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December 6, 2017

The Honorable J. Christopher Giancarlo
Chairman, Commodity Futures Trading Commission
1155 21st Street, NW
Washington, DC 20036

RE: Open letter regarding the listing of cryptocurrency derivatives

Dear Chairman Giancarlo:

FIA and its clearing member firms have noted last week's announcements by CFTC-regulated exchanges and clearinghouses to self-certify certain futures and options contracts on cryptocurrencies. While we are firm supporters of innovation and competition in markets, we nevertheless believe that such developments have brought to light concerns with the process in which these novel products have come to market.

As the principal members of derivatives clearinghouses worldwide, FIA's 64 clearing members play a critical role in the reduction of systemic risk by guaranteeing their customers' trades, contributing to the guarantee funds of clearinghouses and committing to assessment obligations during clearinghouse shortfalls. In light of the CFTC and NFA's public statements regarding the riskiness of the underlying cryptocurrency products, we believe that the launch of new exchange-traded derivatives in cryptocurrencies deserves a healthy dialogue between regulators, exchanges, clearinghouses and the clearing firms who will be absorbing the risk of these volatile, emerging instruments during a default.

Unfortunately, the launching of these innovative products through the 1-day self-certification process did not allow for proper public transparency and input. Under law, exchanges may self-certify a product for trading by the close of business one day and then list the product for trading the next day. This process does not require CFTC approval or input and allows little or no time for public review. While suited for standardized products, this process does not distinguish for a product's risk profile or unique nature. We believe that this expedited self-certification process for these novel products does not align with the potential risks that underlie their trading and should be reviewed.

Given the lack of historical data on these products, it is further concerning to clearing members that they will bear the brunt of the risk associated with them through their guarantee fund contributions and assessment obligations, even if not participating in these markets directly, rather than the exchanges and clearinghouses who have listed them. A public discussion should have been had on whether a separate guarantee fund for this product was appropriate or whether exchanges put additional capital in front of the clearing member guarantee fund. This is one reason FIA has advocated for proper "skin in the game" by CCPs to ensure that an appropriate level of risk is borne by the exchanges and CCPs who unilaterally decide when and how to list and risk manage these products.

It is also our understanding that not all risk committees of the relevant exchanges were consulted prior to the certification to launch these products. While this may not have been required technically under the rules of the exchanges and clearinghouses, CPMI-IOSCO guidance[1] as well as good governance would suggest that risk committees be consulted prior to the certification of such unproven instruments.

A more thorough and considered process would have allowed for a robust public discussion among clearing member firms, exchanges and clearinghouses to ascertain the correct margin levels, trading limits, stress testing and related guarantee fund protections and other procedures needed in the event of excessive price movements. The recent volatility in these markets has underscored the importance of setting these levels and processes appropriately and conservatively.

While we greatly appreciate the CFTC's efforts to receive additional assurances from these exchanges, we remain apprehensive with the lack of transparency and regulation of the underlying reference products on which these futures contracts are based and whether exchanges have the proper oversight to ensure the reference products are not susceptible to manipulation, fraud, and operational risk.

FIA's mission is to support open, transparent and competitive markets; protect and enhance the integrity of the financial system; and promote high standards of professional conduct. It is in light of these objectives that we believe a thorough discussion and assessment of risk between all industry stakeholders would have been prudent to ensure the long-term success and viability of these products.

We look forward to a healthy public discussion on how to improve this process in the future as well as the Commission's continued oversight of these emerging instruments.

Sincerely,

Walt L. Lukken

Walt Lukken
CEO, Futures Industry Association

CC: The Honorable Brian Quintenz, CFTC Commissioner
The Honorable Rostin Behnam, CFTC Commissioner

[1] The July 2017 CPMI-IOSCO final guidance on CCP Resilience Section 2.2.24 states, "To ensure that the CCP obtains a range of perspectives from relevant stakeholders, it should consider a variety of channels for feedback. These could, for example, include formal groups or committee structures established by the CCP, such as risk advisory or risk working groups (including, as appropriate, risk committees) involving participants and other relevant stakeholders who represent the views of either their respective institution or their peers."