

SECURITIES AND EXCHANGE COMMISSION

FORM 10-12G

Initial general form for registration of a class of securities pursuant to Section 12(g)

Filing Date: **2021-07-08**  
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FILER

**Osprey Bitcoin Trust**

CIK: [1767057](#) | IRS No.: [832424407](#) | State of Incorporation: **DE** | Fiscal Year End: **1231**  
Type: **10-12G** | Act: **34** | File No.: [000-56307](#) | Film No.: [211080249](#)

Mailing Address	Business Address
520 WHITE PLAINS AVENUE SUITE 500 TARRYTOWN NY 10591	520 WHITE PLAINS AVENUE SUITE 500 TARRYTOWN NY 10591 914-214-4174

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**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION**  
Washington, D.C. 20549

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**FORM 10**

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**GENERAL FORM FOR REGISTRATION OF SECURITIES  
PURSUANT TO SECTION 12(b) OR 12(g) OF  
THE SECURITIES EXCHANGE ACT OF 1934**

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**Osprey Bitcoin Trust**

(Exact Name of Registrant as Specified in Its Charter)

**Delaware**  
(State or Other Jurisdiction of  
Incorporation or Organization)

**83-2424407**  
(I.R.S. Employer  
Identification No.)

**520 White Plains Road, Suite 500**  
**Tarrytown, New York**  
(Address of Principal Executive Offices)

**10591**  
(Zip Code)

**(914) 214-4174**  
(Registrant's telephone number, including area code)

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*Copies to:*  
**David A. Sirignano**  
**Emily Drazan Chapman**  
**Morgan, Lewis & Bockius LLP**  
**1111 Pennsylvania Avenue NW**  
**Washington, DC 20004**

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**Securities to be registered pursuant to Section 12(b) of the Act: None**

**Securities to be registered pursuant to Section 12(g) of the Act: Osprey Bitcoin Trust Units**

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, a smaller reporting company or an emerging growth company. See the definitions of "large accelerated filer," "accelerated filer," "smaller reporting company" and "emerging growth company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer	<input type="checkbox"/>	Accelerated filer	<input type="checkbox"/>
Non-accelerated filer	<input type="checkbox"/>	Smaller reporting company	<input type="checkbox"/>
		Emerging growth company	<input checked="" type="checkbox"/>

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 7(a)(2)(B) of the Securities Act.



## EXPLANATORY NOTE

Osprey Bitcoin Trust (the “Trust”) is voluntarily filing this Registration Statement on Form 10 to register its common units of fractional undivided beneficial interest (“Units”) pursuant to Section 12(g) of the Securities Exchange Act of 1934, as amended (the “Exchange Act”).

Once this Registration Statement is deemed effective, the Trust will be subject to the requirements of Regulation 13A under the Exchange Act, which will require it to file annual reports on Form 10-K, quarterly reports on Form 10-Q, and current reports on Form 8-K, and to comply with all other obligations of the Exchange Act applicable to issuers filing Registration Statements pursuant to Section 12(g) of the Exchange Act.

### INFORMATION REQUIRED IN REGISTRATION STATEMENT CROSS REFERENCE SHEET BETWEEN INFORMATION STATEMENT AND ITEMS OF FORM 10

We have filed our Information Statement as Exhibit 99.1 to this Form 10. For your convenience, we have provided below a cross-reference sheet identifying where the items required by Form 10 can be found in our Information Statement. None of the information contained in the Information Statement shall be incorporated by reference herein or deemed to be a part hereof unless such information is specifically incorporated by reference.

Item No.	Item Caption	Location in Information Statement
1.	Business.	The following sections of our Information Statement are hereby incorporated by reference: “Statement Regarding Forward-Looking Statements,” “Key Operating Metrics,” “Summary,” “Risk Factors,” “Overview of the Bitcoin Industry and Market,” “Activities of the Trust,” “Description of the Trust,” “The Sponsor,” “The Trustee,” “The Transfer Agent,” “The Custodian,” “Custody of the Trust’s Bitcoins,” “Description of Issuance of Units,” “Valuation of Bitcoin and Determination of Bitcoin Holdings,” “Expenses; Sales of Bitcoins,” “Statements, Filings and Reports,” and “Description of the Trust Documents.”
1A.	Risk Factors.	The following sections of our Information Statement are hereby incorporated by reference: “Statement Regarding Forward-Looking Statements” and “Risk Factors.”
2.	Financial Information.	The following sections of our Information Statement are hereby incorporated by reference: “Key Operating Metrics,” “Summary,” “Risk Factors,” “Management’s Discussion and Analysis of Financial Condition and Results of Operations,” “Valuation of Bitcoin and Determination of Bitcoin Holdings,” and “Index to Financial Statements” and the statements referenced therein.
3.	Properties.	None.
4.	Security Ownership of Certain Beneficial Owners and Management.	The following section of our Information Statement is hereby incorporated by reference: “Conflicts of Interest.”
5.	Directors and Executive Officers.	The following sections of our Information Statement are hereby incorporated by reference; “The Sponsor.”
6.	Executive Compensation.	The following sections of our Information Statement are hereby incorporated by reference: “Expenses; Sales of Bitcoins.”
7.	Certain Relationships and Related Transactions, and Director Independence.	The following sections of our Information Statement are hereby incorporated by reference: “The Sponsor” and “Conflicts of Interest.”
8.	Legal Proceedings.	None.
9.	Market Price of and Dividends on the Registrant’s Common Equity and Related Stockholder Matters.	The following sections of our Information Statement are hereby incorporated by reference: “Management’s Discussion and Analysis of Financial Condition and Results of Operations.”
10.	Recent Sales of Unregistered Securities.	The following sections of our Information Statement are hereby incorporated by reference: “Description of the Units.”

