

Message

From: Giancarlo, Chris [/O=CFTC/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=GIANCARLO, CHRIS2A4]
Sent: 3/15/2019 11:36:06 AM
To: Kulkin, Matthew [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=f973c0fe038742b4bb68c3eeae3f8171-Kulkin, Matthew]; Gill, Michael [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=3ab6b606c58b45fe8b9174d248b3fa65-Gill, Michael]; Zaidi, Amir [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=azaidi]; Bussey, Brian [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=a2d0b8b95a0b46029f13ebeadb73f297-Bussey, Brian]; Thornton, Charlie [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=2f7cd1b27f3e4fde80a5088eadd3b931-Thornton III, Norwo]; Sklar, Maggie [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=Sklar, Maggie3]; Jones, Shonneice [/O=CFTC/OU=Washington, DC/cn=Recipients/cn=sknight]
Subject: Re: Call: Chairman Giancarlo/Bakkt

Non-Responsive

On: 15 March 2019 10:52,
"Kulkin, Matthew" <MKulkin@CFTC.gov> wrote:

Non-Responsive

From: Gill, Michael
Sent: Friday, March 15, 2019 10:39 AM
To: Zaidi, Amir; Kulkin, Matthew; Bussey, Brian; Thornton, Charlie; Sklar, Maggie; Giancarlo, Chris; Jones, Shonneice
Subject: Re: Call: Chairman Giancarlo/Bakkt

Non-Responsive

On: 15 March 2019 10:13,
"Zaidi, Amir" <AZaidi@CFTC.gov> wrote:

Non-Responsive

From: Kulkin, Matthew
Sent: Friday, March 15, 2019 9:56 AM
To: Zaidi, Amir; Bussey, Brian; Thornton, Charlie; Sklar, Maggie; Giancarlo, Chris; Gill, Michael; Jones, Shonneice
Subject: RE: Call: Chairman Giancarlo/Bakkt

Non-Responsive

-----Original Appointment-----

From: Kelly Loeffler [mailto:Kelly.Loeffler@bakkt.com]

Sent: Thursday, March 14, 2019 4:15 PM

To: Kelly Loeffler; Zaidi, Amir; Bussey, Brian; Kulkin, Matthew; Thornton, Charlie; Sklar, Maggie; Giancarlo, Chris; Trabue Bland; DeWaal, Gary; 'Hahn, Arthur W.'; Gill, Michael; Jones, Shonneice

Subject: FW: Call: Chairman Giancarlo/Bakkt

When: Monday, March 18, 2019 4:30 PM-5:15 PM (UTC-05:00) Eastern Time (US & Canada).

Where: Dial in below

-----Original Appointment-----

From: Kelly Loeffler [<mailto:Kelly.Loeffler@bakkt.com>]

Sent: Thursday, March 14, 2019 3:58 PM

To: Kelly Loeffler; Giancarlo, Chris; Trabue Bland; DeWaal, Gary; 'Hahn, Arthur W.'; Gill, Michael; Jones, Shonneice

Subject: FW: Call: Chairman Giancarlo/Bakkt

When: Monday, March 18, 2019 4:30 PM-5:15 PM (UTC-05:00) Eastern Time (US & Canada).

Where: Dial in below

-----Original Appointment-----

From: Kelly Loeffler [<mailto:Kelly.Loeffler@bakkt.com>]

Sent: Thursday, March 14, 2019 12:21 PM

To: Kelly Loeffler; Trabue Bland; DeWaal, Gary; 'Hahn, Arthur W.'; Gill, Michael; Jones, Shonneice

Subject: Call: Chairman Giancarlo/Bakkt

When: Monday, March 18, 2019 4:30 PM-5:15 PM (UTC-05:00) Eastern Time (US & Canada).

Where: Dial in below

Meeting ID: 4726#

Password: (b)(4)

External numbers

Atlanta +1 770 618 8888

Chicago +1 312 596 4412

New York +1 212 896 2810

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Non-Responsive

From: Thornton, Charlie <cthorton@CFTC.gov>
Sent: Thursday, March 7, 2019 10:52 AM
To: Beth Thompson <legal@fia.org>
Cc: Maia Johnston <mjohnston@fia.org>
Subject: RE: Help!

Non-Responsive

From: Beth Thompson [<mailto:legal@fia.org>]
Sent: Thursday, March 7, 2019 10:50 AM
To: Thornton, Charlie
Cc: Maia Johnston
Subject: RE: Help!

Non-Responsive

From: Thornton, Charlie <cthorton@CFTC.gov>
Sent: Thursday, March 7, 2019 10:48 AM
To: Beth Thompson <legal@fia.org>
Subject: RE: Help!

Non-Responsive

From: Thornton, Charlie
Sent: Thursday, March 7, 2019 9:26 AM
To: Trabue Bland; bthompson@fia.org; Thornton, Charlie
Subject: Re: Help!

Haha. Great thanks! Mary Beth, best number to reach you?

On: 07 March 2019 09:22, "Trabue Bland" <Trabue.Bland@theice.com> wrote:
Beth—. Can you help Charlie (copied). out on a Boca room issue? Charlie runs the CFTC for a bunch of figureheads.

Thanks

Trabue Bland
Personal Assistant to Mr Charlie Thornton

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Message

From: Alex Albert [Alex.Albert@theice.com]
Sent: 3/7/2019 3:14:21 PM
To: Thornton, Charlie [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=2f7cd1b27f3e4fde80a5088eadd3b931-Thornton III, Norwo]; Gill, Michael [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=3ab6b606c58b45fe8b9174d248b3fa65-Gill, Michael]; Trabue Bland [Trabue.Bland@theice.com]
CC: Thornton, Charlie [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=2f7cd1b27f3e4fde80a5088eadd3b931-Thornton III, Norwo]
Subject: RE: Inter market surveillance meeting

So you're in a child seat listening to Murmur. Yep.....way to make me feel old.

From: Thornton, Charlie <cthorton@CFTC.gov>
Date: Thursday, Mar 07, 2019, 3:09 PM
To: Alex Albert <Alex.Albert@theice.com>, Gill, Michael <MGill@CFTC.gov>, Trabue Bland <Trabue.Bland@theice.com>
Cc: Thornton, Charlie <cthorton@CFTC.gov>
Subject: Re: Inter market surveillance meeting

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I grew up listening to them on the way to Destin, FL as a child because they were my parents favorite band.

On: 07 March 2019 15:05, "Alex Albert" <Alex.Albert@theice.com> wrote:
Fair, but I'm old (saw them a lot in Athens, pre-fame days of '83&'84) and a big fan of 7 Chinese brothers. Like them all except for "shiny happy people" which is just a bizarre departure.

From: Gill, Michael <MGill@CFTC.gov>
Date: Thursday, Mar 07, 2019, 2:55 PM
To: Alex Albert <Alex.Albert@theice.com>, Trabue Bland <Trabue.Bland@theice.com>
Cc: Thornton, Charlie <cthorton@CFTC.gov>
Subject: RE: Inter market surveillance meeting

WARNING - External email from cftc.gov

Come on, Lifes Rich Pageant is solid from beginning to end. Granted, Fables has its weak moments but I think the Don Gehman influence puts Pageant up there with Murmur and Reckoning (and Chronic Town for you purists on album counts)

From: Alex Albert [mailto:Alex.Albert@theice.com]
Sent: Thursday, March 7, 2019 12:24 PM
To: Gill, Michael; Trabue Bland
Cc: Thornton, Charlie
Subject: RE: Inter market surveillance meeting

Reckoning

From: Gill, Michael <MGill@CFTC.gov>
Date: Thursday, Mar 07, 2019, 12:23 PM
To: Trabue Bland <Trabue.Bland@theice.com>
Cc: Alex Albert <Alex.Albert@theice.com>, Thornton, Charlie <cthorton@CFTC.gov>
Subject: RE: Inter market surveillance meeting

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I would object to that agenda item but would allow anything by REM pre the Green album.

From: Trabue Bland [mailto:Trabue.Bland@theice.com]
Sent: Thursday, March 7, 2019 11:55 AM
To: Gill, Michael
Cc: Alex Albert; Thornton, Charlie
Subject: RE: Inter market surveillance meeting

Sorry I didn't mean that! It was a pretty reasonable assumption that the CFTC set their agenda though. Now knowing this I think I will add under the CFTC agenda: Acapella rendition of Queensrÿche 's seminal 1988 album Operation Mindcrime. I look forward to Tom's version of Revolution Calling. I think it will spice up the meetings.

Just joking—thanks again for following up.

From: Gill, Michael <MGill@CFTC.gov>
Date: Thursday, Mar 07, 2019, 11:41 AM
To: Trabue Bland <Trabue.Bland@theice.com>
Cc: Alex Albert <Alex.Albert@theice.com>, Thornton, Charlie <cthorton@CFTC.gov>
Subject: RE: Inter market surveillance meeting

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I'd prefer to not get into a he said she said on this. I have also done some digging into how it appeared on the agenda, which is different than your statement below. Also, I've asked how long it was available and who had the agenda in advance of the meeting. Suffice to say, I've talked to Tom and Matt about sensitivities here and they are aware of my overall concern that we not discuss what may be in deliberation in the Chairman's office.

From: Trabue Bland [mailto:Trabue.Bland@theice.com]
Sent: Thursday, March 7, 2019 9:08 AM
To: Gill, Michael
Cc: Alex Albert; Thornton, Charlie
Subject: Inter market surveillance meeting

Mike:

I got the agenda for the meeting where our info was disclosed and it looks like Tom put it there himself. I think this raises a bigger question of intent. Obviously if we had known we would have sent someone who knew about what we were thinking.

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Message

From: Trabue Bland [Trabue.Bland@theice.com]
Sent: 3/7/2019 12:25:49 PM
To: Gill, Michael [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=3ab6b606c58b45fe8b9174d248b3fa65-Gill, Michael]
CC: Alex Albert [Alex.Albert@theice.com]; Thornton, Charlie [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=2f7cd1b27f3e4fde80a5088eadd3b931-Thornton III, Norwo]
Subject: RE: Inter market surveillance meeting

No that would allow Tom to mumble. LL Cool J unplugged. I think Tom could do Going Back to Cali acapella.

From: Gill, Michael <MGill@CFTC.gov>
Date: Thursday, Mar 07, 2019, 12:23 PM
To: Trabue Bland <Trabue.Bland@theice.com>
Cc: Alex Albert <Alex.Albert@theice.com>, Thornton, Charlie <cthorton@CFTC.gov>
Subject: RE: Inter market surveillance meeting

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I would object to that agenda item but would allow anything by REM pre the Green album.

From: Trabue Bland [mailto:Trabue.Bland@theice.com]
Sent: Thursday, March 7, 2019 11:55 AM
To: Gill, Michael
Cc: Alex Albert; Thornton, Charlie
Subject: RE: Inter market surveillance meeting

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Just joking—thanks again for following up.

From: Gill, Michael <MGill@CFTC.gov>
Date: Thursday, Mar 07, 2019, 11:41 AM
To: Trabue Bland <Trabue.Bland@theice.com>
Cc: Alex Albert <Alex.Albert@theice.com>, Thornton, Charlie <cthorton@CFTC.gov>
Subject: RE: Inter market surveillance meeting

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From: Trabue Bland [mailto:Trabue.Bland@theice.com]
Sent: Thursday, March 7, 2019 9:08 AM
To: Gill, Michael
Cc: Alex Albert; Thornton, Charlie
Subject: Inter market surveillance meeting

Mike:

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Message

From: Trabue Bland [Trabue.Bland@theice.com]
Sent: 3/6/2019 2:15:54 PM
To: Gill, Michael [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=3ab6b606c58b45fe8b9174d248b3fa65-Gill, Michael]; Thornton, Charlie [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=2f7cd1b27f3e4fde80a5088eadd3b931-Thornton III, Norwo]
CC: Alex Albert [Alex.Albert@theice.com]
Subject: RE: Confidential information disclosure

BTW, just seems something Tom would not have done. Who knows I guess. I will find out who put Bakkt on the agenda. Thanks.

From: Gill, Michael <MGill@CFTC.gov>
Date: Wednesday, Mar 06, 2019, 2:11 PM
To: Trabue Bland <Trabue.Bland@theice.com>, Thornton, Charlie <cthornton@CFTC.gov>
Cc: Alex Albert <Alex.Albert@theice.com>
Subject: Re: Confidential information disclosure

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I spoke to Tom this morning, but I've gone from mtg to mtg and have not had a chance to call you. Tom reported Bakkt was on the agenda that is why he addressed it, not sure who put it there. Tom had a pretty prepared response even though we spoke at a quarter to eight this morning so I think he was aware of the concern. But, I made it known the Chairman does not want discussions on our internal deliberations or the matter generally to be discussed outside the bldg.

On: 06 March 2019 14:07,
"Trabue Bland" <Trabue.Bland@theice.com> wrote:

Mike—just checking to make sure that staff (or a staffer) knows not to discuss our internal business strategy. Thank you in advance.

Trabue.

From: Gill, Michael <MGill@CFTC.gov>
Date: Tuesday, Mar 05, 2019, 5:52 PM
To: Trabue Bland <Trabue.Bland@theice.com>, Thornton, Charlie <cthornton@CFTC.gov>
Cc: Alex Albert <Alex.Albert@theice.com>
Subject: Re: Confidential information disclosure

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What call? What industry?

On: 05 March 2019 16:26, "Trabue Bland" <Trabue.Bland@theice.com> wrote:

I have an understanding that a CFTC staffer disclosed sensitive, confidential ICE information including our BAKKT strategy on an industry call this morning. Can we discuss ASAP?

Trabue

Trabue Bland
President, ICE Futures US
Intercontinental Exchange | ICE
55 East 52nd Street, 40th Floor
Telephone: +1 770.916.7832 (Atlanta) | +1 212.748.4005 (New York)
Mobile: (b)(6)
trabue.bland@theice.com
intercontinentalexchange.com

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Message

From: AAC [/O=CFTC/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=AAC4E6]
Sent: 3/4/2019 3:50:33 PM
To: Thornton, Charlie [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=2f7cd1b27f3e4fde80a5088eadd3b931-Thornton III, Norwo]; AAC [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=AAC4e6]
Subject: RE: Nomination for Agriculture Advisory Committee

Non-Responsive

From: Thornton, Charlie
Sent: Monday, March 4, 2019 3:38 PM
To: AAC
Subject: RE: Nomination for Agriculture Advisory Committee

Non-Responsive

From: AAC
Sent: Monday, March 4, 2019 3:37 PM
To: Thornton, Charlie
Subject: FW: Nomination for Agriculture Advisory Committee

Non-Responsive

From: Alex Albert [mailto:Alex.Albert@theice.com]
Sent: Monday, March 4, 2019 9:22 AM
To: Trabue Bland; AAC
Cc: Tim Barry; Thornton, Charlie
Subject: RE: Nomination for Agriculture Advisory Committee

Thanks gain, Christa. Can talk more about Mike if needed, but Technically I should have pegged him to Imperial Sugar Company (not Louis Dreyfus even though they are the holding company).

Good luck! Alex

From: Trabue Bland <Trabue.Bland@theice.com>
Date: Monday, Mar 04, 2019, 9:13 AM
To: AAC <AAC@CFTC.gov>, Alex Albert <Alex.Albert@theice.com>
Cc: Tim Barry <Tim.Barry@TheIce.com>, Thornton, Charlie <cthorton@CFTC.gov>
Subject: RE: Nomination for Agriculture Advisory Committee

Thanks Christa. I think you will have a good committee!

From: AAC [mailto:AAC@CFTC.gov]
Sent: Friday, March 01, 2019 9:12 AM
To: Alex Albert <Alex.Albert@theice.com>; AAC <AAC@CFTC.gov>
Cc: Tim Barry <Tim.Barry@TheIce.com>; Trabue Bland <Trabue.Bland@theice.com>; Thornton, Charlie

<cthornton@CFTC.gov>

Subject: RE: Nomination for Agriculture Advisory Committee

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Received – thanks very much, Alex!

Regards,

Christa Lachenmayr
Senior Economist, Agricultural and Soft Commodities

Division of Market Oversight, U.S. Commodity Futures Trading Commission
1155 21st Street, NW | Washington DC 20581 | Tel: 202.418.5252 | <https://secure.ice/?www.cftc.gov>



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From: Alex Albert [<mailto:Alex.Albert@theice.com>]
Sent: Thursday, February 28, 2019 6:52 PM
To: AAC
Cc: Tim Barry; Trabue Bland; Thornton, Charlie
Subject: RE: Nomination for Agriculture Advisory Committee

Sorry. This is Charlie's correct email address. Please use this one and thanks. Alex

From: Alex Albert <Alex.Albert@theice.com>
Date: Thursday, Feb 28, 2019, 6:28 PM
To: aac@cftc.gov <aac@cftc.gov>
Cc: Charlie Thornton (charliethornton1@gmail.com) <charliethornton1@gmail.com>, Tim Barry <Tim.Barry@Theice.com>, Trabue Bland <Trabue.Bland@theice.com>
Subject: Nomination for Agriculture Advisory Committee

To Whom It May Concern:

Please find enclosed a nomination for Mike Gorrell of the Louis Dreyfus Company to serve as a member of the CFTC Agriculture Advisory Committee. I have attached a link to Mike's short bio and a written copy. We are happy to provide a more extensive biography or further information upon request.

In summary, Mike is a trusted partner of ICE Futures US and has played a constructive role with the exchange and the CFTC in helping develop position limit proposals. These efforts with the Commission have focused on the global nature of the sugar market and the unique hedging needs of participants this brings. Mike has first-hand knowledge of the "soft" agricultural product markets and tailored hedge exemption provisions necessary for their proper functioning.

Undoubtedly Mike would be an asset to this group of advisors, particularly on hedging and position limit discussions, and we give him our strong recommendation. In addition, please consider the unique needs of soft agricultural markets and, given his extensive experience, the constructive role Mike could play with such a focus. Thank you for your consideration.

Sincerely,

Alex Albert
Intercontinental Exchange
Washington, DC

<https://secure.ice/?https://sugaralliance.org/asa-symposium-2018/gorrell>

Mike Gorrell

President and CEO

Imperial Sugar Company

Mike Gorrell is based in Port Wentworth, USA and is the President/CEO of Imperial Sugar Company, a wholly owned subsidiary of Louis Dreyfus Company (LDC). He has been with LDC for 11 years having spent 5 years in Switzerland as LDC's global sugar trading manager before he moved back to the USA in 2012 when LDC purchased Imperial. Prior to joining LDC, Mike worked at Cargill for 14 years. He is also a board member of Biosev, the second largest sugar and ethanol company in Brazil, as well as All Asian Countertrade Inc., a diversified agricultural company that is one of the leading sugar traders in the Philippines.

Alex Albert
Intercontinental Exchange
(202) 661-8942 (w)
(b)(6) (c)

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Message

From: Alex Albert [Alex.Albert@theice.com]
Sent: 2/28/2019 5:49:43 PM
To: Thornton, Charlie [/o=CFTC/ou=Exchange Administrative Group
(FYDIBOHF23SPDLT)/cn=Recipients/cn=2f7cd1b27f3e4fde80a5088eadd3b931-Thornton III, Norwo]
CC: Trabue Bland [Trabue.Bland@theice.com]
Subject: As discussed

(b)(4)

Alex Albert
Intercontinental Exchange
(202) 661-8942 (w)

(b)(6) (c)

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Message

From: Thornton, Charlie [/O=CFTC/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=2F7CD1B27F3E4FDE80A5088EADD3B931-THORNTON III, NORWO]
Sent: 2/27/2019 9:14:37 PM
To: Kelly Loeffler [Kelly.Loeffler@bakkt.com]; Thornton, Charlie [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=2f7cd1b27f3e4fde80a5088eadd3b931-Thornton III, Norwo]; Alex Albert [Alex.Albert@theice.com]; Trabue Bland [Trabue.Bland@theice.com]
Subject: Re: Agenda for tomorrow

No we can wait until after. I put it in there just for you to say you are working and will share in the coming days.

On: 27 February 2019 20:58, "Kelly Loeffler" <Kelly.Loeffler@bakkt.com> wrote:
Thank you Charlie. Do you want to see the draft of the post for the meeting or is after OK?

Best,
Kelly

From: Thornton, Charlie [mailto:cthorton@CFTC.gov]
Sent: Wednesday, February 27, 2019 5:07 PM
To: Alex Albert <Alex.Albert@theice.com>; Trabue Bland <Trabue.Bland@theice.com>; Kelly Loeffler <Kelly.Loeffler@bakkt.com>
Subject: Agenda for tomorrow

WARNING - External email from cftc.gov

Excuse the weird font /format. I am sending this from my phone. Please let me know if you have any questions.

Agenda:

- IFUS Draft Submission
- ICUS Draft Submission
- FCM Issues: 4d Customer Property, Segregation, Bankruptcy Treatment
- Warehouse Regulatory Status/Disclosure
- ICE Press Release
- Wrap Up / Discuss Next Steps

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Message

From: Thornton, Charlie [/O=CFTC/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=2F7CD1B27F3E4FDE80A5088EADD3B931-THORNTON III, NORWO]
Sent: 2/27/2019 5:04:33 PM
To: Trabue Bland (Trabue.Bland@theice.com); Thornton, Charlie [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=2f7cd1b27f3e4fde80a5088eadd3b931-Thornton III, Norwo]; Alex Albert [Alex.Albert@theice.com]; Kurt Windeler [Kurt.Windeler@theice.com]
CC: Marvine, Charles D. [/o=CFTC/ou=Chicago/cn=Recipients/cn=cmarvine]
Subject: Re: KC Ag Conference

Great! Copying Chuck Marvine, he runs our KC office and is handling this conference.

On: 27 February 2019 16:47, "Trabue Bland" <Trabue.Bland@theice.com> wrote:
Charlie--

Following up on your earlier email, Kurt Windeler will participate on the panel next week. Kurt rocks these things, so I know he will be good. Thanks!

Trabue Bland
President, ICE Futures US
Intercontinental Exchange | ICE
55 East 52nd Street, 40th Floor
Telephone: +1 770.916.7832 (Atlanta) | +1 212.748.4005 (New York)
Mobile: (b)(6)
trabue.bland@theice.com
intercontinentalexchange.com

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Message

From: Trabue Bland [Trabue.Bland@theice.com]
Sent: 2/27/2019 8:51:33 AM
To: Thornton, Charlie [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=2f7cd1b27f3e4fde80a5088eadd3b931-Thornton III, Norwo]; Alex Albert [Alex.Albert@theice.com]
CC: Gill, Michael [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=3ab6b606c58b45fe8b9174d248b3fa65-Gill, Michael]; Gorfine, Daniel [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=fec0394154854e1eac5fb409856e51e8-Gorfine, Daniel]
Subject: RE: Diagrams

Sure--give me a few minutes to find out what Erik sent over--thanks!

From: Thornton, Charlie [mailto:cthorton@CFTC.gov]
Sent: Wednesday, February 27, 2019 8:49 AM
To: Alex Albert <Alex.Albert@theice.com>; Trabue Bland <Trabue.Bland@theice.com>
Cc: Gill, Michael <MGill@CFTC.gov>; Gorfine, Daniel <DGorfine@CFTC.gov>
Subject: Diagrams

WARNING - External email from cftc.gov

Can you send us the diagrams you have put together? They were just referenced in a meeting we are having.

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Message

From: Trabue Bland [Trabue.Bland@theice.com]
Sent: 2/26/2019 12:41:16 PM
To: Alex Albert [Alex.Albert@theice.com]; Thornton, Charlie [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=2f7cd1b27f3e4fde80a5088eadd3b931-Thornton III, Norwo]
Subject: RE: ICE Rep at AgCon

I will confirm with Kurt but we should be good--

From: Alex Albert
Sent: Tuesday, February 26, 2019 10:32 AM
To: Thornton, Charlie <cthorton@CFTC.gov>
Cc: Trabue Bland <Trabue.Bland@theice.com>
Subject: RE: ICE Rep at AgCon

Good idea

From: Thornton, Charlie <cthorton@CFTC.gov>
Date: Tuesday, Feb 26, 2019, 10:30 AM
To: Alex Albert <Alex.Albert@theice.com>
Cc: Trabue Bland <Trabue.Bland@theice.com>
Subject: RE: ICE Rep at AgCon

WARNING - External email from cftc.gov

Copying Trabue.

From: Alex Albert [mailto:Alex.Albert@theice.com]
Sent: Tuesday, February 26, 2019 10:27 AM
To: Thornton, Charlie
Subject: RE: ICE Rep at AgCon

Trabue, are we set on Kurt Windeler for this?

From: Thornton, Charlie <cthorton@CFTC.gov>
Date: Tuesday, Feb 26, 2019, 9:24 AM
To: Alex Albert <Alex.Albert@theice.com>
Cc: Marvine, Charles D. <cmarvine@CFTC.GOV>
Subject: ICE Rep at AgCon

WARNING - External email from cftc.gov

Alex,

Can you connect us with the person you wish to serve on our matching algo panel at the Ag Conference?

Thanks!
Charlie

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Appointment

From: Gill, Michael [/O=CFTC/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=3AB6B606C58B45FE8B9174D248B3FA65-GILL, MICHAEL]
Sent: 2/26/2019 8:29:45 AM
To: Giancarlo, Chris [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=Giancarlo, Chris2a4]; Kelly Loeffler [Kelly.Loeffler@theice.com]; Bussey, Brian [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=a2d0b8b95a0b46029f13eheadb73f297-Bussey, Brian]; Zaidi, Amir [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=azaidi]; Kulkin, Matthew [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=f973c0fe038742b4bb68c3eeae3f8171-Kulkin, Matthew]; Sklar, Maggie [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=Sklar, Maggie3]; Thornton, Charlie [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=2f7cd1b27f3e4fde80a5088eadd3b931-Thornton ill, Norwo]; Alex Albert [Alex.Albert@theice.com]; Trabue Bland [Trabue.Bland@theice.com]; Kelly Loeffler [Kelly.Loeffler@bakkt.com]; Goodman, Chris [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=Goodman, Chris269]; Hester Serafini [Hester.Serafini@theice.com]; Kuserk, Gregory [/o=CFTC/ou=Washington, DC/cn=Recipients/cn=gkuserk]; Karen Wuertz [KWuertz@NFA.Futures.Org]
Subject: CFTC warehouse review call
Attachments: invite.ics
Location: Dial-in: 866-564-2207 Participant Code: (b)(4)
Start: 2/28/2019 9:00:00 AM
End: 2/28/2019 10:00:00 AM
Show Time As: Tentative
Recurrence: (none)

When: Thursday, February 28, 2019, 3:00 PM to 4:00 PM, Eastern Time

Where: Dial-in: 866-564-2207 Participant Code: (b)(4)

~~*~*~*~*~*~*~*~*

If it is not too much trouble, the Chairman would like to move this call to 9:00 a.m

Message

From: Kelly Loeffler [Kelly.Loeffler@bakkt.com]
Sent: 2/22/2019 5:45:37 PM
To: Gill, Michael [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=3ab6b606c58b45fe8b9174d248b3fa65-Gill, Michael]; Giancarlo, Chris [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=Giancarlo, Chris2a4]; Bussey, Brian [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=a2d0b8b95a0b46029f13eheadb73f297-Bussey, Brian]; Zaidi, Amir [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=azaidi]; Kulkin, Matthew [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=f973c0fe038742b4bb68c3eeae3f8171-Kulkin, Matthew]; Sklar, Maggie [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=Sklar, Maggie3]; Thornton, Charlie [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=2f7cd1b27f3e4fde80a5088eadd3b931-Thornton III, Norwo]; Alex Albert [Alex.Albert@theice.com]; Trabue Bland [Trabue.Bland@theice.com]; Fred Hatfield (External) [fwhatfield@comcast.net]; Adam White [adam.white@bakkt.com]; Erik Haas [Erik.Haas@bakkt.com]
Subject: RE: Follow Up From Warehouse Mtg

Mike, thank you for the summary. We're in agreement and I know everyone is working hard to resolve the open items.

