coinbase

To:
Mr. Christopher Kirkpatrick
Secretary of the Commission
Commodity Futures Trading Commission
Three Lafayette Centre
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Washington, D.C. 20581

August 18, 2025

Crypto Spot Trading via CEA Section 2(c)(2)(D)

Coinbase Global, Inc. (together with its subsidiaries, **Coinbase**) appreciates the opportunity to respond to the Commodity Futures Trading Commission's (**CFTC's**) invitation to submit feedback on listing spot crypto assets on a designated contract market (**DCM**) pursuant to Commodity Exchange Act (**CEA**) Section 2(c)(2)(D) (**RFI**).[1]

We have long advocated for clear rules of the road for crypto markets and are pleased that the President's Working Group on Digital Asset Markets directs federal agencies to take decisive action toward this goal.[2] We support the CFTC's proactive approach to considering its existing CEA authority to bring regulatory clarity to spot crypto asset markets, including pursuant to Section 2(c)(2)(D).

Any contemplated changes to accommodate spot crypto asset markets under the CEA must preserve critical elements of the existing spot crypto market structure, recognizing the fundamental differences between the futures and spot crypto asset markets. Applying the futures regulatory regime without ensuring that it is fit for purpose could hinder, or even preclude, the activity the CFTC seeks to enable and regulate.

We commend the CFTC for seeking public input on this important topic and for its willingness to explore innovative solutions for crypto asset market structure. We remain available to discuss these matters going forward.

Yours sincerely,

Boris Ilyevsky	Julia Hueckel
CEO Coinbase Derivatives	Director, Regulatory Policy
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[1] *Acting Chairman Pham Launches Listed Spot Crypto Trading Initiative*, Release Number 9105-25 (August 4, 2025).
[2] President's Working Group on Digital Asset Markets, *Recommendations to Strengthen American Leadership in Digital Financial Technology*, July 30, 2025, https://www.whitehouse.gov/crypto/.

Introduction

Coinbase has long sought regulatory clarity for crypto assets. We applaud the progress made towards that goal in recent months. The Digital Asset Market Clarity Act of 2025 (**CLARITY**), which passed out of the House in July, provides a comprehensive framework for crypto asset market structure. This moment presents a generational opportunity to create a fit-for-purpose regime for crypto asset markets that ensures continued American leadership in innovation, while providing critical customer protections. For these reasons, we will continue to advocate for market structure legislation to be passed into law.

We also support the CFTC's "crypto sprint" initiative and its efforts to provide regulatory clarity for spot and leveraged crypto asset trading. We have long believed that Section 2(c)(2)(D) of the Commodity Exchange Act (**CEA**) provides CFTC with this authority. But, if the CFTC chooses to pursue this approach it must create a framework that addresses spot market trading among all types of market participants – retail and institutional alike – whether or not those participants obtain leverage on any particular transaction. Not only is this squarely within the CFTC's authority where a platform offers a crypto asset to a retail customer on a leveraged or financed basis (even if that transaction is not entered into), it is necessary to preserve liquidity for customers and to avoid the unintended result of providing lesser protections to customers who trade without leverage.

If it proceeds, the CFTC should carefully consider the proper application of the CEA to crypto asset spot markets listed and traded on a DCM. The current futures regime is not well suited for spot crypto assets due to the fundamental differences between spot crypto and futures markets. If it were, CLARITY would be a much simpler piece of legislation. In fashioning this regime, the CFTC must consider the important innovations offered by blockchain technology that eliminate many of the key risks in traditional futures markets as well as the differences in how spot crypto assets and futures transactions are settled and funded. Establishing a regime under Section 2(c)(2)(D) that fosters innovation, effectively protects customers, and preserves American competitiveness in spot crypto asset markets would require a detailed review of existing CFTC regulations to ensure they are fit for purpose.

We set out below key areas where we believe clarity would be needed from the CFTC if it chooses to exercise its authority under Section 2(c)(2)(D) to support spot crypto asset trading on a DCM, and welcome ongoing engagement with the CFTC and industry on this topic.

