation, the digital asset market is on the cusp of having certainty over jurisdiction for various products, Federal registration categories for brokerage and exchange function in the market, and a suite of customer protections analogous to traditional markets.

EDX's Background

EDX is a U.S.-based spot digital asset exchange and clearinghouse founded by a consortium of some of the largest firms in traditional finance, including Citadel Securities, Virtu Financial, Charles Schwab, and Fidelity Digital Asset®. EDX currently services some of the largest institutions in the finance industry, many of which require the safeguards found in traditional market structure to service their customers in a fair and transparent way. Over the past year EDX has cleared over \$50 billion in trades and processed over 45 billion orders.

EDX is purpose-built for institutional clients, including retail broker-dealers. Our model differs from other digital asset exchanges because EDX is focused solely on being an execution venue and clearinghouse. Unlike other digital asset exchanges:

- We do not operate a brokerage
- We do not operate a market maker or trade on our own platform
- We do not onboard any direct retail participants

Our focus on execution and clearing of trades for institutional members mirrors traditional market structure in equities and derivatives markets. This structure avoids the conflicts of interest and concentration of risk that can arise when a single entity controls customer order flow, market making on the exchange, operating the matching engine, and holding of the private keys for customer assets.

FCMs and Spot Trading – A Path to Wider, Regulated, and Fairer Access

EDX believes that the Commission's most effective and fastest path to giving American investors access to digital assets is through a focus on the FCMs. First and foremost, EDX believes that tailored exemptive relief and rule changes would allow FCMs to offer their clients access to spot digital assets along with existing access to digital asset futures. As you noted in your March 3, 2025 article, FCMs already have a regulatory framework in place. Allowing them to offer spot digital assets can be done in a manner that ensured that "all existing protections—such as segregation of customer funds and requirements regarding conflicts of interest, financial resources, disclosures, reporting, and deceptive or abusive marketing and sales practices—would also immediately apply."

The CFTC should, however, address conflicts of interest and customer protection issues that may arise in digital asset spot markets due to their fungibility and trading on multiple venues. In particular, a best execution requirement similar to that found in equities markets would help protect investors from potential conflicts of interests where an FCM is affiliated a spot exchange. NFA has previously addressed best execution requirements for FCMs in the context of securities futures

products.¹ under NFA Rule 2-4, which requires NFA member to observe “just and equitable principles of trade” in dealing with their customers’ futures and swaps trading. Extending NFA Rule 2-4 to cover members’ trading in spot commodities, and clarification that FCMs should following best execution principles,² will promote competition among exchange venues and ensure that investors get the best pricing for their trades.

CLARITY Is on the Horizon

With the recent passage in the House of Representatives of the CLARITY Act, and the continued work by the Senate Agriculture and Banking Committees to draft a companion bill, Congress is working to provide the long-sought after clarity for the digital asset markets. A key component to the CLARITY Act is the creation of separate registration categories for digital commodity exchanges (“DCEs”) and digital commodity brokers and dealers (“DCBDs”).

To date, there has been no Federal registration category through which an entity could offer digital asset trading. As a result, trading venues have operated under a combination of state money transmitter licenses and digital asset-specific registrations such as the New York Department of Financial Services “Bitlicense.” Some digital asset exchanges have purchased or registered FCMs, DCMs, and SEC broker-dealers. To date none of those licenses have been used for spot digital asset trading, in no small part because of legal questions on the scope of CFTC and SEC

¹ A limited exception to this has been for security futures. For instance, NFA addressed best execution requirements for dual registered FCMs and broker-dealers dealing in security futures products. *See* Interpretive Notice 9048 - NFA COMPLIANCE RULE 2-4: THE BEST EXECUTION OBLIGATION OF NFA MEMBERS REGISTERED AS BROKER-DEALERS UNDER SECTION 15(b)(11) OF THE SECURITIES EXCHANGE ACT OF 1934.

