

April 29, 2022

Christopher J. Kirkpatrick  
Secretary  
Commodity Futures Trading Commission  
1155 21 St., N. W.  
Washington, D.C. 20581

**Paul M. Architzel**

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paul.architzel@wilmerhale.com

Re: FMX Futures Exchange, L.P. Petition for Modification of Order of Designation

Dear Secretary Kirkpatrick:

We submit the attached documents on behalf of our client, FMX Futures Exchange, L.P., (formerly CX Futures Exchange, L.P.) (the "Exchange"). Through these documents, the Exchange petitions the Commission to amend FMX Exchange's designation Order to permit intermediated futures trading. Included in this submission in addition to this transmittal letter, is the Petition and selected Exhibits to Form DCM (certain of which are confidential) in support of the Petition. A Petition for Confidential Treatment is being submitted under separate cover to the Assistant Secretary for the Freedom of Information Act. The attached documents are as follows:

Petition to Amend FMX Futures Exchange DCM Order  
Confidential Exhibit E  
Confidential Exhibit F  
Confidential Exhibit H  
Confidential Exhibit I  
Exhibit L  
Exhibit M  
Confidential Exhibit N  
Confidential Exhibit O  
Exhibit Q  
Confidential Exhibit S  
Confidential Exhibit V

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If you have any questions about this submission, please do not hesitate to contact me at 202-663-6240 or by email at [Paul.Architzel@wilmerhale.com](mailto:Paul.Architzel@wilmerhale.com).

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Paul M. Architzel". The signature is written in a cursive style with a large initial "P" and "A".

Paul M. Architzel

**UNITED STATES OF AMERICA**  
**Before the**  
**COMMODITY FUTURES TRADING COMMISSION**

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**In the Matter of the Application of FMX Futures Exchange, L.P.**  
**(formerly CX Futures Exchange, L.P.) for Designation as a Contract Market;**  
**Petition for Modification of Order of Designation**

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On April 20, 2010, the Commodity Futures Trading Commission issued an Order of Designation (“Designation Order”) to Cantor Futures Exchange, L.P. (the “Exchange”) as a Designated Contract Market (“DCM”). The Designation Order as issued included the following condition that limits its scope:

IT IS FURTHER ORDERED that all contracts of sale of a commodity for future delivery (or options on such contracts or on a commodity) traded on Cantor must be cleared by a derivatives clearing organization ("DCO") registered under Section 5b of the Act, *but such trading may not be intermediated*. Any DCO with which Cantor desires to enter into a clearing services agreement must, in complying with Commission Regulation 39.4, also fulfill requirements of Commission Regulation 39.5 by providing the Commission with an explanation of how the financial resources available to the clearing DCO would be sufficient to cover defaults and adequately address any financial risk presented to the DCO in clearing the Cantor contracts under the clearing services agreement; [italics added]

In addition, the Designation Order contains ten specified conditions related to operation of a non-intermediated DCM. This list of additional requirements is preceded by the following introductory text,

IT IS FINALLY ORDERED, in consideration of Cantor's status as a non-intermediated market, that this designation as a contract market shall be subject to Cantor's compliance with representations it made to the Commission in its application:

These representations relate to the Exchange performing functions for its participants that in an intermediated market are generally performed by a participant’s intermediary.<sup>1</sup>

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<sup>1</sup> The Designation Order is available at:  
<https://www.cftc.gov/sites/default/files/stellent/groups/public/@otherif/documents/ifdocs/cantorfuturesexchangeorder.pdf>

Accompanying the Designation Order, the Commission issued a Designation Letter that further detailed the scope and meaning of the Designation Order relating to non-intermediation. It provides as follows:

The Commission notes that Cantor will operate as a non-intermediated market and that its members will also be members of the Cantor Clearinghouse. Ordinarily, clearing members are required to file large trader reports with the Commission under Regulation 17.00. But the Commission has accepted Cantor's undertaking that it will submit large trader reports to the Commission under Regulation 17.00. Likewise, as a non-intermediated market, Cantor is excepted from the clearing member report requirement of Regulation 16.00.

