November 26, 2025

Submitted via comments.cftc.gov

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

RE: General CFTC Request Input on All Recommendations for the CFTC in the President's Working Group on Digital Assets

Dear Mr. Kirkpatrick,

The Crypto Council for Innovation ("CCI") appreciates the opportunity to respond to the request for input ("RFI") by the Commodity Futures Trading Commission ("Commission" or the "CFTC") on the recommendations made by the President's Working Group on Digital Asset Markets in its July 30, 2025 report (the "PWG Report"). As an initial matter, CCI strongly believes that digital assets represent one of the most significant innovations in finance—and beyond—with the existing ability and continued potential to enhance ownership structures, commercial applications, cross-border payments, and transaction processing and settlement. To fully realize the benefits of this technology, entrepreneurs and industry leaders require guidance and constructive engagement from market regulators. To that end, the CFTC's leadership and commitment to ensure the continued growth of this industry within the United States is critical. CCI looks forward to acting as a resource to the CFTC to advance regulations that best achieve that goal while best protecting consumers.

I. Summary:

Advancing the recommendations articulated in the PWG Report is critical for ensuring that the United States remains at the forefront of digital asset innovation while protecting market integrity. CFTC guidance clarifying the treatment of many digital assets as commodities, the applicability or non-applicability of registration requirements, and regulatory expectations of certain intermediaries would reduce ambiguity that currently hampers investment and adoption. More specifically, by modernizing existing rules and guidance, the Commission can align rules with the unique features of blockchain technology and 24/7 markets, giving firms the confidence to scale operations in the U.S. rather than offshore. This clarity would also foster institutional participation, which is essential for building liquid and well-supervised digital asset and related derivatives markets. A technology-neutral but forward-looking approach will allow the CFTC to accommodate new business models, including decentralized protocols and DAOs, while maintaining fair and orderly markets.

Additionally, providing pathways for digital asset custodians, clearinghouses, and intermediaries to manage collateral and margin requirements more efficiently by leveraging new technological capabilities would strengthen financial stability while unlocking new use cases. For example, the CFTC could clarify regulations recognizing payment stablecoins as cash for purposes of margin and settlement and provide guidance around the use of other digital assets as collateral. Tokenized collateral, stablecoin settlement, and bundled custody and trading services offer opportunities to rethink traditional back-end functions in order to improve market operations and efficiency. Through clear and forward-looking guidance, the CFTC can ensure that these innovations reduce systemic risk, enhance transparency, and lower costs for both firms and end-users.

Exploring frameworks that permit greater flexibility for registrants to offer multiple services within a single user interface or vertically integrated business model—such as by combining brokerage, dealing, custody, and exchange functions—could reduce frictions, lower costs, reduce risks, and enhance user experience, if accompanied by appropriate safeguards, disclosures, and oversight of potential conflicts of interest. Collaboration with other regulators such as Financial Crimes Enforcement Network ("FinCEN") and the Securities and Exchange Commission ("SEC") will be essential to ensuring regulatory consistency and cohesion. For example, the CFTC should collaborate with FinCEN to facilitate the use of new technologies to improve customer identification programs. As Congress crafts bipartisan market structure legislation, the CFTC must work closely with Congress to ensure regulatory actions complement and do not undermine these critical legislative efforts. By taking these steps, the Commission can send a powerful signal that the U.S. is committed to responsible innovation, ensuring global competitiveness and safeguarding our country's role as a leader in financial markets.

II. Response to Certain Specific PWG Recommendations:

1. Recognizing Unique Attributes of Many Digital Assets as Commodities

As an initial matter, until and unless market structure legislation provides more robust definitions,[1] CCI would encourage the CFTC to continue to provide clarity on which digital assets constitute a commodity under the existing Commodity Exchange Act ("CEA") definition. The vast majority of digital assets can be classified as "commodities" under section 1a(9) of the CEA, which broadly defines them as all "goods and articles, … and all services, rights, interests … in which contracts for future delivery are presently or in the future dealt in."

[1] For example, the House-passed CLARITY Act and draft market structure legislation from the Senate Agriculture Committee and Senate Banking Committee propose definitions for key terms in digital asset markets, including "digital asset" and "digital commodity".

