

# Coinspeaker

## SEC Wants More Public Input on the CBOE Bitcoin ETF Proposal

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The SEC has sought for comments to “address the sufficiency of the Exchange’s statements in support of the proposal, which are set forth in the Notice.”

On Thursday, September 20, the U.S. Securities and Exchange Commission (SEC) released an “order instituting proceedings to determine whether to approve or disapprove a proposed rule change” for the CBOE Bitcoin ETF. In the official order, the regulatory agency has sought further comments on the Bitcoin ETF filed by Cboe BZX Exchange.

In July 2018, CBOE filed for Bitcoin ETF proposal pitched by the Vanek Solidx Bitcoin Trust (“the Trust”). The CBOE Bitcoin ETF is physically-backed by Bitcoins which will be held by the Trust. The latest order from the SEC comes just ten days ahead of its scheduled ruling on September 30.

So far, the SEC has received more than 1400 comments on the CBOE Bitcoin ETF. The SEC seeks for further public comments to decide whether it shall approve the ETF proposal. Pursuant to federal securities guidelines, the SEC can also extend the period of consideration.

In the latest order, the SEC notes that it has not reached any conclusion on the outcome of CBOE Bitcoin ETF:

*“Institution of such proceedings is appropriate at this time in view of the legal and policy issues raised by the proposed rule change. Institution of proceedings does not indicate that the Commission has reached any conclusions with respect to any of the issues involved. Rather, as described below, the Commission seeks and encourages interested persons to provide comments on the proposed rule change.”*

### SEC Shares Public Opinion

The SEC has highlighted 18 key issues in the order and asked for comments to “address the sufficiency of the Exchange’s statements in support of the proposal, which are set forth in the Notice.”

The SEC also shared some of the previous comments it has received. The public opinion, so far, asserts that “Bitcoin is arguably less susceptible to manipulation than other commodities that underlie ETPs.” The SEC order further notes:

*“The Commission is instituting proceedings to allow for additional analysis of the proposed rule change’s consistency with Section 6(b)(5) of the Act, which requires, among other things, that the rules of a national securities exchange be ‘designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade,’ and ‘to protect investors and the public interest’.”*

### **SEC’s Cautious Approach to the CBOE Bitcoin ETF**

Recently, the SEC has been facing sharp criticism from its own Commissioner Hester M. Peirce. After the rejection of Winklevoss Bitcoin ETF in July, commissioner Peirce issued an official dissent. The commissioner said that the agency should not focus much on issues of innovation about the Bitcoin technology, but instead should evaluate it just like an asset class:

*“The Commission’s order included an assurance that the ‘disapproval does not rest on an evaluation of whether bitcoin, or blockchain technology more generally, has utility or value as an innovation or an investment.’ The order, however, seemed to do almost that. It focused on the alleged flaws with bitcoin markets, rather than on whether the exchange proposing to trade shares of the trust had taken steps to ensure the orderly trading of those shares.”*

While recently speaking at the Cato Institute’s FinTech Unbound Conference, the commissioner reiterated her stand saying that the agency should not hold back on approving crypto products. Peirce also said that SEC should also not push the crypto market to be subjected to comprehensive government regulations.

*“The Commission should not default to a demand that the crypto markets be subject to comprehensive government regulation as a precondition to allowing products linked to those markets to be traded in markets that we regulate.”*

Commissioner Peirce also said that the cryptocurrency market is still not accessible to many investors. This is because of the lack of understanding and knowledge regarding how-to invest in the cryptocurrency market. She added:

*“This complexity means that only a very particular type of investor can pursue the diversification opportunities such assets can provide. Entrepreneurs are developing new products through which people can access cryptocurrencies indirectly or hedge their cryptocurrency holdings. Bitcoin futures, for example, began to trade recently.”*

In the latest order, it looks like the SEC has certainly weighed-in the opinions put forward by its Commissioner. Hence it’s likely that it is going for a further public opinion before proceeding to take any decision.