



July 20, 2018

Dalia Blass
Director
Division of Investment Management
U.S. Securities and Exchange Commission
100 F Street NE
Washington, DC 20549-1090

Re: Staff Letter: Engaging on Fund Innovation and Cryptocurrency-related Holdings¹
(the “Staff Letter”)

Dear Ms. Blass:

Thank you for inviting us to respond to the Staff Letter. In August and December 2017, registration statements for the VanEck Vectors Bitcoin Strategy ETF, a futures-based bitcoin ETF, were filed. While both filings were withdrawn at the Staff’s request,² we remain interested in bringing a futures-based bitcoin ETF to market. In the Staff Letter, you raise a number of concerns for cryptocurrency and cryptocurrency-related investment funds concerning valuation, liquidity, custody, arbitrage, potential manipulation, and other risks. We believe these concerns have appropriate answers which we review below. Moreover, by offering investors exposure to bitcoin through a regulated investment product, we believe the proposed ETF will be consistent with the Securities and Exchange Commission’s (the “Commission”) mission to protect investors, maintain fair, orderly, and efficient markets, and facilitate capital formation.

I. Valuation

As noted in the Staff Letter, valuation is important because, among other things, it determines fund performance, and what authorized participants pay for ETFs (and what they receive when they redeem or sell). While the valuation of cryptocurrencies and digital assets (together, “digital assets”) in the underlying spot markets may present some unique issues as raised in the Staff Letter, such as the valuation of forks and airdrops, we do not believe that the valuation of futures contracts in accordance with the requirements of the Investment Company Act of 1940 (the “1940 Act”) presents any novel issues for a futures-based bitcoin ETF. The use of futures contracts to gain exposure to an asset is not unusual, and the valuation of futures contracts is a well-established practice. In fact, there are over 100 exchange traded products listed on U.S. exchanges that are based on futures contracts.³

Currently, there are two bitcoin futures contracts in the U.S.: the CBOE futures contract and the CME futures contract. A futures-based bitcoin ETF would use the 4:00 PM ET prices of the underlying futures contract. These existing bitcoin futures contracts provide real-time reference rates and bid/ask quotes for the price of a bitcoin futures contract. We believe that the prices provided by CBOE and CME afford fund sponsors adequate information to value the bitcoin futures contracts held by a fund for the purpose of determining the fund’s net asset value (“NAV”), as with other futures contracts traded on the

¹ Staff Letter (Jan. 18, 2018), available at: <https://www.sec.gov/divisions/investment/noaction/2018/cryptocurrency-011818.htm>.

² The respective withdrawal letters are available at:

https://www.sec.gov/Archives/edgar/data/1137360/000093041317003365/c89417_aw.htm (Sept. 27, 2017);
https://www.sec.gov/Archives/edgar/data/1137360/000093041318000050/c89704_aw.htm (Jan. 9, 2018).

³ See <http://etfdb.com/type/commodity/exposure/futures-based/>.

exchanges.

To the extent the proposed ETF must utilize fair valuation of the futures contracts pursuant to the requirements of Section 2(a)(41) of the 1940 Act, the futures contracts would be fair valued in accordance with existing valuation policies. Neither the CBOE nor the CME contracts include forks or airdrops in the calculation of the futures contract price. Put another way, we do not believe that changes to current policies would be required for valuing the CBOE and CME contracts.

Also, we note that the CBOE and CME bitcoin futures contracts have, to this point, traded at prices close to the price of the bitcoin spot price.⁴ Please see the Appendices attached hereto for data and informational charts supporting this point and others in this letter.

We note that the currently offered bitcoin futures contracts are cash-settled and do not provide for physical delivery. In the event that futures contracts are physically backed, VanEck would create a rules-based policy for the valuation of any attendant forks and/or airdrops that occur during a contract term.⁵ In fact, MV Index Solutions (“MVIS”), an affiliate of VanEck, currently maintains digital asset indices that provide rules-based treatment of forks and/or airdrops.⁶ While these rules are not determinative with respect to the proposed ETF, they demonstrate the feasibility of constructing rules to address such events. Some rules that should be employed are using meaningful liquidity and infrastructure tests to assess forks and pricing issues. If prices are just displayed on a website but do not reflect sufficient volume, then those prices can be de-emphasized for valuation purposes. Forks that do not trade with sufficient volume or have adequate infrastructure (wallet or exchange support) can be excluded from indices that are meant to be investable.

II. Liquidity

For the reasons described below, we believe there is sufficient liquidity in the bitcoin futures market to support a futures-based bitcoin ETF.