- **Vertical Integration:** Vertical integration in crypto markets (i.e., listing, trading, settlement, and custody of crypto assets) is beneficial to customers. The CFTC should ensure the availability of vertically integrated structures for spot crypto asset trading by clarifying that they are not prohibited by Section 2(c)(2)(D).

Otherwise, requiring spot crypto firms to artificially separate functions to map to futures market structure would stifle or preclude key benefits enabled by blockchain technology.

- **Clearing/DCOs**: Spot crypto asset trading relies upon atomic settlement, and any leverage that a participant obtains is not inherent in the transaction itself. These differences make traditional futures clearing requirements a poor fit. In particular, because not all transactions will involve leverage, and any leverage will be tailored to the needs of the particular customer, the fungibility necessary to impose DCO regulation is not present. Instead, as we see in the cash securities markets, any leverage involved with this sort of market structure is better regulated through a broker-style regime. The CFTC should accordingly exempt DCMs from clearinghouse requirements under Part 38 for these products and regulate leverage through a tailored version of futures commission merchant ("**FCM**") regulation, as discussed below.

- **Financing/Leverage:** Section 2(c)(2)(D) contemplates leverage, margin, or financing "by the offeror, the counterparty, or a person acting in concert with the offeror or counterparty on a similar basis." And, because the CEA does not mandate a particular registered entity to provide this service, the CFTC should allow the market to make this choice. However, the CFTC should clarify that financing entities operate solely under the CFTC's authority to prevent potentially duplicative or conflicting compliance with state regulatory requirements.

- **Unified Regulatory Regime:** Customers should be able to trade spot crypto assets, regardless of whether those assets are securities or commodities, in a frictionless way, taking advantage of offsets in their portfolio. We recognize that achieving this would require coordination between the CFTC and the SEC and we are heartened by the close cooperation between agencies on crypto asset matters to date. We welcome continued coordination on critical topics, including intermediary registration and regulation, as well as portfolio margining.

- **Customer protection.** Customers need clarity on how their assets would be treated in the case of an insolvency of a crypto asset trading platform. The CFTC's asset segregation requirements and the Commodity Broker insolvency regime provide excellent protection to futures customers. The CFTC should either clarify how this regime would serve to protect customers who trade crypto asset commodities, or in the alternative, mandate that entities offering crypto asset commodity trading enter into commercial arrangements to ensure customer assets are protected. In either case, entities offering crypto asset commodity trading should disclose to customers how insolvency affects their assets.

CFTC has authority to regulate spot and leveraged crypto asset trading

CEA Section 2(c)(2)(D)(iii) establishes that "Sections 6(a), 6(b), and 6b [of the CEA] apply to any [Retail Commodity Transaction] as if the agreement, contract, or transaction was a contract of sale of a commodity for future delivery a futures contract."

Section 2(c)(2)(D)(i) defines Retail Commodity Transactions as:

> *[A]ny agreement, contract, or transaction in any commodity that is– (I) entered into with, or offered to (even if not entered into with) a person that is not an eligible contract participant or eligible commercial entity [**retail person**]; and (II) entered into, or offered (even if not entered into), on a leveraged or margined basis, or financed by the offeror, the counterparty, or a person acting in concert with the offeror or counterparty on a similar basis.*

These provisions grant CFTC jurisdiction over spot and leveraged crypto asset commodities trading when meeting the two criteria established by Section 2(c)(2)(D)(i).

1. Spot crypto asset commodity transactions may be regulated by CFTC as long as leverage was offered.

For an agreement, contract, or transaction in a crypto asset commodity to qualify as a Retail Commodity Transaction, the plain language of the law requires that leverage, margin, or financing be ***offered, even if not entered into*** for the transaction. This phrasing clearly contemplates classifying all transactions in a certain commodity the same – margin, leverage, or financing must be offered, but the statute clearly states there is no need for that margin, leverage, or financing to actually be used. Any use of Section 2(c)(2)(D)'s existing authority should interpret the criterion this way to avoid improperly fracturing order books, trading functions, and/or regulatory requirements for the same underlying commodity transaction.