11. Description of Registrant's Securities to be Registered. The following sections of our Information Statement are hereby incorporated by reference: "Description of the Units," "Description of Issuance of Units" and "Description of the Trust Documents."

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|-----|---|--|
| 12. | Indemnification of Directors and Officers.  | The following section of our Information Statement is hereby incorporated by reference: "Description of the Trust Documents."                                    |
| 13. | Financial Statements and Supplementary Data.  | The following section of our Information Statement is hereby incorporated by reference: "Index to Financial Statements" and the statements referenced therein.   |
| 14. | Changes in and Disagreements with Accountants on Accounting and Financial Disclosure. | Not Applicable.  |
| 15. | Financial Statements and Exhibits.  | The following sections of our Information Statement are hereby incorporated by reference: "Index to Financial Statements" and the statements referenced therein. |

(a) List of Financial Statements and Schedules. The following Financial statements are included on the information Statement and filed as part of this Registration Statement on Form 10:

**Osprey Bitcoin Trust Unaudited Interim Financial Statements**

Statements of Assets and Liabilities at March 31, 2021 and December 31, 2020

Schedules of Investment at March 31, 2021 and December 31, 2020

Statements of Operations for the three months ended March 31, 2021 and 2020

Statements of Changes in Net Assets for the three months ended March 31, 2021 and 2020

Notes to Unaudited Financial Statements

**Osprey Bitcoin Trust Annual Financial Statements**

Report of Independent Registered Public Accounting Firm

Statements of Assets and Liabilities at December 31, 2020 and 2019

Schedules of Investment at December 31, 2020 and 2019

Statements of Operations for the period from January 22, 2019 (commencement of operations) to December 31, 2019 and for the year ended December 31, 2020

Statements of changes in Net Assets for the period from January 22, 2019 (commencement of operations) to December 31, 2019 and for the year ended December 31, 2020

Notes to Financial Statements

(b) Exhibits. The following documents are filed as exhibits hereto:

Number Exhibit	Exhibit Description
4.1	<a href="#">Second Amended and Restated Declaration of Trust and Trust Agreement</a>
10.1†	<a href="#">Custodian Agreement</a>
99.1	<a href="#">Information Statement</a>

† Certain schedules or similar attachments have been omitted pursuant to Item 601(b)(2) of Regulation S-K. The Trust agrees to furnish supplemental copies of any of the omitted schedules or attachments upon request by the Securities and Exchange Commission.

**SIGNATURE**

Pursuant to the requirements of Section 12 of the Securities Exchange Act of 1934, the registrant has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized.

**Osprey Fund, LLC**  
**as Sponsor of Osprey Bitcoin Trust**

By: /s/ Gregory D. King

Name: Gregory D. King

Title: Chief Executive Officer

Date: July 8, 2021



**SECOND AMENDED AND RESTATED DECLARATION OF TRUST  
AND TRUST AGREEMENT OF OSPREY BITCOIN TRUST**

**Dated as of November 1, 2020**

**By and Among**

**OSPREY FUNDS, LLC,**

**DELAWARE TRUST COMPANY**

**and**

**THE UNITHOLDERS**

**from time to time hereunder**

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## OSPREY BITCOIN TRUST DECLARATION OF TRUST AND TRUST AGREEMENT

This SECOND AMENDED AND RESTATED **DECLARATION OF TRUST AND TRUST AGREEMENT** (“**Trust Agreement**”) of **OSPREY BITCOIN TRUST** is made and entered into as of the 1st day of November, 2020, by and among, **OSPREY FUNDS, LLC**, a Delaware limited liability company, **DELAWARE TRUST COMPANY**, a Delaware corporation, as trustee, and the **UNITHOLDERS** from time to time hereunder.

\* \* \*

### RECITALS

**WHEREAS**, the Sponsor created the Trust for the purpose of creating and issuing Units (as defined below) representing an in interest in Bitcoin;

**WHEREAS**; the Sponsor, the Trustee and the Unitholders, from time to time, intend to enter into this Trust Agreement to set forth the respective rights and responsibilities of the parties hereunder;

**NOW, THEREFORE**, in exchange for fair and reasonable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby enter in this Trust Agreement as set forth below.

