

August 18, 2025

**VIA ELECTRONIC SUBMISSION**

Christopher Kirkpatrick  
Secretary of the Commission  
Commodity Futures Trading Commission  
Office of the Secretariat  
Three Lafayette Centre  
1155 21st Street, NW  
Washington, D.C. 20581

**RE: Request for Input on Listing Spot Crypto Asset Contracts**

Dear Mr. Kirkpatrick,

On behalf of the Crypto Council for Innovation (CCI), we are pleased to submit this comment letter in response to the Commodity Futures Trading Commission's (CFTC) invitation for feedback and suggestions on listing spot crypto asset contracts on a CFTC-registered designated contract market (DCM).<sup>1</sup> CCI is a global alliance of industry leaders dedicated to fostering a constructive partnership between government and business stakeholders to craft sound policy and regulation for digital assets. We appreciate this opportunity to provide input on such a critical initiative.

CCI commends the CFTC for launching this Listed Spot Crypto Trading Initiative (the "Initiative"), the first step in its crypto sprint to implement the recommendations of the President's Working Group on Digital Asset Markets Report (the "Report"). We particularly appreciate the CFTC's forward-leaning thinking on how to leverage existing regulatory authority to provide much needed clarity to the digital assets industry. This Initiative directly aligns with President Trump's leadership and vision to make America the "crypto capital of the world."

As an initial matter, we appreciate the CFTC's commitment to providing clarity to digital asset markets under its existing authorities. Indeed, CCI is grateful for the Commission's 2020 Final Interpretative Guidance (the "Guidance") on retail commodity transactions involving digital assets.<sup>2</sup> This Guidance clarified that "actual delivery" of virtual currency purchased by

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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> Retail Commodity Transactions Involving Certain Digital Assets, 85 Fed. Reg. 37,734 (June 24, 2020) (the "Digital Asset Actual Delivery Guidance").

non-eligible contract participants using margin, leverage, or financing (“retail commodity transactions”) requires the purchaser to secure both possession and full control of the entire amount of the virtual currency and have the ability to use it freely in commerce away from any particular execution venue within 28 days of the transaction execution date. In order to comply with the Guidance, offerors and counterparty sellers of retail commodity transactions cannot retain any control over the virtual currency. By requiring retail commodity transactions to trade on DCMs subject to the DCM Core Principles and customer protection requirements under Part 38 of the CFTC rules, the Commodity Exchange Act (the “CEA”) (supplemented by the Guidance) ensures that American investors are provided with critical products subject to robust oversight and consumer protections. Retail commodity transactions are already “subject to enforcement under Section 4(a) of the [CEA], among other provisions, as if such transactions are commodity futures contracts” unless actual delivery occurs within 28 days, and it is thus “unlawful for any person to offer to enter into” such a transaction unless it “is made on or subject to the rules of a board of trade that has been designated or registered by the CFTC as a [DCM].”<sup>3</sup> Retail commodity transactions already fall within the CFTC’s existing regulatory oversight of futures markets; however, CCI’s understanding is that no DCMs currently list these products. This may be due to existing questions regarding how the product fits within key DCM requirements such as mandatory clearing. Given the current commercial status of retail commodity transactions in the U.S., CCI encourages the Commission to closely examine – using all of its available tools (e.g., industry roundtables, one-on-one engagement with key industry stakeholders, and notice and comment rulemaking) – how DCMs can begin to offer these products in a safe and viable manner.

Beyond the specific authority granted to the CFTC pursuant to Section 2(c)(2)(D) of the CEA and Part 40 of the CFTC regulations, we also interpret this request for feedback to include a potentially broader discussion about the ability of DCMs to list spot crypto asset contracts. We respectfully note that both the CEA and CFTC regulations have traditionally been interpreted to extend only anti-manipulation and anti-fraud enforcement authority directly to spot markets.<sup>4</sup> Notwithstanding the relatively narrow direct CEA provisions with respect to the CFTC’s spot market oversight authority, there is precedent regarding the listing of spot commodity products on DCMs. For example, we understand that one exchange offers certain spot dairy products on its DCM.<sup>5</sup>

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<sup>3</sup> See 7 U.S.C. § 2(c)(2)(D)(iii); see also *In re BFXNA Inc. (d/b/a Bitfinex)*, CFTC Docket No. 16-19 (2016)

<sup>4</sup> See 7 U.S.C. § 9; see also 17 C.F.R. §§ 180.1 and 180.2.