The Commission reminds Cantor that it has undertaken to implement an anti-money Laundering ("AML") for its customers and has provided the Commission with its AML procedures and policies. The Commission notes that an appropriate time to update the Commission on Cantor's implementation of the AML program would be during its periodic reviews of Cantor's compliance with the Core Principles of the Act.<sup>2</sup>

### **The Requested Modification**

Together, the conditions of the Designation Order and the Designation Letter limit the Exchange to operating solely using a non-intermediated trading model ("direct trading model").<sup>3</sup> The Exchange's business plan following designation as a contract market, was to concentrate on offering innovative derivatives products.<sup>4</sup> These included, in particular, binary options on various types of innovative underlying commodities, such as named Atlantic storms, snow fall and crypto currency.<sup>5</sup> All of these innovative contracts used the direct trading model, which was in accordance with the small size of the contracts and the potential of these derivatives to be of interest to non-traditional traders. The Exchange plans to continue to list binary options on the CX Division of the Exchange and to continue to clear such contracts through CX Clearinghouse, L.P.

The Exchange is now planning also to list for trading traditional futures contracts and options on futures on the FMX Division of the FMX Exchange. These products will be

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<sup>2</sup> The Designation Letter is available at:

<https://www.cftc.gov/sites/default/files/stellent/groups/public/@otherif/documents/ifdocs/GilbertLetter.pdf>

<sup>3</sup> In addition, the Registration Order for CX Clearinghouse, L.P. limits the clearinghouse to a fully collateralized, direct clearing model. CX is not requesting an amendment with respect to the DCO Registration Order.

<sup>4</sup> CX originally planned to list futures contracts on motion picture box office receipts. However, Section 721 of the Dodd-Frank Wall Street Transparency and Accountability Act, which was enacted subsequent to the issuance of the Designation Order, excludes motion picture receipts (along with onions) from the definition of "commodity" under section 1a of the Commodity Exchange Act. As a result, the Exchange was required to alter its plans.

<sup>5</sup> Although CX certified a bounded futures contract in crypto currency to the Commission in December 2017, under Commission Rule 40.2, CX never listed the contract.

cleared by a DCO other than CX Clearinghouse. These products will be larger sized contracts, subject to traditional-style margining, and likely to be of interest to market participants familiar with an intermediated trading model. Accordingly, these products are likely to be better suited for an intermediated trading model. Before it is able to certify such contracts under Commission Rule 40.2 and list such contracts for trading, the Exchange's Designation Order must be modified.

Accordingly, the Exchange is petitioning the Commission to modify its Order of Designation to modify the words "such trading may not be intermediated" in order to permit intermediation of futures and options listed on the FMX Division of the Exchange and to amend the Designation Order by revising the following text to read as follows (additions are underscored, deletions struck through):

IT IS FURTHER ORDERED that all contracts of sale of a commodity for future delivery (or options on such contracts or on a commodity) traded must be cleared by a derivatives clearing organization ("DCO") registered under Section 5b of the Act. ~~but~~ Trading of such contracts listed on the CX Division of the FMX Exchange Cantor may not be intermediated, but contracts listed on the FMX Division of the Exchange are not subject to this condition.

IT IS FINALLY ORDERED, in consideration of the Exchange's CX Division listing contracts for status as a non-intermediated trading on its market, that this designation as a contract market shall be subject to the Exchange's ~~Cantor's~~ compliance with representations it made to the Commission in its application in connection with such non-intermediated trading on its CX Division market. For the avoidance of doubt, these conditions do not apply to contracts listed for intermediated trading on the Exchange's FMX Division market.

### **The Requested Modification is Appropriate and in the Public Interest**

The modification of the Designation Order being requested is limited in scope and will permit CX to list products to be traded under an intermediated trading model. The modification would enable FMX to offer both types of trading experience on its market. This will enable CX to offer the benefits of futures and option trading to the widest possible number of market participants and enable FMX to continue to innovate. Clearing of the intermediated contracts will be by a registered DCO that is experienced with clearance and settlement using intermediaries. Direct traded contracts will continue to be cleared by CX Clearinghouse, L.P., which is experienced in clearing using the direct clearing model.


