



August 9, 2023

VIA ELECTRONIC DELIVERY

Ms. Vanessa A. Countryman
Secretary
U.S. Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090

RE: *Invesco Galaxy Bitcoin ETF* – File No.: SR-CboeBZX-2023-038; Release No.: 34-97900

Dear Ms. Countryman:

Virtu Financial, Inc. (“Virtu”) respectfully submits this letter in support of the application by CBOE BZX Exchange, Inc. pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 and Rule 19b-4 thereunder (as amended the “Exchange Act”) to list shares of Invesco Galaxy Bitcoin ETF as an exchange traded product (“ETP”). Our purpose in submitting this letter is to provide Virtu’s perspective on the marketplace’s readiness for a spot Bitcoin ETP and to encourage the Securities and Exchange Commission (the “Commission”) to approve the application referenced above (the “Proposal”).

Virtu Financial, Inc.

By way of background, Virtu is a leading financial firm that leverages cutting edge technology to deliver liquidity to the global markets and innovative, transparent trading solutions to its clients. Virtu operates as a market maker across numerous exchanges in the U.S. and is a member of all U.S. registered stock exchanges. Virtu’s market structure expertise, broad diversification, and execution technology enables it to provide competitive bids and offers in over 25,000 securities, at over 235 venues, in 36 countries worldwide. Virtu’s cryptocurrency market making includes spot, perpetuals, futures, and ETPs across more than fifty venues, exchanges and other platforms globally. Virtu broadly and consistently supports marketplace innovations which promote and enhance liquidity and efficiency to the benefit of all participants.

Statement in Support of the Proposal

The Current Marketplace

As a market maker in digital assets across spot, futures and exchange traded products, Virtu has witnessed first-hand the market’s evolution and maturation. With total market capitalization in the range of \$1 trillion, growing adoption amongst both institutional and retail market participants, and the preponderance of exchanges, platforms, protocols and products offering direct and indirect exposure to the asset class, it is apparent that cryptocurrencies and digital assets are an increasingly important component of the financial markets landscape. Investors seeking exposure to digital assets, such as Bitcoin, can obtain it directly on a cryptocurrency exchange or platform or indirectly through another financial instrument. Though direct ownership may meet the needs of certain Bitcoin investors, others would benefit from the familiarity, accessibility and convenience of acquiring indirect exposure via a spot Bitcoin ETP. Such products have



been approved for listing in other jurisdictions such as Canada, Europe and Brazil, but to the detriment of domestic investors, none has been approved in the US to date.

Virtu is an authorized participant (“AP”) in numerous ETPs globally and in the United States, enabling it to engage in transactions directly with an ETP issuer which “create” new and freely tradeable ETP shares or redeem ETP shares, in each case in exchange for the ETP’s underlying holdings, or in some cases a cash equivalent. We compete with other APs to provide liquidity in a given ETP and its underlying assets with the narrowest spread between the two, and utilize creation and redemption transactions to convert an ETP to its component parts or vice versa in connection with our liquidity provision. Continuous creation and redemption mechanics and the competitive dynamics amongst market making firms drive exceedingly narrow spreads and enables investors in an ETP to realize returns which track very closely those of the underlying basket of assets which can substantially reduce costs upon entry and exit.

In our experience as a market maker and AP in spot cryptocurrency ETPs in Canada, we have observed the positive impact of these dynamics -- as spot cryptocurrency ETP spreads to NAV are compressed to levels observed for non-crypto ETPs. Thus, it is apparent that U.S. investors would benefit from the approval of the proposed listings as an ETP as it will serve as a widely accessible and an efficient equivalent to direct ownership of Bitcoin.

Applicable Standards of Review and Investor Protection

As we have indicated previously in expressing our support for a spot Bitcoin ETP, we are perplexed by the Commission’s steadfast refusal to date to approve any such listing, despite having authorized exchange-traded funds (“ETF”) that track Bitcoin futures. The Commission has subjected only the spot-based ETPs to loosely defined and difficult to discharge requirements related to potential fraud and manipulation,¹ consistently concluding that the applications fail to meet the standard. In so doing, the Commission has seemingly arbitrarily applied different standards to two product categories that ultimately track the same underlying asset. From a legal perspective, this disparate treatment of the applications for similarly situated products is inconsistent with both Section 6(b)(5) of the Exchange Act, which prohibits unfair discrimination among issuers, and the Administrative Procedures Act, which precludes arbitrary and capricious administrative action.