2. ECP/ECE transactions may be regulated under the definition so long as the transaction was also offered to retail.

Additionally, the statute provides existing authority to regulate crypto asset commodities transactions for all types of customers. Section 2(c)(2)(D) applies to trading platforms or marketplaces that facilitate transactions in commodity contracts entered into, **or offered to**, retail participants on a leveraged, margined, or financed basis. By its plain language, the criterion is limited in scope to leverage offered to retail persons.

However, nothing in Section 2(c)(2)(D) prohibits eligible contract participants or eligible commercial entities (**ECPs and ECEs**) from trading spot crypto assets on a DCM that lists a qualifying Retail Commodity Transaction in crypto assets alongside eligible retail market participants. To promote market efficiency and deepen liquidity, the CFTC should clarify with any use of existing authority that **all customers** are permitted to participate in the trading of spot crypto assets listed on a DCM if that DCM lists Retail Commodity Transactions in crypto assets.

Interpreting Section 2(c)(2)(D) otherwise would lead to undesirable results. If Section 2(c)(2)(D) authority were only exercised over leveraged transactions involving non-ECPs/ECEs, different order books would be required for those transactions brought under CFTC's regulatory authority and otherwise identical transactions involving ECPs/ECEs or retail persons not accepting leverage. This would have an immediate negative impact on liquidity for all categories of market participants. But it would also lead to additional operational complexity and would counterintuitively only provide retail customers with the protections of CFTC's regulatory oversight if they chose to use leverage.

3. **Clarity is needed on how crypto asset commodities transactions will be regulated "as if" they are futures contracts.**

Because the CEA is silent on what it means for spot and leveraged crypto asset commodity transactions to be treated as if they were futures contracts, we agree with the directive in the recent President's Working Group Report that CFTC should provide DCMs with additional guidance.

Such guidance is vital should CFTC use existing authority over Retail Commodity Transactions. As we note above, such guidance should, at a minimum, address topics such as vertical integration, clearing, financing, portfolio margin, and insolvency, each discussed below. Additionally, the CFTC should carefully review and appropriately interpret the DCM Core Principles, granting exemptions where necessary.

Spot crypto must be regulated differently from futures.

Crypto asset markets have several key differences from futures markets that require a different regulatory approach. A core difference is that spot transactions in crypto assets do not involve any intrinsic leverage and frequently trade on a prefunded basis with real-time settlement. Even where leverage is provided, it is provided separately from the transaction itself, as a margin loan (for a long position) or asset loan (for a short position), with the transaction itself having already settled. This separation, as well as the bespoke nature of the leverage being provided (which will take into account the individual customer's creditworthiness), eliminates the fungibility necessary to impose the market-wide risk management tools mandated by the CFTC for futures. For example, it would not make sense for a DCO centrally to administer margin and default management processes for a marketplace where all trades settle nearly instantaneously, some but not all of those trades are supported by leverage, and the leverage is bespoke to the particular customers who obtain it. In this context, central clearing requirements are both unnecessary and not suited to the economic reality of the activity. The risks in spot crypto asset trading should be identified and managed, but require their own toolkit, more similar to what we see in other spot markets (such as cash securities trading) where the risks of margin lending are addressed through broker regulation, not central clearing.

In addition, while crypto asset trading platforms operate order books similar to those of DCMs, they also perform a range of functions typically separated in traditional market structures. These functions often include providing front-end user interfaces, engaging in riskless principal transactions for customers, offering request-for-quote functionality, safeguarding assets, and facilitating settlement.

Likewise, crypto asset trading platforms offer customers several different ways to fund and trade the assets: customers may settle the crypto asset commodity in fiat or in a non-commodity payment stablecoin or they may convert one crypto asset commodity for another. While not clearly prohibited, these types of scenarios are not contemplated under the existing futures regime, and would be essential components of any relief.

1. Vertical Integration

Unlike the intermediated structure familiar under the futures regulatory regime, crypto firms often employ vertically-integrated infrastructure to facilitate the listing, trading, settlement, and custody of crypto assets. Consumers benefit when crypto asset platforms are allowed to operate with the same cohesion, clarity, and efficiency as the technology they are built upon. Integrated models can deliver superior outcomes for consumers, regulators, and markets by fostering greater transparency, enhancing capital efficiency, reducing customer fees, and creating resiliency.