### ARTICLE I

#### DEFINITIONS; THE TRUST

SECTION 1.1 *Definitions*. As used in this Trust Agreement, the following terms shall have the following meanings unless the context otherwise requires:

“**Actual Exchange Rate**” means the highest exchange rate and lowest fees the Sponsor can find within a reasonable time frame in order to pay the Management Fee in USD.

“**Affiliate**” — An “Affiliate” of a Person means (i) any Person directly or indirectly owning, controlling or holding with power to vote 10% or more of the outstanding voting securities of such Person, (ii) any Person 10% or more of whose outstanding voting securities are directly or indirectly owned, controlled or held with power to vote by such Person, (iii) any Person, directly or indirectly, controlling, controlled by or under common control of such Person, (iv) any employee, officer, director, member, manager or partner of such Person, or (v) if such Person is an employee, officer, director, member, manager or partner, any Person for which such Person acts in any such capacity.

“**Annual Update**” means the annual report that is prepared pursuant to the Alternative Reporting Standard of the OTCQX U.S. Disclosure Guidelines.

“**Assumed Expenses**” shall have the meaning set forth in Section 4.8(a).

**“Bitcoin”** means a type of a virtual currency based on an open source cryptographic protocol existing on the Bitcoin Network, and the assets underlying the Trust’s Units and may include “forked” versions of such virtual currency as described in the Memorandum.

**“Bitcoin Account”** means a hot wallet which is online and connected to the internet. The Bitcoin Account is used along with the Trust Storage Account and the Trust Safekeeping Account, as applicable, to receive Unit deposits from Purchasers. Shortly after receipt of the appropriate number of Bitcoins, the Bitcoins are then transferred to the Trust Storage Account and/or the Trust Safekeeping Account, as applicable.

**“Bitcoin Market Price”** has the meaning assigned to such term as provided in the currently effective Memorandum.

**“Bitcoin Network”** means the open source protocol of the peer-to-peer bitcoin computer network upon which Bitcoin is based.

**“Bitcoin Purchase Amount”** means the amount of Bitcoin or cash submitted by a Purchaser to purchase Units.

**“Business Day”** means each weekday on which banks are open in New York, New York.

**“Certificate of Trust”** means the Certificate of Trust of the Trust, including all amendments thereto, in the form attached hereto as Exhibit A, filed with the Secretary of State of the State of the state of Delaware.

**“Code”** means the Internal Revenue Code of 1986, as amended.

**“Corporate Trust Office”** means the principal office at which at any particular time the corporate trust business of the Trustee is administered, which office at the date hereof is located at 251 Little Falls Drive, Wilmington, DE 19808.

**“Covered Person”** means the Sponsor and its Affiliates and their respective members, managers, directors, officers employees, agents and controlling persons.

**“Custodian”** Fidelity Digital Asset Services, LLC or any other Person from time to time engaged to provide custodian services or related services to the Trust pursuant to authority delegated by the Sponsor.

**“Delaware Trust Statute”** means the Delaware Statutory Trust Act, Chapter 38 of Title 12 of the Delaware Code, 12 Del. C. § 3801 et seq., as the same may be amended from time-to-time.

**“Event of Withdrawal”** has the meaning set forth in Section 12.1(a) hereof.

**“Excluded Expenses”** has the meaning set forth in Section 4.8(a).

**“Extraordinary Expenses”** has the meaning set forth in Section 4.8(b).

**“Fiscal Year”** has the meaning set forth in Article IX hereof.

“**Indemnified Parties**” has the meaning assigned to such term in Section 2.4.

“**Internal Revenue Service**” or “**IRS**” means the U.S. Internal Revenue Service or any successor thereto.

“**Liquidating Trustee**” has the meaning assigned thereto in Section 12.2.

“**Management Fee**” means a fee that accrues daily at an annual rate of 0.49% of the NAV of the Trust and is payable to the Sponsor by the Trust monthly in arrears.

“**Management Fee Exchange Rate**” means the exchange rate that will be used to convert the Management Fee from USD to the appropriate number of Bitcoins. It is calculated based upon the Bitcoin Market Price at 4:00 p.m., Eastern time in the case of daily accruals and as of the last day of each month for withdrawal and payment in arrears. The Management Fee Exchange Rate does not include fees and expenses for converting USD into Bitcoins.

“**Memorandum**” means the Confidential Private Placement Memorandum, as the same may at any time and from time to time be amended or supplemented.

“**Net Asset Value**” means the aggregate value, expressed in USD, of the Trust’s assets, less its liabilities (which include estimated accrued but unpaid fees and expenses). The Sponsor or its delegate shall calculate and publish the Trust’s NAV each business day as of 4:00 p.m., Eastern time, or as soon thereafter as practicable.