Furthermore, most digital assets do not function similarly to securities. For example, assets like Bitcoin and Ether are not issued by a centralized entity to raise capital and lack profit-sharing rights typically associated with traditional securities, like common stock.[2] Most digital asset trading volume occurs in secondary markets, where participants view these assets as a store of value, rather than equity stakes.[3] In addition, the value of these digital commodities is determined independently of the managerial or entrepreneurial efforts of any controlling party. This stands in contrast to traditional securities—such as shares of corporate stock—whose value is directly tied to the performance of a centralized management team and the underlying business. Recognizing commodity-like nature of most digital assets is essential to crafting a fit-for-purpose regulatory framework.[4]

2. Clarification Regarding Perpetual Derivatives as Futures or Swaps

The CFTC should clarify the classification of perpetual derivatives as futures or swaps. Current uncertainty on this issue is deterring professional traders from participating in the market and discouraging trading and businesses from offering perpetual derivatives due to concerns they may be classified as swaps.

Specifically, the Commission should issue guidance clarifying that perpetual derivatives with no settlement date should be classified as futures and that the DCM trading requirement does not apply.[5] Alternatively, to the extent the CFTC determines these products are swaps, it should clarify that anonymous transactions in protocol-based perpetual contracts need not count toward the swap-dealer de minimis threshold, and that swap dealers entering into such products would not be subject to uncleared-swap margin requirements for those transactions.[6]

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[2] *See, e.g.,* Commodity Futures Trading Commission (2017) A CFTC primer on virtual currencies. Available at: https://www.cftc.gov/sites/default/files/idc/groups/public/documents/file/labcftc_primercurrencies100417.pdf.

[3] *See* Stakeholder Perspectives on Federal Oversight of Digital Commodities: Hearing Before the S. Comm. on Agric., Nutrition, & Forestry, 119th Cong. 1 (2025) (testimony of Ji Kim, CEO, Crypto Council for Innovation).

[4] Regulatory clarity in this area must also account for entities and instruments covered by the GENIUS Act to ensure payment stablecoins can be used for payments. Guidance across agencies that is coordinated and principles-based would promote regulatory coherence, market confidence, and responsible innovation.

[5] *See* Letter from dYdX to CFTC Re: Request for Input on All Recommendations for the CFTC in the President's Working Group on Digital Assets at 8-9 (hereinafter, "dYdX CFTC Comment Letter") ("[While CFTC Staff have recently suggested that the classification of perpetual derivatives as futures or swaps remains an open question, many professional traders refrain from trading perpetual derivatives out of concern that their classification as swaps would potentially trigger swap dealer registration requirements. The Commission could resolve this by clarifying that perpetual derivatives with no settlement date should be classified as futures (and providing that the DCM trading requirement does not apply). Perpetual-style derivatives with expiry dates are already properly classified as futures.

[6] *See* dYdX CFTC Comment Letter at 8-9.

3. Modernizing Existing Requirements by Recognizing Unique Attributes and Benefits of DeFi, Digital Assets, & Blockchain Technology

Decentralized Finance (DeFi)

To promote near-term clarity while preserving responsible innovation, the CFTC should adopt a principles-based, technology-neutral framework that clarifies how existing registration, reporting, and supervisory requirements apply—or do not apply—to DeFi services and products, smart contract protocols, and DAOs. This framework must reflect the functional realities of decentralized systems, which differ materially from the centralized intermediaries the Commodity Exchange Act and related regulations were originally designed to oversee.

For example, many CFTC requirements presuppose a unitary “person or group of persons” operating a trading platform or service. By contrast, no person or group of persons “operates” DeFi protocols that are actually decentralized. While these systems are often developed, deployed, and administered by diffuse, unaffiliated actors—protocol developers, validators, node operators, indexers, front-end providers, and governance token holders—none of those parties have the ability to unilaterally control or modify the protocol if it is truly decentralized.