Regards,
Kelly

From: Gill, Michael [mailto:MGill@CFTC.gov]
Sent: Thursday, February 21, 2019 6:58 PM
To: Giancarlo, Chris <JCGiancarlo@CFTC.gov>; Kelly Loeffler <Kelly.Loeffler@bakkt.com>; Bussey, Brian <BBussey@CFTC.gov>; Zaidi, Amir <AZaidi@CFTC.gov>; Kulkin, Matthew <MKulkin@CFTC.gov>; Sklar, Maggie <MSklar@CFTC.gov>; Thornton, Charlie <cthorton@CFTC.gov>; Alex Albert <Alex.Albert@theice.com>; Trabue Bland <Trabue.Bland@theice.com>; Fred Hatfield (External) <fwhatfield@comcast.net>
Subject: Follow Up From Warehouse Mtg

WARNING - External email from cftc.gov

Thanks again for this morning's productive meeting. To recap, I believe the following tasks were agreed to today:

(b)(4)

Please forward this as appropriate and let me know if I have not captured our tasks correctly. I will send around a call invite shortly.

Mike

Michael Gill
Chief of Staff
Commodity Futures Trading Commission
1155 21st Street NW
Washington DC 20581
202-418-5713

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Message

From: Trabue Bland [Trabue.Bland@theice.com]
Sent: 2/20/2019 11:26:00 AM
To: Thornton, Charlie [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=2f7cd1b27f3e4fde80a5088eadd3b931-Thornton III, Norwo]; Mika Kawana [Mika.Kawana@theice.com]
CC: Alex Albert [Alex.Albert@theice.com]
Subject: RE: Meeting: CFTC | Bakkt

Cool—let me know!

From: Thornton, Charlie <cthorton@CFTC.gov>
Date: Wednesday, Feb 20, 2019, 11:12 AM
To: Mika Kawana <Mika.Kawana@theice.com>, Thornton, Charlie <cthorton@CFTC.gov>
Cc: Alex Albert <Alex.Albert@theice.com>, Trabue Bland <Trabue.Bland@theice.com>
Subject: Re: Meeting: CFTC | Bakkt

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Hey, I was on the phone with Alex, when you called. He has a new plan.

On: 20 February 2019 09:34, "Mika Kawana" <Mika.Kawana@theice.com> wrote:
Hi Charlie,

I hope all is well! Would 9:30a ET tomorrow, February 21 work for a call with Kelly and a few other people?

Thanks!
Mika

Mika Kawana - Manager, Corporate Affairs
Intercontinental Exchange | ICE
5660 New Northside Dr. | 3rd Floor | Atlanta, GA 30328
Tel: +1 770.857.7087 | Mob: +1 (b)(6)
mika.kawana@theice.com
intercontinentalexchange.com



From: Mika Kawana
Sent: Tuesday, February 19, 2019 5:47 PM
To: Thornton, Charlie
Cc: Alex Albert; Trabue Bland
Subject: RE: Meeting: CFTC | Bakkt

I hear you! Do we want to spend the time we have blocked tomorrow on the phone? And I think you are here - do you want to swing by and meet in person with a few people?

Thanks!

Mika Kawana - Manager, Corporate Affairs
Intercontinental Exchange | ICE

5660 New Northside Dr. | 3rd Floor | Atlanta, GA 30328
Tel: +1 770.857.7087 | Mob: (b)(6)
mika.kawana@theice.com
intercontinentalexchange.com



From: Thornton, Charlie [mailto:cthorton@CFTC.gov]
Sent: Tuesday, February 19, 2019 5:46 PM
To: Mika Kawana
Cc: Alex Albert; Trabue Bland
Subject: RE: Meeting: CFTC | Bakkt

WARNING – External email from cftc.gov

We should cancel tomorrow. I think that even if they can get out of DC, I think the worry is that they will not be able to get back to DC. However, we want to block out some time to hammer out some issues via the phone in the next few days.

From: Mika Kawana [mailto:Mika.Kawana@theice.com]
Sent: Tuesday, February 19, 2019 3:35 PM
To: Christina Canfield; Kelly Loeffler; Rich Mackey (External); Richard Mackey; Erik Haas; Chris Michels; Adam White; David Clifton; Alex Albert; Trabue Bland; Matthew Mehalso; Jeffrey Sprecher; Mark Wassersug
Cc: Thornton, Charlie
Subject: RE: Meeting: CFTC | Bakkt

Hi all -

The weather is not looking great in DC tomorrow. Charlie will keep us posted, but we are currently putting tomorrow's meeting in the TBD category given possible flight cancellations.

Charlie or I will circle back.

Thanks!

Mika

Mika Kawana - Manager, Corporate Affairs
Intercontinental Exchange | ICE
5660 New Northside Dr. | 3rd Floor | Atlanta, GA 30328
Tel: +1 770.857.7087 | Mob: (b)(6)
mika.kawana@theice.com
intercontinentalexchange.com



-----Original Appointment-----

From: Christina Canfield
Sent: Thursday, February 14, 2019 11:26 AM
To: Christina Canfield; Kelly Loeffler; Rich Mackey (External); Richard Mackey; Erik Haas; Chris Michels; Adam White; David Clifton; Alex Albert; Trabue Bland; Matthew Mehalso; cthorton@CFTC.gov; Jeffrey Sprecher; Mark Wassersug
Subject: Meeting: CFTC | Bakkt
When: Wednesday, February 20, 2019 10:45 AM-3:15 PM (UTC-05:00) Eastern Time (US & Canada).
Where: ICE Atlanta | The High Conference Room | Dial in below

2/18- attendees update, agenda and dial in added

Agenda added below.

Dial in information

Internal extension: 8888

Meeting ID: 7087#

Password: (b)(4)

External numbers:

US

Atlanta 1-770-618-8888

Chicago 1-312-596-4412

Houston 1-713-815-7276

New York 1-212-896-2810

CFTC Attendees

Charlie Thornton, Director of Legislative Affairs

Mike Gill, Chief of Staff - Chairman Giancarlo

Daniel Gorfine, LabCFTC Director

Brian Bussey, Director of DCR

Bakkt Attendees

Kelly Loeffler, CEO

Rich Mackey, President18

Adam White, COO

Erik Haas, Director, Compliance

Chris Michels, Director, Custody Operations

Intercontinental Exchange Attendees

Jeff Sprecher, Chairman & CEO - TBD

Mark Wassersug, COO

Trabue Bland, President, ICE Futures U.S.

Alex Albert, Co-Head Government Affairs

Matt Mehalso, Manager, ICE Clear Dev, Technology

Jerry Perullo, Chief Information Security Officer

Sachi Pati, Senior Director - Clearing Technology

RJ Cummings, VP - Product Development

Centennial Conference Room also booked for a breakout room as needed.

Lab CFTC Agenda

February 20

10:45 a.m.-11:00 a.m.

Intro - Bland/Albert/Loeffler [note: KL/AW(?) leaving at 11am for Bakkt board meeting until ~Noon]

- People in the room
- Lab CFTC

(b)(4)

(b)(4)

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Appointment

From: Christina Canfield [Christina.Canfield@bakkt.com]
Sent: 2/19/2019 6:12:58 PM
To: Kelly Loeffler [Kelly.Loeffler@bakkt.com]; Rich Mackey (External) [rmackey@rcgdirect.com]; Richard Mackey [Richard.Mackey@bakkt.com]; Erik Haas [Erik.Haas@bakkt.com]; Chris Michels [Chris.Michels@bakkt.com]; Adam White [adam.white@bakkt.com]; David Clifton [David.Clifton@theice.com]; Alex Albert [Alex.Albert@theice.com]; Trabue Bland [Trabue.Bland@theice.com]; Matthew Mehalso [Matthew.Mehalso@theice.com]; Thornton, Charlie [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=2f7cd1b27f3e4fde80a5088eadd3b931-Thornton III, Norwo]; Jeffrey Sprecher [Jeffrey.Sprecher@theice.com]; Mark Wassersug [Mark.Wassersug@TheIce.com]; Jerry Perullo [jerry.perullo@theice.com]; Sachi Pati [Sachi.Pati@theice.com]; RJ Cummings [rj.cummings@theice.com]
CC: Kara Dutta [Kara.Dutta@theice.com]
Subject: Canceled: Meeting: CFTC | Bakkt
Location: ICE Atlanta | The High Conference Room | Dial in below
Start: 2/20/2019 10:45:00 AM
End: 2/20/2019 3:15:00 PM
Show Time As: Free
Importance: High
Recurrence: (none)

2/18- attendees update, agenda and dial in added

Agenda added below.

Dial in information

Internal extension: 8888

Meeting ID: 7087#

Password: (b)(4)

External numbers:

US

Atlanta 1-770-618-8888

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CFTC Attendees

Charlie Thornton, Director of Legislative Affairs

Mike Gill, Chief of Staff - Chairman Giancarlo

Daniel Gorfine, LabCFTC Director

Brian Bussey, Director of DCR

Bakkt Attendees

Kelly Loeffler, CEO

Rich Mackey, President18

Adam White, COO

Erik Haas, Director, Compliance

Chris Michels, Director, Custody Operations

Intercontinental Exchange Attendees

Jeff Sprecher, Chairman & CEO - TBD

Mark Wassersug, COO

Trabue Bland, President, ICE Futures U.S.