In order to calculate the NAV, the Sponsor shall:

1. Determine the Bitcoin Market Price.
2. Multiply the Bitcoin Market Price by the Trust’s aggregate number of Bitcoins owned as of 4:00 p.m., Eastern time on the immediately preceding day.
3. Add the dollar value of the Bitcoins receivable under pending Purchases.
4. Add the accrued but unpaid interest, if any and the value of other Trust assets, if any.
5. Subtract the accrued but unpaid Management Fee (and Extraordinary Expenses, if any).
6. Subtract other Trust expenses and liabilities, if any.

In the event that the Sponsor determines that the methodology used to determine the Bitcoin Market Price is not an appropriate basis for valuation of the Trust’s Bitcoins, the Sponsor shall determine an alternative methodology.

“**Net Asset Value Per Unit**” means the Net Asset Value divided by the number of Units outstanding on the date of calculation.

“**OTCQX**” means the OTCQX tier of the OTC Markets Group Inc.

“**OTCQX Application**” means the application that is required by the OTCQX which, if approved, will then enable the Units to be traded on the OTCQX.

“**OTCQX Fees**” means the fees outlined by Part 5 of the OTCQX Rules for U.S. Companies, as amended from time to time.

“**Percentage Interest**” shall be a fraction, the numerator of which is the number of any Unitholder’s Units and the denominator of which is the total number of Units of the Trust outstanding as of the date of determination.

“**Permitted Investment**” means short-term obligations of (or guaranteed by) the United States or any agency or instrumentality thereof and in certificates of deposit or interest-bearing bank accounts of any bank or trust companies having a minimum stated capital and surplus of \$50,000,000. All such obligations must mature prior to the next distribution date, and be held to maturity.

“**Person**” means any natural person, partnership, limited liability company, statutory trust, corporation, association, or other legal entity.

“**Purchase Order**” has the meaning assigned thereto in Section 3.2(a)(i).

“**Purchase Order Date**” has the meaning assigned thereto in Section 3.2(a)(i).

“**Purchaser**” means a Person that, (i) has entered into a Subscription Agreement with the Sponsor and the Trust, and (ii) has access to a Purchaser Self-Administered Account.

“**Purchaser Self-Administered Account**” means a Bitcoin wallet address previously known to the Custodian as belonging to the Purchaser.

“**Quarterly Update**” means the quarterly report that is prepared pursuant to the Alternative Reporting Standard of the OTCQX U.S. Disclosure Guidelines.

“**Sponsor**” means Osprey Funds, LLC, or any substitute therefor as provided herein, or any successor thereto by merger or operation of law.

“**Subscription Agreement**” means an agreement among the Trust, the Sponsor and a Purchaser, substantially in the form of Exhibit B hereto, as it may be amended, modified or supplemented from time to time.

“**Transfer Agent**” means the Sponsor or any other Person from time to time engaged to provide such services or related services to the Trust pursuant to authority delegated by the Sponsor.

“**Treasury Regulations**” means regulations, including proposed or temporary regulations, promulgated under the Code. References herein to specific provisions of proposed or temporary regulations shall include analogous provisions of final Treasury Regulations or other successor Treasury Regulations.



“**Trust**” means Osprey Bitcoin Trust, a Delaware statutory trust formed pursuant to the Certificate of Trust, the business and affairs of which are governed by this Trust Agreement.

“**Trust Agreement**” means this Declaration of Trust and Trust Agreement, as it may at any time or from time-to-time be amended.

“**Trust Storage Account**” means a wallet that is not online and not connected to the internet, used for storage of the Trust’s Bitcoins where they are readily accessible and available to pay Redemption Units and Trust expenses.

“**Trust Safekeeping Account**” means a wallet that is not online and not connected to the internet, used for “deep” cold storage of the Trust’s Bitcoins where they are not readily accessible and can only be accessed as provided by the rules of the Custodian.

“**Trustee**” means Delaware Trust Company, its successors and assigns, or any substitute therefor as provided herein, acting not in its individual capacity but solely as trustee of the Trust.

“**Trust Estate**” means the all the Bitcoins on deposit in the Trust’s accounts, and all proceeds from the sale of Bitcoin while such proceeds are held on deposit in the Trust’s accounts, as well as any rights of the Trust pursuant to any other agreements to which the Trust is a party.

“**Unitholder**” means any person or entity who is or becomes an owner of Units of the Trust.

“**Units**” means the common units of fractional undivided beneficial interest in the profits, losses, distributions, capital and assets of, and ownership of, the Trust. Units may be owned by the Sponsor or a Unitholder.

SECTION 1.2 *Name.* The name of the Trust is “Osprey Bitcoin Trust” in which name the Sponsor shall cause the Trust to carry out its purposes as set forth in Section 1.5, make and execute contracts and other instruments in the name and on behalf of the Trust and sue and be sued in the name and on behalf of the Trust.

SECTION 1.3 *Delaware Trustee; Offices.*

(i) The sole Trustee of the Trust is Delaware Trust Company, which is located at the Corporate Trust Office or at such other address in the State of Delaware as the Trustee may designate in writing to the Unitholders. The Trustee shall receive service of process on the Trust in the State of Delaware at the foregoing address. In the event Delaware Trust Company resigns or is removed as the Trustee, the Trustee of the Trust in the State of Delaware shall be the successor Trustee, subject to Section 2.1.

