

UNITED STATES OF AMERICA
Before the
COMMODITY FUTURES TRADING COMMISSION

In the Matter of the Application of
Cboe Clear Digital, LLC
For Registration as a Derivatives Clearing Organization

ORDER OF REGISTRATION

On July 1, 2019, the Commodity Futures Trading Commission (the “Commission”) issued an order (the “Original Order”) pursuant to Section 5b of the Commodity Exchange Act (the “Act”), 7 U.S.C. § 7a-1, granting Cboe Clear Digital, LLC (“Cboe Clear”), then named Eris Clearing, LLC, registration as a derivatives clearing organization (“DCO”) for the clearing of fully collateralized digital asset futures.

On November 2, 2020, the Commission amended the Original Order (such amended order, the “Second Order”) to permit Cboe Clear to clear fully collateralized futures and fully collateralized swaps, in each case without the requirement that the products pertain to digital assets.

On March 15, 2022, Cboe Clear requested that the Commission amend the Second Order to permit Cboe Clear to clear futures, both fully collateralized and on a margined basis, as well as fully collateralized swaps. The Commission has reviewed the request, along with supporting information, and finds that Cboe Clear has demonstrated compliance with the requirements of the Act and applicable Commission regulations thereunder.

In light of the foregoing, **IT IS ORDERED**, pursuant to Section 5b of the Act, 7 U.S.C. § 7a-1, that the Original Order and the Second Order are superseded and Cboe Clear is granted registration as a DCO, subject to the terms and conditions specified herein:

(1) Cleared Products. Cboe Clear is permitted to clear, in its capacity as a DCO: (i) digital asset futures on a margined basis for futures commission merchants; (ii) fully collateralized futures; and (iii) fully collateralized swaps.

(2) Treatment of Funds. Funds held in the Member Property Accounts (as this term is defined in Cboe Clear's rulebook) shall be considered member property, as that term is defined in the Bankruptcy Code. Cboe Clear shall at all times maintain funds of its clearing members separate and distinct from its own funds.

(3) Insurance. Cboe Clear shall obtain and endeavor to maintain to the extent commercially reasonable insurance coverage for theft or loss of participant digital asset collateral.

(4) Risk Disclosure. Cboe Clear shall fully disclose to any potential clearing member, in plain language, material risks associated with the clearing of digital asset contracts, including, without limitation, the theft, loss, or hacking of the underlying digital asset. The disclosure may include a discussion of any mitigating insurance or similar policies so long as the scope and limitations of any policy are clearly explained.

(5) Digital Asset Audit. Cboe Clear shall engage an independent certified public accountant to audit Cboe Clear's digital asset balances and issue an opinion on the accounting treatment of digital assets held by Cboe Clear on an annual basis.

(6) Digital Asset Third-Party Service Providers. Cboe Clear shall obtain and provide to the Division of Clearing and Risk, as available to Cboe Clear, a copy of any System and Organization Controls ("SOC") 1 – Type I or Type II and SOC 2 – Type II audit report of any third-party service provider used in the custody or storage of any digital assets held on behalf of clearing members.

(7) Compliance with Certain Statutes. Cboe Clear shall comply with the Bank Secrecy Act (31 U.S.C. § 5311 *et seq.*), the International Emergency Economic Powers Act (50 U.S.C. § 1701 *et seq.*), the Trading with the Enemy Act (50 U.S.C. § 4301 *et seq.*), and the Executive Orders and regulations issued pursuant thereto, including the regulations issued by the U.S. Department of the Treasury and, as applicable, the Commission as if Cboe Clear were a covered “financial institution” within the meaning of 31 C.F.R. § 1010, *et seq.*

(8) Compliance with the Act and Commission Regulations. Cboe Clear shall comply, and shall demonstrate compliance as requested by the Commission, with applicable provisions of the Act, including the core principles set forth in Section 5b of the Act (“Core Principles”), and Commission regulations, as may be amended or adopted from time to time. Cboe Clear shall fulfill each of the representations it has made to the Commission relating to compliance with the Core Principles and Commission regulations.

(9) Self-Regulatory Function. Cboe Clear shall ensure the performance of all self-regulatory functions required of it as a registered DCO under the Act and Commission regulations, including, without limitation: monitoring and enforcing clearing member compliance with Cboe Clear admission and continuing eligibility standards; and enforcing clearing member compliance with the terms of all other Cboe Clear rules, regulations, and procedures.

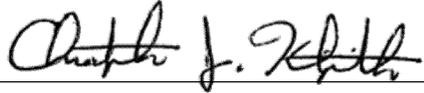
(10) New Regulations. Should the Commission promulgate or amend a regulation addressing or otherwise affecting any aspect of this order, then such regulation will apply and supersede the applicable term(s) in this order.

(11) Reservation of Rights. This order is based upon the representations made and supporting material provided to the Commission by Cboe Clear. Any changes to or omissions in

the material facts or circumstances pursuant to which this order is issued may require a new or amended order. Further, for any reason in its own discretion, the Commission may condition, modify, suspend, terminate, or otherwise restrict the terms of this order, as appropriate and as permitted by law, on its own motion.

Issued in Washington, D.C. on this 5th day of June, 2023.

By the Commission,

A handwritten signature in black ink, appearing to read "Christopher J. Kirkpatrick", written over a horizontal line.

Christopher J. Kirkpatrick
Secretary of the Commission