But it is also important to analyze the liquidity of the futures market in conjunction with the underlying physical market. We believe this analysis supports the case for the market having sufficient liquidity for a futures-based bitcoin ETF. The physical bitcoin market is highly liquid, trading on average with less than a five basis point spread.⁷ To date, the bitcoin futures market has been efficient against the underlying bitcoin market.⁸ Currently, the total combined daily bitcoin futures volume on CBOE and CME is in the \$150 million to \$200 million range. The two existing futures contracts have traded in a fair and orderly fashion since their inception.⁹

On average, approximately 150,000 bitcoins trade in a day across various digital asset spot trading

⁴ See Appendix A.

⁵ However, for the reasons set forth below, VanEck does not currently intend for the proposed ETF to invest in physically-settled bitcoin futures contracts even if they become available.

⁶ Currently, MVIS’ indices treat forks in the following way: A forked digital asset of an index constituent is added to the index as soon as the fork becomes effective. If the underlying blockchain for the fork is available and the forked coin trades on at least one trading platform, the (composite) price is used; otherwise the price is zero. As soon as a price is available, the first available closing price (5:00 GMT) is used. In multi-component indices, the smallest coin by market capitalization will be deleted. In single component indices, the forked coin will be deleted. Only in exceptional cases (e.g., no acceptance for the old chain), MVIS may decide to keep the new chain and delete the old. In all instances, the market value of the deleted coin is reinvested in the index. The new index composition is implemented after the second close after the first price is available.

⁷ See Appendix B.

⁸ See Appendix C.

⁹ See Appendix D.

platforms and these platforms have averaged roughly 500 trades per minute over the past six months. In addition to the spot exchange market, there exists a well-established over-the-counter (“OTC”) bitcoin market. Based on discussions with OTC bitcoin market participants, the OTC bitcoin market has more than 1,000 participants with 50 or more active participants daily. There are at least three active market makers in the U.S. and seven active globally.

The OTC market handles approximately 250 to 350 trades per day with an average OTC bitcoin market trade size of \$250,000 (\$500,000 at the largest desk) and a minimum OTC bitcoin market trade size of \$75,000. The largest daily OTC bitcoin market trades are in the \$5 million to \$30 million range with spreads on a \$10 million trade somewhere between 50 basis points to 100 basis points, depending on market conditions.

Additionally, it is important to note that, despite the fall in the price of bitcoin in 2018, bitcoin futures trading volumes have not decreased¹⁰ and physical trading volume has fallen but is still significant.¹¹

We have analyzed various redemption scenarios for our proposed ETF taking into account trading patterns on the bitcoin blockchain as well as the redemption history of various commodity-related ETFs that we believe are appropriate comparisons for the proposed ETF and we reasonably expect that the proposed ETF will have sufficient liquidity to meet redemptions.

Furthermore, we, as well as the futures exchanges, have had conversations with market makers and authorized participants. They have represented to us that they are ready to provide additional liquidity for the underlying futures market. We expect that the futures market will grow proportionally to our proposed ETF and that such growth will fuel additional interest by other investors, thereby adding additional liquidity. Additionally, since the launch of the U.S. bitcoin futures contracts, unregistered futures contracts have traded on BitMEX, a non-U.S. exchange, with a consistent volume of greater than \$2 billion per day. Moreover, to the extent other futures-based bitcoin ETFs follow our proposed ETF into the market, we anticipate that such other ETFs would have a similar impact on the futures market, thus increasing liquidity in the market and benefiting fellow market participants.

III. Custody

The ETF would maintain its assets (*i.e.*, margin) with futures commission merchants pursuant to Rule 17f-6 under the 1940 Act. We do not currently intend for the proposed ETF to invest in physically-settled bitcoin futures contracts.

We do not here address the concerns raised in the Staff Letter regarding the lack of current arrangements for a fund to hold digital assets directly consistent with the 1940 Act requirements regarding custody. We are working with market participants regarding arrangements to satisfy the requirements applicable to holding bitcoin directly, but do not intend for the proposed ETF to do so (including as a result of settling physically-settled futures contracts) until such arrangements are viable.

IV. Arbitrage

Currently, bitcoin futures contracts are cash-settled, and they are not available for physical delivery. Nevertheless, market makers trade both bitcoin futures and physical bitcoin, thereby creating a natural arbitrage mechanism that enhances liquidity and capacity. Several market makers report that they trade

¹⁰ See Appendix D.