(ii) The principal office of the Trust, and such additional offices as the Sponsor may establish, shall be located at such place or places inside or outside the State of Delaware as the Sponsor may designate from time to time in writing to the Trustee and the Unitholders. Initially, the principal office of the Trust shall be at c/o Osprey Funds, LLC, 44 Post Road West, Westport, Connecticut, 06880.

SECTION 1.4 *Declaration of Trust*. The Trust Estate shall be held in trust for the Unitholders. It is the intention of the parties hereto that the Trust shall be a statutory trust, under the Delaware Trust Statute and that this Trust Agreement shall constitute the governing instrument of the Trust. It is not the intention of the parties hereto to create a general partnership, limited partnership, limited liability company, joint stock association, corporation, bailment or any form of legal relationship other than a Delaware statutory trust that is treated as a grantor trust for U.S. federal income tax purposes and for purposes of applicable state and local tax laws. Nothing in this Trust Agreement shall be construed to make the Unitholders partners or members of a joint stock association. Effective as of the date hereof, the Trustee and the Sponsor shall have all of the rights, powers and duties set forth herein and in the Delaware Trust Statute with respect to accomplishing the purposes of the Trust. The Trustee has filed the certificate of trust required by Section 3810 of the Delaware Trust Statute in connection with the formation of the Trust under the Delaware Trust Statute.

SECTION 1.5 *Purposes and Powers*. The purposes of the Trust shall be to accept subscriptions for Units in Bitcoin in accordance with Article III hereof, to distribute Bitcoin upon redemptions of Units in accordance with Article VI hereof, and to enter into any lawful transaction and engage in any lawful activities in furtherance of or incidental to the foregoing. The Trust shall not engage in any business activity and shall not acquire or own any assets other than Bitcoin, forked or airdropped cryptocurrency coins from the Bitcoin Network or cash from the sale of Bitcoin, as provided in this Trust Agreement, or take any of the actions set forth in Section 4.4. The Trust shall have all of the powers specified in Section 3.1 hereof as powers which may be exercised by a Sponsor on behalf of the Trust under this Trust Agreement. Nothing in this Trust Agreement shall be construed to give the Trustee or the Sponsor the power to vary the investment of the Unitholders within the meaning of Section 301.7704-4(c) or similar provisions of the Treasury Regulations, nor shall the Trustee or the Sponsor take any action that would vary the investment of the Unitholders.

SECTION 1.6 *Tax Treatment*. Each of the parties hereto, by entering into this Trust Agreement, (i) expresses its intention that, unless the IRS determines otherwise, in a ruling issued to the Trust (provided that the Trust, the Trustee and the Sponsor are under no obligation to seek such ruling) or unless required to do so by a “determination” as defined in Section 1313 of the Code, this Trust shall be treated as a grantor trust for U.S. federal income tax purposes; (ii) the Units will qualify under applicable tax law as interests in a grantor trust which holds the Trust Estate, (iii) agrees that it will file its own U.S. federal, state and local income, franchise and other tax returns in a manner that is consistent with clause (i) of this Section 1.6 and with the classification of the Trust as a grantor trust, and (iv) agrees to use reasonable efforts to notify the Sponsor promptly upon a receipt of any notice from any taxing authority having jurisdiction over such holders of Units with respect to the treatment of the Units as anything other than interests in a grantor trust.

SECTION 1.7 *Legal Title*. Legal title to all of the Trust Estate shall be vested in the Trust as a separate legal entity; provided, however, that where applicable law in any jurisdiction requires any part of the Trust Estate to be vested otherwise, the Sponsor may cause legal title to the Trust Estate or any portion thereof to be held by or in the name of the Sponsor or any other Person (other than a Unitholder) as nominee.

## ARTICLE II

### THE TRUSTEE

SECTION 2.1 *Term; Resignation.* Delaware Trust Company has been appointed and hereby agrees to serve as the Trustee of the Trust. The Trust shall have only one Trustee unless otherwise determined by the Sponsor. The Trustee shall serve until such time as the Trust is terminated or if the Sponsor removes the Trustee or the Trustee resigns. The Trustee may have normal banking and trust relationships with the Sponsor and their respective Affiliates; provided that none of (i) the Sponsor, (ii) any Person involved in the organization or operation of the Sponsor or the Trust or (iii) any Affiliate of any of them may be the Trustee hereunder. The Trustee is appointed to serve as the trustee of the Trust in the State of Delaware for the purpose of satisfying the requirement of Section 3807(a) of the Delaware Trust Statute that the Trust have at least one trustee with a principal place of business in Delaware. It is understood and agreed by the parties hereto that the Trustee shall have none of the duties or liabilities of the Sponsor and shall have no obligation to supervise or monitor the Sponsor or otherwise manage the Trust.

The Trustee is permitted to resign upon at least sixty (60) days' notice to the Sponsor upon which date such resignation shall be effective.