The CFTC should take a tech-neutral approach when adopting rules and clarify protections for developers, DAOs, and ancillary services providers. For example, developers who create software but do not operate or control a protocol should not be subjected to registration requirements or exposed to liability for the actions of the users. Similarly, providers of ancillary technological services supporting the functioning of a DeFi protocol, such as validator node operators or oracle price providers, should not trigger registration requirements. Further, the CFTC should issue guidance recognizing that smart contract developers and protocol DAOs do not “accept” user assets where the relevant smart contract protocol is entirely self-custodial (i.e., where no developer, operator, or another third party may access or otherwise control the user’s assets). In crafting any frameworks for DeFi, the CFTC should recognize the many ways decentralized trading protocols may satisfy the CEA’s core policy objectives—including bolstering transparency, market integrity, and reducing intermediary risks—through public blockchains, automated settlement, and self-custody.[7] For example, the non-custodial nature of DeFi protocols serves to protect market participants from fraud and abusive practices, including by preventing misuse of customer assets by a central custodian. In the case of decentralized derivative trading venues, traders’ margin often remains in segregated smart contracts instead of being intermingled with an intermediary’s balance sheet. The transparent and immutable nature of the blockchain underlying these protocols may also diminish risks relating to hidden fees, front-running, or undisclosed rehypothecation of customer assets. Attempting to shoehorn DeFi into unworkable rules designed for centralized intermediaries not only risks stifling domestic

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[7] *See* Letter from dYdX to CFTC Re: Request for Input on All Recommendations for the CFTC in the President’s Working Group on Digital Assets at 4-5.

innovation, but also pushes activity into foreign jurisdictions that lack comparable consumer and financial stability safeguards, undermining the very policy objectives of the CEA.

Utilizing Blockchain for Recordkeeping Purposes

Blockchain technology offers immutable, transparent, and verifiable records of transactions and balances, making it a powerful tool for strengthening the integrity of financial data. By maintaining cryptographically secured, time-stamped entries across a distributed ledger in real time, blockchain protects against tampering, deleting, or backdating of records. Each new entry is generated by consensus, recorded and traceable, and creates a transparent audit trail that can be independently verified. This can meet the objectives of Regulation 1.31 and is consistent with the rule's goals of ensuring reliability and integrity of records. It would also be consistent with the Commission's flexible approach to accommodate novel products and technologies.[8] To that end and to promote efficiency in digital markets, CCI recommends that the CFTC issue guidance interpreting how blockchain and other distributed ledger systems could be used to satisfy Regulation 1.31 requirements.

4. **<u>Pathways for Digital Asset Collateral</u>**

Unlocking Digital Asset Collateral

The CFTC should take action to modernize margin, collateral, and settlement requirements. Markets are eager for innovation that would give customers better risk management options, access to more efficient capital, and 24/7 settlement. There are concrete steps the CFTC could take in the immediate term to facilitate this development, including:

- Clarifying that the CFTCs regulations recognize stablecoins as cash for purposes of margin and settlement.
- Withdrawing Staff Advisory 20-34, which went beyond applicable CFTC rules in limiting the ability of FCMs to use digital assets as collateral.
- Modernizing regulations and guidance around the use of digital assets as collateral via interpretations and/or rulemaking, including treating permitted payment stablecoins as cash.

Permitted Payment Stablecoins

Many stablecoins are subject to rigorous regulatory and supervisory standards—including payment stablecoins issued in compliance with the GENIUS Act—and should be recognized and treated as cash equivalents under the CFTC's regulations for margin, collateral, and settlement. Not only would this enhance liquidity and reduce settlement friction, it would promote

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[8] *See, e.g.*, CFTC Staff Letter No. 25-28 (Sept. 2, 2025) (providing certain swap data reporting and recordkeeping relief to Polymarket subsidiary DCM QCX LLC and subsidiary derivatives clearing organization QC Clearing LLC in connection with certain binary option event contracts); CFTC Staff Letter No. 25-26 (Aug. 7, 2025) (providing similar relief for DCMs Railbird Exchange, LLC and QC Clearing LLC).

innovation across global financial markets and payment systems. Ensuring this treatment only applies to well-regulated, transparent, and fully-reserve backed stablecoins will preserve system stability.

Under the GENIUS Act, the CFTC may determine that permitted payment stablecoins can be eligible as cash or cash equivalent margin; however, the CFTC does not need to wait for this to become effective to make progress on stablecoins. Prior to the effective date, the CFTC should establish that permitted payment stablecoins consist of U.S. dollar-denominated stablecoins that are issued by a state-regulated money transmitter or trust company, that (i) maintains cash reserves, Treasury securities, or overnight Treasury repurchase agreements and (ii) publishes monthly attestations of the composition of the reserve assets and their fair market value equalling permitted payment stablecoins in circulation.