¹¹ See Appendix E.

hundreds of millions of dollars' worth of bitcoin daily. In addition to a robust OTC bitcoin market, the diversified structure of bitcoin exchanges allows market participants to arbitrage price differences across exchanges.¹²

Physically-delivered futures are expected to be available in the future, which should further increase the liquidity of bitcoin futures markets (even if the proposed ETF does not currently intend to hold such contracts). We also note that an established bitcoin swaps and options market exists on LedgerX, a registered derivatives clearing organization and swap execution facility, which provides another means for market participants to manage their bitcoin exposures and provide liquidity to the market. Based on our examination of the trading of futures contracts and their respective underlying spot markets, as well as other asset classes, exchange-traded products and commodities, we do not believe the volatility of the bitcoin futures market is significantly greater than assets such as gold miner stocks or certain other equities. We believe that neither the volatility nor the current volume in the bitcoin futures market will inhibit the creation and redemption process by authorized participants and that these creations and redemptions will keep the proposed ETF's market price in line with its NAV.

Furthermore, we do not believe that volatility-based trading halts will affect the arbitrage process. To date, there have been 7% and 13% halts for the CME contracts and 10% halts for the CBOE contracts. Each halt lasted for 2 minutes; markets then re-opened trading in an orderly fashion. During a halt, ETF market makers will continue to have access to underlying real-time futures reference prices as well as prices in the underlying physical markets. These prices are publicly available. Furthermore, because bitcoin trades globally, the closure of a single bitcoin exchange should not affect the arbitrage process, although the market price may be affected for a number of reasons based on the nature of the closure.

V. Potential Manipulation and Other Risks

We have considered the concerns expressed by Chairman Jay Clayton as well as those expressed by the Commission in the disapproval orders from March 2017 with respect to the listing of two bitcoin ETFs (which would not have been registered investment companies under the 1940 Act). Furthermore, we acknowledge the cited concerns raised by the media and academia with respect to manipulation in the underlying digital asset markets. However, we believe that all of these concerns are reduced with the introduction of a regulated, U.S. exchange-traded product such as our proposed ETF. While one cannot rule out manipulation in the underlying spot market, we believe that, due to the diversified ownership and volume of trading, the market does not have major, structural vulnerabilities. Therefore, the Commission's increased enforcement and regulatory actions can reduce the number of bad actors in a basically sound market. A regulated fund is a natural extension of this.

Concerning manipulation in the bitcoin futures market, bitcoin futures are regulated and fall under the well-established Commodity Futures Trading Commission ("CFTC") supervision framework. Consequently, a futures-based bitcoin ETF would trade subject to established regulatory guidelines. As noted by Cboe Global Markets, Inc. in its letter to you dated March 23, 2018, "[a]lthough the CFTC only regulates the bitcoin spot market with respect to fraud and manipulation – in the same way that it regulates the spot market for gold, silver or other exempt commodities – it has full authority to oversee and enforce the Commodity Exchange Act as it applies to trading in bitcoin derivatives."¹³ Similarly, the Commission would maintain jurisdiction for enforcement with respect to the listing, trading, and ongoing operations of the proposed ETF, including with respect to any instance of fraud or manipulation. We note that the CFTC has taken actions to encourage the underlying bitcoin spot markets to enter into surveillance sharing

¹² See Appendices E and F.

¹³ Cboe Global Markets, Inc. letter to Dalia Blass (Mar. 23, 2018), available at: <http://www.cboe.com/publish/ComLet/20180323.pdf>.

agreements and police the spot market to reduce the potentially manipulative effect of “spoofing” and that their actions are ongoing at this time. We note that bitcoin is already available widely to investors through (i) an unregistered fund that trades on the OTC markets (often at a significant premium to NAV) called the Bitcoin Investment Trust (“GBTC”)¹⁴ and (ii) trading platforms with no or only money transmitter licenses or, in some instances, a license for virtual currency business activity. By offering investors a regulated product that invests in futures contracts on regulated exchanges, the proposed ETF would provide protections to investors who wish to gain exposure to bitcoin that are otherwise not currently available to them. We believe that investors should have the ability to invest in bitcoin and other digital assets under the supervision of existing, well-established and well-regulated investment and investor protection frameworks. Accordingly, we believe that a futures-based bitcoin ETF facilitates the transition from the current “gray area” towards existing investment and investor protection frameworks.

Given the proposed ETF’s regulation under the Securities Act of 1933 and 1940 Act and the fact that it offers exposure via regulated and surveilled bitcoin futures, we reasonably expect the proposed ETF to reduce potential manipulation and operational risk associated with a bitcoin investment product.