Alex Albert, Co-Head Government Affairs

Matt Mehalso, Manager, ICE Clear Dev, Technology

Jerry Perullo, Chief Information Security Officer

Sachi Pati, Senior Director - Clearing Technology

RJ Cummings, VP - Product Development

Centennial Conference Room also booked for a breakout room as needed.

~~~~~  
**Lab CFTC Agenda**



February 20

10:45 a.m.-11:00 a.m.

Intro - Bland/Albert/Loeffler [note: KL/AW(?) leaving at 11am for Bakkt board meeting until ~Noon)

- People in the room
- Lab CFTC

**(b)(4)**

**(b)(4)**

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Message

---

**From:** Trabue Bland [Trabue.Bland@theice.com]  
**Sent:** 2/19/2019 5:52:45 PM  
**To:** Mika Kawana [Mika.Kawana@theice.com]; Thornton, Charlie [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=2f7cd1b27f3e4fde80a5088eadd3b931-Thornton III, Norwo]  
**CC:** Alex Albert [Alex.Albert@theice.com]  
**Subject:** RE: Meeting: CFTC | Bakkt

Can Mike and crew just try to come down? I mean we are all here and no one knows what this storm is doing.

---

**From:** Mika Kawana <Mika.Kawana@theice.com>  
**Date:** Tuesday, Feb 19, 2019, 5:47 PM  
**To:** Thornton, Charlie <cthornton@CFTC.gov>  
**Cc:** Alex Albert <Alex.Albert@theice.com>, Trabue Bland <Trabue.Bland@theice.com>  
**Subject:** RE: Meeting: CFTC | Bakkt

**Duplicate**

**Duplicate**

**Duplicate**

**Duplicate**

Message

**From:** Mika Kawana [Mika.Kawana@theice.com]  
**Sent:** 2/19/2019 3:32:53 PM  
**To:** Thornton, Charlie [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=2f7cd1b27f3e4fde80a5088eadd3b931-Thornton III, Norwo]  
**CC:** Alex Albert [Alex.Albert@theice.com]; Trabue Bland [Trabue.Bland@theice.com]  
**Subject:** RE: Meeting: CFTC | Bakkt

Completely understand. I'll send a note to the group as a heads up. I'm sure we will talk again soon and stay warm!

**Mika Kawana - Manager, Corporate Affairs**  
Intercontinental Exchange | ICE  
5660 New Northside Dr. | 3rd Floor | Atlanta, GA 30328  
Tel: +1 770.857.7087 | Mob: (b)(6)  
mika.kawana@theice.com  
intercontinentalexchange.com



---

**From:** Thornton, Charlie [mailto:cthorton@CFTC.gov]  
**Sent:** Tuesday, February 19, 2019 3:03 PM  
**To:** Mika Kawana  
**Cc:** Alex Albert; Trabue Bland  
**Subject:** RE: Meeting: CFTC | Bakkt

**WARNING - External email from cftc.gov**

Just FYI. I am not a weather man, but people are telling me it is supposed to get bad tomorrow in DC. So, meeting I think needs to be in the TBD category at the moment, in case flights are canceled.

---

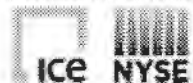
**From:** Mika Kawana [mailto:Mika.Kawana@theice.com]  
**Sent:** Tuesday, February 19, 2019 2:28 PM  
**To:** Thornton, Charlie  
**Cc:** Alex Albert; Trabue Bland  
**Subject:** RE: Meeting: CFTC | Bakkt

Hi Charlie,

Just a heads up that the lunch is \$16.14 per person. We can take cash or checks made payable to Intercontinental Exchange, Inc. - whatever is easiest.

Thank you!

**Mika Kawana - Manager, Corporate Affairs**  
Intercontinental Exchange | ICE  
5660 New Northside Dr. | 3rd Floor | Atlanta, GA 30328  
Tel: +1 770.857.7087 | Mob: +1 (b)(6)  
mika.kawana@theice.com  
intercontinentalexchange.com



---

**From:** Thornton, Charlie [mailto:cthorton@CFTC.gov]  
**Sent:** Monday, February 18, 2019 7:17 PM  
**To:** Mika Kawana; Thornton, Charlie

**Cc:** Alex Albert; Trabue Bland

**Subject:** Re: Meeting: CFTC | Bakkt

**WARNING - External email from cftc.gov**

Great. Thank you!

---

On: 18 February 2019 17:29, "Mika Kawana" <[Mika.Kawana@theice.com](mailto:Mika.Kawana@theice.com)> wrote:  
Hi Charlie,

Great chatting earlier. Please find the dial-in and agenda below. I appreciate you sharing with your team.

Safe travels and please let me know if you need anything!

Best,

Mika

**Duplicate**



**Duplicate**

**Duplicate**

**Duplicate**

**Duplicate**

**Duplicate**

Message

**From:** Thornton, Charlie [/O=CFTC/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=2F7CD1B27F3E4FDE80A5088EADD3B931-THORNTON III, NORWO]  
**Sent:** 2/19/2019 6:37:12 AM  
**To:** Gill, Michael [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=3ab6b606c58b45fe8b9174d248b3fa65-Gill, Michael]; Thornton, Charlie [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=2f7cd1b27f3e4fde80a5088eadd3b931-Thornton III, Norwo]; Kulkin, Matthew [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=f973c0fe038742b4bb68c3eeae3f8171-Kulkin, Matthew]; Bussey, Brian [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=a2d0b8b95a0b46029f13eheadb73f297-Bussey, Brian]; Gorfine, Daniel [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=fec0394154854e1eac5fb409856e51e8-Gorfine, Daniel]  
**Subject:** Re: Agenda

## Non-Responsive

On: 18 February 2019 20:14, "Gill, Michael" <[MGill@CFTC.gov](mailto:MGill@CFTC.gov)> wrote:

## Non-Responsive

On: 18 February 2019 15:57,  
"Thornton, Charlie" <[cthornton@CFTC.gov](mailto:cthornton@CFTC.gov)> wrote:

Begin Forwarded Message:

**From:** "Alex Albert" <[Alex.Albert@theice.com](mailto:Alex.Albert@theice.com)>  
**Subject:** Agenda  
**Date:** 18 February 2019 15:53  
**To:** "Thornton, Charlie" <[cthornton@CFTC.gov](mailto:cthornton@CFTC.gov)>  
**Cc:** "Trabue Bland" <[Trabue.Bland@theice.com](mailto:Trabue.Bland@theice.com)>

Charlie, please find enclosed a final agenda for Wednesday's meeting. Please let us know if we are missing anything or you have other interests while there. We're open to suggestion. Obviously we have flexibility on the front and back ends. We'd like to have at least some discussion at the end for process. Thanks, Alex

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Message

---

**From:** Thornton, Charlie [/O=CFTC/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=2F7CD1B27F3E4FDE80A5088EADD3B931-THORNTON III, NORWO]  
**Sent:** 2/18/2019 3:36:48 PM  
**To:** Trabue Bland [Trabue.Bland@theice.com]; Gorfine, Daniel [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=fec0394154854e1eac5fb409856e51e8-Gorfine, Daniel]; Gill, Michael [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=3ab6b606c58b45fe8b9174d248b3fa65-Gill, Michael]; Zaidi, Amir [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=azaidi]; Thornton, Charlie [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=2f7cd1b27f3e4fde80a5088eadd3b931-Thornton III, Norwo]; Kulkin, Matthew [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=f973c0fe038742b4bb68c3eeae3f8171-Kulkin, Matthew]; Bussey, Brian [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=a2d0b8b95a0b46029f13eheadb73f297-Bussey, Brian]  
**CC:** Alex Albert [Alex.Albert@theice.com]; Kelly Loeffler [Kelly.Loeffler@bakkt.com]  
**Subject:** Re: Follow up

Thank you, Trabue. We will review.

Talk soon.

Charlie

On: 18 February 2019 13:27, "Trabue Bland" <[Trabue.Bland@theice.com](mailto:Trabue.Bland@theice.com)> wrote:

Happy Presidents Day. Following up on our calls last week, attached is a memo covering the FCM solution and bankruptcy. Also attached is the BTC deposit and trade flows power point I sent last week.

Thank you again for your time. Please let me know if you have any questions.

Trabue

---

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Message

**From:** Kulkin, Matthew [/O=CFTC/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=F973C0FE038742B4BB68C3EEAE3F8171-KULKIN, MATTHEW]  
**Sent:** 2/15/2019 1:07:18 PM  
**To:** Thornton, Charlie [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=2f7cd1b27f3e4fde80a5088eadd3b931-Thornton III, Norwo]; Bussey, Brian [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=a2d0b8b95a0b46029f13eheadb73f297-Bussey, Brian]  
**CC:** Gill, Michael [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=3ab6b606c58b45fe8b9174d248b3fa65-Gill, Michael]; Gorfine, Daniel [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=fec0394154854e1eac5fb409856e51e8-Gorfine, Daniel]  
**Subject:** RE: Trade flows.

# Non-Responsive

---

**From:** Thornton, Charlie  
**Sent:** Thursday, February 14, 2019 6:46 PM  
**To:** Kulkin, Matthew; Bussey, Brian  
**Cc:** Gill, Michael; Gorfine, Daniel  
**Subject:** Fwd: Trade flows.

Begin Forwarded Message:

**From:** "Trabue Bland" <[Trabue.Bland@theice.com](mailto:Trabue.Bland@theice.com)>  
**Subject:** Trade flows.  
**Date:** 14 February 2019 18:42  
**To:** "Thornton, Charlie" <[c Thornton@CFTC.gov](mailto:c Thornton@CFTC.gov)>  
**Cc:** "Alex Albert" <[Alex.Albert@theice.com](mailto:Alex.Albert@theice.com)>, "Erik Haas" <[Erik.Haas@bakkt.com](mailto:Erik.Haas@bakkt.com)>

Charlie: Hope you are doing well. Following up on our call earlier this week attached is a description of the flows into the FCM. I hope this makes sense. Let me know if you have any questions.



Message

**From:** Mika Kawana [Mika.Kawana@theice.com]  
**Sent:** 2/14/2019 3:21:53 PM  
**To:** Alex Albert [Alex.Albert@theice.com]; Thornton, Charlie [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=2f7cd1b27f3e4fde80a5088eadd3b931-Thornton III, Norwo]  
**CC:** Christina Canfield [Christina.Canfield@bakkt.com]; Brianna Holt [Brianna.Holt@theice.com]; Trabue Bland [Trabue.Bland@theice.com]  
**Subject:** RE: February 20 - ICE Atlanta

Perfect. Thanks, Charlie!

Do you want us to add you and your colleagues from the CFTC to the calendar invite?

Also, we will plan on you just reimbursing us for lunch if that works. If not, we can build in time in the agenda for you to run down to the café.

Thanks!

**Mika Kawana - Manager, Corporate Affairs**  
Intercontinental Exchange | ICE  
5660 New Northside Dr. | 3rd Floor | Atlanta, GA 30328  
Tel: +1 770.857.7087 | Mob: (b)(6)  
mika.kawana@theice.com  
intercontinentalexchange.com



---

**From:** Alex Albert  
**Sent:** Thursday, February 14, 2019 3:09 PM  
**To:** Thornton, Charlie; Mika Kawana  
**Cc:** Christina Canfield; Brianna Holt; Trabue Bland  
**Subject:** RE: February 20 - ICE Atlanta

Perfect. Trabue and I just discussed doing from 11-3. Gives you wiggle room.

Alex Albert  
Intercontinental Exchange  
(202) 661-8942 (w)  
(b)(6) (c)

---

**From:** Thornton, Charlie [mailto:cthorton@CFTC.gov]  
**Sent:** Thursday, February 14, 2019 3:08 PM  
**To:** Mika Kawana  
**Cc:** Christina Canfield; Brianna Holt; Alex Albert  
**Subject:** RE: February 20 - ICE Atlanta

**WARNING** - External email; exercise caution

Participants:

Charlie Thornton  
Mike Gill  
Daniel Gorfine  
Brian Bussey

We will arrive between 10:00am – 10:30am depending on traffic. Need to leave by 3:15pm.

Let me know if you have any questions.

Thanks!  
Charlie

---

**From:** Mika Kawana [mailto:Mika.Kawana@theice.com]  
**Sent:** Thursday, February 14, 2019 10:00 AM  
**To:** Thornton, Charlie  
**Cc:** Christina Canfield; Brianna Holt; Alex Albert  
**Subject:** RE: February 20 - ICE Atlanta

That's perfect - Kelly will be able to join from 1p-3p so it works out well. We have the option of you reimbursing us or you can go down to our café and pay for your own meal - options are always valuable. We can huddle on this later!

Thanks and talk soon!  
Best,  
Mika

**Mika Kawana - Manager, Corporate Affairs**  
Intercontinental Exchange | ICE  
5660 New Northside Dr. | 3rd Floor | Atlanta, GA 30328  
Tel: +1 770.857.7087 | Mob: (b)(6)  
mika.kawana@theice.com  
intercontinentalexchange.com



---

**From:** Thornton, Charlie [mailto:cthorton@CFTC.gov]  
**Sent:** Thursday, February 14, 2019 9:56 AM  
**To:** Mika Kawana  
**Cc:** Christina Canfield; Brianna Holt; Alex Albert  
**Subject:** RE: February 20 - ICE Atlanta

**WARNING** - External email; exercise caution

Yes! It has been way too long! I will be in touch in a few hours with more details. But right now, I would plan 10am-3pm for our window of time there. We would need to pay for our own food. So, if it is better to go out to eat, when can do that. Or we can reimburse you all for the expense. Will be in touch soon.

Charlie

---

**From:** Mika Kawana [mailto:Mika.Kawana@theice.com]  
**Sent:** Thursday, February 14, 2019 8:51 AM  
**To:** Thornton, Charlie  
**Cc:** Christina Canfield; Brianna Holt; Alex Albert  
**Subject:** February 20 - ICE Atlanta

Hi Charlie,

I hope all is well! I'm thrilled I get to see you again - I feel like it has been ages.

I think you are still working through your travel plans / timeline, but please let us know what we can do to help. Obviously, we can bring up lunch from our café, etc.

Happy to jump on the phone to chat if easier. Thanks and look forward to seeing you!

Best,  
Mika

**Mika Kawana - Manager, Corporate Affairs**

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Message

---

**From:** Mika Kawana [Mika.Kawana@theice.com]  
**Sent:** 2/14/2019 11:01:48 AM  
**To:** Thornton, Charlie [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=2f7cd1b27f3e4fde80a5088eadd3b931-Thornton III, Norwo]; Trabue Bland [Trabue.Bland@theice.com]; Alex Albert [Alex.Albert@theice.com]  
**Subject:** RE: CFTC / ICE Visit

We can easily set-up a dial-in. The video conference room only fits 10, but we will put that room on hold just in case as well.

Thanks!

**Mika Kawana - Manager, Corporate Affairs**  
Intercontinental Exchange | ICE  
5660 New Northside Dr. | 3rd Floor | Atlanta, GA 30328  
Tel: +1 770.857.7087 | Mob: (b)(6)  
mika.kawana@theice.com  
intercontinentalexchange.com



---

**From:** Thornton, Charlie [mailto:cthorton@CFTC.gov]  
**Sent:** Thursday, February 14, 2019 10:59 AM  
**To:** Trabue Bland; Alex Albert  
**Cc:** Mika Kawana  
**Subject:** CFTC / ICE Visit

**WARNING** - External email; exercise caution

We look forward to visiting your headquarters to view your cyber security and other built infrastructure for your Bakkt Project.

We will be available from 10am-3pm on the 20<sup>th</sup>. Could you please provide an agenda, so that we are prepared for the discussion? Also, one of the team members will not be present, so we made need to set up a dial in or video conference. We can discuss this later on.

Thanks!  
Charlie

---

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Message

**From:** Trabue Bland [Trabue.Bland@theice.com]  
**Sent:** 2/14/2019 11:00:04 AM  
**To:** Thornton, Charlie [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=2f7cd1b27f3e4fde80a5088eadd3b931-Thornton III, Norwo]; Alex Albert [Alex.Albert@theice.com]  
**CC:** Mika Kawana [Mika.Kawana@theice.com]  
**Subject:** RE: CFTC / ICE Visit

Great--will do--

---

**From:** Thornton, Charlie [mailto:cthorton@CFTC.gov]  
**Sent:** Thursday, February 14, 2019 10:59 AM  
**To:** Trabue Bland <Trabue.Bland@theice.com>; Alex Albert <Alex.Albert@theice.com>  
**Cc:** Mika Kawana <Mika.Kawana@theice.com>  
**Subject:** CFTC / ICE Visit

**Duplicate**

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Message

**From:** Hester Serafini [Hester.Serafini@theice.com]  
**Sent:** 2/14/2019 9:42:48 AM  
**To:** Erik Haas [Erik.Haas@bakkt.com]; Trabue Bland [Trabue.Bland@theice.com]; Alex Albert [Alex.Albert@theice.com]; Donovan, Eileen A. [/o=CFTC/ou=Washington, DC/cn=Recipients/cn=EILEEN DONOVAN]; Bussey, Brian [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=a2d0b8b95a0b46029f13eheadb73f297-Bussey, Brian]; Kulkin, Matthew [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=f973c0fe038742b4bb68c3eeae3f8171-Kulkin, Matthew]; David Clifton [David.Clifton@theice.com]; Thornton, Charlie [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=2f7cd1b27f3e4fde80a5088eadd3b931-Thornton III, Norwo]; Beale, Joshua [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=Beale, Joshua742]; Mohr, Julie A. [/O=CFTC/OU=Chicago/cn=Recipients/cn=jmohr]  
**Subject:** follow ups from our call yesterday

Good morning.

Thank you again for your time yesterday afternoon. I enjoyed the opportunity to discuss proposed changes to our BTC offering with you. This email covers the follow up items that I took away from our call. We look forward to continuing our discussion.

Best regards,

Hester

(b)(4)

**(b)(4)**

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Appointment

---

**From:** Erik Haas [Erik.Haas@bakkt.com]  
**Sent:** 2/13/2019 9:42:33 AM  
**To:** Hester Serafini [Hester.Serafini@theice.com]; Trabue Bland [Trabue.Bland@theice.com]; Alex Albert [Alex.Albert@theice.com]; Donovan, Eileen A. [/o=CFTC/ou=Washington, DC/cn=Recipients/cn=EILEEN DONOVAN]; Bussey, Brian [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=a2d0b8b95a0b46029f13eheadb73f297-Bussey, Brian]; Kulkin, Matthew [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=f973c0fe038742b4bb68c3eeae3f8171-Kulkin, Matthew]; David Clifton [David.Clifton@theice.com]; Thornton, Charlie [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=2f7cd1b27f3e4fde80a5088eadd3b931-Thornton III, Norwo]; Beale, Joshua [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=Beale, Joshua742]  
**Subject:** CFTC/Bakkt/ICUS  
**Location:** Dial in below  
**Start:** 2/13/2019 4:00:00 PM  
**End:** 2/13/2019 5:00:00 PM  
**Show Time As:** Tentative  
**Recurrence:** (none)

Continued conversation from 2/12 call including Hester Serafini.

Internal extension: 8888

Meeting ID: 6733#

Password: (b)(4)

Atlanta +1 770 618 8888

Chicago +1 312 596 4412

Houston +1 713 815 7276

New York +1 212 896 2810

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Appointment

---

**From:** Christina Canfield [Christina.Canfield@bakkt.com]  
**Sent:** 2/12/2019 1:32:33 PM  
**To:** Kelly Loeffler [Kelly.Loeffler@bakkt.com]; Trabue Bland [Trabue.Bland@theice.com]; Alex Albert [Alex.Albert@theice.com]; Erik Haas [Erik.Haas@bakkt.com]; Adam White [adam.white@bakkt.com]; David Clifton [David.Clifton@theice.com]; 'Geoffrey.Goldman@Shearman.com' [Geoffrey.Goldman@Shearman.com]; Bussey, Brian [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=a2d0b8b95a0b46029f13eheadb73f297-Bussey, Brian]; Kulkin, Matthew [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=f973c0fe038742b4bb68c3eeae3f8171-Kulkin, Matthew]  
**CC:** Thornton, Charlie [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=2f7cd1b27f3e4fde80a5088eadd3b931-Thornton III, Norwo]; Beale, Joshua [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=Beale, Joshua742]  
**Subject:** Call: CFTC/Bakkt Discussion  
**Location:** Dial in below  
**Start:** 2/12/2019 4:00:00 PM  
**End:** 2/12/2019 5:00:00 PM  
**Show Time As:** Tentative  
  
**Recurrence:** (none)

Internal extension: 8888  
Meeting ID: 4726#  
Password: (b)(4)  
Atlanta +1 770 618 8888  
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Houston +1 713 815 7276  
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Message

**From:** Trabue Bland [Trabue.Bland@theice.com]  
**Sent:** 2/12/2019 11:29:24 AM  
**To:** Kulkin, Matthew [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=f973c0fe038742b4bb68c3eeae3f8171-Kulkin, Matthew]; Christina Canfield [Christina.Canfield@bakkt.com]  
**CC:** Bussey, Brian [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=a2d0b8b95a0b46029f13eheadb73f297-Bussey, Brian]; Thornton, Charlie [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=2f7cd1b27f3e4fde80a5088eadd3b931-Thornton III, Norwo]  
**Subject:** RE: Call: CFTC/Bakkt Discussion

I think it defaults to 30 minutes. We should be fine to extend, but defer to Christina to check others schedule.

---

**From:** Kulkin, Matthew [mailto:MKulkin@CFTC.gov]  
**Sent:** Tuesday, February 12, 2019 11:19 AM  
**To:** Christina Canfield <Christina.Canfield@bakkt.com>  
**Cc:** Trabue Bland <Trabue.Bland@theice.com>; Bussey, Brian <BBussey@CFTC.gov>; Thornton, Charlie <cthorton@CFTC.gov>  
**Subject:** RE: Call: CFTC/Bakkt Discussion

**WARNING** - External email; exercise caution

We may need more than 30 minutes -- is it possible to extend?

-----Original Appointment-----

**From:** Christina Canfield [<mailto:Christina.Canfield@bakkt.com>]  
**Sent:** Tuesday, February 12, 2019 9:01 AM  
**To:** Christina Canfield; Kelly Loeffler; Trabue Bland; Alex Albert; Erik Haas; Adam White; David Clifton; [Geoffrey.Goldman@Shearman.com](mailto:Geoffrey.Goldman@Shearman.com); Bussey, Brian; Kulkin, Matthew; Thornton, Charlie; Donovan, Eileen A.; Smith, Thomas J.; Beale, Joshua; Bauer, Jennifer; Polley, Theodore; Sloan, Scott  
**Subject:** Call: CFTC/Bakkt Discussion  
**When:** Tuesday, February 12, 2019 4:00 PM-4:30 PM (UTC-05:00) Eastern Time (US & Canada).  
**Where:** Dial in below

Internal extension: 8888

Meeting ID: 4726#

Password: (b)(4)

Atlanta +1 770 618 8888  
Chicago +1 312 596 4412  
Houston +1 713 815 7276  
New York +1 212 896 2810  
San Mateo +1 650 581 5603  
Phoenix +1 480 444 0215

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Message

**From:** Trabue Bland [Trabue.Bland@theice.com]  
**Sent:** 2/11/2019 4:05:07 PM  
**To:** Bussey, Brian [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=a2d0b8b95a0b46029f13eheadb73f297-Bussey, Brian]; Kulkin, Matthew [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=f973c0fe038742b4bb68c3eeae3f8171-Kulkin, Matthew]  
**CC:** Thornton, Charlie [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=2f7cd1b27f3e4fde80a5088eadd3b931-Thornton III, Norwo]; Alex Albert [Alex.Albert@theice.com]; Erik Haas [Erik.Haas@bakkt.com]; Hester Serafini [Hester.Serafini@theice.com]  
**Subject:** RE: FCM overview

Sure-- lets use a dial in--

**Dial-in:**

8888 (or external number below)

Meeting ID: 4005#

Passcode: (b)(4)

**External numbers:**

*Inside the US*

**Atlanta** 1-770-618-8888

**Chicago** 1-312-596-4412

**Houston** 1-713-815-7276

**New York** 1-212-896-2810

**San Mateo** 1-650-581-5603

---

**From:** Bussey, Brian [mailto:BBussey@CFTC.gov]  
**Sent:** Monday, February 11, 2019 2:24 PM  
**To:** Trabue Bland <Trabue.Bland@theice.com>; Kulkin, Matthew <MKulkin@CFTC.gov>  
**Cc:** Thornton, Charlie <cthorton@CFTC.gov>; Alex Albert <Alex.Albert@theice.com>; Erik Haas <Erik.Haas@bakkt.com>; Hester Serafini <Hester.Serafini@theice.com>  
**Subject:** RE: FCM overview

**WARNING** - External email; exercise caution

Trabue,

Thanks for this. Would you have time at 4:30 ET today to give some more detail on the below, and how it fits with the FCM option?

Thanks,

Brian

---

**From:** Trabue Bland [mailto:Trabue.Bland@theice.com]  
**Sent:** Monday, February 11, 2019 12:57 PM  
**To:** Kulkin, Matthew; Bussey, Brian  
**Cc:** Thornton, Charlie; Alex Albert; Erik Haas; Hester Serafini  
**Subject:** RE: FCM overview

Matt, Brian and Charlie:

(b)(4)

---

**From:** Kulkin, Matthew [<mailto:MKulkin@CFTC.gov>]  
**Sent:** Saturday, February 09, 2019 8:08 AM  
**To:** Trabue Bland <[Trabue.Bland@theice.com](mailto:Trabue.Bland@theice.com)>; Bussey, Brian <[BBussey@CFTC.gov](mailto:BBussey@CFTC.gov)>  
**Cc:** Thornton, Charlie <[cthornton@CFTC.gov](mailto:cthornton@CFTC.gov)>; Kelly Loeffler <[Kelly.Loeffler@bakkt.com](mailto:Kelly.Loeffler@bakkt.com)>; Alex Albert <[Alex.Albert@theice.com](mailto:Alex.Albert@theice.com)>; David Clifton <[David.Clifton@theice.com](mailto:David.Clifton@theice.com)>  
**Subject:** RE: FCM overview

**WARNING** - External email; exercise caution

Thanks Trabue.

---

**From:** Trabue Bland [<mailto:Trabue.Bland@theice.com>]  
**Sent:** Friday, February 8, 2019 10:15 PM  
**To:** Bussey, Brian; Kulkin, Matthew  
**Cc:** Thornton, Charlie; Kelly Loeffler; Alex Albert; David Clifton  
**Subject:** FCM overview

Matt, Brian, and Charlie: per our discussion today (sorry I had to get off) is a brief overview the FCM solution. Thank you again for your work on this. Please let me know if you have any questions.

---

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**(b)(4)**

Message

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**From:** Trabue Bland [Trabue.Bland@theice.com]  
**Sent:** 2/6/2019 5:06:51 PM  
**To:** Thornton, Charlie [/o=CFTC/ou=Exchange Administrative Group  
(FYDIBOHF23SPDLT)/cn=Recipients/cn=2f7cd1b27f3e4fde80a5088eadd3b931-Thornton III, Norwo]  
**Subject:** RE: About to call you with mike and others

Great--212.748.4005

---

**From:** Thornton, Charlie [mailto:cthorton@CFTC.gov]  
**Sent:** Wednesday, February 06, 2019 5:03 PM  
**To:** Trabue Bland <Trabue.Bland@theice.com>  
**Subject:** About to call you with mike and others  
**Importance:** High

**WARNING** - External email; exercise caution

Which phone?

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Message

---

**From:** Trabue Bland [Trabue.Bland@theice.com]  
**Sent:** 2/6/2019 11:00:00 AM  
**To:** Kulkin, Matthew [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=f973c0fe038742b4bb68c3eeae3f8171-Kulkin, Matthew]; Thornton, Charlie [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=2f7cd1b27f3e4fde80a5088eadd3b931-Thornton III, Norwo]; Bussey, Brian [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=a2d0b8b95a0b46029f13eheadb73f297-Bussey, Brian]  
**Subject:** RE: Call

Hey--are you calling me or am I calling you?

-----Original Appointment-----

**From:** Kulkin, Matthew [<mailto:MKulkin@CFTC.gov>]  
**Sent:** None  
**Subject:** Call  
**When:** Wednesday, February 06, 2019 11:00 AM-11:30 AM America/New\_York.  
**Where:**

When: Wednesday, February 06, 2019, 11:00 AM to 11:30 AM. Eastern Time Where:

\*~\*~\*~\*~\*~\*~\*~\*~\*~\*

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Appointment

---

**From:** Kulkin, Matthew [/O=CFTC/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=F973C0FE038742B4BB68C3EEAE3F8171-KULKIN, MATTHEW]  
**Sent:** 2/6/2019 10:31:23 AM  
**To:** Thornton, Charlie [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=2f7cd1b27f3e4fde80a5088eadd3b931-Thornton III, Norwo]; Bussey, Brian [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=a2d0b8b95a0b46029f13eheadb73f297-Bussey, Brian]; Trabue Bland [Trabue.Bland@theice.com]  
**Subject:** Call  
**Attachments:** invite.ics  
**Start:** 2/6/2019 11:00:00 AM  
**End:** 2/6/2019 11:30:00 AM  
**Show Time As:** Tentative  
**Recurrence:** (none)

When: Wednesday, February 06, 2019, 11:00 AM to 11:30 AM. Eastern Time

Where:

\*~\*~\*~\*~\*~\*~\*~\*~\*~\*

Appointment

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**From:** Kulkin, Matthew [MKulkin@CFTC.gov]  
**To:** Thornton, Charlie [cthorton@CFTC.gov]; Bussey, Brian [BBussey@CFTC.gov]; Trabue Bland [Trabue.Bland@theice.com]

**Subject:** Call

**Start:** 2/6/2019 11:00:00 AM

**End:** 2/6/2019 11:30:00 AM

**Show Time As:** Tentative

**Recurrence:** (none)

**When:** Wednesday, February 06, 2019, 11:00 AM to 11:30 AM. Eastern Time  
**Where:**

\*~\*~\*~\*~\*~\*~\*~\*~\*~\*

Message

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**From:** Trabue Bland [Trabue.Bland@theice.com]  
**Sent:** 2/6/2019 10:00:37 AM  
**To:** Kulkin, Matthew [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=f973c0fe038742b4bb68c3eeae3f8171-Kulkin, Matthew]; Bussey, Brian [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=a2d0b8b95a0b46029f13eheadb73f297-Bussey, Brian]; Thornton, Charlie [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=2f7cd1b27f3e4fde80a5088eadd3b931-Thornton III, Norwo]  
**Subject:** RE: Trabue - are you free at 11 to compare notes?

Sure--sounds good

---

**From:** Kulkin, Matthew [mailto:MKulkin@CFTC.gov]  
**Sent:** Wednesday, February 06, 2019 9:34 AM  
**To:** Bussey, Brian <BBussey@CFTC.gov>; Trabue Bland <Trabue.Bland@theice.com>; Thornton, Charlie <cth Thornton@CFTC.gov>  
**Subject:** Trabue - are you free at 11 to compare notes?

**WARNING** - External email; exercise caution

**Matthew Kulkin**  
Director, Division of Swap Dealer & Intermediary Oversight  
U.S. Commodity Futures Trading Commission  
1155 21st Street, NW | Washington, DC 20581 | O: 202.418.5213

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Message

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**From:** Trabue Bland [Trabue.Bland@theice.com]  
**Sent:** 2/5/2019 5:00:00 PM  
**To:** Gill, Michael [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=3ab6b606c58b45fe8b9174d248b3fa65-Gill, Michael]; Thornton, Charlie [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=2f7cd1b27f3e4fde80a5088eadd3b931-Thornton III, Norwo]  
**Subject:** FW: ICE submission on 2/1-Amendments to Rule 4.26

WHAT? I didn't even get a call? I try to build a market for one tiny contract and I have to wait for the SEC?

---

**From:** Jason Fusco  
**Sent:** Tuesday, February 05, 2019 1:55 PM  
**To:** Audrey Hirschfeld <Audrey.Hirschfeld@theice.com>; Mark Fabian <mark.fabian@theice.com>; Trabue Bland <Trabue.Bland@theice.com>; Tim Barry <Tim.Barry@Theice.com>  
**Subject:** RE: ICE submission on 2/1-Amendments to Rule 4.26

Spoke with Nancy and Amir, they communicated that Giancarlo would like us to withdraw the filing. Said both the SEC and CFTC are looking into the efficacy of speed bumps and don't believe this should be put through as a 10-day filing. They're looking for us to submit this for approval so there can be discussion with the industry. He mentioned our good working relationship and said the Chairman would approve a stay if we didn't pull it.

FWIW, they were not receptive to the fact there was no CLOB activity in Daily Gold or Silver.

---

**From:** Jason Fusco  
**Sent:** Monday, February 04, 2019 5:20 PM  
**To:** Audrey Hirschfeld <Audrey.Hirschfeld@theice.com>; Mark Fabian <mark.fabian@theice.com>; Trabue Bland <Trabue.Bland@theice.com>  
**Subject:** FW: ICE submission on 2/1-Amendments to Rule 4.26

FYI - First inquiry from DMO about a rule filing in quite some time.

---

**From:** Markowitz, Nancy [<mailto:NMarkowitz@CFTC.gov>]  
**Sent:** Monday, February 04, 2019 5:14 PM  
**To:** Jason Fusco <Jason.Fusco@theice.com>  
**Cc:** Zaidi, Amir <AZaidi@CFTC.gov>  
**Subject:** ICE submission on 2/1-Amendments to Rule 4.26

**WARNING** - External email; exercise caution

Hi Jason:

Amir and I would like to have a call with you tomorrow to discuss ICE's rule certification regarding amendments to Rule 4.26. We have availability any time after 1:30. Can you tell me a time convenient for you to talk.

Thank you.

Nancy Markowitz  
Deputy Director  
Market Review Branch

## Division of Market Oversight

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Message

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**From:** Trabue Bland [Trabue.Bland@theice.com]  
**Sent:** 12/19/2018 4:39:16 PM  
**To:** Thornton, Charlie [/o=CFTC/ou=Exchange Administrative Group  
(FYDIBOHF23SPDLT)/cn=Recipients/cn=2f7cd1b27f3e4fde80a5088eadd3b931-Thornton III, Norwo]  
**Subject:** FW: 4(c) request

LOL--so how can I file?

---

**From:** Sloan, Scott [mailto:SSloan@CFTC.gov]  
**Sent:** Wednesday, December 19, 2018 4:37 PM  
**To:** Trabue Bland <Trabue.Bland@theice.com>; Audrey Hirschfeld <Audrey.Hirschfeld@theice.com>  
**Subject:** 4(c) request

**WARNING** - External email; exercise caution

Trabue and Audrey,

Do you have time tomorrow afternoon to discuss the draft 4(c) request? We will have a few additional comments. 3:30 Eastern works best for us, but we can be a bit flexible.

Thanks,

Scott Sloan  
Special Counsel | Division of Clearing and Risk  
U.S. Commodity Futures Trading Commission  
525 W. Monroe St. | Suite 1100 | Chicago IL 60661  
(312) 596-0708 | [ssloan@cftc.gov](mailto:ssloan@cftc.gov)

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Message

**From:** Trabue Bland [Trabue.Bland@theice.com]  
**Sent:** 12/14/2018 7:51:29 PM  
**To:** Thornton, Charlie [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=2f7cd1b27f3e4fde80a5088eadd3b931-Thornton III, Norwo]  
**Subject:** FW: CFTC

FYI

---

**From:** Elizabeth King <Elizabeth.King@theice.com>  
**Date:** Friday, Dec 14, 2018, 6:54 PM  
**To:** Scott Hill <scott.hill@theice.com>, Jeffrey Sprecher <Jeffrey.Sprecher@theice.com>, Finbarr Hutcheson <Finbarr.Hutcheson@theice.com>, Carolyn Van den Daelen <Carolyn.VandenDaelen@theice.com>, Trabue Bland <Trabue.Bland@theice.com>, Alex Albert <Alex.Albert@theice.com>, Charles Lindsay <Charles.Lindsay@theice.com>  
**Subject:** CFTC

I just got a call from a very animated Brian Bussey and Bob Wasserman. Brian says that the Chairman is not at all happy that ICE is asking for this last minute approval of a rule change that David Bailey told Brian had been approved by the BOE weeks ago. He asked why we didn't file this earlier so that the Commission didn't have to take extraordinary action. Brian noted repeatedly that the Commissioners are not happy with ICE. But if we get them a 40.5 filing on Monday they can get it done by Thur. Is that possible?

They also want to know whether we could change the rule to shorten the termination time period to 30 days only in circumstances where termination is necessary because it will be illegal (or something along those lines). But that would of course require the BOE to agree to that variation.