5. Exploring How Allowing Registrants to Integrate and Offer Multiple Services Benefits Market Efficiency, Stability, and Customers

CCI recommends a technology-neutral, risk-based approach that permits the vertical integration of services. Regulation should acknowledge and accommodate the organic evolution of digital asset market architecture, where vertical integration—combining functions such as brokerage, dealing, custody, market-making, and exchange operation within a single legal entity—is a defining feature. Current digital asset market structure reflects the underlying technical design of blockchain-based systems, which were built for disintermediation and efficiency from inception. Vertically integrated platforms enable faster settlement, lower transaction costs, and greater market accessibility—especially for retail participants.[9] Combining services may also allow for economies of scale and reduced operational complexity by permitting straight-through processing of customer orders within the same technology stack. Rather than mandating the blanket disaggregation of these functions, the Commission should recognize that blockchain technology fundamentally alters the risk profile of market infrastructure in ways that support integration.

- **Technology Mitigates Traditional Risks:** Digital asset transactions often settle in real time, eliminating the gap between trade confirmation and asset transfer. This removes the counterparty credit exposure that has traditionally warranted the separation of functions.

[9] Additionally, vertical integration in digital assets can bring unique benefits and help mitigate traditional risks due to the underlying technology. In other words, blockchain technology itself may mitigate traditional risks. For example, during the financial crisis, opacity around certain financial firm exposures triggered market-wide uncertainty—risks that blockchains could have mitigated by providing real-time visibility into firm holdings. Further, a market that operates on real-time settlement eliminates the counterparty credit exposure that typically arises from the delay between the moment when a trade is confirmed and the moment when ownership of the asset is transferred. Eliminating this risk significantly strengthens the operations of trading platforms in the crypto markets, eliminating a major vulnerability that traditional finance exchanges must actively manage. It also frees up assets that would otherwise be reserved as collateral, enabling more efficient capital deployment.

- **Efficiency and Expanding Access:** Vertical integration reflects a natural evolution of internet-based technologies that disintermediate inefficient gatekeepers or functions. By eliminating these inefficiencies, integrated platforms can lower costs, increase speed, and expand market access.
- **Regulatory Parity:** "One-roof" service models are common in traditional finance and are managed through disclosure and governance. Digital asset intermediaries should not be treated differently when such risk mitigants are appropriate and applicable.
- **Risks of Mandated Disaggregation:** The CFTC should disfavor rules that legally mandate the unbundling of services. Such mandates provide less service-provider variety to market participants and could inadvertently increase systemic risk by forcing the concentration of assets into the hands of a small number of custodial entities.
- **Manage Conflicts Without Banning Models:** Instead of blanket prohibitions, the Commission should rely on established mitigation measures. Any potential conflicts of interest in vertical integration can be effectively managed through robust information barriers, clear employee duties, and disclosures that leverage the inherent transparency of the blockchain.

We also would respectfully caution against any regulation that would require the disaggregation of services where doing so could introduce new risks. For example, mandating separation of trading and custody functions may inadvertently increase concentration risk and systemic risk. Similarly, required disaggregation may undermine the efficiency and transparency benefits enabled by blockchain technology. In light of the potential benefits, we caution the CFTC to avoid any approach that uniformly disapproves of vertical integration, and instead tailor its approach to the specific risks that may be posed in specific circumstances.

Mitigation tools and well-constructed information barriers can minimize opportunities for improper use of information. Clear articulation of the duties that employees have to customers can clarify whose interests must be considered. Mandatory disclosures and the inherent transparency of the blockchain can keep the market and regulators apprised of inter-company relationships. And simply-written disclosures can aid customers to understand any mitigable potential conflicts of interest, while periodic review and testing of policies can ensure the on-going adequacy and effectiveness of conflict mitigation measures.

6. Collaborating with FinCEN to Provide Guidance Regarding Customer Identification Programs (CIP) and Exploring Intermediaries' Reliance on Other Financial Institutions' Identification and Verification Functions

CCI recommends that the CFTC collaborate with FinCEN to facilitate the use of new technologies to improve CIP. A joint-agency policy approach is necessary to ensure CFTC-registered intermediaries and other market participants can leverage modern digital-ID tools effectively across the financial system.