The portfolio investment case for bitcoin is similar to that of gold. That is, a diversification investment that acts as a hedge against systematic risk. Bitcoin, like gold, is not someone else’s liability. It is independent of the high debt levels widely found around the world. Some investors do not like bitcoin because, like gold, it does not generate an income stream that bonds and stocks do. They misunderstand that some investors want a true diversifier in their portfolios. While bitcoin has aspects that currently cause it to trade like a technology play on the blockchain, we believe that over time it might serve as a store of value for some investors.

We are having active discussions with a wide range of financial advisers and investors to evaluate the appropriateness of the proposed ETF in portfolios. As to investor interest, millions of U.S. citizens have invested in bitcoin directly. One digital asset exchange alone has 15 million clients—more than Charles Schwab Corporation. Based on our discussions with financial advisers and investors, there is demand to integrate bitcoin under well-established regulatory frameworks that provide a wide range of investor protections that do not currently exist on digital asset exchanges. We believe that the key to addressing risk with respect to retail investors is to offer the ETF through brokerage firms that already have well-developed methods for assessing client risk tolerance and offering different access based on client risk appetite. FINRA Rule 2111, commonly known as the suitability rule, requires that a brokerage firm or associated person have a reasonable basis to believe a recommended transaction or investment strategy involving a security or securities is suitable for the customer. We believe that this rule, along with the comprehensive disclosure included in our proposed ETF’s offering documents, is appropriate for providing investor protection and suitable access to digital assets. We have endeavored to draft clear and comprehensive disclosure regarding risks applicable to an investment in the proposed ETF and it is our belief that such disclosure will be sufficient for an investor to consider such an investment and understand the associated risks, including investment advisers considering whether such an investment is consistent with their fiduciary duties to their clients.

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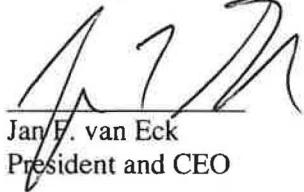
¹⁴ GBTC is available on traditional brokerage platforms including Fidelity, E-trade, TD Ameritrade, RBC and Tradestation.

Conclusion

For the reasons stated above, we believe that our proposed ETF will operate consistent with the rules and requirements of the 1940 Act. Further, by offering investors exposure to bitcoin through a regulated investment product, we believe the proposed ETF will be consistent with the Commission's mission to protect investors, maintain fair, orderly, and efficient markets, and facilitate capital formation.

We appreciate the opportunity to respond to the Staff Letter and welcome the opportunity to provide any further information to the Commission that it might find useful.

Sincerely,



Jan P. van Eck
President and CEO



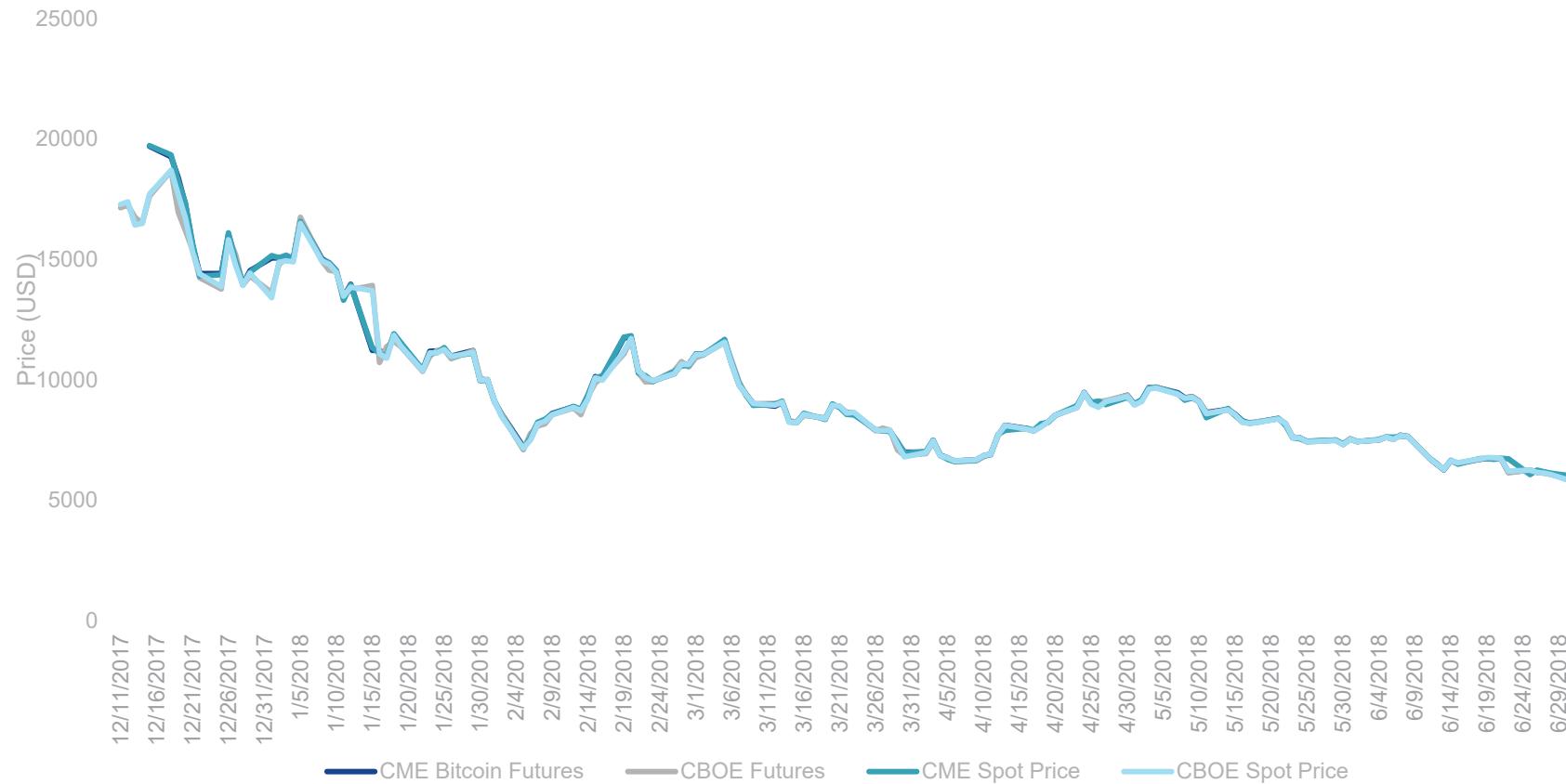
Gabor Gurbacs
Director, Digital Asset Strategy