FMX believes that the offer of futures contracts and options on futures by an additional intermediated U.S. contract market will benefit market participants by increasing their choice of markets and increasing competition in the market.

## Conclusion

Based upon above facts and analysis and the supporting documents incorporated herein, FMX Futures Exchange, L.P. Petitions the Commodity Futures Trading Commission to modify the Order of Designation of CX Futures Exchange, L.P., issued April 20, 2010, by amending the language as discussed above, and requests that the Commission make conforming changes to the language of the Designation Letter.

Respectfully submitted,

FMX Futures Exchange, L.P.



By: Robert Allen

Title: President

Dated: April 29, 2022

## **Appendix A to Part 38 — Form DCM**

### **COMMODITY FUTURES TRADING COMMISSION**

#### **FORM DCM**

#### **CONTRACT MARKET APPLICATION OR AMENDMENT TO APPLICATION FOR DESIGNATION EXHIBITS INSTRUCTIONS**

Intentional misstatements or omissions of material fact may constitute federal criminal violations (7 U.S.C. §13 and 18 U.S.C. § 1001) or grounds for disqualification from designation.

#### **DEFINITIONS**

Unless the context requires otherwise, all terms used in this Form DCM have the same meaning as in the Commodity Exchange Act, as amended (“CEA” or “Act”), and in the General Rules and Regulations of the Commodity Futures Trading Commission (“Commission”) thereunder.

For the purposes of this Form DCM, the term “Applicant” shall include any board of trade applying for designation as a contract market, any board of trade amending a pending application, or any designated contract market that is applying for an amendment to its order of designation.

#### **GENERAL INSTRUCTIONS**

1. This Form DCM, which includes instructions, a Cover Sheet, and required Exhibits (together, “Form DCM”) is to be filed with the Commission by all Applicants, pursuant to Section 5 of the CEA and the Commission’s regulations thereunder. Applicants may prepare their own Form DCM but must follow the format prescribed herein. Upon the filing of an application for designation or a designation amendment in accordance with the instructions provided herein, the Commission will publish notice of the filing and afford interested persons an opportunity to submit written data, views and arguments concerning such application. No application for designation or designation amendment shall be effective unless the Commission, by order, grants such designation or amended designation.
2. Individuals’ names, except the executing signature, shall be given in full (Last Name, First Name, Middle Name).
3. Signatures on all copies of the Form DCM filed with the Commission can be executed electronically. If this Form DCM is filed by a corporation, it shall be signed in the name of the corporation by a principal officer duly authorized; if filed by a limited liability company, it shall be signed in the name of the limited liability

company by a manager or member duly authorized to sign on the limited liability company's behalf; if filed by a partnership, it shall be signed in the name of the partnership by a general partner duly authorized; if filed by an unincorporated organization or association which is not a partnership, it shall be signed in the name of such organization or association by the managing agent, i.e., a duly authorized person who directs or manages or who participates in the directing or managing of its affairs.

4. If this Form DCM is being filed as an application for designation, all applicable items must be answered in full. If any item is inapplicable, indicate by "none," "not applicable," or "N/A," as appropriate.
5. Under Section 5 of the CEA and the Commission's regulations thereunder, the Commission is authorized to solicit the information required to be supplied by this Form DCM from any Applicant seeking designation as a contract market and from any designated contract market. Disclosure by the Applicant of the information specified on this Form DCM is mandatory prior to the start of the processing of an application for, or an amendment to, designated as a contract market. The information provided in this Form DCM will be used for the principal purpose of determining whether the Commission should grant or deny designation to an Applicant. The Commission may determine that additional information is required from the Applicant in order to process its application. **A Form DCM which is not prepared and executed in compliance with applicable requirements and instructions may be returned as not acceptable for filing. Acceptance of the Form DCM, however, shall not constitute a finding that the Form DCM has been filed as required or that the information submitted is true, current, or complete.**
6. Except in cases where confidential treatment is requested by the Applicant and granted by the Commission pursuant to the Freedom of Information Act and the rules of the Commission thereunder, information supplied on this Form DCM will be included routinely in the public files of the Commission and will be available for inspection by any interested person.