While not present in existing futures market structure, integration of functions within a single legal entity is not prohibited by Section 2(c)(2)(D). We would therefore urge the CFTC to ensure the availability of vertically integrated structures for spot trading of crypto assets by clarifying that they are not prohibited and not imposing requirements that minimize the customer benefits of vertical integration in connection with the listing of spot contracts on a DCM.

a. *Conflicts of Interest*

Vertically integrated entities or corporate families are, of course, not free from conflicts of interest. Conflicts of interest are inherent in any business enterprise. However, as we've noted in the past,[3] the existing CFTC framework for futures is sufficient to address any potential conflicts of interest for CFTC registrants. When considering vertically integrated entities in crypto asset spot markets, we urge the CFTC to apply its existing framework in a way that preserves the efficiencies and customer benefits of integrated structures.

We believe the CFTC can achieve effective oversight and manage these potential risks without sacrificing the structural advantages that make vertical integration so effective in digitally native markets. The risks of vertical integration are sufficiently mitigated through regulations rooted in conflict-of-interest rules, asset segregation, and rigorous supervision.[4]

b. *Maintaining Competition*

While we believe vertical integration should be permitted, we are not advocating that the CFTC require vertical integration within a single entity. Intermediated platforms should be allowed to compete with fully-integrated platforms or hybrid ones that both serve customers directly or via intermediaries. So long as customers experience the same level of protection or can knowingly opt out of certain protections, the way they interact with the crypto asset market place should be driven by customer preference rather than regulation.

For example, some customers may value a simple and fast experience, trading on a single trusted venue. Others may prefer working with, and be willing to pay additional fees to work with, a broker that allows them to trade multiple products across multiple venues. Still others may prefer to access multiple trading venues directly without using a broker because doing so is less costly than using a broker and presents less of a credit or custody risk. Customers should have this choice, and these models should be allowed under any fit-for-purpose regime.

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[3] Faryar Shirzad, Coinbase, *Comment on the Impact of Affiliations of Certain CFTC-Regulated Entities*, September 28, 2023, Comment No. 73145, https://comments.cftc.gov/PublicComments/ViewComment.aspx?id=73145.

[4] *Id*. The CFTC employs a principles-based regulatory regime designed to address potential conflicts of interest in affiliate arrangements. This regime is supported by a robust practice of registrant audits, exams, rule enforcement reviews, and other forms of supervision, by both the CFTC and the National Futures Association (**NFA**). Existing laws and regulations prohibit DCMs from engaging in anticompetitive behavior and require them to maintain impartial access to their market, enforce their rulebooks consistently across participants, maintain adequate staffing, safeguard confidential information, and manage conflicts of interest. FCM disclosure obligations, duties to customers, and risk management obligations set out in CFTC regulations and NFA rules seek to achieve the same outcomes.

This would be consistent with the Securities and Exchange Commission's (**SEC's**) Broker-Dealer/Alternative Trading System (**BD/ATS**) model where a broker, exchange, and custodian are combined into one entity, and typically allow third-party broker access to the trading venue. As discussed further below, this type of consistency is vital when creating a unified framework for crypto markets.

2. Clearing and Financing Requirements

The extension of credit for leveraged spot crypto assets differs significantly from the type of leverage embedded in futures. If they trade with leverage, spot crypto asset customers borrow funds typically against their holdings to enable them to control positions much larger than their initial investment and thereby increase their exposure to market price movements. With futures contracts, the leverage is embedded in the contract itself. A customer must only put up a small percentage of the value of the futures contract.

For a customer looking to trade spot crypto assets with leverage, the customer will receive the full amount of the leveraged exposure from the party providing the financing. The party providing the funding must fund the assets themselves typically by rehypothecating assets from others. This type of financing is more closely aligned with the leverage provided by broker-dealers under the securities market regulatory framework, which is separate from the security itself. In contrast, because the leverage is embedded in the futures contract in the form of potential future payment obligations, no upfront cash outlay is necessary and the type of leverage embedded in the contract itself is not tailored to the individual customer.