SECTION 2.2 *Powers.* Except to the extent expressly set forth in Section 1.3 and this Article, the duty and authority to manage the affairs of the Trust is vested in the Sponsor, which duty and authority the Sponsor may further delegate as provided herein, all pursuant to Section 3806(b)(7) of the Delaware Trust Statute. The duties of the Trustee shall be limited to (i) accepting legal process served on the Trust in the State of Delaware, (ii) the execution of any certificates required to be filed with the Secretary of State of the State of Delaware which the Trustee is required to execute under Section 3811 of the Delaware Trust Statute, and (iii) any other duties specifically allocated to the Trustee in this Trust Agreement. The Trustee shall provide prompt notice to the Sponsor of its performance of any of the foregoing. The Sponsor shall reasonably keep the Trustee informed of any actions taken by the Sponsor with respect to the Trust that would reasonably be expected to affect the rights, obligations or liabilities of the Trustee hereunder or under the Delaware Trust Statute.

SECTION 2.3 *Compensation and Expenses of the Trustee.* The Trustee shall be entitled to receive from the Trust or the Sponsor, as applicable, reasonable compensation for its services hereunder as set forth in a separate fee agreement and shall be entitled to be reimbursed by the Trust or the Sponsor, as applicable, for reasonable out-of-pocket expenses incurred by it in the performance of its duties hereunder, including without limitation, the reasonable compensation, out-of-pocket expenses and disbursements of counsel and such other agents as the Trustee may employ in connection with the exercise and performance of its rights and duties hereunder. Though it is not intended or expected that the Trustee will ever handle funds, however, to the extent that the Trustee receives Trust funds the Trustee may earn compensation in the form of short-term interest ("float") on items like uncashed distribution checks (from the date issued until the date cashed), funds that the Trustee is directed not to invest, deposits awaiting investment direction or received too late to be invested overnight in previously directed investments.

## SECTION 2.4 *Indemnification.*

(i) The Trust hereby agrees to be primary obligor and shall (i) compensate (to the extent not paid by the Sponsor on the Trust's behalf) the Trustee in accordance with a separate fee agreement with the Trustee, (ii) reimburse the Trustee for all reasonable expenses (including reasonable fees and expenses of counsel and other experts) and (iii) indemnify, defend and hold harmless the Trustee and any of the officers, directors, employees and agents of the Trustee (the "**Indemnified Persons**") from and against any and all losses, damages, liabilities, claims, actions, suits, costs, expenses, disbursements (including the reasonable fees and expenses of counsel including legal fees and expenses in connection with the enforcement of its indemnification rights hereunder), taxes and penalties of any kind and nature whatsoever (collectively, "**Expenses**"), to the extent that such Expenses arise out of or are imposed upon or asserted at any time against such Indemnified Persons with respect to the performance of this Trust Agreement, the creation, operation or termination of the Trust or the transactions contemplated hereby; provided, however, that the Trust shall not be required to indemnify any Indemnified Person for any Expenses which are a result of the willful misconduct, bad faith or gross negligence of, an Indemnified Person. To the fullest extent permitted by law and by the requirement for treatment of the Trust as a grantor trust for tax purposes, Expenses to be incurred by an Indemnified Person shall, from time to time, be advanced by, or on behalf of, Sponsor prior to the final disposition of any matter upon receipt by Osprey of an undertaking by, or on behalf of, such Indemnified Person to repay such amount if it shall be determined that the Indemnified Person is not entitled to be indemnified under this Agreement.

(ii) As security for any amounts owing to the Trustee hereunder, the Trustee shall have a lien against the Trust property, which lien shall be prior to the rights of the Sponsor, or any other beneficial owner of the Trust. The obligations of the Trust and the Sponsor to indemnify the Indemnified Persons under this Section 2 shall survive the termination of this Trust Agreement and the resignation or removal of the Trustee.

SECTION 2.5 *Successor Trustee.* Upon the resignation or removal of the Trustee, the Sponsor shall appoint a successor Trustee by delivering a written instrument to the outgoing Trustee. Any successor Trustee must satisfy the requirements of Section 3807 of the Delaware Trust Statute. The successor Trustee shall become fully vested with all of the rights, powers, duties and obligations of the outgoing Trustee under this Trust Agreement, with like effect as if originally named as Trustee, and the outgoing Trustee shall be discharged of its duties and obligations under this Trust Agreement. Any business entity into which the Trustee may be merged or converted or with which it may be consolidated, or any entity resulting from any merger, conversion or consolidation to which the Trustee shall be a party, or any entity succeeding to all or substantially all of the corporate trust business of the Trustee, shall be the successor of the Trustee hereunder, to the fullest extent permitted by law without the execution or filing of any paper or any further act on the part of any of the parties hereto.

SECTION 2.6 *Liability of Trustee.* Except as otherwise provided in this Article, in accepting the trust created hereby, Delaware Trust Company acts solely as Trustee hereunder and not in its individual capacity, and all Persons having any claim against Delaware Trust Company by reason of the transactions contemplated by this Trust Agreement and any other agreement to which the Trust is a party shall look only to the Trust Estate for payment or satisfaction thereof.