² FINRA best execution requirements are established in FINRA Rule 5310, which requires that:

(a)(1) In any transaction for or with a customer or a customer of another broker-dealer, a member and persons associated with a member shall use reasonable diligence to ascertain the best market for the subject security and buy or sell in such market so that the resultant price to the customer is as favorable as possible under prevailing market conditions. Among the factors that will be considered in determining whether a member has used "reasonable diligence" are:

(A) the character of the market for the security (e.g., price, volatility, relative liquidity, and pressure on available communications);

(B) the size and type of transaction;

(C) the number of markets checked;

(D) accessibility of the quotation; and

(E) the terms and conditions of the order which result in the transaction, as communicated to the member and persons associated with the member.

jurisdiction over such transactions. Given that the market could be on the cusp of resolving the exchange registration issue through legislation – which would put the industry on the most solid legal ground – EDX urges restraint at this junction.

Spot Trading on DCMs Raises Novel Legal and Regulatory Questions

EDX also urges caution in allowing DCMs to list spot commodities until certain legal and regulatory questions are addressed. The complexity of these issues and the impact across FCMs, DCMs, clearinghouses, and market participants warrants notice and comment rulemaking. This will ensure that any changes do not have unintended consequences on other parts of the derivatives or spot markets.

Historically, DCMs have not listed spot products³ through their DCM licenses. Where a DCM operator also facilitates spot trading, the DCM's rulebooks are very clear that the spot trading is neither facilitated through the DCM's license nor subject to CFTC oversight.⁴ Similarly, the CFTC has consistently taken the position that it does not have regulatory oversight over spot commodity transactions, with its jurisdiction limited to enforcing its anti-fraud and anti-manipulation authorities.

Before DCMs could list pure spot assets, the Commission should resolve various novel legal questions about those products, including:

- Could the CFTC enforce its customer protection and market integrity rules on DCMs for spot trading on the exchange? For instance, would DCMs be obligated to comply with core principles and related regulations on fair and equitable trading, impartial access, market supervision, and emergency authority?
- If the CFTC cannot enforce the full suite of its rules on spot transactions, what steps need to be taken to prevent confusion among investors in these markets as to what rules apply? Digital asset markets are predominantly retail, unlike traditional spot commodities like agricultural and energy markets, so participants may not grasp the subtle differences that could have significant impact on outcomes.
- Would spot trades on DCMs be subject to the DCO clearing requirements of Regulation 38.601?

³ To the extent that the Commission is evaluating whether DCMs can list leveraged retail products that do not fit within the exemption of Section 2(c)(2)(D), such products are economically equivalent to perpetual futures. These products would not raise the same concerns highlighted below for pure spot transactions, as they fall within the definition of "commodity interest" under the Act.

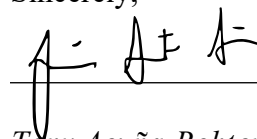
⁴ See., e.g., CME Rulebook Chapter 12 "Spot Market Trading – Electronic." The chapter includes up front the disclaimer "CME SPOT MARKET IS NOT REGISTERED WITH, OR DESIGNATED, RECOGNIZED, LICENSED OR APPROVED BY THE CFTC."

- Could DCOs clear spot trades, as Section 1a of the Act excludes from the definition of DCO activity the “settlement, netting, or novation of obligations resulting from a sale of a commodity in a transaction in the spot market for the commodity”?
- If DCOs do clear such spot transactions, how are spot assets to be held on the books of the DCO? DCOs have four account classes, none of which would clearly encompass spot transactions. The “delivery account” class is for “effecting delivery under commodity contracts whose terms require settlement via delivery *when the commodity contract is held to expiration* or, in the case of a cleared option, is exercised.” This indicates that “delivery account” is for delivery under futures, swaps, or other contracts that anticipate future delivery.
- If spot trades on DCMs are not cleared by a DCO, how does the DCM ensure the financial integrity of such transactions under DCM Core Principle 11?

These open questions are central to customer protection, risk management, and market integrity. Allowing spot trading on DCMs without clarifying these points could create uncertainty and potentially put investor funds at greater risk than the current state of the digital asset market.

We look forward to engaging with the CFTC as it considers ways to improve investor access to digital assets and to create a robust market structure. Please feel free to contact me at tony.acuna-rohter@edxmarkets.com, or our general counsel Andrew Ridenour at andrew.ridenour@edxmarkets.com.

Sincerely,

A handwritten signature in black ink, appearing to read "Tony Acuña-Rohter", written over a horizontal line.

Tony Acuña-Rohter
Chief Executive Officer
EDX Markets