Therefore, unlike futures markets, spot crypto asset markets do not require clearing or settlement through a separate derivatives clearing organization (**DCO**). Customers engaged in the crypto asset market expect the benefits provided by blockchain technology and enabled by integrated models, most notably immediate, atomic settlement. Atomic settlement significantly reduces the risks of leveraged trading (as compared to the same activity in traditional markets) because it ensures that the contra-side to the transaction receives its asset or cash immediately, even if its counterparty funded that settlement by borrowing the asset or the cash.

Because of this, spot crypto asset markets do not require delayed-settlement clearing functions, nor is a DCO required to manage ongoing payment obligations. Rather, trades are settled atomically and cannot be "broken" or "voided." As a result, DCO clearing requirements involving a central counterparty are effectively irrelevant. For DCMs to successfully list spot crypto contracts, the CFTC must exempt the DCM from clearing requirements set forth in Part 38 of the CFTC's rules.

A core question that a regime based on Section 2(c)(2)(D) will need to address is the regulatory treatment of entities offering financing. Section 2(c)(2)(D) does not specify the type of entity that may offer to or enter into an agreement for leverage, margin, or financing of the purchase or sale of a commodity. The CFTC would need to clarify this and related questions such as whether it will require the offeror to be CFTC-registered and the amount of leverage an offeror can provide.

We do not believe leverage should be required to be offered by a DCO. As discussed above, spot crypto market transactions can settle atomically, do not require clearing, and should thus not be subject to futures clearinghouse requirements. Thus, while a DCO may be an appropriate entity to offer financing for a crypto asset Retail Commodity Transaction, we would strongly urge the CFTC to avoid forcing spot crypto markets into the futures clearing structure. There are other, more appropriate options the CFTC could permit for financing, such as third parties; affiliates; or, as the CFTC's March 24, 2020 Guidance on Actual Delivery suggested, execution venues, such as a DCM.

In each of these cases, the CFTC should clarify that these entities operate solely under the CFTC's authority to prevent registrants from unnecessarily having to obtain state lending licenses and navigate potentially conflicting regulatory requirements.

3. Unified Regulatory Regime

A successful crypto asset market structure regulatory framework must result in a single, cohesive regulatory regime for core trading, custody, lending, and brokerage activities. Of course, market structure regulation must have consumer protection at its core, while at the same time unlock product innovation. These ends are best achieved by providing firms with clarity – and where possible, simplicity – on the laws and regulations that apply (and those that don't). This fosters efficient, safe, and confident operations, which benefit customers, firms, and all market participants.

a. Portfolio Margining

Portfolio margining generally refers to the cross-margining of related positions in a single account and can promote greater efficiencies in margin calculations with respect to offsetting positions. The CFTC and SEC have worked together to harmonize margin levels for other financial instruments and must do so again for the crypto asset market.

Institutional and eligible retail customers should be able to trade crypto assets, regardless of asset type, in a frictionless and capital efficient way, taking advantage of risk offsets in their portfolio. The technology underpinning the trading of crypto assets does not (and need not) differentiate between token types, and crypto asset markets allow interoperability between asset classes. These technological advances create new opportunities to reduce regulatory inconsistency and improve market functionality through cost-effective portfolio margining, not just for securities or commodities, but for all asset types.

The CFTC must work with the SEC to create an efficient and unified spot crypto asset regime that allows participants, and products, to follow a harmonized set of rules that support efficient markets and eliminate existing regulatory gaps and supervisory uncertainty, including when there may be additional uncertainty at the state level.

We appreciate mandated rulemaking on portfolio margining for brokers and dealers of crypto assets in the leading congressional proposals and urge the CFTC to work with the SEC to ensure crypto asset market participants can apply risk-based margin across both spot and futures contracts, and securities too.