The Trustee shall not be liable or accountable hereunder to the Trust or to any other Person or under any other agreement to which the Trust is a party, except for the Trustee's own fraud, gross negligence, bad faith or willful misconduct. In particular, but not by way of limitation:

- (i) the Trustee shall not be personally liable for any error of judgment made in good faith by the Trustee;
- (ii) The Trustee shall have no liability or responsibility for the validity or sufficiency of this Trust Agreement or for the form, character, genuineness, sufficiency, value or validity of the Trust Estate;
- (iii) The Trustee has not prepared or verified, and shall not be responsible or liable for, any information, disclosure or other statement in the Memorandum or in any other document issued or delivered in connection with the sale or transfer of the Units;
- (iv) The Trustee shall not be responsible or liable for the genuineness, enforceability, collectability, value, sufficiency, location or existence of any of the Bitcoins or other assets of the Trust;
- (v) The Trustee shall have no duty to, make any investigation as to the accuracy and completeness of any representation or warranty made by the Trust in any agreement entered into by the Trust;
- (vi) The Trustee shall not be liable for any actions taken or omitted to be taken by it in accordance with the instructions of the Sponsor or the Liquidating Trustee;
- (vii) The Trustee shall not have any liability for the acts or omissions of the Sponsor, the Custodian, their respective delegates or any other Person;
- (viii) The Trustee shall have no duty or obligation to supervise the performance of any obligations of the Sponsor, the Custodian, or their respective delegates, any Purchaser or any other Person;
- (ix) No provision of this Trust Agreement shall require the Trustee to act or expend or risk its own funds or otherwise incur any financial liability in the performance of any of its rights or powers hereunder;
- (x) Under no circumstances shall the Trustee be liable for indebtedness evidenced by or other obligations of the Trust arising under this Trust Agreement or any other agreements to which the Trust is a party;
- (xi) The Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Trust Agreement, or to institute, conduct or defend any litigation under this Trust Agreement or any other agreements to which the Trust is a party, at the request, order or direction of the Sponsor unless the Sponsor has offered to Delaware Trust Company (in its capacity as Trustee and individually) security or indemnity satisfactory to it against the costs, expenses and liabilities that may be incurred by Delaware Trust Company (including, without limitation, the reasonable fees and expenses of its counsel) therein or thereby;

(xii) Notwithstanding anything contained herein to the contrary, the Trustee shall not be required to take any action in any jurisdiction other than in the State of Delaware if the taking of such action will (i) require the consent or approval or authorization or order of or the giving of notice to, or the registration with or taking of any action in respect of, any state or other governmental authority or agency of any jurisdiction other than the State of Delaware, (ii) result in any fee, tax or other governmental charge under the laws of any jurisdiction or any political subdivision thereof in existence as of the date hereof other than the State of Delaware becoming payable by the Trustee or (iii) subject the Trustee to personal jurisdiction, other than in the State of Delaware, for causes of action arising from personal acts unrelated to the consummation of the transactions by the Trustee, as the case may be, contemplated hereby; and

(xiii) To the extent that, at law or in equity, the Trustee has duties (including fiduciary duties) and liabilities relating thereto to the Trust, the Unitholders or to any other Person, the Trustee acting under this Trust Agreement shall not be liable to the Trust, the Unitholders or to any other Person for its good faith reliance on the provisions of this Trust Agreement. The provisions of this Trust Agreement, to the extent that they restrict or eliminate the duties and liabilities of the Trustee otherwise existing at law or in equity are agreed by the parties hereto to replace such other duties and liabilities of the Trustee.

(xiv) The Trustee shall not be liable for punitive, exemplary, consequential, special or similar damages however styled, including without limitation, lost profits, or for any losses due to forces beyond the control of the Trustee, including, without limitation, strikes, work stoppages, acts of war or terrorism, insurrection, revolution, nuclear or natural catastrophes or acts of God and interruptions, loss or malfunctions of utilities, communications or computer (software and hardware) services provided to the Trustee by third parties.

#### SECTION 2.7 *Reliance; Advice of Counsel.*

(a) In the absence of bad faith, the Trustee may conclusively rely upon certificates or opinions furnished to the Trustee and conforming to the requirements of this Trust Agreement in determining the truth of the statements and the correctness of the opinions contained therein, and shall incur no liability to anyone in acting or not acting on any signature, instrument, notice, resolution, request, consent, order, certificate, report, opinion, bond or other document or paper believed by it to be genuine and believed by it to be signed by the proper party or parties and need not investigate any fact or matter pertaining to or in any such document; provided, however, that the Trustee shall have examined any certificates or opinions so as to reasonably determine compliance of the same with the requirements of this Trust Agreement. The Trustee may accept a certified copy of a resolution of the board of directors or other governing body of any corporate party as conclusive evidence that such resolution has been duly adopted by such body and that the same is in full force and effect. As to any fact or matter the method of the determination of which is not specifically prescribed herein, the Trustee may for all purposes hereof rely on a certificate, signed by the president or any vice president or by the treasurer or other authorized officers of the relevant party, as to such fact or matter, and such certificate shall constitute full protection to the Trustee for any action taken or omitted to be taken by it in good faith in reliance thereon.