Spot markets may be less prone to manipulation given their daily notional volumes substantially exceed those for futures volumes. Further, we believe that the active participation by market makers across all of

¹ See, e.g., SolidX Order, 82 Fed. Reg. at 16,247 (“As discussed further below, the Commission is disapproving this proposed rule change because it does not find the proposal to be consistent with Section 6(b)(5) of the Exchange Act, which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices and to protect investors and the public interest.”); Order Setting Aside Action by Delegated Authority and Disapproving a Proposed Rule Change, as Modified by Amendments No. 1 and 2, To List and Trade Shares of the Winklevoss Bitcoin Trust, Securities Exchange Act Release No. 83723 (July 26, 2018), 83 Fed. Reg. 37,579, 37,604-05 (Aug. 1, 2018) (SR-BatsBZX-2016-30) (“Winklevoss Order”) (similar); Order Disapproving a Proposed Rule Change To List and Trade the Shares of the GraniteShares Bitcoin ETF and the GraniteShares Short Bitcoin ETF, Securities Exchange Act Release No. 83913 (Aug. 22, 2018), 83 Fed. Reg. 43,923, 43,923 (Aug. 28, 2018) (SR-CboeBZX-2018-001) (“GraniteShares Order”) (similar); Order Disapproving a Proposed Rule Change To List and Trade the Shares of the ProShares Bitcoin ETF and the ProShares Short Bitcoin ETF, Securities Exchange Act Release No. 83904 (Aug. 22, 2018), 83 Fed. Reg. 43,934, 43,935 (Aug. 28, 2018) (NYSEArca-2017-139) (“ProShares Order”) (similar); Order Disapproving a Proposed Rule Change, as Modified by Amendment No. 1, To Amend NYSE Arca Rule 8.201-E (Commodity-Based Trust Shares) and To List and Trade Shares of the United States Bitcoin and Treasury Investment Trust Under NYSE Arca Rule 8.201-E, Securities Exchange Act Release No. 88284 (Feb. 26, 2020), 85 Fed. Reg. 12,595, 12,596 (Mar. 3, 2020) (SR-NYSEArca-2019-39) (“Wilshire-Phoenix Order”) (similar); VanEck Order, 86 Fed. Reg. at 64,539 (similar).



these linked markets – spot, futures, derivatives and ETP – can mitigate the risk of manipulation through competitive liquidity provision, arbitrage and creation / redemption transactions.

Finally, in continuing to apply an ambiguous and possibly unattainable standard to spot Bitcoin ETPs, the Commission fails to meet a fundamental mandate of promoting competitive markets via investor choice. The investing public has resoundingly demonstrated its appetite for exposure to Bitcoin in the convenient and familiar form of a fund product. While the futures-based ETPs generally benefit from the price harmonizing effects of creation and redemption transactions, these products have their own limitations, which may include a decay in NAV over time due to futures market dynamics and may not meet the needs of all would-be Bitcoin ETP investors. While we do not purport to make a merit-based determination regarding the benefits or drawbacks of any particular ETP for any particular investor, we share these observations to demonstrate that the investing public would benefit from additional choice and market competition in the form of one or more spot Bitcoin ETPs.

For the reasons set forth above, we respectfully request that the Commission approve the Proposal.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Doug A Cifu".

Douglas A. Cifu
Chief Executive Officer

cc: The Honorable Gary Gensler, Chair
The Honorable Hester M. Peirce, Commissioner
The Honorable Caroline A. Crenshaw, Commissioner
The Honorable Mark T. Uyeda, Commissioner
The Honorable Jaime E. Lizarraga, Commissioner
Dr. Haoxiang Zhu, Director, Division of Trading and Markets