Crypto
Council for
Innovation

May 27, 2022

Christopher J. Kirkpatrick
Secretary of the Commission
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20581

Re: Roundtable Discussion on Non-intermediation

Dear Mr. Kirkpatrick:

The Crypto Council for Innovation (CCI) appreciates the opportunity to provide comments to the Commodity Futures Trading Commission (the "Commission") to contribute to the Roundtable Discussion on Non-intermediation.

CCI is an alliance of crypto industry leaders with a mission to communicate the opportunities presented by crypto and demonstrate its transformational promise. CCI members span the crypto ecosystem and include some of the leading global companies and investors operating in the industry. CCI members share the goal of encouraging the responsible global regulation of crypto to unlock economic potential, improve lives, foster financial inclusion, protect national security, and disrupt illicit activity. Achieving these goals requires informed, evidence-based policy decisions realized through collaborative engagement.

As Chairman Benham has highlighted, derivatives markets have historically been highly intermediated due to a variety of technical and historical factors.[1] New crypto-enabled models – and resulting advances in transparency, security, and privacy – allow for an unprecedented opportunity to re-think these systems from the ground up. Given our mission, the feedback in this letter focuses on the broad implications of the proposed changes for innovation, competition and consumer choice, and future regulatory models. If a long-term and collaborative approach is taken to regulating this type of new financial technology, the United States will be well-poised to lead in innovative service models.

This high-level comment letter summarizes the thinking of our member organizations, some of whom have submitted letters of their own.

I. An Innovation-Friendly Approach Is Key To Maintaining US Leadership In Crypto

Innovation has always been at the heart of financial services and crypto represents a once-in-a generation opportunity to usher in reforms that better meet the needs of customers. We agree with Chairman

[1] https://youtu.be/x7iG60lmUsk?t=18915

Benham's assessment that real-time margining, non-intermediated models similar to the proposal's "could end up leading to more efficient trading execution, less risk in the system." Concerns about non-intermediation can and should be mitigated through a collaborative and forward-looking approach; the willingness to have this conversation is an important first step. Missing the opportunity to innovate within derivatives markets is a risk in and of itself. This could be, for example, supporting better-informed price discovery and risk management opportunities. As individuals, governments, and the private sector are waking up to the potential of crypto, it will be critical to foster a regulatory environment that allows for a risk-aware, balanced testing of new models.

Importantly, any order approving a non-intermediate DCO model should take a long-term view, ensuring that the new form is flexible enough to allow for product innovation in the future. Providing regulatory clarity is a first step in market innovation, and we believe that this action will pave the way for new entrants that may utilize and expand upon the non-intermediated model.

II. New Models Promote Healthy Competition And Expanded Consumer Choice

Market competition is key to having a system that provides affordable, accessible, and user-friendly services. Supporting innovation not only expands the number of options that are available, but also pushes incumbent players to provide services that work better for customers.

Allowing for non-intermediation supports derivatives markets that are competitive and innovative, giving market participants more choice. While intermediaries will be allowed to access the market on behalf of their customers, those customers will no longer depend on those intermediaries for access. This is especially important given that there are currently only 59 registered futures commission merchants ("FCMs") in the United States, representing a high concentration of market power.[2] Moreover, the 24/7 and direct access model is one that is more common in crypto, and one that these market participants are used to.

We also believe that non-intermediation will reduce systemic risk. With less intermediation of markets, the number of interconnection risks between financial institutions in the overall market ecosystem is minimized. This also helps to minimize the "too big to fail" systemic-risk concerns that policymakers have continuously addressed since the 2008 financial crisis. The simplicity of the direct-to-investor market structure also reduces other operational risks compared to other models. A non-intermediated structure presents fewer risks to the platform, and to the end investor, and makes it easier for the platform to manage risk overall.

III. This Opens The Door For Novel, Well-Tailored Approaches To Crypto Regulation

We value the opportunity to provide these comments. A notice-and-comment rulemaking approach allows for an open, deliberative process that can level the playing field for new entrants. We are supportive of the CFTC taking a larger role in regulating crypto, in-line with the newly proposed Digital Commodity Exchange Act ("DCEA").[3] The CFTC has largely completed rulemakings under the Dodd-Frank Wall

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[2] National Futures Association ("NFA"), Membership and Directories (as of May 9, 2022), https://www.nfa.futures.org/registration-membership/membership-and-directories.html.
[3] https://republicans-agriculture.house.gov/uploadedfiles/04.28.2022_dceasummary_final.pdf

Street Reform and Consumer Protection Act; and we believe it has the bandwidth to focus on crypto, unlike other regulators.

In addition, approaches taken should consider the ways in which novel technical capabilities can be utilized for policy and regulatory objectives. For instance, the automated 24/7, real-time liquidation mechanics built into a non-intermediated clearing model ensure that risk is being swept out of the system on a real-time basis. Given this real-time risk management and given the fact that the minimum margin requirements are calculated based on a one-day margin period of risk[4], the margin requirements are more conservative than they need to be.

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Working Together Toward Next Steps

CCI and its members stand ready and willing to work with the CFTC (and lawmakers and other regulatory bodies) to accomplish what is necessary to ensure that the most transformative innovations of this generation and the next are anchored in the United States.

Allowing for non-intermediated models allows for a new realm of possibilities in derivatives markets, supporting the CFTC's mission is to promote the integrity, resilience, and vibrancy of the U.S. derivatives markets through sound regulation. We hope the Commission will utilize this unique opportunity to introduce greater transparency, accessibility, and liquidity into derivatives markets.

Please do not hesitate to contact the undersigned at policyteam@cryptocouncil.org with any questions regarding these comments.

Respectfully submitted,

Sheila Warren
Chief Executive Officer
Crypto Council for Innovation

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[4] 7 CFR § 39.13(g)