4. Customer Protection and Insolvency

The CFTC should also establish a customer asset protection regime tailored to the nature of trading and financing in spot markets. Where a customer holds fully-paid-for assets at a custodian, those assets should be segregated, just like is the case with initial margin provided to an FCM for a futures trade or a fully-paid-for security held at a broker-dealer. In contrast, where a customer is borrowing against an asset, the intermediary lending against that asset should be permitted to rehypothecate it, so long as the value of the asset being rehypothecated does not exceed the amount of credit being extended plus a reasonable buffer. This approach is consistent with the one the SEC takes for broker-dealers offering margined trading, which has worked well to ensure that segregation requirements extend to a sufficient amount of customer property to pay off customers' net equity claims in the broker-dealer's insolvency. Permitting limited rehypothecation of assets held for customers engaged in margined trading does not lead to customer property shortfalls because those customers' net equity claims are reduced by the amount of money they owe the broker-dealer to repay the financing.

We think that a similar approach can work with existing insolvency laws. The CFTC has a robust framework for the treatment of assets following a commodity broker bankruptcy under Part 190 of its regulations and has updated that framework as needed to reflect current market practices and lessons learned from past insolvencies. If the CFTC were to pursue this approach under Section 2(c)(2)(D), the CFTC could provide clarity that it views Section 2(c)(2)(D) contracts intermediated by an FCM as a type of "commodity contract" that is "similar to" a futures contract, which would help ensure that the crypto assets held by the FCM would be treated as "customer property" under Part 190 and factor in (together with any repayment obligations, as noted above) in any customer's "net equity" claim against the FCM.

In the alternative, regulated entities that do not fall within the commodity broker provisions of the Bankruptcy Code could comply with the provisions of Article 8 of the Uniform Commercial Code (**UCC**) to ensure that customers retain title to any crypto assets held by the regulated entity as custodian, free of any claims of its general creditors. UCC Article 8 protection for crypto assets requires that the custodian and the customer opt into Article 8 in the commercial agreement between the parties and that the custodian hold the crypto assets in such a manner as to satisfy the Article 8 requirements. Coinbase and many other participants, both in the crypto asset and traditional financial industries, rely on Article 8 to support and safeguard their customers' assets. In the absence of crypto assets being treated as "customer property" under the Bankruptcy Code and Part 190, the CFTC could explore mandating that regulated entities adopt Article 8 in their customer agreements and hold crypto assets in a manner consistent with those requirements.

5. Other DCM Core Principles

In addition to addressing the significant market-structure questions raised above, the CFTC would need to work closely with industry to carefully evaluate how the DCM Core Principles should apply to crypto asset spot and leveraged trading. Because of the fundamental differences between crypto asset spot and futures markets, not all of the DCM Core Principles, as currently interpreted, should apply to the crypto asset spot market.

For example, DCM Core Principle 3 provides that a board of trade list only contracts that are not readily susceptible to manipulation, an analysis focused on the futures contract's relationship to the spot market (e.g., the spot market's supply, demand, and expectations; trading months; and convergence at contract expiration). DCM Core Principle 4 requires that a DCM have the capacity to prevent manipulation, price distortion, and disruptions of the delivery or cash-settlement process through market surveillance, compliance, and enforcement practices and procedures. DCM Core Principle 5 requires DCMs to adopt position limits or position accountability for speculators to reduce the potential threat of market manipulation or congestion. DCM Core Principle 11 requires that a board of trade develop rules and procedures for ensuring the financial integrity of transactions entered into on or through the facilities of the contract market.

These Core Principles would not correspond to crypto spot exchange markets due to the mismatch in their risk profiles. CFTC pillars like central clearing, daily margining, and rules governing contract design are all essential mechanisms to secure these future obligations over time. In stark contrast, crypto spot markets are defined by immediacy; transactions are settled nearly instantly with the simultaneous exchange of the asset and payment. Additionally, crypto spot market surveillance and monitoring extends to news, on-chain movements, blockchain network integrity, and availability. The focus of crypto spot market surveillance is on a broader, more holistic view of market activity. The CFTC's goals of market integrity and investor protection are universal, but the mechanisms and principles it employs are tailored to the unique risks of futures markets.

The Core Principles mentioned above are merely examples of areas where the CFTC would need to reinterpret or modify its existing futures regime to appropriately regulate crypto asset spot markets. There are likely others. The exercise of “getting it right” will require careful consideration of the regulatory goals that each Core Principle strives to meet against the economic and operational realities of the crypto asset spot markets.