A question: What is the package of rules approved by BOE and filed with the SEC in which this shortening of the termination deadline is included?

**Elizabeth K. King**  
Chief Regulatory Officer, ICE  
General Counsel & Corporate Secretary, NYSE  
NY: +1 212.656.2475 | DC: +1 202.661.8948 | Mob: (b)(6)  
[elizabeth.king@theice.com](mailto:elizabeth.king@theice.com)  
[www.intercontinentalexchange.com](http://www.intercontinentalexchange.com) | [www.NYSE.com](http://www.NYSE.com)



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Message

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**From:** Trabue Bland [Trabue.Bland@theice.com]  
**Sent:** 12/12/2018 3:56:39 PM  
**To:** Thornton, Charlie [/o=CFTC/ou=Exchange Administrative Group  
(FYDIBOHF23SPDLT)/cn=Recipients/cn=2f7cd1b27f3e4fde80a5088eadd3b931-Thornton III, Norwo]  
**Subject:** FW: accounting questions from the CFTC  
**Attachments:** CFTCquestions121218.docx

I thought you would find this funny. Why on earth would the CFTC care how we actually writing down accounting entries. Wow--

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1. Where will revenues earned in relation to bitcoin activity be classified on the Income Statement of ICE Clear US?
  - a. Please confirm that all revenue earned by ICE Clear US for BTC clearing transaction fees will be collected from clearing members in the form of USD.
  - b. Please confirm if ICE Clear US will be responsible for the calculation and payment of fees (paid in BTC) to the miners. If this is not the case, what ICE entity will be responsible for this activity?
2. Where would the fees owed to Bakkt be classified on the Income Statement and on the Balance Sheet?
3. How will the accounting group keep track of what amount of revenue needs to be passed on to Bakkt?
  - a. What reports will be used to account for this calculation?
4. Who will be responsible for recording the pass thru revenues and expenses related to bitcoin activity?
  - a. Who will review these entries?
  - b. How often will these entries be recorded and reviewed?
5. Will the revenues passed over to Bakkt be recorded as a non-cash transaction or will there be a physical movement of cash into a Bakkt bank account?
6. Please provide an example of journal entries that will be recorded on the general ledger in order to recognize the revenues earned and owed to Bakkt.

Message

---

**From:** Trabue Bland [Trabue.Bland@theice.com]  
**Sent:** 10/25/2018 5:59:29 PM  
**To:** Thornton, Charlie [/o=CFTC/ou=Exchange Administrative Group  
(FYDIBOHF23SPDLT)/cn=Recipients/cn=2f7cd1b27f3e4fde80a5088eadd3b931-Thornton III, Norwo]  
**Subject:** Crypto\_slide\_deck\_v20\_092818\_CFTC (002).pptx  
**Attachments:** Crypto\_slide\_deck\_v20\_092818\_CFTC (002).pptx

FYI

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Message

**From:** Thornton, Charlie [/O=CFTC/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=2F7CD1B27F3E4FDE80A5088EADD3B931-THORNTON III, NORWO]  
**Sent:** 10/25/2018 1:45:47 PM  
**To:** Gill, Michael [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=3ab6b606c58b45fe8b9174d248b3fa65-Gill, Michael]; Thornton, Charlie [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=2f7cd1b27f3e4fde80a5088eadd3b931-Thornton III, Norwo]  
**Subject:** Re: Institutional markets gear up for OTC trading

**Non-Responsive**

On: 25 October 2018 13:29, "Gill, Michael" <MGill@CFTC.gov> wrote:

**Non-Responsive**

**From:** Thornton, Charlie  
**Sent:** Thursday, October 25, 2018 9:29 AM  
**To:** Gill, Michael  
**Subject:** FW: Institutional markets gear up for OTC trading

**From:** Trabue Bland [mailto:Trabue.Bland@theice.com]  
**Sent:** Thursday, October 25, 2018 9:01 AM  
**To:** Thornton, Charlie; Alex Albert; Fred Hatfield (External)  
**Subject:** Institutional markets gear up for OTC trading

Let staff know that this is slipping away from the CFTC! <https://www.forbes.com/sites/astanley/2018/10/23/uncharted-bitcoin-otc-markets-gear-up-for-institutional-inflows/amp/>

Hope you had a good trip.

Trabue

**Trabue Bland**  
President, ICE Futures US  
Intercontinental Exchange | ICE  
55 East 52<sup>nd</sup> Street, 40<sup>th</sup> Floor  
Telephone: +1 770.916.7832 (Atlanta) | +1 212.748.4005 (New York)  
Mobile: (b)(6)  
[trabue.bland@theice.com](mailto:trabue.bland@theice.com)  
[intercontinentalexchange.com](http://intercontinentalexchange.com)

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Message

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**From:** Trabue Bland [Trabue.Bland@theice.com]  
**Sent:** 10/23/2018 9:15:36 AM  
**To:** Thornton, Charlie [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=2f7cd1b27f3e4fde80a5088eadd3b931-Thornton III, Norwo]  
**Subject:** FW: FISMA staff analysis on CFTC Chair Giancarlo White Paper  
**Attachments:** FISMA staff analysis on CFTC Chair Giancarlo White Paper.docx

In case you didn't get this.

---

**From:** Tim Grange <[Tim.Grange@theice.com](mailto:Tim.Grange@theice.com)>  
**Date:** Tuesday, Oct 23, 2018, 9:14 AM  
**To:** **\*\*Regulatory and Legislative** <[RegulatoryandLegislative@TheIce.com](mailto:RegulatoryandLegislative@TheIce.com)>  
**Subject:** FISMA staff analysis on CFTC Chair Giancarlo White Paper

This is Patrick Pearson's analysis/critique of the Giancarlo WP on which he will brief Member States today

Tim

---

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*This document has been prepared by services to facilitate discussions. It cannot be understood as representing the Commission's position on these issues and does not bind the Commission in any way*

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Brussels, 22/10/2018

**CFTC Chairman Giancarlo's White Paper "Cross-Border Swaps Regulation  
Version 2.0"**

**DG FISMA staff internal analysis**

This staff analysis aims to give context to and reflect on CFTC Chairman C. Giancarlo's White Paper "Cross-Border Swaps Regulation Version 2.0. A Risk-Based Approach with Deference to Comparable Non-U.S. Regulation", as published on 1 October 2018<sup>1</sup>.

The stated objectives of the White Paper are to pursue improvements to the CFTC's current regulation of derivatives activities in a cross-border context, while remaining in line with the 2009 G20 Pittsburgh reforms and in full accordance with the letter and spirit of Title VII of the Dodd-Frank Act<sup>2</sup>. The goal is to *'adopt rulemakings that address systemic risk to the U.S. financial system in a way that is better tailored to the market as it exists now, not as it existed in 2010 or even in 2013'*<sup>3</sup>.

These overall goals are welcomed as arrangements for cross-border regulation should keep pace with developments in international financial markets and the global regulatory environment and so adequately reflect important challenges that regulators face, in particular regarding the key objective of addressing systemic risk to safeguard the stability of the financial system. Similar to the CFTC's policy goals referred to in the White Paper, the European Commission has recently presented a legislative proposal ('the EU legislative proposal') to revise the European Union's derivatives regulation to safeguard the financial stability of the Union as its prime objective<sup>4</sup>.

***Current scope of the CFTC's supervisory framework***

The external reach of the CFTC is based on section 2(i) of the Commodity Exchange Act ('CEA') which extends the CFTC's authority to activities that *"have a direct and significant connection with activities in, or effect on, commerce of the United States"*. For a number of years, the European Commission has consistently raised its concerns about the wide extra-territorial scope attached to this provision by the CFTC's Cross-Border Guidance, and in particular its definition of a 'U.S. person'. the European Commission

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<sup>1</sup> [https://www.cftc.gov/sites/default/files/2018-10/Whitepaper\\_CBSR100118.pdf](https://www.cftc.gov/sites/default/files/2018-10/Whitepaper_CBSR100118.pdf)

<sup>2</sup> White Paper, Page 12

<sup>3</sup> White Paper, Page 14

<sup>4</sup> Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) No 1095/2010 establishing a European Supervisory Authority (European Securities and Markets Authority) and amending Regulation (EU) No 648/2012 as regards the procedures and authorities involved for the authorisation of CCPs and requirements for the recognition of third-country CCPs. COM/2017/0331 final - 2017/0136 (COD)

services therefore support the conclusion reached in the White Paper that, as a consequence of this wide scope, “*global derivatives markets that involve a ‘U.S. person’ should adopt all CFTC trading rules, including rules that do little to reduce counterparty risk*”<sup>5</sup>. The European Commission services take note of the comment in the White Paper that this approach is “*simply not sustainable and may signal to non-U.S. regulators that the CFTC does not respect their rightful sovereignty over entities established and operating in their jurisdictions*”<sup>6</sup>.

The “*extraordinarily expansive*”<sup>7</sup> definition of ‘U.S. person’ in the CFTC Cross-Border Guidance has also been commented on by the G20 Financial Stability Board OTC Derivatives Regulators Group (ODRG). The CFTC interprets section 2(i) of CEA so that when a non-US person is a booking entity (i.e. the legal counterparty) to swaps and even if the US branch, agency, affiliate, or subsidiary of a non-U.S. person engages in solicitation or negotiation in connection with the swap entered into by the non-U.S. person, the CFTC applies the Dodd-Frank Act requirements, including the registration requirement, for swap dealers also to the non-U.S. person. The ODRG noted, *inter alia*, that the continued inclusion of subsidiaries (‘affiliates’) in the scope of the definition of a ‘US Person’ contributed significantly to the extra-territorial effect of the provision and the consequential application of CFTC rules and regulations in foreign jurisdictions.

It is not clear to the European Commission services to what extent the White Paper would also address the expansive nature of the CFTC’s supervisory framework and call for a revision of the definition of a ‘US person’ in a clear and binding manner that reduces its extra-territorial scope.

### ***Focus on systemic risk***

When suggesting ways to limit the current extra-territorial effect of its regulatory and supervisory approach, the White Paper also suggests that in the future “*the focus should be on how best to prevent systemic risk created outside the United States from returning to the United States*”<sup>8</sup>. Considering “*cross-border risk transfer*” would determine “*the necessity of applying CFTC swaps rules extraterritorially*”, which would be consistent with the requirement for the CFTC to focus on activities outside the United States that have a “*direct and significant*” connection with the United States<sup>9</sup>.

The CFTC’s prime focus would therefore be on *preventing external systemic risk* from entering the US. In the view of the European Commission services, this is a more appropriate approach which, in theory, would also permit a greater degree of proportionality in addition to reducing extra-territoriality. The White Paper also identifies measures to mitigate systemic risk that has a ‘direct and significant’ impact on the US. These measures include mandatory clearing of derivatives in CCPs, margin collateral for uncleared derivatives, capital, and ensuring that sufficient information is available for effective supervision and oversight through record keeping and regulatory reporting.<sup>10</sup> However, in addition to the territorial scope, the decisive factor is how the CFTC would seek to apply those measures in practice.

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<sup>5</sup> White Paper, Page 22

<sup>6</sup> White Paper, Page 20

<sup>7</sup> White Paper, Page 15

<sup>8</sup> White Paper, Page 22 (underline *European Commission*)

<sup>9</sup> White Paper, Page 22

<sup>10</sup> White Paper, Page 21

The focus of the CFTC on preventing external systemic risk from entering the United States is comparable to the objectives of the European Commission when amending EMIR.

### ***Systemically important vs non-systemically important non-US CCPs***

With regard to non-US CCPs, the White Paper suggests to distinguish in general between those CCPs that pose systemic risk to the US financial system and those that do not present such risk. The White Paper suggests to “*expand the use of CFTC’s exemptive authority for non-U.S. CCPs that are subject to comparable regulation in their home country and do not pose substantial risk to the U.S. financial system, permitting them to provide clearing services to U.S. customers indirectly through non-U.S. clearing members that are not registered with the CFTC*”<sup>11</sup>.

Neither the White Paper, nor current proposals for regulating non-systemically important CCPs in the United States, and unlike the EU, provide criteria determining when a CCP is deemed to be ‘systemic’ or not (see below).

### ***Non-systemically important non-US CCPs***

Title VII of the Dodd-Frank Act permits the CFTC to exempt a non-U.S. CCP from registration for the clearing of derivatives if the CFTC determines that the CCP is subject to “*comparable, comprehensive supervision and regulation*” by appropriate government authorities in the CCP’s home country<sup>12</sup>. The CFTC applies this to non-US CCPs that do not pose systemic risk to the US. To date the CFTC has applied this approach to only four non-US CCPs<sup>13</sup>. In the White Paper, the CFTC describes the approach as an “*outcomes based approach (that) reflects the CFTC’s recognition that a non-U.S. jurisdiction’s supervisory and regulatory scheme applicable to its CCPs may differ from the CFTC’s in certain respects, but nevertheless may achieve the same underlying goals. This approach also supports the CFTC’s effort to strike an appropriate balance by focusing on the risk implications to the United States, while promoting global harmonization*”<sup>14</sup>.

The CFTC is currently proposing to adopt regulations that would codify the staff policies and procedures that the CFTC is currently following with respect to granting exemptions from CCP registration for non-systemically important non-US CCPs<sup>15</sup>. The proposed key conditions for an exemption from registration with the CFTC are as follows.

- The supervisory and regulatory framework of a home country adheres to the CPMI IOSCO Principles for Financial Market Infrastructures (PFMIs) and achieves outcomes that are comparable to that of the supervisory and regulatory requirements applicable to registered US CCPs<sup>16</sup>.

<sup>11</sup> White Paper, Page iv

<sup>12</sup> Section 5b(h) of the CEA, 7 U.S.C. § 7a-1(h).

<sup>13</sup> Japan Securities Clearing Corporation; Korea Exchange; OTC Clearing Hong Kong Limited; ASX Clear (Futures) Pty Limited

<sup>14</sup> White Paper, Page 45

<sup>15</sup> See Exemption From Derivatives Clearing Organization Registration, 83 FR 39923 (Aug. 13, 2018): <https://www.gpo.gov/fdsys/pkg/FR-2018-08-13/pdf/201817335.pdf>. Notice of Proposed Rulemaking published on 18 August 2018 and open for comments until 10 October 2018.

<sup>16</sup> Proposed Regulation 39.6(a)(1)(i-ii)



- A memorandum of understanding (MOU) must be in effect between the CFTC and the non-US CCP's home country regulator. The home country supervisor must agree, *inter alia*, to provide to the CFTC any information that the CFTC deems necessary to evaluate the non-US CCP's initial and continued eligibility for exemption or to review compliance with any conditions for the exemption<sup>17</sup>.

Importantly, however, an exempt non-US CCP must also meet many further requirements, *inter alia*:

- consent to jurisdiction in the United States and designate an agent in the United States, for notice or service of process, pleadings, or other documents issued by or on behalf of the Commission or the U.S. Department of Justice in connection with any actions or proceedings against, or any investigations relating to, the exempt non-US CCP or any U.S. person or Futures Commission Merchant ('FCM') that is a clearing member or that clears swaps through an affiliated clearing member<sup>18</sup>;
- comply and demonstrate ongoing compliance to the CFTC, with any condition for exemption<sup>19</sup>;
- make all documents, books, records, reports, and other information related to its operation as an exempt non-US CCP (books and records) open to inspection and copying by any CFTC representative, and to promptly make its books and records available and provide them directly to CFTC representatives upon request<sup>20</sup>;
- provide an annual certification that it continues to observe the PFMI in all material respects<sup>21</sup>;
- meet reporting requirements (similar to the existing reporting requirements for exempt US CCPs) and provide *directly* to the CFTC – not via the home country supervisor - a report as of the end of each trading day: (A) Initial margin requirements and initial margin on deposit for each U.S. person; (B) daily variation margin, separately listing the mark-to-market amount collected from or paid to each U.S. person. (If a clearing member margins on a portfolio basis its own positions and the positions of its affiliates, and either the clearing member or any of its affiliates is a U.S. person, the exempt CCP must report initial margin requirements and initial margin on deposit for all such positions on a combined basis for each such clearing member and to separately list the mark- to-market amount collected from or paid to each such clearing member, on a combined basis). The CFTC notes that these requirements for exempt CCPs are similar to those for fully registered CCPs in Regulation 39.19(c)(1). “*These reports would provide the CFTC with information ... to assess the extent to which U.S. business is being cleared by each exempt DCO*”<sup>22</sup>;
- report as of the last day of each fiscal quarter, and submit the report to the CFTC, containing: (A) The aggregate clearing volume of U.S. persons during the fiscal quarter, and (B) the average open interest of U.S. persons during the fiscal quarter. If a clearing member is not a U.S. person, the data must include the transactions and positions of affiliates that are U.S. persons.<sup>23</sup>

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<sup>17</sup> Proposed Regulation 39.6(a)(2)

<sup>18</sup> Proposed Regulation 39.6(b)(3)

<sup>19</sup> Proposed Regulation 39.6(b)(4)

<sup>20</sup> Proposed Regulation 39.6(b)(5)

<sup>21</sup> Proposed Regulation 39.6(b)(6)

<sup>22</sup> Proposed Regulation 39.6(c)(2)(i)

<sup>23</sup> Proposed Regulation 39.6(c)(2)(ii)

It is important to compare the CFTC's approach to non-systemically important CCPs as suggested in the White Paper and presented in the notice of proposed rulemaking in August 2018 with the EU legislative proposal of June 2017 to amend and improve the EU's supervisory arrangements for third country CCPs ('EMIR 2.2'). According to the EU legislative proposal – and also under the present Regulation – the regulation and supervision of CCPs a third country must be determined to be equivalent to that in the EU. The European Commission has adopted, to date, 16 equivalence decisions<sup>24</sup>. When adopting these equivalence decisions the European Commission has for many years applied a broad outcomes-based assessment that the third country pursues broadly similar objectives regarding CCP supervision and regulation and explicitly considers the implementation of the CPMI-IOSCO Principles for Financial Market Infrastructures.<sup>25</sup> This is similar to the approach suggested by the CFTC and that the CFTC now proposes to clarify in its regulations.

Also similar to the CFTC's approach for non-systemically important CCPs, the EU requires the conclusion of a memorandum of understanding (MOU) between EU regulators – the European Securities Markets Authority, ESMA – and the third country's home supervisor regarding exchange of information and cooperation.

The key difference between the EU's current and proposed legislative approach, however, and the CFTC's current practice and proposed rules, is that, in the EU, a non-systemically important third country CCP is not required to consent to EU jurisdiction, make documents, books, records, reports, and other information available for inspection, or report directly to ESMA and meet onerous, voluminous and extremely detailed reporting requirements for margins and positions etc. on a daily, weekly, monthly and annual basis. On this basis, it is therefore not clear to the European Commission services the extent to which the proposals in the CFTC White Paper would effectively reduce the extra-territorial effects of US rules

Contrary to the CFTC rules, the current EU rules and the proposed designation of a third country CCP as 'non-systemically important' will imply *full* deference to the authority and supervision of the third country supervisor.<sup>26</sup>

### ***Systemically important CCPs***

Regarding non-US CCPs and '*how best to prevent systemic risk created outside the United States from returning to the United States*'<sup>27</sup>, the CFTC's White Paper states that "*non-U.S. CCPs that clear swaps for U.S. persons and are deemed by the CFTC to pose substantial risk specific to the U.S. financial system would continue to be required to register with, and be regulated by, the CFTC. These CCPs would be regulated and supervised as they are today with the CFTC's regulatory and supervisory focus concentrated on the CCP's U.S.-facing clearing activity while recognizing the supervisory primacy of the home country regulator*"

<sup>24</sup> Hong Kong, Australia, Japan (financial derivatives and commodities), Dubai, United Arab Emirates, Mexico, Republic of Korea, Brazil, New Zealand, South Africa, Singapore, Switzerland, Canada, India and the USA (CFTC) [https://ec.europa.eu/info/sites/info/files/emir-equivalence-decisions\\_en.pdf](https://ec.europa.eu/info/sites/info/files/emir-equivalence-decisions_en.pdf)

<sup>25</sup> See e.g. European Commission Implementing Decision of 13 November 2015 on the equivalence of the Republic of Korea (EU) 2015/20385.

<sup>26</sup> Commission proposal Art 25 (7)

<sup>27</sup> White Paper, Page 22 (*underline European Commission*)

The White Paper also points out that systemic risk measures should be appropriately comparable across borders to mitigate the risk of cross-border contagion. *“Accordingly, with respect to swaps reforms designed to mitigate systemic risk, the CFTC’s jurisdiction should continue to apply cross-border to U.S. firms on an “entity” basis, with the availability of substituted compliance for non-U.S. jurisdictions that are strictly comparable”*<sup>28</sup>. Currently, five non-US CCPs are registered with the CFTC as DCOs<sup>29</sup>. They are considered to *“have significant U.S. activity and thus could present systemic risk to the U.S. markets”*<sup>30</sup>. As registered DCOs, they may conduct both customer and proprietary clearing for U.S. persons.

While the White Paper refers to the availability of substituted compliance for non-US jurisdictions that are strictly comparable, the European Commission services interpret the suggested policy approach to mean that there will be no exemption from the CFTC’s authority for non-US CCPs if (a) they are of systemic importance to the US financial system and (b) if any U.S. clearing member of the non-U.S. CCP (‘Futures Commission Merchant’ FCM) is involved in a cleared trade.

In other words, the current CFTC’s approach and rules and regulations remain unchanged with respect to systemically relevant CCPs.

Regarding (b), the European Commission services’ understanding is that if a non-US CCP intends to provide clearing services to US FCMs it would continue to be considered as posing substantial risk to the US financial system. The issue is then which challenges non-US clearing members would face to provide services to US customers? It is the European Commission services’ understanding that EU CCPs would in any event need to register with the CFTC, without benefiting from any exemptions and would continue to be fully subject to CFTC rules and regulations and be regulated and supervised as they are today. Furthermore, the CPMI-IOSCO Principles for Financial Market Infrastructures, require that CCPs should be supervised holistically as a group. This means that an EU CCP offering both exempted and non-exempted services would continue to be subject to the (stricter) regulatory and supervisory regime on the part of the CFTC. Subject to further clarification, it would therefore appear that for most if not all EU CCPs the approach suggested in the White Paper would not introduce a significant change from the current approach.

Regarding (a), the EU legislative proposal recognises the concerns identified in the CFTC White Paper. The regulation of derivatives activities should take into account (i) cross-border systemic risk, (ii) whether jurisdictions should have measures in place to mitigate systemic risk arising from the activities of entities from outside their jurisdiction, and (iii) deference should be available for comparable jurisdictions. However, in respect of non-systemic CCPs, the EU legislative proposal contains the following important differences for the regulation of systemically important third country entities.

The EU legislative proposal categorises third-country ‘systemically important’ and ‘non-systemically important’ CCPs according to specific criteria. These include:

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<sup>28</sup> White Paper, Page 22

<sup>29</sup> EUREX, ICE UK, LCH UK, LCH SA, Singapore. ICE Canada is also registered to clear futures on energy products.

<sup>30</sup> White Paper, p. 36

- the nature, size and complexity of the CP, including the aggregate value of transactions cleared;
- the aggregate exposure of the CCP engaged in clearing activities;
- the effect on EU financial stability that its interdependencies and relationships with other financial market infrastructures, other financial institutions entities may have;
- the effect that its failure may have on financial markets, institutions, the broader financial system of the European Union;
- its clearing membership structure<sup>31</sup>.

These criteria will be subject to further technical elaboration so as to ensure a consistent and coherent application in practice<sup>32</sup>.

The US Financial Stability Oversight Council (FSOC) designates those financial market utilities or payment, clearing, or settlement activities that the Council determines are, or are likely to become, systemically important. In making that determination, the FSOC takes into account the following<sup>33</sup>:

- “(A) The aggregate monetary value of transactions processed by the financial market utility or carried out through the payment, clearing, or settlement activity.*
- (B) The aggregate exposure of the financial market utility or a financial institution engaged in payment, clearing, or settlement activities to its counterparties.*
- (C) The relationship, interdependencies, or other interactions of the financial market utility or payment, clearing, or settlement activity with other financial market utilities or payment, clearing, or settlement activities.*
- (D) The effect that the failure of or a disruption to the financial market utility or payment, clearing, or settlement activity would have on critical markets, financial institutions, or the broader financial system.*
- (E) Any other factors that the Council deems appropriate”.*

This categorisation in the EU legislation brings legal clarity, transparency for market operators and a focused regulatory and supervisory regime. The regulatory and supervisory measures that this new EU regime will introduce for third-country CCPs that are of importance for stability of the EU financial system are targeted. Compared to, and in some instances inspired by, the CFTC regulatory and supervisory approach and measures they are:

- similar to the CFTC, after recognition a systemically important third-country CCP providing clearing services in the European Union must comply on an ongoing basis with core prudential and oversight requirements<sup>34</sup> (subject to substituted compliance and deference, see below) ;
- similar to the CFTC, after recognition a systemically important third-country CCP providing clearing services in the European Union must conclude an effective MoU ;
- similar to the CFTC, after recognition a systemically important third-country CCP providing clearing services in the European Union must provide any necessary information directly to ESMA. The EU legislative proposal would permit ESMA to seek full access to information as well as investigation powers over the third-country CCPs under its supervision. This is an important improvement over the very limited access it currently has. The need for such

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<sup>31</sup> Commission proposal Art. 25 (2a)

<sup>32</sup> Ibid.

<sup>33</sup> 12 U.S. Code § 5463 - Designation of systemic importance

<sup>34</sup> EU legislative proposal Art 25 (2b) (a)

- information to be provided by systemically important third-country CCPs is comparable to the powers the CFTC currently enjoys in seeking that information;
- similar to the CFTC, after recognition a systemically important third-country CCP providing clearing services in the European Union ESMA should be able to conduct on-site inspections in third-country CCPs. *“Such examinations focus primarily on the DCO’s services on behalf of U.S. clearing firms and are conducted in full coordination with the home country supervisor. This approach allows the CFTC to exercise its authority over U.S. businesses without impinging on the non-U.S. DCO’s home country regulator’s role as the primary regulator of the DCO”*<sup>35</sup>. Like the CFTC, after full notification examinations should focus primarily on the CCP’s services on behalf of EU clearing members and are to be conducted in full coordination with the home country supervisor. ESMA should rely fully on the home country regulator in the case of most other CCPs<sup>36</sup>

The criteria developed in the EU legislative proposal to determine a third-country systemically important CCP have been strongly influenced by the criteria to define a systemically important CCP (SIDCO) under the Dodd-Frank Act in the US. Such criteria to determine ‘systemic’ CCPs would be critical to introduce legal clarity and certainty.

### ***Supervision of systemically important CCPs***

The White Paper states that *“Even where registration or regulation of non-U.S. entities may be required, the CFTC should endeavor to work cooperatively with other regulators in order to achieve common regulatory goals such that the actual effect of being registered or regulated is still based on deference. To make this work and ensure access to information regarding market participants that have a nexus to the United States, the CFTC should continue the practice of entering into memoranda of understanding (MOUs) with the relevant home country regulators to provide a framework for the sharing of information regarding entities relying on a substituted compliance determination.”*<sup>37</sup> ESMA is fully expected to exercise its authority over EU business without impinging on a non-EU CCP home country regulator’s authority in exactly the same manner as the CFTC describes that role for itself.

The CFTC’s suggestions are fully comparable with the EU legislative proposal. In particular it reflects the approach that the Proposal would put in place for systemically important CCPs from a third country.

The main differences appear to relate to the involvement of central banks and to the degree of ‘deference’ offered.

### ***Central bank involvement***

Concerning the involvement of central banks in the EU legislative proposal, this is a direct and logical consequence of focusing on financial stability and its connection with monetary policy. Liquidity, margins and collateral are all narrowly linked. To be precise, CCP margins mitigate credit risk. Margins are provided by collateral and margins and collateral can create liquidity stress in markets. Furthermore, collateral value haircuts can create liquidity stress. CCPs can hold collateral to secure liquidity facilities at the central

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<sup>35</sup> White Paper PP36-37

<sup>36</sup> EU legislative proposal Art 25e