To this end, FinCEN and the CFTC should issue joint guidance outlining acceptable CIP technologies that account for new, sound practices and methods such as wallet address screening, digital IDs, and zero-knowledge proofs.

The CFTC can also significantly advance the adoption of digital identity solutions in the crypto space by actively engaging in collaborative interagency initiatives, running pilot or sandbox programs, and/or driving policy clarifications regarding CIPs.

To validate the real-world impact and effectiveness of these technologies, the CFTC should support or participate in regulatory sandbox pilot programs designed to test reusable, privacy-preserving digital identity credentials in live, regulated environments. These pilot programs, which could operate for a defined period (e.g., six months) under a no-action letter, could evaluate how portable, high-assurance digital IDs strengthen AML/CFT compliance, reduce fraud, and protect consumer privacy in digital asset transactions. Participants could include DeFi services, allowing the pilot to test whether on-chain attestations, and smart-contract based integrations can meet KYC and AML requirements while preserving pseudonymity and composability. The pilot should rigorously test decentralized digital identity systems, including the use of zero-knowledge proofs (ZKPs), verifiable digital credentials, revocation registries, and attestation-based workflows that reveal only necessary attributes (e.g., "over 18," "U.S. resident,") without exposing Personal Identifying Information (PII). The empirical results can help inform future rulemaking and provide a basis for formal recognition of digital credential verification within CIP rules, consistent with the modernization themes articulated in the Treasury docket. Any pilot program must provide clear, definite criteria, such as how registered intermediaries may satisfy CIP obligations using decentralized identity solutions.[10] Outdated CIP expectations are currently inhibiting the use of privacy preserving and decentralized identity in AML compliance programs.

In addition, the CFTC should coordinate with Treasury and FinCEN to align supervisory expectations, and data standardization requirements for innovative digital ID technologies. Existing documentary verification requirements "hamper and discourage the ability of financial

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[10] Letter from a16z Crypto to Julie Lascar, Dir., Office of Strategic Policy, Terrorist Financing & Financial Crimes, U.S. Dep't of the Treasury (Oct. 17, 2025) at 8, https://www.regulations.gov/comment/TREAS-DO-2025-0070-0001.

institutions to employ emerging technology, including decentralized and digital identity solutions, in conducting their BSA/AML compliance programs."[11]

The CFTC should also consider working with Treasury to issue guidance that recognizes high-assurance digital credentials, such as W3C verifiable credentials or NIST IAL-2/AAL-2 credentials, as valid documentary methods under existing CIP rules (e.g., 31 CFR § 1020.220(a)(2)(i)(A)(4)). The current regulatory framework does not provide sufficient clarity for financial institutions seeking to use reusable or cryptographically secured digital IDs. Furthermore, the CFTC should support clarification of the existing reliance framework under the BSA to explicitly allow regulated entities to use identity service providers for credentials validity and revocation checks, as part of CIP verification without transferring full AML- program liability.[12]

7. **Ensuring Regulations Complement, Not Undermine, Bipartisan Congressional Efforts to Provide Comprehensive and Durable Clarity**

CCI firmly believes Congress must act to provide a durable, lasting, and comprehensive framework for digital assets. To the extent existing authorities permit, however, the CFTC should use its available tools—such as convening industry stakeholders, exemptive authority, guidance, and notice-and-comment rulemaking—to provide near-term clarity to promote stability and promote innovation in the U.S. digital asset ecosystem.

A clear, workable regulatory baseline for digital asset trading and custody will enhance market integrity, reduce regulatory uncertainty, and keep innovation in the United States. Harmonizing regulatory efforts with the SEC and other relevant agencies as needed will be key to avoiding regulatory fragmentation and cohesion. As Congress continues to work on a bipartisan basis to enact legislation, the CFTC should work closely with Congress to ensure its regulatory efforts are in support of and consistent with legislative efforts.

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[11] *Id.* at 5.
[12] Persona and Ribbit Capital, Comment Letter on Request for Comment on Innovative Methods To Detect Illicit Activity Involving Digital Assets (Oct. 17, 2025),available at: https://www.regulations.gov/comment/TREAS-DO-2025-0070-0204.

Respectfully submitted,

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