Appendices



Appendix A: Bitcoin Futures Trade Close to the Underlying

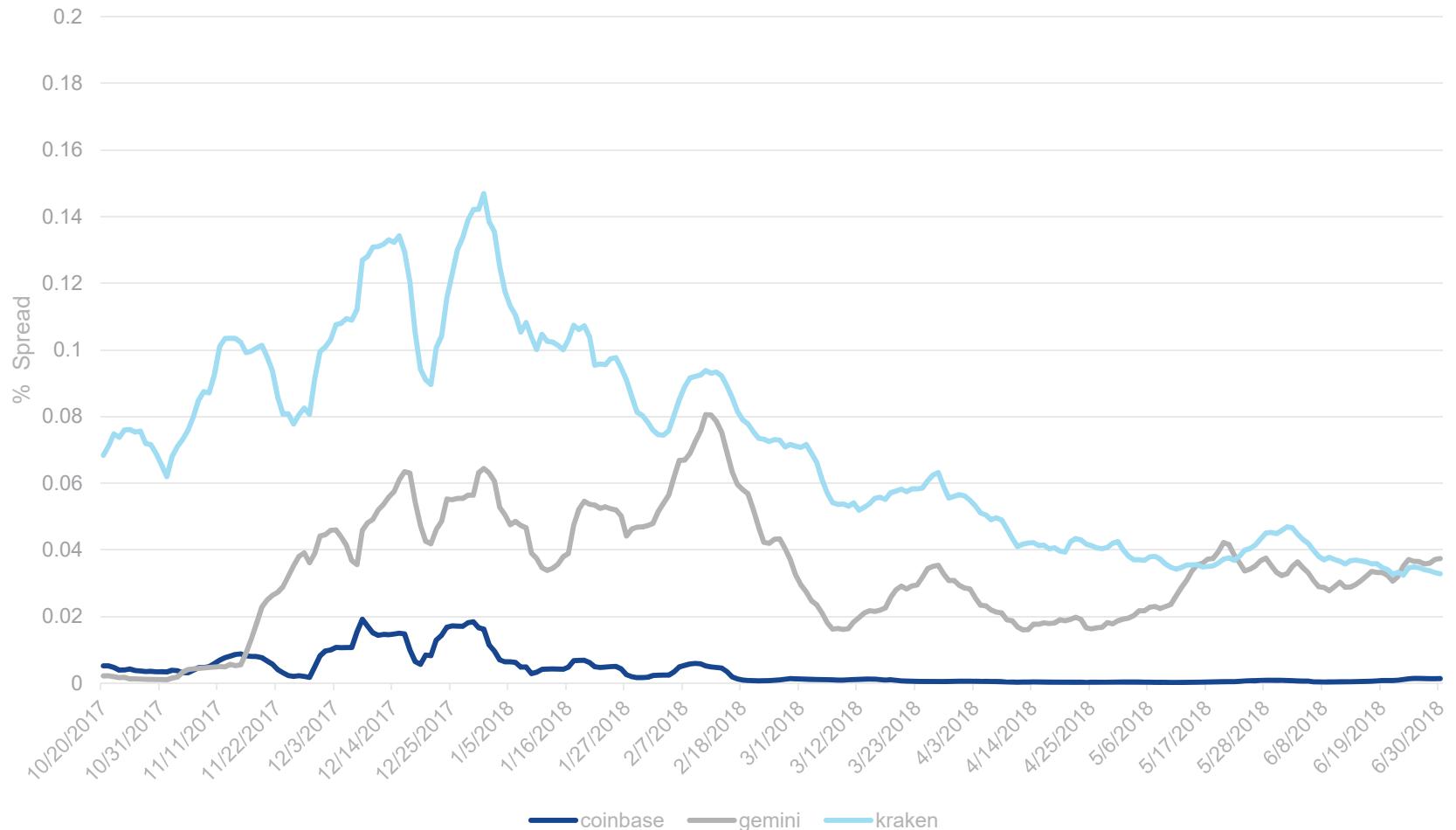
- CBOE and CME bitcoin futures launched in December, 2017
- Premiums/discounts narrowed so the future price is close to spot price