## **APPLICATION AMENDMENTS**

1. Part 38 of the Commission's regulations requires that if any information contained in this application, or any supplement or amendment thereto, is or becomes inaccurate for any reason, an amendment to Form DCM, or a submission under Part 40 of the Commission's regulations, in either case correcting such information must be filed promptly with the Commission.
2. Applicants, when filing this Form DCM for purposes of amending an application, must re-file the Cover Sheet, amended if necessary and including an executing signature, and attach thereto revised Exhibits or other materials marked to show changes, as applicable. The submission of an amendment represents that the



remaining items and Exhibits that are not amended remain true, current, and complete as previously filed.

**WHERE TO FILE**

This Form DCM must be filed electronically with the Secretary of the Commission in a format specified by the Secretary of the Commission.

**COMMODITY FUTURES TRADING COMISSION**

**FORM DCM**

**CONTRACT MARKET**

**APPLICATION OR AMENDMENT TO APPLICATION FOR DESIGNATION**

**COVER SHEET**

FMX Futures Exchange, L.P.

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Exact name of Applicant as specified in charter

499 Park Avenue, New York, NY 10022

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Address of principal executive offices

[ ] If this is an **APPLICATION** for designation, complete in full and check here.

[X] If this is an **AMENDMENT** to an application, or to an existing designation, list all items that are amended and check here.

Amendment to existing Order of Registration as a Designated Contract Market,  
dated 4/20/2010. Supporting documents include the following Exhibits:

E, F, H, I, L, M, N, O, Q, S and V

**GENERAL INFORMATION**

1. Name under which the business of the designated contract market is or will be conducted, if different than name specified above (include acronyms, if any):

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2. If name of designated contract market is being amended, state previous designated contract market name:

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3. Contact information, including mailing address if different than address specified above:

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Number and Street

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City State Country Zip Code

212-829-5455

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Main Phone number

Fax

<https://www.cxmarkets.com/>

[customerservice@cantorexchange.com](mailto:customerservice@cantorexchange.com)

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Website URL

E-mail Address

4. List of principal office(s) and address(es) where designated contract market activities are/will be conducted:

**Office**

**Address**

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499 Park Avenue, New York, NY 10022

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199 Water Street, New York, NY 10038

5. If Applicant is a successor to a previously designated contract market, please complete the following:

a. Date of succession:

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b. Full name and address of predecessor designee

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Name

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City State Country Zip Code

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Main Phone Number

Website URL

**BUSINESS ORGANIZATION**

6. Applicant is a:

Corporation

Partnership

Limited Liability Company

Other form of organization (specify) \_\_\_\_\_

7. Date of incorporation or formation: 11/14/2006

8. State of incorporation or jurisdiction of organization: Delaware

9. Applicant agrees and consents that the notice of any proceeding before the Commission in connection with this application may be given by sending such notice by certified mail to the person named below at the address given.

Thomas Thompson

Print Name and Title

FMX Futures Exchange, L.P.

Name of Applicant

199 Water Street

Number and Street

New York

NY

10038

City

State

Zip Code

## SIGNATURES

10. The Applicant has duly caused this application or amendment to be signed on its behalf by the undersigned, hereunto duly authorized, this 29th day of, April 2022. The Applicant and the undersigned represent hereby that all information contained herein is true, current, and complete. It is understood that all required items and Exhibits are considered integral parts of this Form DCM and that the submission of any amendment represents that all un-amended items and Exhibits remain true, current, and complete as previously filed.

FMX Futures Exchange, L.P.

Name of Applicant

Nolan Glantz

Signature of Duly Authorized Person

Nolan Glantz, COO

Print Name and Title of Signatory