<sup>37</sup> White Paper P32.

bank. As overseers of payment systems through which liquidity and collateral is channelled and as liquidity providers, central banks have an important role to fulfil in respect of CCPs. These issues are also reflected in international standards (CPMI-IOSCO PFMI mentioned above)<sup>38</sup>. In the European Union, the responsibility for these areas and financial stability in general does not fall under the statutory responsibilities of financial market authorities. It belongs to the authority of central banks. The EU legislative proposal reflects this authority.

While the CFTC White Paper is silent about the role of central banks in the supervision of CCPs, the European Commission services understand that similar responsibilities in the United States belong to the Federal Reserve System.

### *Substituted compliance and deference*

Regarding ‘substituted compliance’ and ‘deference’, the White Paper states that the CFTC “currently shows insufficient deference to non-U.S. regulators that have adopted comparable swaps reforms for their jurisdictions and is inconsistent with the CFTC’s traditional approach of comity with competent non-U.S. regulators in futures regulation”<sup>39</sup>. Furthermore that “The CFTC should operate on the basis of comity, not uniformity, with non-U.S. regulators that oversee comparable regulatory regimes”<sup>40</sup>.

The European Union’s legal and policy instrument in this area is by means of adopting equivalence decisions. These decisions relate to the regulatory and supervisory system of a country (*not* an individual CCP entity). The White Paper states that “*Substituted compliance ... is broadly similar to the concept of “equivalence” in the EU*”<sup>41</sup>. This however overlooks important differences and does not reflect the legal and practical distinction between the two approaches.

With ‘substituted compliance’ the CFTC’s rules and jurisdiction over third-country entities continue to apply. Under EU equivalence, the third-country rules and the jurisdiction of the third-country authority apply.

The European Commission services understand the possible miscomprehension that may have arisen in this field. In order to address this shortcoming in EU derivatives regulation which has not benefitted from a system based on ‘substituted compliance’ for firms as applied by the CFTC, the EU legislative proposal would introduce exactly such a system (called ‘comparable compliance’)<sup>42</sup>. Having witnessed the CFTC’s positive experience in applying ‘substituted compliance’ for individual firms, the EU legislative proposal intends to replicate the essential elements, adjusted where appropriate, in the EU’s regulatory approach to third-country CCPs. In this light, the statement in the White Paper that “*The application of EU law to U.S. financial markets without deference to the CFTC is unacceptable*”<sup>43</sup> seems to be based on a misreading of the EU legislative proposal.

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<sup>38</sup> PFMI Principles 3, 4-6, 20

<sup>39</sup> White Paper P 16

<sup>40</sup> White Paper P 24

<sup>41</sup> White Paper P29

<sup>42</sup> EU Legislative proposal Art 25a

<sup>43</sup> White Paper P 42

The EU legislative proposal increases the amount of deference available by adding a system of comparative compliance, and would be applied in the same manner as the CFTC applies substituted compliance today.

The cross-border relationship between the European Union and the US is determined by and subject to the European Commission's 2016 equivalence decision for the US CFTC<sup>44</sup>. This decision grants full equivalence to the US CFTC's regulatory and supervisory system, with three specific exceptions relating to risk management standards (calculating clearing members' proprietary positions on a liquidation period two days net basis; the absence of anti-pro-cyclicality measures; and measures to withstand the default of the two largest clearing members). With these exceptions, and by granting equivalence, the European Union defers completely to the regulation and supervision of US CCPs by the CFTC and, as explained in the paragraph above, in practice means that the CFTC's rules and jurisdiction apply. The European Commission must undertake regular reviews of the equivalence decision and may undertake a specific review at any time if relevant developments arise or the conditions for the decision are no longer met<sup>45</sup>.

The EU has a long and positive experience in the field of 'deference' and has applied the principle since 1978. It is a fundamental principle of the European Union's legal order<sup>46</sup>. It considers this the correct manner of applying the principle of international comity.

The White Paper states that: "*Mutual commitment to cross-border regulatory deference means that market participants can rely on one set of rules – in their totality – without fear that another jurisdiction will seek to selectively impose an additional layer of regulatory obligations*"<sup>47</sup>. In view of the above, this can only be supported. In practice, however, the European Union has experienced a degree of disequilibrium between the degree of deference offered to US CFTC and what it has been able to benefit from in return. The US CFTC has granted a relatively limited degree of 'substituted compliance' to EU CCPs. The CFTC in 2016, determined to provide "*limited and enumerated relief from the application of Commission regulations to discrete aspects of a DCO/CCP's non-U.S. clearing activities, subject to restrictions*"<sup>48</sup>. With the limited degree of substituted compliance granted by the CFTC to the EU in 2016, any improvement in granting full deference to any jurisdiction outside of the US can only be fully supported.

Significant areas of CFTC regulations deny deference and relief to the EU (See Annex A, summarising the CFTC decision of 16<sup>th</sup> March 2016).

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<sup>44</sup> COMMISSION IMPLEMENTING DECISION (EU) 2016/377 of 15 March 2016 on the equivalence of the regulatory framework of the United States of America for central counterparties that are authorised and supervised by the Commodity Futures Trading Commission to the requirements of Regulation (EU) No 648/2012 of the European Parliament and of the Council

<sup>45</sup> For example, a fundamental criterion for granting equivalence to the US CFTC is that it has in place an effective equivalent system for the recognition of EU CCPs. If developments arose that made it challenging for EU CCPs to continue to effectively operate on the markets regulated by the CFTC this would oblige the European Commission to re-assess the equivalence granted by the Decision and possibly repeal its legal act.

<sup>46</sup> Case 120/78, Rewe-Zentrale AG v Bundesmonopolverwaltung für Branntwein [1979] ECR 649

<sup>47</sup> White Paper P 31

<sup>48</sup> CFTC Letter No. 16-26 No-Action March 16, 2016 Division of Clearing and Risk

### ***Outcomes-based decisions***

The European Commission services also support the CFTC's suggestions to adopt a more outcomes-based approach than in the past. *"Regrettably, the way in which the CFTC has conducted its substituted compliance analysis of swaps reform in the past is one of granular, rule-by-rule comparison, regardless of the type of requirement that is the subject of the substituted compliance determination"*. The European Commission has never applied a line-by-line comparison of third-country rules. The European Commission services suggest that, if the CFTC abandons this practice, it should be combined with offering complete deference to other jurisdictions rather the limited degree that has been offered resulting from its granular approach.

The outcomes-based approach promoted in the White Paper appears similar to the approach taken by the European Commission when assessing the equivalence of third-country rules.

### ***Stricter substituted compliance for systemic risk requirements***

The White Paper furthermore states that *"The CFTC should ... seek stricter comparability for substituted compliance for requirements intended to address systemic risk and more flexible comparability for substituted compliance for requirements intended to address market and trading practices"*<sup>49</sup>. These requirements would in particular apply for reporting requirements: *"Regulatory reporting is an example of a requirement that is important to addressing systemic risk, given the critical role that regulatory reporting plays in helping agencies monitor the build-up of systemic risk. For this reason, before the CFTC would grant substituted compliance with respect to regulatory reporting, the non-U.S. jurisdiction should show a high degree of comparability with respect to applicable data reporting fields, including use of entity identifiers, product identifiers, transaction identifiers, and critical data elements"*<sup>50</sup>.

Subject to further clarification, the European Commission services are concerned that this may mean that (a) EU CCPs will not only continue to be subject to heavy US supervisory and reporting requirements, but would be subject to further increased requirements and (b) the CFTC will provide less deference than is offered today. The White Paper notes that *"A criticism of the CFTC's current cross-border approach is that the CFTC has limited data regarding the non-U.S. swaps operations of U.S.-based entities, unless they receive a U.S. affiliate guarantee"*<sup>51</sup>. The European Commission services note that the criticism that it has received from EU firms is not that the CFTC requests too little information but that it requests an excessive amount of information by seeking access to the entire books and records of non-US swap dealers irrespectively of whether there is a link with the US business.

### ***Non-U.S. Trading Venues***

The White Paper proposes to end the bifurcation of the global swaps markets into separate U.S. person and non-U.S. person marketplaces. The European Commission services welcome the proposal to exempt non-U.S. trading venues from the need to registers with the CFTC as a swap execution facility when the host jurisdiction has

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<sup>49</sup> White Paper Principle 5

<sup>50</sup> White Paper P 31

<sup>51</sup> White Paper P 63



adopted comparable G20 swaps reforms. This approach follows the approach pursued in the CFTC exemption order of December 2017 for EU multilateral and organised trading facilities and both the EU and the US should pursue a similar approach with respect to other jurisdictions that have put in place swap execution reforms.

### *Non-U.S. Swap Dealers*

The White Paper advocates a continued requirement that non-U.S. swap dealers whose swap dealing activity poses a “direct and significant” risk to the U.S. financial system register with the CFTC. The Commission services welcome that fact that these registrations show appropriate deference to non-U.S. regulatory regimes that have comparable requirements for entities engaged in swap dealing activity. However, confirmation that this is the case for investment firms that are authorised under the EU's MifID regime would be required.

Under CFTC regulations, a person is deemed to be a swap dealer as a result of its swap dealing activity if, during the preceding twelve months, the aggregate gross notional amount of the swap dealing exceeds the *de minimis* threshold. When swap transactions have cross-border aspects, it is necessary to determine whether the swap dealing activity has a “direct and significant” effect on the U.S. financial system and therefore should count toward the *de minimis* threshold. The European Commission services understand that all non-U.S. dealers should be permitted to exclude from their *de minimis* threshold those swaps that are executed on a registered or exempt SEF, DCM, or FBOT and cleared by a registered or exempt clearing organization, even if the dealing activity involves U.S. persons. Confirmation that this permission would include all swaps executed by non-U.S. dealers on MifID-regulated multilateral or organised trading facilities would be required.

### *ANE Transactions*

The White Paper appears to take a territorial approach to U.S. swaps trading activity, including trades that are “arranged, negotiated, or executed” within the United States by personnel or agents of such non-U.S. persons. So-called “non-incidental swaps trading” that takes place in the United States should be subject to CFTC swaps trading rules. The White Paper describes ANE Transactions as swap transactions by non-U.S. counterparties that are “arranged, negotiated, or executed” within the United States by personnel or agents of a non-U.S. person located in the United States. The White Paper proposes that, should a swap be executed in the United States (the “E” in “ANE Transaction”), then the counterparties should be required to follow U.S. swap execution rules. On the other hand, the White Paper describes ANE Transactions as, by definition, transactions between non-U.S. persons that do not pose systemic risk to the U.S. financial system merely by virtue of being arranged, negotiated, or executed within the United States. In light of these circumstances, the White Paper proposes that ANE Transactions should not count toward a potential non-U.S. dealer’s *de minimis* threshold if the non-U.S. dealer is in a Comparable Jurisdiction. In this context, clarification that this proposal implies that a MiFID authorised investment firm can transact with a non-US person on a SEF without this transaction being counted against the *de minimis* threshold would be required.

ANNEX A

| Section                                                                                                       | Deference ?       | Relief                                                                |
|---------------------------------------------------------------------------------------------------------------|-------------------|-----------------------------------------------------------------------|
| <b>Subpart A - General Provisions Applicable to Derivatives Clearing Organizations</b>                        |                   |                                                                       |
| Section 39.1 - Scope.                                                                                         | No deference      |                                                                       |
| Section 39.2 - Definitions.                                                                                   | No deference      |                                                                       |
| Section 39.3 - Procedures for registration.                                                                   | No deference      |                                                                       |
| Section 39.4 - Procedures for implementing derivatives clearing organization rules and clearing new products. | No deference      |                                                                       |
| Section 39.5 - Review of swaps for Commission determination on clearing requirement.                          | No deference      |                                                                       |
| <i>Section 39.6 - [Reserved]</i>                                                                              | N/A               |                                                                       |
| Section 39.7 - Enforceability.                                                                                | No deference      |                                                                       |
| Section 39.8 - Fraud in connection with the clearing of transactions on a derivatives clearing organization.  | No deference      |                                                                       |
| Section 39.9 - Scope.                                                                                         |                   |                                                                       |
| <b>Subpart B - Compliance with Core Principles</b>                                                            |                   |                                                                       |
| Section 39.10 - Compliance with core principles.                                                              | No deference      |                                                                       |
| Section 39.11 - Financial resources.                                                                          |                   | IFRS allowed                                                          |
| Section 39.12 - Participant and product eligibility.                                                          | No deference      |                                                                       |
| Section 39.13 - Risk management.                                                                              | Partial deference | Limited application of 39.12 (b)(6), 39.12(a)(2)(iii) and 39.13(h)(5) |
| Section 39.14 - Settlement procedures.                                                                        | Partial deference |                                                                       |
| Section 39.15 - Treatment of funds.                                                                           | No deference      |                                                                       |
| Section 39.16 - Default rules and procedures.                                                                 | Partial deference |                                                                       |
| Section 39.17 - Rule enforcement.                                                                             | No deference      |                                                                       |
| Section 39.18 - System safeguards.                                                                            | No deference      |                                                                       |
| Section 39.19 - Reporting.                                                                                    | No deference      | IFRS allowed                                                          |
| Section 39.20 - Recordkeeping.                                                                                | No deference      |                                                                       |
| Section 39.21 - Public information.                                                                           | No deference      |                                                                       |
| Section 39.22 - Information sharing.                                                                          | No deference      |                                                                       |
| Section 39.23 - Antitrust considerations.                                                                     | No deference      |                                                                       |
| <i>Section 39.24-39.26 - [Reserved]</i>                                                                       | N/A               |                                                                       |
| Section 39.27 - Legal risk considerations                                                                     | No deference      |                                                                       |



Key Information Documents for certain products covered by the EU Packaged Retail and Insurance-based Investment Products Regulation can be accessed on the relevant exchange website under the heading "Key Information Documents (KIDs)," commencing January 1, 2018.

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Message

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**From:** Trabue Bland [Trabue.Bland@theice.com]  
**Sent:** 10/16/2018 11:40:56 AM  
**To:** Thornton, Charlie [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=2f7cd1b27f3e4fde80a5088eadd3b931-Thornton III, Norwo]; Alex Albert [Alex.Albert@theice.com]  
**Subject:** FW: call

See they are not working with us anymore—I am not sure what to do

---

**From:** Hester Serafini <Hester.Serafini@theice.com>  
**Date:** Tuesday, Oct 16, 2018, 10:33 AM  
**To:** Trabue Bland <Trabue.Bland@theice.com>  
**Subject:** FW: call

---

**From:** Julie Mohr (External)  
**Sent:** Tuesday, October 16, 2018 11:30 AM  
**To:** Hester Serafini; Donovan, Eileen A.  
**Subject:** Re: call

**WARNING** - External email; exercise caution

Hi Hester,

We would be happy to have a call to discuss any concerns with the 40.5 draft rule filing. However in order to give ICUS a fulsome discussion of all potential issues, we need more time in order to complete our review of all materials that were sent on Friday.

I would like to suggest a call on Tuesday of next week. Is ICUS staff available for a discussion on Tuesday or is there a different day that would be better?

Julie

----- Original Message -----

**From:** Hester Serafini <Hester.Serafini@theice.com>  
**Date:** Tue, October 16, 2018 9:09 AM -0500  
**To:** "Mohr, Julie A." <JMohr@CFTC.gov>  
**Subject:** call

Hi Julie,

We received a call from Charlie at the CFTC and were informed that some changes need to be made to our draft filing. Specifically we were told that DCR wants us to follow 40.5 (a) 5 more strictly. Would you have time for a call tomorrow to discuss what specifically you are looking for. That would be very helpful to us as we could use your guidance regarding what is missing in our current draft. Thank you very much in advance for your time.

Hester

**Hester Serafini**

**President and COO of ICE Clear US**

Intercontinental Exchange | ICE Clear US

55 East 52<sup>nd</sup> Street | 41st Floor | New York, NY 10055

Tel: +1 212.748.4146 | Cell: (b)(6)

[hester.serafini@theice.com](mailto:hester.serafini@theice.com)

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Message

**From:** Eamonn Hahessy [Eamonn.Hahessy@theice.com]  
**Sent:** 10/12/2018 12:05:10 PM  
**To:** Thornton, Charlie [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=2f7cd1b27f3e4fde80a5088eadd3b931-Thornton III, Norwo]; Bussey, Brian [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=a2d0b8b95a0b46029f13eheadb73f297-Bussey, Brian]; Zaidi, Amir [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=azaidi]; Kulkin, Matthew [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=f973c0fe038742b4bb68c3eeae3f8171-Kulkin, Matthew]  
**CC:** Hester Serafini [Hester.Serafini@theice.com]; Audrey Hirschfeld [Audrey.Hirschfeld@theice.com]; Alex Albert [Alex.Albert@theice.com]; Mohr, Julie A. [/O=CFTC/OU=Chicago/cn=Recipients/cn=jmohr]; Donovan, Eileen A. [/o=CFTC/ou=Washington, DC/cn=Recipients/cn=EILEEN DONOVAN]  
**Subject:** RE: DRAFT Bitcoin Submission 18-XXX.docx (002).doc  
**Attachments:** Draft ICUS Digital Currency Contract Rules Change Filing 2018 10 08 v7.docx; ICUS DC rules 95a.pdf

Dear All,

Attached is a draft ICE Clear US submission addressing the clearing of physically settled BTC futures, as well as associated draft changes to the ICE Clear US Rules. As Trabue mentions, we are in the process of assembling answers to your September 18<sup>th</sup> questions. We will provide those to you later today.

Regards,

Eamonn

**Eamonn Hahessy**  
**General Counsel and CCO of ICE Clear US**  
Intercontinental Exchange | ICE Clear US  
55 East 52<sup>nd</sup> Street | 41st Floor | New York, NY 10055  
Tel: +1 212.748.3964 | Cell: + (b)(6)  
[eamonn.hahessy@theice.com](mailto:eamonn.hahessy@theice.com)

---

**From:** Trabue Bland  
**Sent:** Friday, October 12, 2018 11:29 AM  
**To:** Thornton, Charlie (cthorton@CFTC.gov) <cthorton@CFTC.gov>; bbussey@cftc.gov; azaidi@cftc.gov; mkulkin@cftc.gov  
**Cc:** Eamonn Hahessy <Eamonn.Hahessy@theice.com>; Hester Serafini <Hester.Serafini@theice.com>; Audrey Hirschfeld <Audrey.Hirschfeld@theice.com>; Alex Albert <Alex.Albert@theice.com>  
**Subject:** DRAFT Bitcoin Submission 18-XXX.docx (002).doc

Charlie, Brian, Amir and Matt:

Attached is a revised draft DCM submission for the physically delivered BTC future. The changes are mainly technical with exception of the discussion of our trading and clearing firm feedback. You should be receiving draft rules from ICUS shortly and answers to your questions from a few weeks ago.

Thank you again for your review. Please let me know if you have any questions.

Trabue

**Trabue Bland**

**President, ICE Futures US**  
Intercontinental Exchange | ICE  
55 East 52<sup>nd</sup> Street, 40<sup>th</sup> Floor  
Telephone: +1 770.916.7832 (Atlanta) | +1 212.748.4005 (New York)  
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Message

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**From:** Alex Albert [Alex.Albert@theice.com]  
**Sent:** 9/5/2018 12:45:28 PM  
**To:** Trabue Bland [Trabue.Bland@theice.com]; Thornton, Charlie [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=2f7cd1b27f3e4fde80a5088eadd3b931-Thornton III, Norwo]  
**Subject:** RE: Charlies Wild Board Sausage

I don't see how you can buy them commercially.

---

**From:** Trabue Bland <Trabue.Bland@theice.com>  
**Date:** Wednesday, Sep 05, 2018, 12:23 PM  
**To:** Thornton, Charlie (cthormton@CFTC.gov) <cthormton@CFTC.gov>, Alex Albert <Alex.Albert@theice.com>  
**Subject:** Charlies Wild Board Sausage

<https://yalealumnimagazine.com/articles/4565-charlie-munford>

**Trabue Bland**  
President, ICE Futures US  
Intercontinental Exchange | ICE  
55 East 52<sup>nd</sup> Street, 40<sup>th</sup> Floor  
Telephone: +1 770.916.7832 (Atlanta) | +1 212.748.4005 (New York)  
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Message

**From:** Giancarlo, Chris [/O=CFTC/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=GIANCARLO, CHRIS2A4]  
**Sent:** 8/23/2018 4:25:03 PM  
**To:** Kelly.Loeffler@Bakkt.com  
**CC:** Kershaw, Shivon [/O=CFTC/OU=Washington, DC/cn=Recipients/cn=skershaw]; Gorfine, Daniel [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=fec0394154854e1eac5fb409856e51e8-Gorfine, Daniel]; Richardson, Erica Elliott [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=90deca0aceef45b393696dcc2f94f83a-Richardson, Erica]; Thornton, Charlie [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=2f7cd1b27f3e4fde80a5088eadd3b931-Thornton III, Norwo]  
**Subject:** CFTC FinTech Forward 2018 - Invitation to Participate



August 23, 2018

Dear Kelly,

On behalf of the U.S. Commodity Futures Trading Commission (CFTC), we are pleased to invite you to participate as a panelist at our upcoming conference “**FinTech Forward 2018: Innovation, Regulation and Education**” scheduled for October 3-4, 2018 at the CFTC’s Washington, D.C. Headquarters. This conference serves as the inaugural collaborative effort between LabCFTC, the agency’s initiative focused on facilitating market-enhancing FinTech innovation, and the Office of Customer Education and Outreach, the agency’s public education outreach division. The collaboration underscores the Agency’s multi-pronged approach to keeping pace with a rapidly changing market and ensuring market integrity.

The conference will convene innovators, regulators, and market participants, and interested members of the public to examine the wide range of FinTech issues impacting markets, including, but not limited to crypto assets, machine learning, cloud technologies, and RegTech. Conference participants will discuss the impact these technologies may have on markets and customers, and what regulators must do to remain forward-looking, mitigate risks, and educate customers and market participants on emerging challenges. The underlying spirit of the conference is in celebration of World Investor Week, a week-long, global campaign promoted by the International Organization of Securities Commissions (IOSCO), in which the CFTC serves as a member.

Specifically, should you wish to participate in the conference, we are interested in having you speak on the “**Crypto Assets Markets and Trading**” panel which is scheduled from 9:30 a.m. – 10:30 a.m. on Wednesday, October 3, 2018. This panel will feature other leading experts and discussion will be led by a moderator. The purpose of the panel will focus on developments in crypto asset markets. It will explore market structure, cash trading, and developing derivatives markets. It will further discuss the risks associated with the marketplace for institutional investors and retail customers. Please note that panel format is a moderated discussion; no formal remarks or presentation are expected. The moderator will contact all panel participants prior to the conference to review the panel topic and answer any questions.

Please note that if you elect to voluntarily participate in the conference as a panelist, you would be doing so on an uncompensated basis. Additionally, any costs associated with your participation in the conference, including travel and

related expenses, would be your responsibility and the Commission would not be obligated to reimburse you for any such costs.

Please RSVP no later than August 31, 2018 by emailing Shivon Kershaw at [fintechforward@cftc.gov](mailto:fintechforward@cftc.gov) or by calling 202-418-5017. Further logistical informational and details will be provided upon receipt of your RSVP. We hope you can join us.

Sincerely,

A handwritten signature in black ink, appearing to read "JC Giancarlo". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

J. Christopher Giancarlo  
Chairman  
U.S. Commodity Futures Trading Commission

cc:

Daniel Gorfine  
Director, LabCFTC and Chief Innovation Officer

Erica Richardson  
Director, Office of Public Affairs

Message

---

**From:** Sklar, Maggie [/O=CFTC/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=SKLAR, MAGGIECA3]  
**Sent:** 7/23/2018 4:17:12 PM  
**To:** Trabue.Bland@theice.com  
**CC:** Thornton, Charlie [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=2f7cd1b27f3e4fde80a5088eadd3b931-Thornton III, Norwo]; Gorfine, Daniel [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=fec0394154854e1eac5fb409856e51e8-Gorfine, Daniel]; Zaidi, Amir [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=azaidi]  
**Subject:** Block trades

Hi Trabue, as I'd mentioned on the call this afternoon, the bitcoin submission on page 6 on block trades says it is allowed for "1- contracts" -- I'd interpreted that to mean 1 or more, particularly given the following commentary that allowing 1 block trades have previously been reviewed by the Commission. But confirming from our conversation, that that number should be "10."

Also adding Amir since I don't know if he was aware of this discrepancy either.

Thanks,  
Maggie

Maggie Sklar  
Senior Counsel to Chairman J. Christopher Giancarlo  
U.S. Commodity Futures Trading Commission  
1155 21st Street, NW  
Washington, DC 20581  
(202) 418-5365

Message

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**From:** Thornton, Charlie [/O=CFTC/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=2F7CD1B27F3E4FDE80A5088EADD3B931-THORNTON III, NORWO]  
**Sent:** 7/23/2018 11:56:42 AM  
**To:** Trabue Bland [Trabue.Bland@theice.com]; Thornton, Charlie [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=2f7cd1b27f3e4fde80a5088eadd3b931-Thornton III, Norwo]; RJ Cummings [rj.cummings@theice.com]; Audrey Hirschfeld [Audrey.Hirschfeld@theice.com]; Alex Albert [Alex.Albert@theice.com]; Hester Serafini [Hester.Serafini@theice.com]  
**Subject:** Re: Dial in for today's call

Thanks.

---

On: 23 July 2018 11:42, "Trabue Bland" <[Trabue.Bland@theice.com](mailto:Trabue.Bland@theice.com)> wrote:  
Charlie--lets use a dial in for the call--for those in NY, lets see if we can grab the Who conference room.

**Dial-in:**

8888 (or external number below)

Meeting ID: 4005#

Passcode: (b)(4)

**External numbers:**

*Inside the US*

**Atlanta** 1-770-618-8888

**Chicago** 1-312-596-4412

**Houston** 1-713-815-7276

**New York** 1-212-896-2810

**San Mateo** 1-650-581-5603

**Trabue Bland**

**President, ICE Futures US**

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Telephone: +1 770.916.7832 (Atlanta) | +1 212.748.4005 (New York)

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Message

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**From:** Jason Fusco [Jason.Fusco@theice.com]  