<sup>5</sup> <https://www.cmegroup.com/education/courses/introduction-to-dairy/cme-dairy-spot-markets.html>

As a threshold matter, we agree with the Initiatives’s underlying supposition: that the CFTC is well-situated to play an increasingly central role in overseeing spot digital asset commodity markets. The Commission’s expertise with respect to digital assets is well established in the context of its derivatives market oversight authority and its principles-based approach is increasingly viewed as a global benchmark. The CFTC has successfully supervised DCMs and derivatives clearing organizations that offer a range of digital asset futures and options products for nearly eight years. The success of these markets, which operate with mandatory clearing, robust trade surveillance, and investor protections, demonstrates the agency’s proven ability to handle the unique characteristics of digital commodities. This expertise is further underscored by the CFTC’s strong and consistent enforcement actions against fraud and manipulation in the crypto ecosystem.

To the extent the CFTC explores whether its existing authorities may permit DCMs to list spot digital commodity contracts, we respectfully encourage the CFTC to take into consideration the operational differences between existing spot digital asset exchanges, DCMs (which to date primarily offer cash settled digital asset derivatives products), and any existing physical spot commodity markets operated by DCMs. For example, while a DCM’s compliance program is built around the core principles set forth in Part 38 of the CFTC regulations, which emphasize market integrity and the prevention of disruptive trading conduct, a spot digital asset exchange’s compliance program may include additional considerations, including with respect to the role of digital assets in payments and related anti-money laundering principles. In addition, we encourage the CFTC to consider whether the existing CFTC regulations cover risks related to managing wallet infrastructure, including with respect to custody, settlement, and facilitating deposits and withdrawals of customer digital assets.

Notwithstanding our support for the current Initiative, we continue to believe that the most durable and long-term policy approach to digital asset market regulation remains comprehensive federal legislation with respect to centralized digital asset markets.<sup>6</sup> It is CCI’s belief that Congress is the best institution to address critical gaps and ambiguities in the current regulatory landscape and refine existing authorities. A comprehensive federal framework is essential to ensure a lasting market structure that benefits users and consumers, fosters industry growth, and strengthens U.S. markets by preventing fragmentation and regulatory ambiguity. As underscored above, this includes granting the CFTC clear authority to regulate spot markets in non-security digital assets, and associated rulemaking authority to ensure registrants have clear, fit for purpose operational and compliance guidelines. Indeed, the CFTC is well-placed to supervise such markets given the experience and frameworks it has in place and that already underpin this current Initiative. Such legislation would additionally permit market regulators’ registrants to engage in multiple business lines under the most efficient licensing structure possible, ensuring a

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<sup>6</sup> See also Report at 143, President’s Working Group on Digital Asset Markets, Strengthening American Leadership in Digital Financial Technology (July 30, 2025), <https://www.whitehouse.gov/crypto/>. (“The Working Group strongly recommends that Congress expeditiously advance market structure legislation to the President’s desk.”).

clear and simple regulatory framework for digital asset market activities.

Thank you again for the opportunity to provide this feedback. CCI looks forward to continuing our constructive partnership with the CFTC and other government stakeholders to foster responsible, durable innovation and protect consumers in the digital asset ecosystem. We look forward to continued engagement with the CFTC on its Crypto Sprint initiatives.

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Respectfully,

A handwritten signature in black ink, appearing to read 'JH Kim', with a long horizontal flourish extending to the right.

Ji Hun Kim  
Chief Executive Officer  
Crypto Council for Innovation (CCI)