Source: Bloomberg, CME, CBOE, As of June 30, 2018.

Appendix B: Bitcoin spreads

- Top 3 U.S. bitcoin spot market exchange spreads have compressed to under 10bps since the launch of the U.S. bitcoin futures contracts.
- Digital asset trading and adoption continues to institutionalize and resemble traditional markets



Appendix C: Bitcoin Futures Premium/Discount to Spot

- The below table shows average, max, min and median spreads for open, high, low and closing prices for 10 minute periods for the CME and CBOE bitcoin futures contracts for the last 2 weeks of March 2018. This period is selected as it contains futures contract expirations in the H1 2018 bear market.

CME Bitcoin Futures

	Open	Close	High	Low
Average	0.06%	0.06%	0.08%	0.06%
Max	0.36%	0.37%	2.76%	0.35%
Min	-0.45%	-0.32%	-0.30%	-0.53%
Median	0.05%	0.05%	0.06%	0.06%

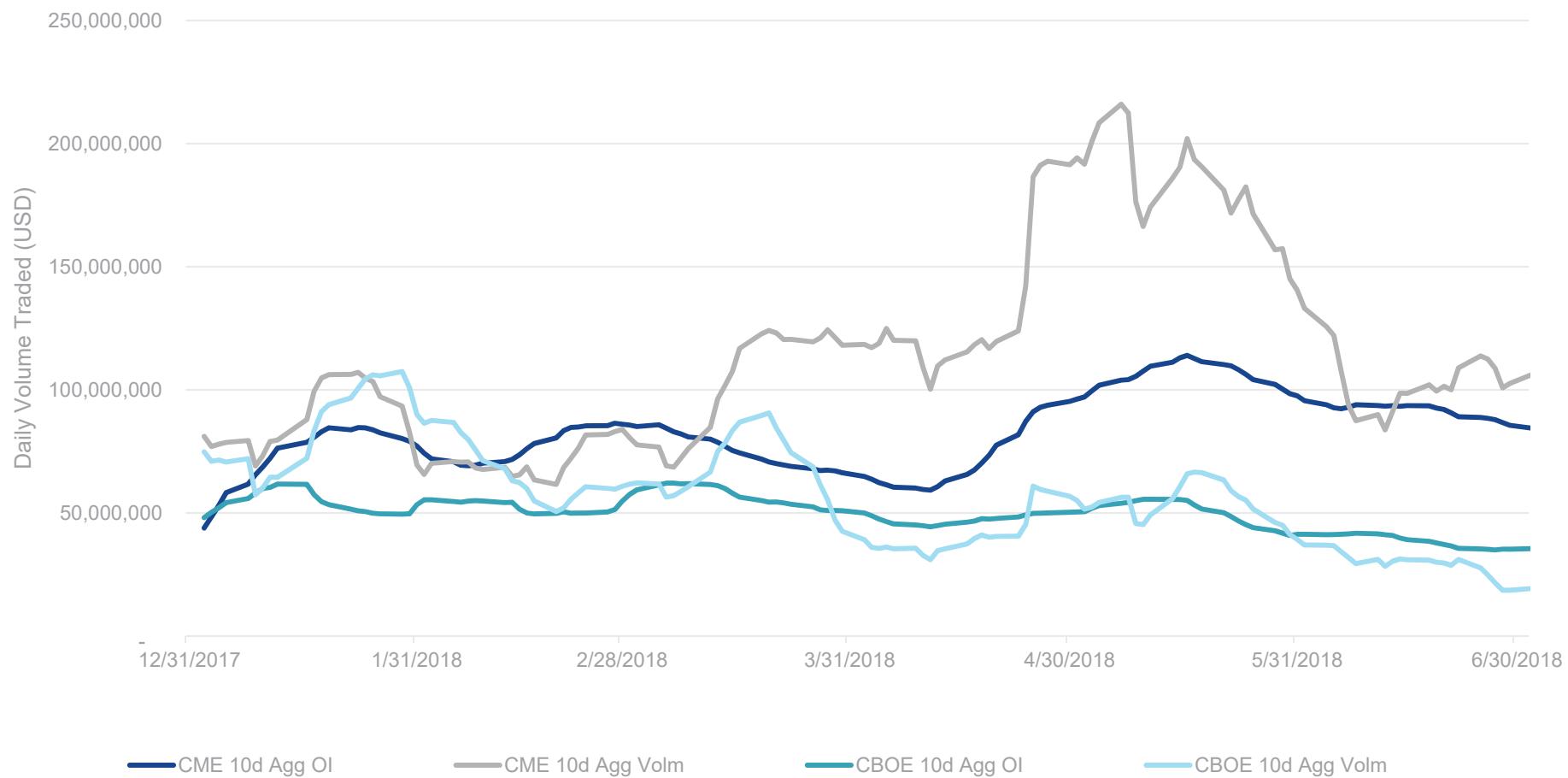