**Sent:** 7/20/2018 5:37:17 PM  
**To:** Thornton, Charlie [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=2f7cd1b27f3e4fde80a5088eadd3b931-Thornton III, Norwo]; FOIAsubmissions [/O=CFTC/OU=Washington, DC/cn=Recipients/cn=FOIAsubmissions]  
**CC:** Trabue Bland [Trabue.Bland@theice.com]  
**Subject:** Request for Confidential Treatment  
**Attachments:** FOIA request -7.20.18.pdf

Dear Mr. Thornton,

Attached, please find a request for confidential treatment of the contract terms and conditions and all accompanying information provided to you by Mr. Trabue Bland on or about Friday, July 13, 2018.

Feel free to contact me with any questions.

Best regards,  
Jason

**Jason Fusco**  
**Assistant General Counsel - Market Regulation**  
Intercontinental Exchange | ICE Futures U.S., Inc.  
55 East 52<sup>nd</sup> Street | New York, NY 10055 | 41<sup>st</sup> Floor  
Tel: 212.748.4021 | Fax: 212.748.4089  
[jason.fusco@theice.com](mailto:jason.fusco@theice.com)  
[www.theice.com](http://www.theice.com)



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Atlanta   Calgary   Chicago   Houston   London   New York   Singapore

July 20, 2018

**BY ELECTRONIC MAIL**

Assistant Secretary of the Commission for FOIA Matters,  
Privacy and Sunshine Acts Compliance  
Commodity Futures Trading Commission  
Three Lafayette Centre  
1155 21<sup>st</sup> Street, NW  
Washington, DC 20581

**Re:    FOIA CONFIDENTIAL TREATMENT REQUEST**

Dear Sir or Madam:

In accordance with Commission Regulation 145.9(d), ICE Futures U.S., Inc. (“Exchange”) requests confidential treatment pursuant to the Freedom of Information Act, 5 U.S.C. 552, for the contract specifications sent to Mr. Charles Thornton III, of the Office of Legislative Affairs, on July 13, 2018, and all accompanying materials.

The Exchange is requesting confidential treatment for the aforementioned pursuant to Commission Regulation 145.9(d)(1)(i), (ii) and (vi), on the grounds that disclosure of the material:

(d)(1)(i) is specifically exempted by a statute that either requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue or establishes particular criteria for withholding or refers to particular types of matters to be withheld; or

(d)(1)(ii) - would reveal confidential commercial or financial information.

The Exchange further requests that the aforementioned receive confidential treatment in perpetuity. If you have any questions, please contact me at (212)748-4021 or [jason.fusco@theice.com](mailto:jason.fusco@theice.com).

Very truly yours,

Jason V. Fusco  
Assistant General Counsel  
ICE Futures U.S., Inc.

cc:    Charles Thornton III, Commodity Futures Trading Commission

Message

**From:** Trabue Bland [Trabue.Bland@theice.com]  
**Sent:** 7/16/2018 4:29:44 PM  
**To:** Thornton, Charlie [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=2f7cd1b27f3e4fde80a5088eadd3b931-Thornton III, Norwo]; Zaidi, Amir [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=azaidi]; Donovan, Eileen A. [/o=CFTC/ou=Washington, DC/cn=Recipients/cn=EILEEN DONOVAN]; Bussey, Brian [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=a2d0b8b95a0b46029f13ebeadb73f297-Bussey, Brian]  
**Subject:** DRAFT- Bitcoin Submission 18-XXX.docx.pdf  
**Attachments:** DRAFT- Bitcoin Submission 18-XXX.docx.pdf

All:

(b)(4)

Trabue

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Message

**From:** Trabue Bland [Trabue.Bland@theice.com]  
**Sent:** 7/12/2018 10:32:43 PM  
**To:** Thornton, Charlie [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=2f7cd1b27f3e4fde80a5088eadd3b931-Thornton III, Norwo]  
**Subject:** RE: Virtual Currency Clearing Rules

Great. Thanks!

---

**From:** Thornton, Charlie <cthorton@CFTC.gov>  
**Date:** Thursday, Jul 12, 2018, 7:15 PM  
**To:** Trabue Bland <Trabue.Bland@theice.com>, Thornton, Charlie <cthorton@CFTC.gov>, Zaidi, Amir <AZaidi@CFTC.gov>, Bussey, Brian <BBussey@CFTC.gov>, Donovan, Eileen A. <edonovan@CFTC.gov>  
**Cc:** Audrey Hirschfeld <Audrey.Hirschfeld@theice.com>, Hester Serafini <Hester.Serafini@theice.com>, Alex Albert <Alex.Albert@theice.com>  
**Subject:** Re: Virtual Currency Clearing Rules

**WARNING** - External email; exercise caution

Thank you Trabue for this and the exchange draft. I will leave it to the experts here to review.

Charlie

---

On: 12 July 2018 18:07, "Trabue Bland" <Trabue.Bland@theice.com> wrote:

Charlie, Amir, Brian, and Eileen:

Attached are the clearinghouse rules as discussed in my previous email. Hester helpfully included a summary of the rules and a blackline against the current rules.

Again, thank you very much for your time and effort. Please call us with any questions.

Trabue

---

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Message

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**From:** Trabue Bland [Trabue.Bland@theice.com]  
**Sent:** 7/12/2018 5:59:53 PM  
**To:** Thornton, Charlie [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=2f7cd1b27f3e4fde80a5088eadd3b931-Thornton III, Norwo]; Zaidi, Amir [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=azaidi]; Bussey, Brian [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=a2d0b8b95a0b46029f13eheadb73f297-Bussey, Brian]; Donovan, Eileen A. [/o=CFTC/ou=Washington, DC/cn=Recipients/cn=EILEEN DONOVAN]  
**CC:** Audrey Hirschfeld [Audrey.Hirschfeld@theice.com]; Hester Serafini [Hester.Serafini@theice.com]; Alex Albert [Alex.Albert@theice.com]  
**Subject:** Virtual Currency Exchange Submission (Draft)  
**Attachments:** Bitcoin Submission 18-XXX.docx.pdf

Charlie, Amir, Brian and Eileen:

Attached please find a draft submission for the Bitcoin exchange rules. By separate email, I will send the clearinghouse rules. Please note that we are in active dialogue with clearing members, so please consider this a work in progress as we work with clearing and trading firms. We will update the filing with clearing member feedback as discussed in the May 21 Advisory.

I would appreciate you keeping our draft submission confidential until we make our formal announcement (we are aiming to announce in the next two weeks). Any comments or questions would be appreciated.

Thank you again for your review.

Trabue

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Message

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**From:** Trabue Bland [Trabue.Bland@theice.com]  
**Sent:** 6/11/2018 9:48:27 AM  
**To:** Thornton, Charlie [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=2f7cd1b27f3e4fde80a5088eadd3b931-Thornton III, Norwo]; Alex Albert [Alex.Albert@theice.com]  
**Subject:** RE: ICE drops grain futures contracts competing with CME

PS--if you ever feel bad about the press--note they only time Greg Meyers writes about IFUS is when we delist a contract!

---

**From:** Thornton, Charlie [mailto:cthorton@CFTC.gov]  
**Sent:** Monday, June 11, 2018 9:46 AM  
**To:** Trabue Bland <Trabue.Bland@theice.com>; Alex Albert <Alex.Albert@theice.com>  
**Subject:** RE: ICE drops grain futures contracts competing with CME

**WARNING** - External email; exercise caution

Ok. Sounds good. Thanks!

---

**From:** Trabue Bland [mailto:Trabue.Bland@theice.com]  
**Sent:** Monday, June 11, 2018 9:39 AM  
**To:** Thornton, Charlie; Alex Albert  
**Subject:** RE: ICE drops grain futures contracts competing with CME

On Friday--there has been little to no trading since inception--although I still get asked by ag firms to list grain contracts!!! As I tell them, if they hate the CME then they have to support the other contracts!

---

**From:** Thornton, Charlie [mailto:cthorton@CFTC.gov]  
**Sent:** Monday, June 11, 2018 9:35 AM  
**To:** Trabue Bland <Trabue.Bland@theice.com>; Alex Albert <Alex.Albert@theice.com>  
**Subject:** FW: ICE drops grain futures contracts competing with CME

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When did this happen?

---

**From:** FIA SmartBrief [mailto:fia@smartbrief.com]  
**Sent:** Monday, June 11, 2018 8:43 AM  
**To:** Thornton, Charlie  
**Subject:** ICE drops grain futures contracts competing with CME

**June 11, 2018**

**TOP STORIES****CFTC seeks exchanges' data on bitcoin futures trading**

The Commodity Futures Trading Commission is asking cryptocurrency exchanges Coinbase, Bitstamp, itBit and Kraken for data on bitcoin futures pricing. The exchanges had denied CME's request for the data through a third party, sources say, and the CFTC claims the data was manipulated.

[The Wall Street Journal \(tiered subscription model\) \(6/8\)](#), [Financial Times \(subscription required\) \(6/10\)](#)

**ICE drops grain futures contracts competing with CME**

Intercontinental Exchange has announced it will stop listing US corn, wheat, soybean, soybean oil and soybean meal futures contracts competing with CME.

[Financial Times \(subscription required\) \(6/8\)](#)

**BREXIT****German minister suggests Frankfurt handle euro clearing**

German Finance Minister Olaf Scholz wants euro clearing in London relocated to Frankfurt, Germany, after Brexit "if it is in the interests of the EU".

[Financial Times \(subscription required\) \(6/8\)](#)

**REGULATORY ROUNDUP****European firms worried about losing Asian NDF benchmarks**

European companies are concerned the EU Benchmarks Regulation will eliminate use of fixings for nondeliverable contracts with no clear alternative for transaction referencing. The three foreign exchange rates make up about 40% of NDF volume.

[Risk \(subscription required\) \(6/10\)](#)

**Proposed Volcker changes could be burdensome, experts say**

Proposed revisions to the Volcker rule requiring banks to promptly notify regulators if they breach the proprietary-trading prohibition might be burdensome and might inadvertently create "a significant amount of unnecessary data," said Hugh O'Connell.

[Risk \(subscription required\) \(6/8\)](#)



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## INDUSTRY DEVELOPMENTS

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### **CME Clearing seeks to expand forms of collateral**

CME Clearing wants the Commodity Futures Trading Commission to let certain US dollar fixed-rate bonds and discount notes and Development be used as collateral. Parent CME Group says the move would "further diversify the resources available" and would reduce "potential concentration of CME's collateral holdings."

[Futures & Options World \(subscription required\)](#) (6/8)



### **Investment banks' profits surpass precrisis levels**

The world's nine largest investment banks recorded profits of \$78.4 billion in 2017, up from \$75.4 billion in 2007. However, the industry is still recovering from the 2008-2009 financial crisis.

[Financial Times \(subscription required\)](#) (6/11)



### **Code of conduct would draw cryptocurrency investors, experts say**

Institutional investors might be more apt to invest in cryptocurrencies if a code similar to the FX Global Code of Conduct is adopted, regulatory checks, experts say. Global Digital Finance plans to release a draft of a code soon for public consultation.

[Futures & Options World \(subscription required\)](#) (6/8)



▪ **ICAP energy-business founder Newman to retire this month** [Financial Times \(subscription required\)](#) (6/8)

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## FINANCIAL TECHNOLOGY

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### **Southeast Asia an expansion target for Chinese fintechs**

Chinese financial-technology firms aim to expand into Southeast Asia as more financial institutions tap big data and artificial intelligence for compliance.

[South China Morning Post \(Hong Kong\)](#) (6/9)



▪ **R3 reportedly could be out of money by early 2019** [Fortune](#) (6/7)

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## COMMODITIES AND MANAGED FUTURES

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### **Euronext eyes cash-settled grain futures contracts**

Euronext is considering adding cash-settled European durum-wheat and feed-barley futures contracts, though it has not decided yet. "We are looking at what they want, what they need, and we are looking at how it can be done," says Nicholas Kennedy of Euronext.

[Hellenic Shipping News Worldwide/Bloomberg](#) (6/10)



- **India's NSE to start commodity futures trading Oct. 1** [The Hindu Business Line \(India\) \(6/10\)](#)
- **Asia Pacific Exchange might add rubber, soy futures** [Futures & Options World \(subscription required\) \(6/8\)](#)
- **Chinese exchange raises coal, rapeseed futures trading limits, margin** [Reuters \(6/8\)](#)

## FIA NEWS

### 18th Annual Summer Outing in Chicago

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*The finest eloquence is that which gets things done ... the worst is that which does not.*

David Lloyd George,  
prime minister



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Message

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**From:** Trabue Bland [Trabue.Bland@theice.com]  
**Sent:** 6/7/2018 9:45:13 AM  
**To:** Thornton, Charlie [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=2f7cd1b27f3e4fde80a5088eadd3b931-Thornton III, Norwo]; Alex Albert [Alex.Albert@theice.com]  
**Subject:** Two articles on the secret SEC effort in crypto

As you can see, someone at the SEC is giving someone positive signals here--Goldman (remember that Clayton used to represent Goldman) doesn't roll into this stuff randomly!

<https://www.wsj.com/articles/coinbase-expands-with-deal-for-broker-dealer-keystone-capital-1528321468>

## Goldman-backed crypto platform Circle seeks banking license

EJ Insight

7 June 2018

378 words

English

EJINST

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Cryptocurrency and payments platform Circle Internet Financial plans to seek a federal banking license and also pursue registration as a brokerage and trading venue with the US Securities and Exchange Commission (SEC), Bloomberg reports.

Circle, which counts Goldman Sachs among its backers, has had preliminary talks with the US Office of the Comptroller of the Currency about obtaining a federal banking license, according to the report.

Meanwhile, the fintech startup is also said to have some contact with staff at the SEC and officials from the Financial Industry Regulatory Authority (FINRA), which oversees brokerages.

Circle, which is headquartered in Boston, is likely to pursue SEC regulation before the banking license, according to the report, which noted that registration with the SEC will allow the platform to sell tokens that are considered securities.

CEO Jeremy Allaire was quoted as saying that with a bank charter, the firm can hold customer assets in the form of digital coins or government-issued currencies like US dollars, while opening doors to other components of the



financial system, such as getting native access to the central banking system without intermediaries and directly settling with other banks in other markets worldwide.

That will help "improve the efficiency of what we deliver" and can reduce the costs, he said.

The report noted that while Circle would be subjected to tough scrutiny, getting a banking license will narrow the field of regulators the firm must appease, as federal laws would pre-empt a patchwork of state rules covering crypto.

"You're able to have a single conversation. It's hard to have 50 conversations," Robert Bench, chief compliance officer of Circle told Bloomberg, referring to the move that would help cut down on the number of regulators the platform needed to work with.

Coinbase, another titan of US cryptocurrency trading, announced on Wednesday that it is acquiring a trio of firms including a broker-dealer registered with FINRA.

It will use licenses it obtains to offer customers blockchain-based securities if US regulators give the nod. The cryptocurrency trading platform has also broached the topic of a potential banking license with regulators, according to Bloomberg sources.

– Contact us at [english@hkej.com](mailto:english@hkej.com)

BN/RC

Hong Kong Economic Journal Company Limited

Document EJINST0020180607ee67000ul

**Trabue Bland**

**President, ICE Futures US**

Intercontinental Exchange | ICE

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Telephone: +1 770.916.7832 (Atlanta) | +1 212.748.4005 (New York)

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[trabue.bland@theice.com](mailto:trabue.bland@theice.com)

[intercontinentalexchange.com](http://intercontinentalexchange.com)

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Message

**From:** Pham, Victor [/O=CFTC/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=85D1C61A99FD4390B7094831974D1777-PHAM, VICTOR]  
**Sent:** 6/6/2018 11:23:27 AM  
**To:** Thornton, Charlie [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=2f7cd1b27f3e4fde80a5088eadd3b931-Thornton III, Norwo]  
**Subject:** RE: good overview of the topic

**Non-Responsive**

**From:** Thornton, Charlie  
**Sent:** Wednesday, June 06, 2018 11:16 AM  
**To:** Pham, Victor  
**Subject:** RE: good overview of the topic

**Non-Responsive**

**From:** Pham, Victor  
**Sent:** Wednesday, June 6, 2018 11:09 AM  
**To:** Thornton, Charlie  
**Subject:** RE: good overview of the topic

**Non-Responsive**

**From:** Thornton, Charlie  
**Sent:** Tuesday, June 05, 2018 1:12 PM  
**To:** Pham, Victor  
**Subject:** RE: good overview of the topic

**Non-Responsive**

**From:** Thornton, Charlie  
**Sent:** Tuesday, June 5, 2018 11:26 AM  
**To:** Pham, Victor  
**Subject:** FW: good overview of the topic

**From:** Trabue Bland [<mailto:Trabue.Bland@theice.com>]  
**Sent:** Monday, June 4, 2018 3:15 PM  
**To:** Thornton, Charlie; Alex Albert  
**Subject:** FW: good overview of the topic

Charlie--

This is the point I was trying to make about the importance of custodians/warehouses--this is a good overview of the issues in the current custody space.

# Custody: Uncharted Waters for Digital Assets

JUNE 1, 2018 BY CHRIS KENTOURIS [LEAVE A COMMENT](#)

Qualified custodian. That's a term that compliance and operations managers at registered investment fund advisors, not to mention the US Securities and Exchange Commission, are now grappling with, when it comes to the safekeeping of digital assets.

The reason is two-fold. For starters, it is unclear whether the SEC's custody rule for RIAs investing in traditional assets applies to cryptocurrencies such as Bitcoin and Ether. Then, even if it does apply, the available service providers aren't exactly household names. They are relative newcomers to the field, and not all fall under the SEC's categories for a qualified custodian.

The requirement for registered investment advisors to hire a "qualified custodian" for securities or funds dates back to the pre-digital era before virtual assets such as Bitcoin and other cryptocurrencies existed. The SEC's "custody rule" for registered investment advisors, outlined in the Investment Advisers Act of 1940, defines a qualified custodian as a bank, broker-dealer, trust company, futures commission merchant, or foreign financial institution. So far, the regulatory agency hasn't classified Bitcoin, Ether or any other cryptocurrency as a security or a fund. Therefore, one could argue that RIAs don't have to select a qualified custodian.

## Legal Quagmire

Would the SEC penalize an RIA for doing its own custody work or for selecting a firm that doesn't meet the SEC's definition of qualified custodian? Legal and compliance experts specializing in cryptocurrencies aren't certain. There are plenty of crypto-funds — those dedicated to investing in cryptocurrencies and initial coin offerings — doing their own custody. However, they aren't RIAs.

"The SEC's custody rule doesn't require the use of independent custodians, but there are additional requirements the RIA must adhere to when it or an affiliate hold digital assets," explains Jesse Brown, a compliance associate with financial services consultancy Cordium in New York. Those extra steps include receiving internal control reports and surprise exams from an accountant certified by the Public Company Accounting Oversight Board.

Some attorneys tell FinOps that they would urge their RIA clients investing in digital assets to pick a qualified custodian to avoid the SEC setting policy after it has actually fined a firm. Even if the agency hadn't already provided specific guidance for this situation, it could always justify its penalty under the guise of investor protection. The SEC has frequently done so.

RIAs who ultimately decide to safekeep their own digital assets need to be extra careful. "They should consult with the SEC first," cautions Verity Van Tassel Richards, an attorney with McDermott, Will Emery in New York, who spoke at a recent event hosted by the Accounting Blockchain Coalition. "The SEC hasn't issued definitive guidance about custody of digital assets and seems open to talking about this issue."

Yet the SEC wouldn't respond to questions posed by FinOps Report about how it interprets its 1940 custody rule in terms of digital assets. Instead it referred the publication to a letter sent to the Securities Industry and Financial Services Authority and the Investment Company Institute earlier this year, which suggests that the SEC is still formulating its policy. "To the extent a fund plans to hold cryptocurrency directly, how would it satisfy the custody

requirement of the 1940 Act and relevant rules?" questions Dalia Blass, the director of the SEC's investment management division, the author of the letter.

The SEC is apparently so concerned about the self-custody of digital assets that it is examining crypto-funds, say media outlets. There are an estimated 220 crypto-focused hedge funds that manage at least US\$3.5 billion in assets, according to Autonomous Research, a research firm which analyzes financial firms. Because many of the funds oversee less than US\$150 million in assets, they aren't required to register with the SEC and at best are only regulated by the state in which they are based.

## Tough Choices

RIAs won't have an easy time selecting a custodian for digital assets. Among the well-known custodians for traditional assets, only State Street Bank has publicly announced that it is exploring the possibility of offering custody for digital assets to institutional investors.

In its January 2018 letter to SIFMA and the ICI, the SEC's Blass says the agency doesn't know of any custodians providing fund custodial services for cryptocurrencies. Yet some firms claim they fall into one of the SEC's categories for a qualified custodian.

The Murray, Kentucky-based Kingdom Trust says it meets the SEC's definition because it is registered as a trust company in South Dakota. The firm, which started off in 2009 as a custodian of alternative assets for retirement accounts, began to offer custody of digital assets in late 2016 through Silicon Valley tech upstart BitGo, which serves as its technology provider. In January 2018 BitGo announced it would take over Kingdom Trust but recently said it would scrap the deal in favor of building its own custody business as a trust company. BitGo, which already provides custodian services for Kracken, CME Group, Pantera Capital, The Royal Mint and UPbit, also just added crypto-backed loans provider Nexo to its client list.

Yet Kingdom Trust's Chief Executive Officer Matt Jennings is quick to downplay the competitive threat. "Kingdom Trust was the leader in the digital asset custodial space long before contemplating this merger with BitGo," he tells FinOps Report. "Kingdom Trust will continue to lead this space as the premier provider of custodial services and plans to release several new products very soon that will greatly expand the options for institutional investors seeking qualified custody and security of digital assets."

There are other potential contenders for the business. Cryptocurrency exchanges Genesis and itBit are registered as trust companies in New York. Coinbase, the largest US cryptocurrency exchange, says it will also offer custody services. Now registered as a money transmitter, Coinbase has publicly said it wants to become an alternative trading platform and broker-dealer. Another possible candidate, the Secaucus, New Jersey-based newcomer Digital Asset Custody did not respond to emails seeking comment.

Xapo, a Palo-Alto, California based money transmitter, which provides custodial services for Bitcoin only, says that it has won plenty of business from institutional investors even though it technically isn't a "qualified" custodian. The four-year old firm, founded by Argentine entrepreneur Wences Casares, has been marketing to pension plans, private funds, family offices and hedge funds. So far, it has amassed an estimated US\$10 billion in Bitcoins under custody, according to media reports. Xapo, whose billionaire clients include LinkedIn co-founder Reid Hoffman and former Wall Street trader Mike Novogratz, won't confirm that figure.

"Bitcoin has not been classified by the SEC and frankly it's hard to imagine that it would fit the definition of a security," says Ted Rogers, Xapo's president who was a panelist at the event hosted by the Accounting Blockchain Coalition in New York. "The SEC's public comments so far seem to support the position that it isn't."

Rogers wouldn't disclose the number of RIA's using Xapo to safekeep their Bitcoin assets, but he acknowledges that many RIAs are concerned about falling afoul of the SEC's narrow categories of qualified custodians. Meeting the definition, does give Kingdom Trust, Genesis and others a competitive edge.

Incorporated in Delaware as a money transmitter, Xapo's US subsidiary is regulated by the US Treasury's Financial Crimes Enforcement Network. So far, Xapo has been examined once by the Internal Revenue Service, FinCEN's enforcement arm, and Rogers expects exams to occur at least every two years. Xapo's Swiss subsidiary is overseen by the Swiss self-regulatory regulatory agency, the Financial Services Standards Authority. To level the playing field with US rivals by meeting the SEC's definition of a qualified custodian, Xapo will be teaming up with a custodian bank to serve as the primary custodian with Xapo as the subcustodian.

Kingdom Trust might fall under the technical definition of a qualified custodian, but its rivals won't hesitate to point out that South Dakota isn't the toughest regulatory state. Kingdom Trust's Jennings insists that isn't so. The South Dakota Division of Banking subjects his firm to an exam every 12 to 18 months, he says.

How much clout that gives Kingdom Trust among RIAs, when it comes to safekeeping digital assets, can't be determined. Jennings would not disclose the number of RIAs using Kingdom Trust to safeguard their digital assets, nor would he estimate what percentage of the US\$12 billion in assets under custody reflects digital assets.

Chad Cascarilla, chief executive of the New York-based itBit, also would not disclose the value of digital assets his firm has under custody. However, he points to the fact that more than ten "well-known" registered investment advisors use itBit to safeguard their Bitcoin holdings as evidence that accreditation does matter. So does the legal entity offering it. "The status of a trust that is organized under New York banking law and the oversight of the New York Department of Financial Services is the most rigorous among states," says Cascarilla. ItBit is subject to an annual regulatory exam of its policies and procedures. That onsite review, which includes testing of its security protocols, can last up to five weeks.

## **Operational Due Diligence**

Digital currency experts say that the legal designation of the digital asset custodian should be only one of the criteria an RIA should use in the selection process. "What are the backgrounds of the directors of the firm, how will the firm segregate client assets so that clients can have ready access in the event of the service provider's bankruptcy, and how will they protect assets from hacking are basic questions are the basic questions RIAs should ask," says Will Coleman, director of technology advisory services at Cohen & Co, a Cleveland, Ohio-based accounting firm specializing in audits and tax issues for crypto-funds.

Van Tassel Richards also recommends that fund managers ask how long the service provider has been offering custody of digital assets, whether it has experienced any security breaches, whether it follows know-your-customer and anti-money laundering rules and whether it has received any legal opinion or SEC guidance. That legal opinion or guidance would indicate whether the service provider's systems, policies and procedures meet the requirements of the agency's custody rule.

Breadth of digital assets covered and security provisions will likely also differentiate service providers, says Rogers. Kingdom Trust provides custody services for Bitcoin, Ether and other cryptocurrencies, while Xapo says it has no intention of expanding beyond Bitcoin. itBit says it plans to expand its reach beyond Bitcoin to other cryptocurrencies.

## **Costly Security**

All of the digital asset custodians use similar phrasing when discussing their ultra-tight security measures, which aim to safeguard private keys — or access to client assets. Those extra precautions come at a steep cost for clients. Whereas traditional custodians might charge only one or two basis points for safekeeping services, digital custodians could charge anywhere from 50 to 100 basis points, RIAs tell FinOps.

Xapo, Kingdom Trust and itBit would not discuss their fees. All say that to mitigate the potential for hacking, they hold the private keys — or signatures for access — to the digital assets they safekeep offline or outside of any network. Xapo, Kingdom Trust, and itBit would not disclose how many employees hold those keys or who they are.

"We store the private keys to the assets at multiple vaults, in multiple undisclosed locations and our security protocols require multiple signers from multiple locations and multiple institutions to sign off on transactions," explains Kingdom Trust's Jennings, a former real-estate investor. It could take up to 24 hours to withdraw or deposit any digital assets with Kingdom Trust.

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The extraordinary security steps reduce the potential for digital assets to be stolen by either an insider or hacker to close to nil, say digital asset custodians. However, it can happen, as evidenced by the breach in 2016 of cryptocurrency exchange Bitfinex. Bitfinex, used BitGo's software as its security platform, but BitGo denied responsibility for the hacking, which resulted in Bitfinex's losing about US\$70 million of Bitcoins.

RIAs can't count on the comfort of their digital asset custodian's insurance policy. Jennings says that Kingdom Trust is working with a large unnamed insurance provider to provide such a policy, but would not discuss what the policy would cover. Carascilla says that itBit will offer insurance to customers upon request. However, that insurance would only compensate a customer due to the loss of an asset from a catastrophic natural disaster, not a hacker.

Xapo's Rogers says that his firm no longer buys insurance to compensate clients for potential asset loss because of "irrational" risk premiums. Instead, Xapo relies on a separate reserve fund of its own Bitcoins to cover client assets. "It is difficult for insurance firms to effectively calculate the risk of loss because the Bitcoin industry is so new," notes Rogers. So far, Xapo has not used its reserve fund to compensate any clients.

Just as important as not losing one's assets is having access to one's assets. Rogers acknowledges that there have been cases where Xapo held up a fund manager's transfer of Bitcoin to its own private wallet. However, he insists that the need to follow rigorous security procedures and verify the identity of the fund manager, not technology flaws, were the cause of the delay. The fund manager did eventually receive the assets within an undisclosed time.

Given that digital asset custodians use different terminology than traditional custodians in describing their asset-protection services, registered investment advisors might have a hard time understanding just what they are buying. Coleman recommends that compliance managers at RIAs ask legal and auditing firms specializing in cryptocurrency and blockchain for referrals on service providers they have worked with.

Another safeguard: asking the custodian whether it has received any third-party certification of its policies and procedures for financial reporting and systems. Such certifications known as "SOCs", short for service organization controls, come in three categories. Xapo has won a SOC I and SOC II Type 1 certifications while itBit is working on a SOC I certification and Kingdom Trust is working on a SOC II certification. The SOC I certification covers financial reporting while SOC II also incorporates rigorous operating procedures for security, processing integrity and data privacy.