CBOE Bitcoin Futures

	Open	Close	High	Low
Average	0.21%	0.21%	0.24%	0.19%
Max	0.74%	0.53%	0.69%	0.52%
Min	-0.34%	-0.35%	-0.19%	-0.32%
Median	0.22%	0.21%	0.24%	0.20%

Source: Bloomberg, CBOE, CME as of March 30, 2018.

Appendix D: Bitcoin Futures: CME and CBOE Comparison

- CME bitcoin futures see increase in volume and open interest market share in Q1 2018.



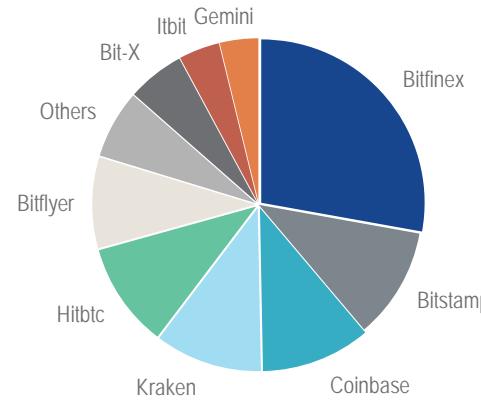
Source: Bloomberg, CME, CBOE, As of June 30, 2018

Appendix E: Bitcoin trading is diversified

1 Month

Exchange	Volume (BTC)	Market Share
Bitfinex	683k	27.83%
Bitstamp	270k	11.01%
Coinbase	266k	10.86%
Kraken	261k	10.62%
Hitbtc	254k	10.37%
Bitflyer	221k	9.02%
Others	166k	6.76%
Bit-X	139k	5.66%
Itbit	99.5k	4.05%
Gemini	93.7k	3.82%

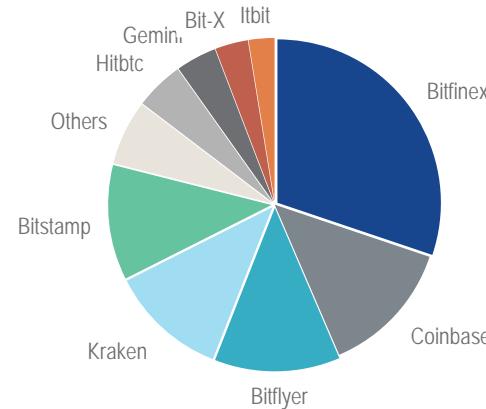
■ Bitfinex ■ Bitstamp ■ Coinbase ■ Kraken ■ Hitbtc
■ Bitflyer ■ Others ■ Bit-X ■ Itbit ■ Gemini