All of the extra diligence RIAs perform to pick the right digital asset custodian might not be enough to ward off a potential conflict with the SEC. "RIAs who select a qualified custodian's can't always depend on the custodian to safekeep all of the digital assets," cautions Daniel Viola, a partner in charge of the crypto and regulatory practices at the law firm of Sadis & Goldberg in New York. The reason: the custodian may only be willing to safekeep some of the types of digital assets the RIA is holding.

What then? The RIA may be back to the self-custody option for the rest of its crypto-assets. That leaves the RIA subject to even further regulatory scrutiny on its policies and procedures. Transferring the assets to a remote cold-storage wallet is what Rogers recommends.

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Message

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**From:** Thornton, Charlie [/O=CFTC/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=2F7CD1B27F3E4FDE80A5088EADD3B931-THORNTON III, NORWO]  
**Sent:** 6/5/2018 4:52:13 PM  
**To:** Trabue Bland [Trabue.Bland@theice.com]; Thornton, Charlie [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=2f7cd1b27f3e4fde80a5088eadd3b931-Thornton III, Norwo]; Alex Albert [Alex.Albert@theice.com]  
**Subject:** Re: Testimony of Chairman J. Christopher Giancarlo before the Senate Committee On Appropriations Subcommittee on Financial Services and General Government, Washington, D.C.

Thanks. He did well at the hearing too!

Charlie Thornton  
Director, Office of Legislative Affairs  
Commodity Futures Trading Commission  
[202-418-5145](tel:202-418-5145)

---

On: 05 June 2018 16:50, "Trabue Bland" <[Trabue.Bland@theice.com](mailto:Trabue.Bland@theice.com)> wrote:

This was a well done speech!

**From:** CFTC.gov [mailto:[cftc@service.govdelivery.com](mailto:cftc@service.govdelivery.com)]  
**Sent:** Tuesday, June 05, 2018 4:36 PM  
**To:** Trabue Bland <[Trabue.Bland@theice.com](mailto:Trabue.Bland@theice.com)>  
**Subject:** Testimony of Chairman J. Christopher Giancarlo before the Senate Committee On Appropriations Subcommittee on Financial Services and General Government, Washington, D.C.

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**Testimony of Chairman J. Christopher Giancarlo before the Senate Committee On Appropriations Subcommittee on Financial Services and General Government, Washington, D.C.**

**Introduction**

Thank you, Chairman Lankford, Ranking Member Coons, and Members of the subcommittee. I appreciate the opportunity to appear before you today, along with my fellow colleague from the Securities and Exchange Commission (SEC), Chairman Jay Clayton...



Released: 06/05/2018

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**From:** Pham, Victor [/O=CFTC/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=85D1C61A99FD4390B7094831974D1777-PHAM, VICTOR]  
**Sent:** 6/5/2018 1:13:10 PM  
**To:** Thornton, Charlie [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=2f7cd1b27f3e4fde80a5088eadd3b931-Thornton III, Norwo]  
**Subject:** RE: good overview of the topic

## Non-Responsive

**From:** Thornton, Charlie  
**Sent:** Tuesday, June 05, 2018 1:12 PM  
**To:** Pham, Victor  
**Subject:** RE: good overview of the topic

## Non-Responsive

**From:** Thornton, Charlie  
**Sent:** Tuesday, June 5, 2018 11:26 AM  
**To:** Pham, Victor  
**Subject:** FW: good overview of the topic

**From:** Trabue Bland [<mailto:Trabue.Bland@theice.com>]  
**Sent:** Monday, June 4, 2018 3:15 PM  
**To:** Thornton, Charlie; Alex Albert  
**Subject:** FW: good overview of the topic

Charlie--

This is the point I was trying to make about the importance of custodians/warehouses--this is a good overview of the issues in the current custody space.

# Custody: Uncharted Waters for Digital Assets

JUNE 1, 2018 BY CHRIS KENTOURIS [LEAVE A COMMENT](#)

Qualified custodian. That's a term that compliance and operations managers at registered investment fund advisors, not to mention the US Securities and Exchange Commission, are now grappling with, when it comes to the safekeeping of digital assets.

The reason is two-fold. For starters, it is unclear whether the SEC's custody rule for RIAs investing in traditional assets applies to cryptocurrencies such as Bitcoin and Ether. Then, even if it does apply, the available service providers aren't exactly household names. They are relative newcomers to the field, and not all fall under the SEC's categories for a qualified custodian.

The requirement for registered investment advisors to hire a "qualified custodian" for securities or funds dates back to the pre-digital era before virtual assets such as Bitcoin and other cryptocurrencies existed. The SEC's "custody rule" for registered investment advisors, outlined in the Investment Advisers Act of 1940, defines a qualified custodian as a bank, broker-dealer, trust company, futures commission merchant, or foreign financial institution. So

far, the regulatory agency hasn't classified Bitcoin, Ether or any other cryptocurrency as a security or a fund. Therefore, one could argue that RIAs don't have to select a qualified custodian.

## Legal Quagmire

Would the SEC penalize an RIA for doing its own custody work or for selecting a firm that doesn't meet the SEC's definition of qualified custodian? Legal and compliance experts specializing in cryptocurrencies aren't certain. There are plenty of crypto-funds — those dedicated to investing in cryptocurrencies and initial coin offerings — doing their own custody. However, they aren't RIAs.

"The SEC's custody rule doesn't require the use of independent custodians, but there are additional requirements the RIA must adhere to when it or an affiliate hold digital assets," explains Jesse Brown, a compliance associate with financial services consultancy Cordium in New York. Those extra steps include receiving internal control reports and surprise exams from an accountant certified by the Public Company Accounting Oversight Board.

Some attorneys tell FinOps that they would urge their RIA clients investing in digital assets to pick a qualified custodian to avoid the SEC setting policy after it has actually fined a firm. Even if the agency hadn't already provided specific guidance for this situation, it could always justify its penalty under the guise of investor protection. The SEC has frequently done so.

RIAs who ultimately decide to safekeep their own digital assets need to be extra careful. "They should consult with the SEC first," cautions Verity Van Tassel Richards, an attorney with McDermott, Will Emery in New York, who spoke at a recent event hosted by the Accounting Blockchain Coalition. "The SEC hasn't issued definitive guidance about custody of digital assets and seems open to talking about this issue."

Yet the SEC wouldn't respond to questions posed by FinOps Report about how it interprets its 1940 custody rule in terms of digital assets. Instead it referred the publication to a letter sent to the Securities Industry and Financial Services Authority and the Investment Company Institute earlier this year, which suggests that the SEC is still formulating its policy. "To the extent a fund plans to hold cryptocurrency directly, how would it satisfy the custody requirement of the 1940 Act and relevant rules?" questions Dalia Blass, the director of the SEC's investment management division, the author of the letter.

The SEC is apparently so concerned about the self-custody of digital assets that it is examining crypto-funds, say media outlets. There are an estimated 220 crypto-focused hedge funds that manage at least US\$3.5 billion in assets, according to Autonomous Research, a research firm which analyzes financial firms. Because many of the funds oversee less than US\$150 million in assets, they aren't required to register with the SEC and at best are only regulated by the state in which they are based.

## Tough Choices

RIAs won't have an easy time selecting a custodian for digital assets. Among the well-known custodians for traditional assets, only State Street Bank has publicly announced that it is exploring the possibility of offering custody for digital assets to institutional investors.

In its January 2018 letter to SIFMA and the ICI, the SEC's Blass says the agency doesn't know of any custodians providing fund custodial services for cryptocurrencies. Yet some firms claim they fall into one of the SEC's categories for a qualified custodian.

The Murray, Kentucky-based Kingdom Trust says it meets the SEC's definition because it is registered as a trust company in South Dakota. The firm, which started off in 2009 as a custodian of alternative assets for retirement accounts, began to offer custody of digital assets in late 2016 through Silicon Valley tech upstart BitGo, which serves as its technology provider. In January 2018 BitGo announced it would take over Kingdom Trust but recently

said it would scrap the deal in favor of building its own custody business as a trust company. BitGo, which already provides custodian services for Kracken, CME Group, Pantera Capital, The Royal Mint and UPbit, also just added crypto-backed loans provider Nexo to its client list.

Yet Kingdom Trust's Chief Executive Officer Matt Jennings is quick to downplay the competitive threat. "Kingdom Trust was the leader in the digital asset custodial space long before contemplating this merger with BitGo," he tells FinOps Report. "Kingdom Trust will continue to lead this space as the premier provider of custodial services and plans to release several new products very soon that will greatly expand the options for institutional investors seeking qualified custody and security of digital assets."

There are other potential contenders for the business. Cryptocurrency exchanges Genesis and itBit are registered as trust companies in New York. Coinbase, the largest US cryptocurrency exchange, says it will also offer custody services. Now registered as a money transmitter, Coinbase has publicly said it wants to become an alternative trading platform and broker-dealer. Another possible candidate, the Secaucus, New Jersey-based newcomer Digital Asset Custody did not respond to emails seeking comment.

Xapo, a Palo-Alto, California based money transmitter, which provides custodial services for Bitcoin only, says that it has won plenty of business from institutional investors even though it technically isn't a "qualified" custodian. The four-year old firm, founded by Argentine entrepreneur Wences Casares, has been marketing to pension plans, private funds, family offices and hedge funds. So far, it has amassed an estimated US\$10 billion in Bitcoins under custody, according to media reports. Xapo, whose billionaire clients include LinkedIn co-founder Reid Hoffman and former Wall Street trader Mike Novogratz, won't confirm that figure.

"Bitcoin has not been classified by the SEC and frankly it's hard to imagine that it would fit the definition of a security," says Ted Rogers, Xapo's president who was a panelist at the event hosted by the Accounting Blockchain Coalition in New York. "The SEC's public comments so far seem to support the position that it isn't."

Rogers wouldn't disclose the number of RIA's using Xapo to safekeep their Bitcoin assets, but he acknowledges that many RIAs are concerned about falling afoul of the SEC's narrow categories of qualified custodians. Meeting the definition, does give Kingdom Trust, Genesis and others a competitive edge.

Incorporated in Delaware as a money transmitter, Xapo's US subsidiary is regulated by the US Treasury's Financial Crimes Enforcement Network. So far, Xapo has been examined once by the Internal Revenue Service, FinCEN's enforcement arm, and Rogers expects exams to occur at least every two years. Xapo's Swiss subsidiary is overseen by the Swiss self-regulatory regulatory agency, the Financial Services Standards Authority. To level the playing field with US rivals by meeting the SEC's definition of a qualified custodian, Xapo will be teaming up with a custodian bank to serve as the primary custodian with Xapo as the subcustodian.

Kingdom Trust might fall under the technical definition of a qualified custodian, but its rivals won't hesitate to point out that South Dakota isn't the toughest regulatory state. Kingdom Trust's Jennings insists that isn't so. The South Dakota Division of Banking subjects his firm to an exam every 12 to 18 months, he says.

How much clout that gives Kingdom Trust among RIAs, when it comes to safekeeping digital assets, can't be determined. Jennings would not disclose the number of RIAs using Kingdom Trust to safeguard their digital assets, nor would he estimate what percentage of the US\$12 billion in assets under custody reflects digital assets.

Chad Cascarilla, chief executive of the New York-based itBit, also would not disclose the value of digital assets his firm has under custody. However, he points to the fact that more than ten "well-known" registered investment advisors use itBit to safeguard their Bitcoin holdings as evidence that accreditation does matter. So does the legal entity offering it. "The status of a trust that is organized under New York banking law and the oversight of the New York Department of Financial Services is the most rigorous among states," says Cascarilla. ItBit is subject to an annual regulatory exam of its policies and procedures. That onsite review, which includes testing of its security protocols, can last up to five weeks.

## Operational Due Diligence

Digital currency experts say that the legal designation of the digital asset custodian should be only one of the criteria an RIA should use in the selection process. “What are the backgrounds of the directors of the firm, how will the firm segregate client assets so that clients can have ready access in the event of the service provider’s bankruptcy, and how will they protect assets from hacking are basic questions are the basic questions RIAs should ask,” says Will Coleman, director of technology advisory services at Cohen & Co, a Cleveland, Ohio-based accounting firm specializing in audits and tax issues for crypto-funds.

Van Tassel Richards also recommends that fund managers ask how long the service provider has been offering custody of digital assets, whether it has experienced any security breaches, whether it follows know-your-customer and anti-money laundering rules and whether it has received any legal opinion or SEC guidance. That legal opinion or guidance would indicate whether the service provider’s systems, policies and procedures meet the requirements of the agency’s custody rule.

Breadth of digital assets covered and security provisions will likely also differentiate service providers, says Rogers. Kingdom Trust provides custody services for Bitcoin, Ether and other cryptocurrencies, while Xapo says it has no intention of expanding beyond Bitcoin. itBit says it plans to expand its reach beyond Bitcoin to other cryptocurrencies.

## Costly Security

All of the digital asset custodians use similar phrasing when discussing their ultra-tight security measures, which aim to safeguard private keys — or access to client assets. Those extra precautions come at a steep cost for clients. Whereas traditional custodians might charge only one or two basis points for safekeeping services, digital custodians could charge anywhere from 50 to 100 basis points, RIAs tell FinOps.

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**Sent:** 5/30/2018 4:48:28 PM  
**To:** Thornton, Charlie [/o=CFTC/ou=Exchange Administrative Group  
(FYDIBOHF23SPDLT)/cn=Recipients/cn=2f7cd1b27f3e4fde80a5088eadd3b931-Thornton III, Norwo]  
**Subject:** FYI  
**Attachments:** CryptoTradingAndPaymentEcosystem (004).pdf

Overview

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**From:** Zaidi, Amir [/O=CFTC/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=AZAIDI]  
**Sent:** 5/21/2018 3:26:34 PM  
**To:** Thornton, Charlie [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=2f7cd1b27f3e4fde80a5088eadd3b931-Thornton III, Norwo]; Donovan, Eileen A. [/o=CFTC/ou=Washington, DC/cn=Recipients/cn=EILEEN DONOVAN]; Bussey, Brian [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=a2d0b8b95a0b46029f13eheadb73f297-Bussey, Brian]; Kuserk, Gregory [/o=CFTC/ou=Washington, DC/cn=Recipients/cn=gkuserk]; Leahy, Thomas M., Jr. [/o=CFTC/ou=Washington, DC/cn=Recipients/cn=tleahy]; Van Wagner, David [/o=CFTC/ou=Washington, DC/cn=Recipients/cn=dvanwagner]; Gorfine, Daniel [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=fec0394154854e1eac5fb409856e51e8-Gorfine, Daniel]; Raimondi, Philip [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=Raimondi, Philip490]  
**CC:** Sklar, Maggie [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=Sklar, Maggie3]; Gill, Michael [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=3ab6b606c58b45fe8b9174d248b3fa65-Gill, Michael]  
**Subject:** RE: Warehouse legal overview

**Non-Responsive**

**From:** Thornton, Charlie  
**Sent:** Monday, May 21, 2018 3:22 PM  
**To:** Zaidi, Amir; Donovan, Eileen A.; Bussey, Brian; Kuserk, Gregory; Leahy, Thomas M., Jr.; Van Wagner, David; Gorfine, Daniel; Raimondi, Philip  
**Cc:** Sklar, Maggie; Gill, Michael  
**Subject:** RE: Warehouse legal overview

**Non-Responsive**

**From:** Zaidi, Amir  
**Sent:** Tuesday, May 15, 2018 3:47 PM  
**To:** Donovan, Eileen A.; Bussey, Brian; Kuserk, Gregory; Leahy, Thomas M., Jr.; Van Wagner, David  
**Cc:** Thornton, Charlie  
**Subject:** FW: Warehouse legal overview

**Non-Responsive**



Amir

---

**From:** Trabue Bland [<mailto:Trabue.Bland@theice.com>]

**Sent:** Tuesday, May 15, 2018 10:20 AM

**To:** Zaidi, Amir; Thornton, Charlie

**Subject:** Warehouse legal overview

Amir and Charlie: Following up on our conversation last week, attached is a high level overview of the CFTC's ability to regulate a crypto warehouse. This isn't written as a brief--it is meant to give you a statement of where the law is. Please let me know if you have any questions.

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**From:** Trabue Bland [Trabue.Bland@theice.com]  
**Sent:** 5/8/2018 3:29:41 PM  
**To:** Zaidi, Amir [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=azaidi]; Thornton, Charlie [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=2f7cd1b27f3e4fde80a5088eadd3b931-Thornton III, Norwo]; Hester Serafini [Hester.Serafini@theice.com]; Alex Albert [Alex.Albert@theice.com]  
**Subject:** Call at 3:45

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**Trabue Bland**

**President, ICE Futures US**

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[trabue.bland@theice.com](mailto:trabue.bland@theice.com)

[intercontinentalexchange.com](http://intercontinentalexchange.com)

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Message

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**From:** Alex Albert [Alex.Albert@theice.com]  
**Sent:** 5/7/2018 8:59:02 AM  
**To:** Gill, Michael [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=3ab6b606c58b45fe8b9174d248b3fa65-Gill, Michael]; Thornton, Charlie [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=2f7cd1b27f3e4fde80a5088eadd3b931-Thornton III, Norwo]  
**CC:** Trabue Bland [Trabue.Bland@theice.com]  
**Subject:** RE: Heads up

Wrapping in Trabue

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**From:** Alex Albert <Alex.Albert@theice.com>  
**Date:** Monday, May 07, 2018, 8:58 AM  
**To:** Gill, Michael <MGill@CFTC.gov>, 'Thornton, Charlie' <cthorton@CFTC.gov>  
**Subject:** Heads up

We need to connect with one of you ASAP. So call Trabue or me back when possible. Thanks

---

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Message

**From:** Trabue Bland [Trabue.Bland@theice.com]  
**Sent:** 4/19/2018 11:56:52 AM  
**To:** Thornton, Charlie [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=2f7cd1b27f3e4fde80a5088eadd3b931-Thornton III, Norwo]  
**CC:** Alex Albert [Alex.Albert@theice.com]  
**Subject:** RE: ICEcryptotimeline2.pptx

Good question. I was hoping for this week, but maybe next week?

---

**From:** Thornton, Charlie [mailto:cthorton@CFTC.gov]  
**Sent:** Thursday, April 19, 2018 11:46 AM  
**To:** Trabue Bland <Trabue.Bland@theice.com>  
**Cc:** Alex Albert <Alex.Albert@theice.com>  
**Subject:** RE: ICEcryptotimeline2.pptx

**WARNING** - External email; exercise caution

Looks good. When do you plan to inform the commissioners?

---

**From:** Trabue Bland [mailto:Trabue.Bland@theice.com]  
**Sent:** Thursday, April 19, 2018 11:39 AM  
**To:** Thornton, Charlie  
**Cc:** Alex Albert  
**Subject:** ICEcryptotimeline2.pptx

Charlie:

Sorry to get this to you late, but attached is a proposed timeline for our Crypto launch. I guessed at the enhanced scrutiny part.

Thanks again for your advice. Please let me know if you have any questions.

Trabue

---

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Message

**From:** Trabue Bland [Trabue.Bland@theice.com]  
**Sent:** 4/7/2018 11:40:41 PM  
**To:** Thornton, Charlie [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=2f7cd1b27f3e4fde80a5088eadd3b931-Thornton III, Norwo]; Bussey, Brian [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=a2d0b8b95a0b46029f13eheadb73f297-Bussey, Brian]; Zaidi, Amir [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=azaidi]; Donovan, Eileen A. [/o=CFTC/ou=Washington, DC/cn=Recipients/cn=EILEEN DONOVAN]  
**CC:** Kelly Loeffler [Kelly.Loeffler@theice.com]; Mayur Kapani [mayur.kapani@theice.com]; Alex Albert [Alex.Albert@theice.com]; Hester Serafini [Hester.Serafini@theice.com]  
**Subject:** RE: ICE project overview  
**Attachments:** CFTC\_slide\_deck040418.pptx

Great--thank you--here is an updated slide deck. See you Wednesday.

---

**From:** Thornton, Charlie [mailto:cthorton@CFTC.gov]  
**Sent:** Friday, April 6, 2018 8:44 PM  
**To:** Trabue Bland; Thornton, Charlie; Bussey, Brian; Zaidi, Amir; Donovan, Eileen A.  
**Cc:** Kelly Loeffler; Mayur Kapani; Alex Albert; Hester Serafini  
**Subject:** Re: ICE project overview

**WARNING** - External email; exercise caution

Trabue

I think these slides clearly lay out your vision for this project and build upon our previous discussion. Of course, I think there will be valuable conversation between the bullet points next week. Look forward to the meeting.

Charlie

On: 04 April 2018 10:23, "Trabue Bland" <Trabue.Bland@theice.com> wrote:

Eileen, Charlie, Brian and Amir:

Thank you again for speaking with us last week. As we discussed, attached an overview of our project. We strongly believe that the CFTC is the best and most qualified regulator for cryptocurrencies and in particular, the warehousing of crypto currencies.

We look forward to seeing you next week, but in the interim, please let me know if you have any questions or feedback. Thank you again.

Trabue

---

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Message

---

**From:** Trabue Bland [Trabue.Bland@theice.com]  
**Sent:** 3/21/2018 5:33:02 PM  
**To:** Thornton, Charlie [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=2f7cd1b27f3e4fde80a5088eadd3b931-Thornton III, Norwo]; Alex Albert [Alex.Albert@theice.com]  
**Subject:** RE: Call

LOL--we just called you!!

---

**From:** Thornton, Charlie [mailto:cthorton@CFTC.gov]  
**Sent:** Wednesday, March 21, 2018 5:21 PM  
**To:** Alex Albert; Trabue Bland  
**Subject:** RE: Call

**WARNING** - External email; exercise caution

I guess Trabue doesn't like us.

---

**From:** Alex Albert [mailto:Alex.Albert@theice.com]  
**Sent:** Wednesday, March 21, 2018 4:21 PM  
**To:** Thornton, Charlie; Trabue Bland  
**Subject:** RE: Call

Just remember, I'm for you!

Trabue, can you do 5? Or tomorrow better?

---

**From:** Thornton, Charlie <cthorton@CFTC.gov>  
**Date:** Wednesday, Mar 21, 2018, 4:17 PM  
**To:** Alex Albert <Alex.Albert@theice.com>, Trabue Bland <Trabue.Bland@theice.com>  
**Subject:** RE: Call

**WARNING** - External email; exercise caution

Not Funny.

---

**From:** Alex Albert [mailto:Alex.Albert@theice.com]  
**Sent:** Wednesday, March 21, 2018 4:17 PM  
**To:** Thornton, Charlie; Trabue Bland  
**Subject:** RE: Call

Heard you got 400 mil

---

**From:** Thornton, Charlie <cthorton@CFTC.gov>  
**Date:** Wednesday, Mar 21, 2018, 4:11 PM  
**To:** Alex Albert <Alex.Albert@theice.com>, Trabue Bland <Trabue.Bland@theice.com>  
**Subject:** RE: Call

**WARNING** - External email; exercise caution

I am here until the budget comes out.

---

**From:** Alex Albert [<mailto:Alex.Albert@theice.com>]  
**Sent:** Wednesday, March 21, 2018 4:10 PM  
**To:** Thornton, Charlie; Trabue Bland  
**Subject:** RE: Call

Could do call at 5???

---

**From:** Thornton, Charlie <[cthornton@CFTC.gov](mailto:cthornton@CFTC.gov)>  
**Date:** Wednesday, Mar 21, 2018, 4:09 PM  
**To:** Alex Albert <[Alex.Albert@theice.com](mailto:Alex.Albert@theice.com)>, Trabue Bland <[Trabue.Bland@theice.com](mailto:Trabue.Bland@theice.com)>  
**Subject:** RE: Call

**WARNING** - External email; exercise caution

Was with Mike. Call me now 202-418-5145. Just spoke with Chris on this.

Or we can talk tomorrow.

---

**From:** Alex Albert [<mailto:Alex.Albert@theice.com>]  
**Sent:** Wednesday, March 21, 2018 4:07 PM  
**To:** Thornton, Charlie; Trabue Bland  
**Subject:** Call

Charlie, we tried to call you earlier to catch up on things. You got a window tomorrow?

---

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Message

**From:** Trabue Bland [Trabue.Bland@theice.com]  
**Sent:** 3/5/2018 4:47:41 PM  
**To:** Thornton, Charlie [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=2f7cd1b27f3e4fde80a5088eadd3b931-Thornton III, Norwo]  
**Subject:** RE: NEWS: Cochran Announces His Intent to Resign from Senate

Wow.

---

**From:** Thornton, Charlie [mailto:cthorton@CFTC.gov]  
**Sent:** Monday, March 05, 2018 4:42 PM  
**To:** Trabue Bland <Trabue.Bland@theice.com>  
**Subject:** FW: NEWS: Cochran Announces His Intent to Resign from Senate

**WARNING** - External email; exercise caution

---

**From:** Gallegos, Chris (Cochran) [mailto:Chris\_Gallegos@cochran.senate.gov]  
**Sent:** Monday, March 5, 2018 4:40 PM  
**Subject:** NEWS: Cochran Announces His Intent to Resign from Senate



FOR IMMEDIATE RELEASE  
March 5, 2018

CONTACTS  
Chris Gallegos (202) 224-1010 or 224-6414  
Stephen Worley (202) 224-3751  
*Twitter: @SenThadCochran*

## COCHRAN ANNOUNCES HIS INTENT TO RESIGN FROM SENATE

WASHINGTON, D.C. – U.S. Senator Thad Cochran (R-Miss.), chairman of the Senate Committee on Appropriations, today announced his intention to resign from the U.S. Senate effective April 1, 2018.

“I regret my health has become an ongoing challenge. I intend to fulfill my responsibilities and commitments to the people of Mississippi and the Senate through the completion of the 2018 appropriations cycle, after which I will formally retire from the U.S. Senate.

“It has been a great honor to serve the people of Mississippi and our country. I’ve done my best to make decisions in the best interests of our nation, and my beloved state. My top concern has always been my constituents in Mississippi. My hope is by making this announcement now, a smooth transition can be ensured

so their voice will continue to be heard in Washington, D.C. My efforts, and those of my staff, to assist them will continue and transfer to my successor.”

Cochran was first elected to the Senate in 1978, becoming the first Republican in more than 100 years to win a statewide election in Mississippi. He is the tenth-longest serving Senator in U.S. history. Cochran previously served three terms in House of Representatives.

###

LINK

- Official Cochran Biography: <https://www.cochran.senate.gov/public/index.cfm/biography>

Chris Gallegos  
[Office of U.S. Senator Thad Cochran](#)  
[Committee on Appropriations](#)  
202-224-6414

*Follow Senator Cochran:*



---

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Message

---

**From:** Trabue Bland [Trabue.Bland@theice.com]  
**Sent:** 1/17/2018 2:06:25 PM  
**To:** Thornton, Charlie [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=2f7cd1b27f3e4fde80a5088eadd3b931-Thornton III, Norwo]; Alex Albert [Alex.Albert@theice.com]  
**Subject:** RE: KC Conference

Can I make fun of CME? Then I am in.

---

**From:** Thornton, Charlie [mailto:cthorton@CFTC.gov]  
**Sent:** Wednesday, January 17, 2018 11:45 AM  
**To:** Trabue Bland <Trabue.Bland@theice.com>  
**Subject:** KC Conference

**WARNING** - External email; exercise caution

Talked to Chuck Marvine, we seem to be on the same page as far as you being a panelist at our conference in Kansas City. I hope I correctly volunteered your services.

Charlie

---

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Appointment

---

**From:** Thornton, Charlie [/O=CFTC/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=2F7CD1B27F3E4FDE80A5088EADD3B931-THORNTON III, NORWO]  
**Sent:** 3/14/2019 4:39:42 PM  
**To:** Kelly Loeffler [Kelly.Loeffler@bakkt.com]  
**Subject:** Accepted: FW: Call: Chairman Giancarlo/Bakkt  
**Attachments:** invite.ics  
**Location:** Dial in below  
**Start:** 3/18/2019 4:30:00 PM  
**End:** 3/18/2019 5:15:00 PM  
**Show Time As:** Busy  
**Recurrence:** (none)

Message

**From:** Thornton, Charlie [/O=CFTC/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=2F7CD1B27F3E4FDE80A5088EADD3B931-THORNTON III, NORWO]  
**Sent:** 3/7/2019 3:09:16 PM  
**To:** Alex Albert [Alex.Albert@theice.com]; Gill, Michael [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=3ab6b606c58b45fe8b9174d248b3fa65-Gill, Michael]; Trabue Bland [Trabue.Bland@theice.com]  
**CC:** Thornton, Charlie [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=2f7cd1b27f3e4fde80a5088eadd3b931-Thornton III, Norwo]  
**Subject:** Re: Inter market surveillance meeting

I grew up listening to them on the way to Destin, FL as a child because they were my parents favorite band.

---

On: 07 March 2019 15:05, "Alex Albert" <[Alex.Albert@theice.com](mailto:Alex.Albert@theice.com)> wrote:  
Fair, but I'm old (saw them a lot in Athens, pre-fame days of '83&'84) and a big fan of 7 Chinese brothers. Like them all except for "shiny happy people" which is just a bizarre departure.

---

**From:** Gill, Michael <[MGill@CFTC.gov](mailto:MGill@CFTC.gov)>  
**Date:** Thursday, Mar 07, 2019, 2:55 PM  
**To:** Alex Albert <[Alex.Albert@theice.com](mailto:Alex.Albert@theice.com)>, Trabue Bland <[Trabue.Bland@theice.com](mailto:Trabue.Bland@theice.com)>  
**Cc:** Thornton, Charlie <[cth Thornton@CFTC.gov](mailto:cth Thornton@CFTC.gov)>  
**Subject:** RE: Inter market surveillance meeting

**WARNING - External email from cftc.gov**

Come on, Lifes Rich Pageant is solid from beginning to end. Granted, Fables has its weak moments but I think the Don Gehman influence puts Pageant up there with Murmur and Reckoning (and Chronic Town for you purists on album counts)

---

**From:** Alex Albert [mailto:[Alex.Albert@theice.com](mailto:Alex.Albert@theice.com)]  
**Sent:** Thursday, March 7, 2019 12:24 PM  
**To:** Gill, Michael; Trabue Bland  
**Cc:** Thornton, Charlie  
**Subject:** RE: Inter market surveillance meeting

Reckoning

---

**From:** Gill, Michael <[MGill@CFTC.gov](mailto:MGill@CFTC.gov)>  
**Date:** Thursday, Mar 07, 2019, 12:23 PM  
**To:** Trabue Bland <[Trabue.Bland@theice.com](mailto:Trabue.Bland@theice.com)>  
**Cc:** Alex Albert <[Alex.Albert@theice.com](mailto:Alex.Albert@theice.com)>, Thornton, Charlie <[cth Thornton@CFTC.gov](mailto:cth Thornton@CFTC.gov)>  
**Subject:** RE: Inter market surveillance meeting

**Duplicate**

**Duplicate**

**Duplicate**



Message

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**From:** Thornton, Charlie [/O=CFTC/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=2F7CD1B27F3E4FDE80A5088EADD3B931-THORNTON III, NORWO]  
**Sent:** 2/20/2019 6:20:28 PM  
**To:** Kelly.Loeffler@bakkt.com; Alex Albert [Alex.Albert@theice.com]; Trabue Bland [Trabue.Bland@theice.com]; Mika Kawana [Mika.Kawana@theice.com]  
**Subject:** Agenda  
**Attachments:** Agenda 2-21.docx

Here is the agenda for tomorrow. Listing the multiple options is simply to lay out all of the possibilities and to make sure that we are all on the same page currently. We can focus on the FCM approach and not the others. Also, the Chairman wants NFA to dial-in.

Happy to chat if you have any questions.

Best,  
Charlie

## **Agenda**

### **February 21, 2019**

#### **I. Opening**

- a. Purpose of this meeting to discuss options for Bakkt's launch, paths to implementation and any potential hurdles, and CFTC "must have" requirements. Based on the most recent discussions, the contract approval, trading, and clearing of this product is CFTC regulated. It is only the regulatory status of the custody of bitcoin that is at issue.

#### **II. CFTC Requirements**

#### **III. Options for Bakkt launch**

**(b)(4)**

#### **IV. Discussion of Timeline**

#### **V. Other Items**

#### **VI. Adjourn**

Message

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**From:** Thornton, Charlie [/O=CFTC/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=2F7CD1B27F3E4FDE80A5088EADD3B931-THORNTON III, NORWO]  
**Sent:** 2/18/2019 3:57:17 PM  
**To:** Gill, Michael [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=3ab6b606c58b45fe8b9174d248b3fa65-Gill, Michael]; Kulkin, Matthew [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=f973c0fe038742b4bb68c3eeae3f8171-Kulkin, Matthew]; Bussey, Brian [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=a2d0b8b95a0b46029f13eheadb73f297-Bussey, Brian]; Gorfine, Daniel [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=fec0394154854e1eac5fb409856e51e8-Gorfine, Daniel]  
**Subject:** Fwd: Agenda  
**Attachments:** LabCFTCAgenda.docx

Begin Forwarded Message:

**From:** "Alex Albert" <[Alex.Albert@theice.com](mailto:Alex.Albert@theice.com)>  
**Subject:** Agenda  
**Date:** 18 February 2019 15:53  
**To:** "Thornton, Charlie" <[cthornton@CFTC.gov](mailto:cthornton@CFTC.gov)>  
**Cc:** "Trabue Bland" <[Trabue.Bland@theice.com](mailto:Trabue.Bland@theice.com)>

Charlie, please find enclosed a final agenda for Wednesday's meeting. Please let us know if we are missing anything or you have other interests while there. We're open to suggestion. Obviously we have flexibility on the front and back ends. We'd like to have at least some discussion at the end for process. Thanks, Alex

---

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## Lab CFTC Agenda

**February 20**

**10:45 a.m.-11:00 a.m.**

**Intro - Bland/Albert/Loeffler [note: KL/AW(?) leaving at 11am for Bakkt board meeting until ~Noon]**

- People in the room
- Lab CFTC

**(b)(4)**

**(b)(4)**

Message

---

**From:** Thornton, Charlie [/O=CFTC/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=2F7CD1B27F3E4FDE80A5088EADD3B931-THORNTON III, NORWO]  
**Sent:** 2/14/2019 6:45:33 PM  
**To:** Kulkin, Matthew [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=f973c0fe038742b4bb68c3eeae3f8171-Kulkin, Matthew]; Bussey, Brian [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=a2d0b8b95a0b46029f13eheadb73f297-Bussey, Brian]  
**CC:** Gill, Michael [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=3ab6b606c58b45fe8b9174d248b3fa65-Gill, Michael]; Gorfine, Daniel [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=fec0394154854e1eac5fb409856e51e8-Gorfine, Daniel]  
**Subject:** Fwd: Trade flows.  
**Attachments:** Bitcoin Deposit and Trade Flows CFTC v4.pptx; image001.png

Begin Forwarded Message:

**From:** "Trabue Bland" <[Trabue.Bland@theice.com](mailto:Trabue.Bland@theice.com)>  
**Subject:** Trade flows.  
**Date:** 14 February 2019 18:42  
**To:** "Thornton, Charlie" <[cth Thornton@CFTC.gov](mailto:cth Thornton@CFTC.gov)>  
**Cc:** "Alex Albert" <[Alex.Albert@theice.com](mailto:Alex.Albert@theice.com)>, "Erik Haas" <[Erik.Haas@bakkt.com](mailto:Erik.Haas@bakkt.com)>

Charlie: Hope you are doing well. Following up on our call earlier this week attached is a description of the flows into the FCM. I hope this makes sense. Let me know if you have any questions.

---

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Message

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**From:** Thornton, Charlie [/O=CFTC/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=2F7CD1B27F3E4FDE80A5088EADD3B931-THORNTON III, NORWO]  
**Sent:** 2/14/2019 10:59:00 AM  
**To:** Trabue Bland [Trabue.Bland@theice.com]; Alex Albert [Alex.Albert@theice.com]  
**CC:** Mika Kawana [Mika.Kawana@theice.com]  
**Subject:** CFTC / ICE Visit

We look forward to visiting your headquarters to view your cyber security and other built infrastructure for your Bakkt Project.

We will be available from 10am-3pm on the 20<sup>th</sup>. Could you please provide an agenda, so that we are prepared for the discussion? Also, one of the team members will not be present, so we made need to set up a dial in or video conference. We can discuss this later on.

Thanks!  
Charlie

Message

---

**From:** Thornton, Charlie [/O=CFTC/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=2F7CD1B27F3E4FDE80A5088EADD3B931-THORNTON III, NORWO]  
**Sent:** 2/12/2019 12:30:48 PM  
**To:** Trabue Bland [Trabue.Bland@theice.com]; Alex Albert [Alex.Albert@theice.com]  
**Subject:** Panel Description

**Futures Trading Matching Algorithms—Alternatives, How They Function, and Effect on Market Performance**

Whereas in pit trading, brokers are able to match orders through face-to-face interactions, an electronic-trading environment requires a set of rules that governs the hierarchy for matching buy orders (bids) with sell orders (offers) for the purpose of trade execution. Much debate has surfaced about the way that matching algorithms could potentially impact individual market participants, as well as overall market performance. This session will focus on reviewing the current structures for matching algorithms employed by major exchanges, how different orders are prioritized and filled, how the design of the matching algorithms may impact trade fills across-the-board or for certain segments of the market, and the ways in which matching algorithms may impact overall market performance and efficiency.



Message

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**From:** Thornton, Charlie [/O=CFTC/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=2F7CD1B27F3E4FDE80A5088EADD3B931-THORNTON III, NORWO]  
**Sent:** 2/6/2019 5:02:33 PM  
**To:** Trabue Bland [Trabue.Bland@theice.com]  
**Subject:** About to call you with mike and others  
**Importance:** High

Which phone?

Message

---

**From:** Thornton, Charlie [/O=CFTC/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=2F7CD1B27F3E4FDE80A5088EADD3B931-THORNTON III, NORWO]  
**Sent:** 12/14/2018 6:38:26 PM  
**To:** Trabue Bland [Trabue.Bland@theice.com]; Alex Albert [alex.albert@theice.com]  
**Subject:** Fwd: ICE 4(c) Order - Staff Timeline

Begin Forwarded Message:

**From:** "Giancarlo, Chris" <JCGiancarlo@CFTC.gov>

**Subject:** RE: ICE 4(c) Order - Staff Timeline

**Date:** 14 December 2018 17:27

**To:** "Kulkin, Matthew" <MKulkin@CFTC.gov>

**Cc:** "Gill, Michael" <MGill@CFTC.gov>, "Sklar, Maggie" <MSklar@CFTC.gov>, "Bussey, Brian" <BBussey@CFTC.gov>, "Thornton, Charlie" <cthorton@CFTC.gov>

Thank you.

Mike and Charlie – Please inform ICE that this is our current and best estimation.

JCG

---

**From:** Kulkin, Matthew  
**Sent:** Friday, December 14, 2018 4:31 PM  
**To:** Giancarlo, Chris  
**Cc:** Gill, Michael; Sklar, Maggie; Bussey, Brian  
**Subject:** ICE 4(c) Order - Staff Timeline

Mr. Chairman – based on our conversation this afternoon, DCR and DSIO staff are working on the ICE Clear US request for a 4(c) order.

We wanted to share our proposed timeline for completing our work and presenting recommendations to the Commission for consideration.

This timeline assumes that the request from ICE is substantially complete, responsive to staff comments provided a few days ago, and that we receive a finalized, formal request from ICE next week.

Week of December 17 – ICE petition filed

Week of January 7 – DCR/DSIO staff send draft 4(c) to OGC/OCE for review/feedback, share working draft with Chairman

Week of January 14 – DCR/DSIO/OGC/OCE complete staff work. Draft order shared with Commissioners; Chairman/Commissioner conversations.

Week of January 21 – Order placed into circulation for Commission consideration via seriatim.

February 5 – open rulemaking meeting

~February 12 – published in Federal Register

~March 14 – 30 day comment period closes

**Matthew Kulkin**

Director, Division of Swap Dealer & Intermediary Oversight  
U.S. Commodity Futures Trading Commission

1155 21st Street, NW | Washington, DC 20581 | 202.418.5213

Message

**From:** Thornton, Charlie [/O=CFTC/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=2F7CD1B27F3E4FDE80A5088EADD3B931-THORNTON III, NORWO]  
**Sent:** 6/7/2018 9:55:09 AM  
**To:** Trabue Bland [Trabue.Bland@theice.com]; Alex Albert [Alex.Albert@theice.com]  
**Subject:** RE: Two articles on the secret SEC effort in crypto

mmmm... Thanks for sharing.

---

**From:** Trabue Bland [mailto:Trabue.Bland@theice.com]  
**Sent:** Thursday, June 7, 2018 9:45 AM  
**To:** Thornton, Charlie; Alex Albert  
**Subject:** Two articles on the secret SEC effort in crypto

As you can see, someone at the SEC is giving someone positive signals here--Goldman (remember that Clayton used to represent Goldman) doesn't roll into this stuff randomly!

<https://www.wsj.com/articles/coinbase-expands-with-deal-for-broker-dealer-keystone-capital-1528321468>

## Goldman-backed crypto platform Circle seeks banking license

EJ Insight

7 June 2018

378 words

English

EJINST

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Cryptocurrency and payments platform Circle Internet Financial plans to seek a federal banking license and also pursue registration as a brokerage and trading venue with the US Securities and Exchange Commission (SEC), Bloomberg reports.

Circle, which counts Goldman Sachs among its backers, has had preliminary talks with the US Office of the Comptroller of the Currency about obtaining a federal banking license, according to the report.

Meanwhile, the fintech startup is also said to have some contact with staff at the SEC and officials from the Financial Industry Regulatory Authority (FINRA), which oversees brokerages.

Circle, which is headquartered in Boston, is likely to pursue SEC regulation before the banking license, according to the report, which noted that registration with the SEC will allow the platform to sell tokens that are considered securities.

CEO Jeremy Allaire was quoted as saying that with a bank charter, the firm can hold customer assets in the form of digital coins or government-issued currencies like US dollars, while opening doors to other components of the financial system, such as getting native access to the central banking system without intermediaries and directly settling with other banks in other markets worldwide.

That will help "improve the efficiency of what we deliver" and can reduce the costs, he said.

The report noted that while Circle would be subjected to tough scrutiny, getting a banking license will narrow the field of regulators the firm must appease, as federal laws would pre-empt a patchwork of state rules covering crypto.

"You're able to have a single conversation. It's hard to have 50 conversations," Robert Bench, chief compliance officer of Circle told Bloomberg, referring to the move that would help cut down on the number of regulators the platform needed to work with.

Coinbase, another titan of US cryptocurrency trading, announced on Wednesday that it is acquiring a trio of firms including a broker-dealer registered with FINRA.

It will use licenses it obtains to offer customers blockchain-based securities if US regulators give the nod. The cryptocurrency trading platform has also broached the topic of a potential banking license with regulators, according to Bloomberg sources.

– Contact us at [english@hkej.com](mailto:english@hkej.com)

BN/RC

Hong Kong Economic Journal Company Limited

Document EJINST0020180607ee67000ul

## **Trabue Bland**

**President, ICE Futures US**

Intercontinental Exchange | ICE

55 East 52<sup>nd</sup> Street, 40<sup>th</sup> Floor

Telephone: +1 770.916.7832 (Atlanta) | +1 212.748.4005 (New York)

Mobile: +1 (b)(6)

[trabue.bland@theice.com](mailto:trabue.bland@theice.com)

[intercontinentalexchange.com](http://intercontinentalexchange.com)

---

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Message

---

**From:** Thornton, Charlie [/O=CFTC/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=2F7CD1B27F3E4FDE80A5088EADD3B931-THORNTON III, NORWO]  
**Sent:** 5/31/2018 9:57:30 AM  
**To:** Trabue Bland [Trabue.Bland@theice.com]; Alex Albert [Alex.Albert@theice.com]  
**Subject:** Number for today at 11:30

1-866-617-3597

Participant Passcode :

(b)(4)

Message

**From:** Thornton, Charlie [/O=CFTC/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=2F7CD1B27F3E4FDE80A5088EADD3B931-THORNTON III, NORWO]  
**Sent:** 5/21/2018 3:36:15 PM  
**To:** Zaidi, Amir [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=azaidi]; Donovan, Eileen A. [/o=CFTC/ou=Washington, DC/cn=Recipients/cn=EILEEN DONOVAN]; Bussey, Brian [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=a2d0b8b95a0b46029f13ebeadb73f297-Bussey, Brian]; Kuserk, Gregory [/o=CFTC/ou=Washington, DC/cn=Recipients/cn=gkuserk]; Leahy, Thomas M., Jr. [/o=CFTC/ou=Washington, DC/cn=Recipients/cn=tleahy]; Van Wagner, David [/o=CFTC/ou=Washington, DC/cn=Recipients/cn=dvanwagner]; Gorfine, Daniel [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=fec0394154854e1eac5fb409856e51e8-Gorfine, Daniel]; Raimondi, Philip [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=Raimondi, Philip490]  
**CC:** Sklar, Maggie [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=Sklar, Maggie3]; Gill, Michael [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=3ab6b606c58b45fe8b9174d248b3fa65-Gill, Michael]  
**Subject:** RE: Warehouse legal overview

**Non-Responsive**

**From:** Zaidi, Amir  
**Sent:** Monday, May 21, 2018 3:27 PM  
**To:** Thornton, Charlie; Donovan, Eileen A.; Bussey, Brian; Kuserk, Gregory; Leahy, Thomas M., Jr.; Van Wagner, David; Gorfine, Daniel; Raimondi, Philip  
**Cc:** Sklar, Maggie; Gill, Michael  
**Subject:** RE: Warehouse legal overview

**Non-Responsive**

**From:** Thornton, Charlie  
**Sent:** Monday, May 21, 2018 3:22 PM  
**To:** Zaidi, Amir; Donovan, Eileen A.; Bussey, Brian; Kuserk, Gregory; Leahy, Thomas M., Jr.; Van Wagner, David; Gorfine, Daniel; Raimondi, Philip  
**Cc:** Sklar, Maggie; Gill, Michael  
**Subject:** RE: Warehouse legal overview

**Non-Responsive**

**From:** Zaidi, Amir  
**Sent:** Tuesday, May 15, 2018 3:47 PM  
**To:** Donovan, Eileen A.; Bussey, Brian; Kuserk, Gregory; Leahy, Thomas M., Jr.; Van Wagner, David  
**Cc:** Thornton, Charlie  
**Subject:** FW: Warehouse legal overview

All,

# Non-Responsive

---

**From:** Trabue Bland [<mailto:Trabue.Bland@theice.com>]

**Sent:** Tuesday, May 15, 2018 10:20 AM

**To:** Zaidi, Amir; Thornton, Charlie

**Subject:** Warehouse legal overview

Amir and Charlie: Following up on our conversation last week, attached is a high level overview of the CFTC's ability to regulate a crypto warehouse. This isn't written as a brief--it is meant to give you a statement of where the law is. Please let me know if you have any questions.

---

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Message

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**From:** Thornton, Charlie [/O=CFTC/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=2F7CD1B27F3E4FDE80A5088EADD3B931-THORNTON III, NORWO]  
**Sent:** 4/19/2018 11:58:40 AM  
**To:** Trabue Bland [Trabue.Bland@theice.com]  
**CC:** Alex Albert [Alex.Albert@theice.com]  
**Subject:** RE: ICEcryptotimeline2.pptx

Sounds good. Let's hop on a call to discuss the timeline. I have a few questions. In and out of meetings today on the Hill, but let me know when works for you all.

---

**From:** Trabue Bland [mailto:Trabue.Bland@theice.com]  
**Sent:** Thursday, April 19, 2018 11:57 AM  
**To:** Thornton, Charlie  
**Cc:** Alex Albert  
**Subject:** RE: ICEcryptotimeline2.pptx

Good question. I was hoping for this week, but maybe next week?

---

**From:** Thornton, Charlie [mailto:cthorton@CFTC.gov]  
**Sent:** Thursday, April 19, 2018 11:46 AM  
**To:** Trabue Bland <Trabue.Bland@theice.com>  
**Cc:** Alex Albert <Alex.Albert@theice.com>  
**Subject:** RE: ICEcryptotimeline2.pptx

**WARNING** - External email; exercise caution

Looks good. When do you plan to inform the commissioners?

---

**From:** Trabue Bland [mailto:Trabue.Bland@theice.com]  
**Sent:** Thursday, April 19, 2018 11:39 AM  
**To:** Thornton, Charlie  
**Cc:** Alex Albert  
**Subject:** ICEcryptotimeline2.pptx

Charlie:

Sorry to get this to you late, but attached is a proposed timeline for our Crypto launch. I guessed at the enhanced scrutiny part.

Thanks again for your advice. Please let me know if you have any questions.

Trabue

---

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Message

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**From:** Thornton, Charlie [/O=CFTC/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=2F7CD1B27F3E4FDE80A5088EADD3B931-THORNTON III, NORWO]  
**Sent:** 4/19/2018 11:44:23 AM  
**To:** Trabue Bland [Trabue.Bland@theice.com]  
**CC:** Alex Albert [Alex.Albert@theice.com]  
**Subject:** RE: ICEcryptotimeline2.pptx

Thank you. I will review!

---

**From:** Trabue Bland [mailto:Trabue.Bland@theice.com]  
**Sent:** Thursday, April 19, 2018 11:39 AM  
**To:** Thornton, Charlie  
**Cc:** Alex Albert  
**Subject:** ICEcryptotimeline2.pptx

Charlie:

Sorry to get this to you late, but attached is a proposed timeline for our Crypto launch. I guessed at the enhanced scrutiny part.

Thanks again for your advice. Please let me know if you have any questions.

Trabue

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Appointment

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**From:** Thornton, Charlie [/O=CFTC/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=2F7CD1B27F3E4FDE80A5088EADD3B931-THORNTON III, NORWO]  
**Sent:** 3/28/2018 10:16:33 AM  
**To:** Trabue Bland [Trabue.Bland@theice.com]  
**Subject:** Accepted: FW: Call with the CFTC  
**Attachments:** invite.ics  
**Location:** Dial in below  
**Start:** 3/28/2018 11:00:00 AM  
**End:** 3/28/2018 12:00:00 PM  
**Show Time As:** Busy  
**Recurrence:** (none)

Message

**From:** Thornton, Charlie [/O=CFTC/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=2F7CD1B27F3E4FDE80A5088EADD3B931-THORNTON III, NORWO]  
**Sent:** 3/21/2018 5:40:53 PM  
**To:** Trabue Bland [Trabue.Bland@theice.com]  
**Subject:** FW: White House opposed Republican picked to replace Cochran

---

**From:** POLITICO Pro [mailto:politicoemail@politicopro.com]  
**Sent:** Wednesday, March 21, 2018 12:10 PM  
**To:** Thornton, Charlie  
**Subject:** White House opposed Republican picked to replace Cochran

## White House opposed Republican picked to replace Cochran

By Alex Isenstadt

03/21/2018 12:06 PM EDT

White House officials this week told Mississippi Gov. Phil Bryant that President Donald Trump did not plan to campaign for or endorse Republican Cindy Hyde-Smith if she was appointed to the state's open Senate seat, saying they were worried that the former Democrat would lose.

Bryant responded that he intended to go ahead and pick Hyde-Smith for the post, anyway. He's expected to formally announce the selection Wednesday.

During a phone call Tuesday, administration officials told Bryant that Hyde-Smith's past history as a Democrat would hobble her in the special election contest for the seat being vacated by longtime Republican Sen. Thad Cochran. Hyde-Smith switched parties in 2010 while serving in the state Senate.

The conversation was described by two White House aides with direct knowledge of the call.

The message underscored the profound misgivings the administration and senior Republicans have about the Hyde-Smith pick.

Republicans are deeply concerned that Chris McDaniel, an anti-establishment conservative state senator who is running for the seat, will use Hyde-Smith's past party affiliation against her in the race. In recent days, the White House and other senior Republicans reviewed polling conducted by the National Republican Senatorial Committee showing Hyde-Smith in third place in a prospective match-up, trailing McDaniel and a prospective Democratic candidate.

A spokesman for the governor, Clay Chandler, would only say that, "Gov. Bryant isn't going to respond to leaks from unnamed sources in Washington."

"Today is about Mississippi making history, and Commissioner Cindy Hyde-Smith becoming Senator Cindy Hyde-Smith when she is sworn in by Vice President Mike Pence," he added.

Hyde-Smith and the NRSC did not respond to requests for comment.

Trump had initially lobbied Bryant to appoint himself to the seat, but the governor declined. Many in the party had hoped that Bryant would select Mississippi Secretary of State Delbert Hosemann for the post. The White House has been in touch with the governor over the course of the past three weeks about his selection.

While the president does not currently plan to endorse Hyde-Smith, the White House will continue to monitor the race, one of the administration officials said.






Administration officials do not want Trump to embarrass himself by weighing in for a candidate who is seriously hobbled. It was a scenario that played out in last year's Alabama Senate special election, when the president got behind appointed Sen. Luther Strange in a GOP runoff, only to see him fall short against former state Supreme Court Justice Roy Moore.

White House aides briefed Trump on Tuesday prior to speaking with Bryant. They recommended that, for now, the president should not endorse or campaign for Hyde-Smith should she get the appointment. Trump, according to one person familiar with the conversation, did not object.

*To view online:*

<https://www.politicopro.com/budget-appropriations/article/2018/03/white-house-opposed-republican-picked-to-replace-cochran-477571>

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|  |  |  |  |  |
| Yes, very                                                                         | Somewhat                                                                          | Neutral                                                                           | Not really                                                                          | Not at all                                                                          |

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Message

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**From:** Thornton, Charlie [/O=CFTC/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=2F7CD1B27F3E4FDE80A5088EADD3B931-THORNTON III, NORWO]  
**Sent:** 1/17/2018 11:45:00 AM  
**To:** Trabue Bland [Trabue.Bland@theice.com]  
**Subject:** KC Conference

Talked to Chuck Marvine, we seem to be on the same page as far as you being a panelist at our conference in Kansas City. I hope I correctly volunteered your services.

Charlie

## Appointment

---

**From:** Mika Kawana [Mika.Kawana@theice.com]  
**Sent:** 3/6/2019 1:59:48 PM  
**To:** Gorfine, Daniel [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=fec0394154854e1eac5fb409856e51e8-Gorfine, Daniel]; Thornton, Charlie [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=2f7cd1b27f3e4fde80a5088eadd3b931-Thornton III, Norwo]; Kelly Loeffler [Kelly.Loeffler@bakkt.com]; Trabue Bland [Trabue.Bland@theice.com]; Adam White [adam.white@bakkt.com]; Saverson, La Shunda [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=Saverson, La Shundae98]; Alex Albert [Alex.Albert@theice.com]

**Subject:** Meeting: Daniel Gorfine & Charlie Thornton | Kelly Loeffler, Trabue Bland, Alex Albert & Adam White

**Location:** BR Resort | Vidal Meeting Room - Tower Building | Ground Floor

**Start:** 3/12/2019 9:00:00 AM

**End:** 3/12/2019 9:30:00 AM

**Show Time As:** Tentative

**Recurrence:** (none)

3.6-shortened to 9:00a-9:30a

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## Appointment

---

**From:** Mika Kawana [Mika.Kawana@theice.com]  
**Sent:** 3/5/2019 9:14:43 AM  
**To:** Gorfine, Daniel [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=fec0394154854e1eac5fb409856e51e8-Gorfine, Daniel]; Thornton, Charlie [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=2f7cd1b27f3e4fde80a5088eadd3b931-Thornton III, Norwo]; Trabue Bland [Trabue.Bland@theice.com]; Saverson, La Shunda [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=Saverson, La Shundae98]; Alex Albert [Alex.Albert@theice.com]  
**Subject:** Meeting: Daniel Gorfine & Charlie Thornton | Kelly Loeffler, Trabue Bland, Alex Albert & Adam White  
**Location:** BR Resort | Vidal Meeting Room - Tower Building | Ground Floor  
**Start:** 3/12/2019 9:00:00 AM  
**End:** 3/12/2019 10:30:00 AM  
**Show Time As:** Tentative  
  
**Recurrence:** (none)

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Appointment

---

**From:** Gill, Michael [/O=CFTC/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=3AB6B606C58B45FE8B9174D248B3FA65-GILL, MICHAEL]  
**Sent:** 2/21/2019 7:31:16 PM  
**To:** Giancarlo, Chris [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=Giancarlo, Chris2a4]; Kelly Loeffler [Kelly.Loeffler@theice.com]; Bussey, Brian [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=a2d0b8b95a0b46029f13ebeadb73f297-Bussey, Brian]; Zaidi, Amir [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=azaidi]; Kulkin, Matthew [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=f973c0fe038742b4bb68c3eeae3f8171-Kulkin, Matthew]; Sklar, Maggie [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=Sklar, Maggie3]; Thornton, Charlie [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=2f7cd1b27f3e4fde80a5088eadd3b931-Thornton III, Norwo]; Alex Albert [Alex.Albert@theice.com]; Trabue Bland [Trabue.Bland@theice.com]  
**Subject:** CFTC warehouse review call  
**Location:** Dial-in: 866-564-2207 Participant Code: (b)(4)  
**Start:** 2/28/2019 8:00:00 AM  
**End:** 2/28/2019 9:00:00 AM  
**Show Time As:** Tentative  
**Required Attendees:** Giancarlo, Chris; Kelly Loeffler; Bussey, Brian; Zaidi, Amir; Kulkin, Matthew; Sklar, Maggie; Thornton, Charlie; Alex Albert; Trabue Bland

Message

**Sent:** 10/12/2018 11:40:29 AM  
**To:** Zaidi, Amir [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=azaidi]; Bussey, Brian [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=a2d0b8b95a0b46029f13eheadb73f297-Bussey, Brian]; Kulkin, Matthew [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=f973c0fe038742b4bb68c3eeae3f8171-Kulkin, Matthew]  
**CC:** Gill, Michael [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=3ab6b606c58b45fe8b9174d248b3fa65-Gill, Michael]; Sklar, Maggie [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=Sklar, Maggie3]; Jones, Shonneice [/o=CFTC/OU=Washington, DC/cn=Recipients/cn=sknight]  
**Subject:** FW: DRAFT Bitcoin Submission 18-XXX.docx (002).doc  
**Attachments:** DRAFT Bitcoin Submission 18-XXX.docx (002).doc

# Non-Responsive

**From:** Trabue Bland [mailto:Trabue.Bland@theice.com]  
**Sent:** Friday, October 12, 2018 11:29 AM  
**To:** Thornton, Charlie; Bussey, Brian; Zaidi, Amir; Kulkin, Matthew  
**Cc:** Eamonn Hahessy; Hester Serafini; Audrey Hirschfeld; Alex Albert  
**Subject:** DRAFT Bitcoin Submission 18-XXX.docx (002).doc

Charlie, Brian, Amir and Matt:

Attached is a revised draft DCM submission for the physically delivered BTC future. The changes are mainly technical with exception of the discussion of our trading and clearing firm feedback. You should be receiving draft rules from ICUS shortly and answers to your questions from a few weeks ago.

Thank you again for your review. Please let me know if you have any questions.

Trabue

**Trabue Bland**  
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Intercontinental Exchange | ICE  
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Telephone: +1 770.916.7832 (Atlanta) | +1 212.748.4005 (New York)  
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## Appointment

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**From:** Erik Haas [Erik.Haas@bakkt.com]  
**Sent:** 2/13/2019 9:42:38 AM  
**To:** Erik Haas [Erik.Haas@bakkt.com]; Hester Serafini [Hester.Serafini@theice.com]; Trabue Bland [Trabue.Bland@theice.com]; Alex Albert [Alex.Albert@theice.com]; Donovan, Eileen A. [/o=CFTC/ou=Washington, DC/cn=Recipients/cn=EILEEN DONOVAN]; Bussey, Brian [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=a2d0b8b95a0b46029f13ebeadb73f297-Bussey, Brian]; Kulkin, Matthew [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=f973c0fe038742b4bb68c3eeae3f8171-Kulkin, Matthew]; David Clifton [David.Clifton@theice.com]; Thornton, Charlie [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=2f7cd1b27f3e4fde80a5088eadd3b931-Thornton III, Norwo]; Beale, Joshua [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=Beale, Joshua742]; Gorfine, Daniel [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=fec0394154854e1eac5fb409856e51e8-Gorfine, Daniel]  
**Subject:** CFTC/Bakkt/ICUS  
**Location:** Dial in below  
**Start:** 2/13/2019 4:00:00 PM  
**End:** 2/13/2019 5:00:00 PM  
**Show Time As:** Busy  
**Recurrence:** (none)

Continued conversation from 2/12 call including Hester Serafini.

Internal extension: 8888

Meeting ID: 6733#

Password: (b)(4)

Atlanta +1 770 618 8888

Chicago +1 312 596 4412

Houston +1 713 815 7276

New York +1 212 896 2810

San Mateo +1 650 581 5603

Phoenix +1 480 444 0215

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## Appointment

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**From:** Christina Canfield [Christina.Canfield@bakkt.com]  
**Sent:** 2/12/2019 9:04:12 AM  
**To:** Christina Canfield [Christina.Canfield@bakkt.com]; Kelly Loeffler [Kelly.Loeffler@bakkt.com]; Trabue Bland [Trabue.Bland@theice.com]; Alex Albert [Alex.Albert@theice.com]; Erik Haas [Erik.Haas@bakkt.com]; Adam White [adam.white@bakkt.com]; David Clifton [David.Clifton@theice.com]; Geoffrey.Goldman@Shearman.com; Bussey, Brian [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=a2d0b8b95a0b46029f13ebeadb73f297-Bussey, Brian]; Kulkin, Matthew [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=f973c0fe038742b4bb68c3eeae3f8171-Kulkin, Matthew]  
**CC:** Thornton, Charlie [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=2f7cd1b27f3e4fde80a5088eadd3b931-Thornton III, Norwo]; Beale, Joshua [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=Beale, Joshua742]  
**Subject:** Call: CFTC/Bakkt Discussion  
**Location:** Dial in below  
**Start:** 2/12/2019 4:00:00 PM  
**End:** 2/12/2019 5:00:00 PM  
**Show Time As:** Tentative

Internal extension: 8888  
Meeting ID: 4726#  
Password: (b)(4)  
Atlanta +1 770 618 8888  
Chicago +1 312 596 4412  
Houston +1 713 815 7276  
New York +1 212 896 2810  
San Mateo +1 650 581 5603  
Phoenix +1 480 444 0215

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Appointment

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**From:** Kulkin, Matthew [/O=CFTC/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=F973C0FE038742B4BB68C3EEAE3F8171-KULKIN, MATTHEW]  
**Sent:** 2/6/2019 10:31:24 AM  
**To:** Kulkin, Matthew [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=f973c0fe038742b4bb68c3eeae3f8171-Kulkin, Matthew]; Thornton, Charlie [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=2f7cd1b27f3e4fde80a5088eadd3b931-Thornton III, Norwo]; Bussey, Brian [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=a2d0b8b95a0b46029f13eheadb73f297-Bussey, Brian]; Trabue Bland [Trabue.Bland@theice.com]  
**Subject:** Call  
**Attachments:** invite.ics  
**Start:** 2/6/2019 11:00:00 AM  
**End:** 2/6/2019 11:30:00 AM  
**Show Time As:** Tentative  
**Recurrence:** (none)

**When:** Wednesday, February 06, 2019, 11:00 AM to 11:30 AM. Eastern Time  
**Where:**

\*~\*~\*~\*~\*~\*~\*~\*~\*~\*

## Appointment

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**From:** Trabue Bland [Trabue.Bland@theice.com]  
**Sent:** 3/28/2018 10:01:31 AM  
**To:** Trabue Bland [Trabue.Bland@theice.com]; Thornton, Charlie [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=2f7cd1b27f3e4fde80a5088eadd3b931-Thornton III, Norwo]; Zaidi, Amir [/o=CFTC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=azaidi]  
**Subject:** FW: Call with the CFTC  
**Location:** Dial in below  
**Start:** 3/28/2018 11:00:00 AM  
**End:** 3/28/2018 12:00:00 PM  
**Show Time As:** Busy  
**Recurrence:** (none)

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**From:** Trabue Bland <Trabue.Bland@theice.com>  
**When:** Mar 28, 2018 at 11:00 AM  
**Subject:** Call with the CFTC  
**Location:** Dial in below

Dial-in: 8888 (Or external number below)

Meeting ID: 4005#

Passcode: (b)(4)

External numbers:

US

Atlanta 1-770-618-8888

Chicago 1-312-596-4412

Houston 1-713-815-7276

New York 1-212-896-2810

San Mateo 1-650-581-5603

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