6 Months

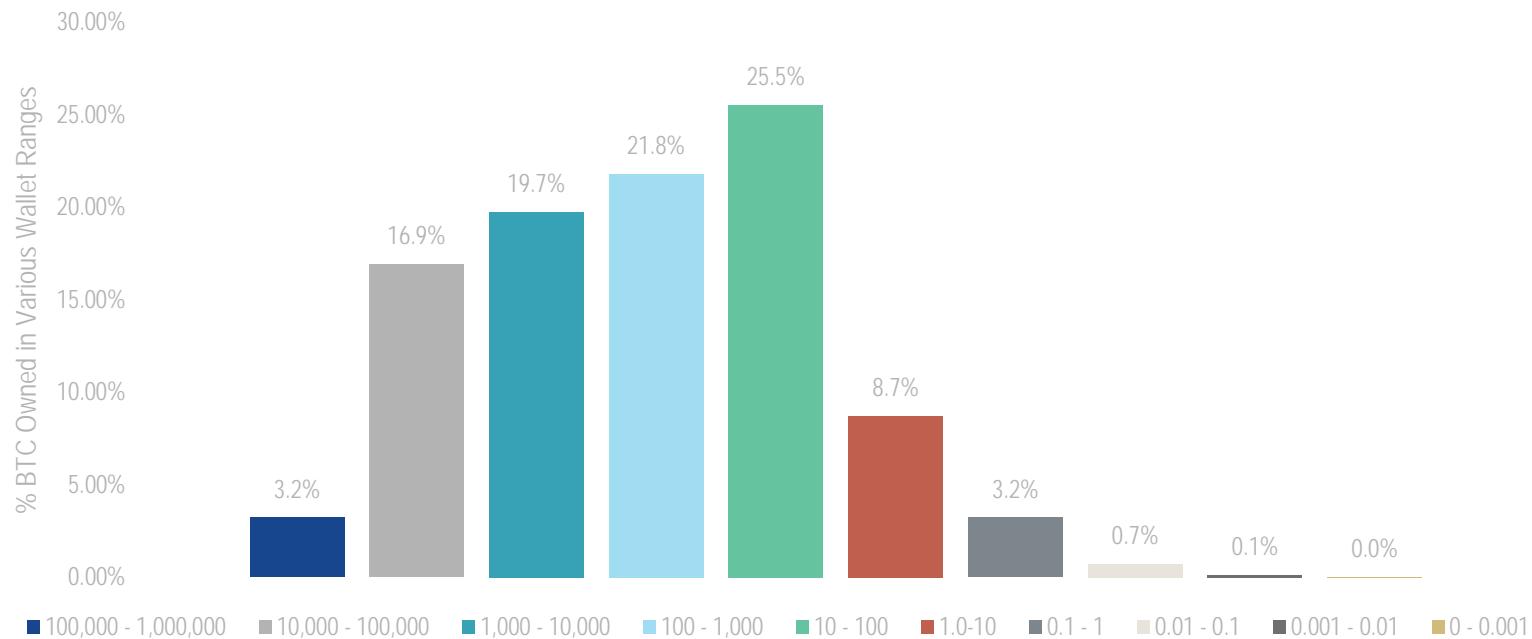
Exchange	Volume (BTC)	Market Share
Bitfinex	7.81m	30.17%
Coinbase	3.47m	13.38%
Bitflyer	3.22m	12.42%
Kraken	3.00m	11.60%
Bitstamp	2.95m	11.37%
Others	1.66m	6.41%
Hitbtc	1.25m	4.82%
Gemini	1.04m	4.02%
Bit-X	848k	3.27%
Itbit	661k	2.55%

■ Bitfinex ■ Coinbase ■ Bitflyer ■ Kraken ■ Bitstamp
■ Others ■ Hitbtc ■ Gemini ■ Bit-X ■ Itbit



Source: CryptoCompare; as of June 30, 2018

Appendix F: Bitcoin ownership seems well distributed



Amount BTC Owned	Number of Wallets	Amount USD Owned	Total % Owned	Cumulative % Owned
100,000 - 1,000,000	4	3,443,523,567	3.2%	3.2%
10,000 - 100,000	112	18,072,856,768	16.9%	20.1%
1,000 - 10,000	1527	21,087,148,479	19.7%	39.9%
100 - 1,000	15756	23,292,587,128	21.8%	61.7%
10 - 100	131110	27,289,504,619	25.5%	87.2%
1.0-10	563427	9,319,917,635	8.7%	95.9%
0.1 - 1	1697016	3,446,399,354	3.2%	99.1%
0.01 - 0.1	3874085	780,336,127	0.7%	99.9%
0.001 - 0.01	4973098	128,765,683	0.1%	100.0%
0 - 0.001	10706636	13,649,115	0.0%	100.0%

Source: Bitcoin Blockchain; as of June 30, 2018

- Note:
 - One person may hold multiple wallets.
 - Digital asset exchange wallets may represent bitcoin holdings of multiple persons.