(b) In the exercise or administration of the Trust hereunder and in the performance of its duties and obligations under this Trust Agreement, the Trustee, at the expense of the Trust (i) may act directly or through its agents, attorneys, custodians or nominees pursuant to agreements entered into with any of them, and the Trustee shall not be liable for the conduct or misconduct of such agents, attorneys, custodians or nominees if such agents, attorneys, custodians or nominees shall have been selected by the Trustee with reasonable care and (ii) may consult with counsel, accountants and other skilled professionals to be selected with reasonable care by it. The Trustee shall not be liable for anything done, suffered or omitted in good faith by it in accordance with the opinion or advice of any such counsel, accountant or other such Persons.

SECTION 2.8 *Payments to the Trustee.* Any amounts paid to the Trustee pursuant to this Article shall be deemed not to be a part of the Trust Estate immediately after such payment. Any amounts owing to the Trustee under this Trust Agreement shall constitute a claim against the Trust Estate. *Notwithstanding* any other provision of this Trust Agreement, all payments to the Trustee, including fees, expenses and any amounts paid in connection with indemnification of the Trustee in accordance with the terms of this Trust Agreement will be payable only in U.S. Dollars.

### ARTICLE III

#### UNITS; CAPITAL CONTRIBUTIONS; CREATIONS AND ISSUANCE OF UNITS

SECTION 3.1 *General.* The Sponsor shall have the power and authority, without Unitholder approval, to issue Units from time to time as it deems necessary or desirable. The number of Units authorized shall be unlimited, and the Units so authorized may be represented in part by fractional Units, calculated to one one-hundred-millionth of one Bitcoin. From time to time, the Sponsor may divide or combine the Units into a greater or lesser number without thereby changing the proportionate beneficial interests. The Sponsor may issue Units in exchange for contributions of Bitcoin or cash (or for no consideration if pursuant to a Unit dividend or split-up), all without action or approval of the Unitholders. All Units when so issued on the terms determined by the Sponsor shall be fully paid and non-assessable. Every Unitholder, by virtue of having purchased or otherwise acquired a Unit, shall be deemed to have expressly consented and agreed to be bound by the terms of this Trust Agreement.

#### SECTION 3.2 *Offer of Units; Procedures for Creation.*

(a) General. The following procedures, as supplemented by the more detailed procedures specified in the Exhibits, annexes, attachments and procedures, as applicable, to the Subscription Agreement, which may be amended from time to time in accordance with the provisions of the Subscription Agreement (and any such amendment will not constitute an amendment of this Trust Agreement), will govern the Trust with respect to the creation and issuance of Units. Subject to the limitations upon and requirements for issuance of Units stated herein and in such procedures, the number of Units which may be issued by the Trust is unlimited.

(i) On any Business Day, a Purchaser may deposit the Bitcoin Purchase Amount with the Custodian and submit an order to create Units (a **“Purchase Order”**) from the Trust via notification to the Sponsor or its delegate in the manner provided in the Subscription Agreement. Creation Orders must be received by 3:00 p.m., Eastern time on a Business Day (the **“Purchase**

**Order Date**”). The Sponsor or its delegate will process Purchase Orders only from Purchasers with respect to whom a Subscription Agreement is in full force and effect.

(ii) Any Purchase Order is subject to rejection by the Sponsor or its delegate pursuant to Section 3.2(b).

(iii) After receiving the Bitcoin Purchase Amount and accepting a Purchaser’s Purchase Order, the Sponsor or its delegate will have the Transfer Agent credit the Units to fill the Purchaser’s Purchase Order within one Business Day immediately following the Purchase Order Date.

(iv) Determination of Units Issue. The number of Units to be issued with respect to the Bitcoin Purchase amount shall be determined using the most recently available Bitcoin Market Price. Each Unit will be worth \$5.00 at inception of the Trust. The Sponsor or its delegate has final determination of all questions as to the determination of the number of Units issuable with respect to a particular Bitcoin Purchase Amount.

(v) Delivery of Required Deposits. A Purchaser who places a Purchase Order shall deliver the Bitcoin Purchase Amount to the (i) Bitcoin Account, the Trust Storage Account, the Trust Safekeeping Account, at the Sponsor’s instruction or (ii) a cash denominated account, at the direction of the Sponsor or its delegate, in each case by no later than 6:00 p.m., Eastern time on the Purchase Order Day. If the Bitcoin Purchase Amount is denominated in Bitcoin, the Purchaser may only initiate delivery of the Bitcoin Purchase Amount from a Participant Self-Administered Account. Such Bitcoin denominated Bitcoin Purchase Amount deposits other than those received from a Participant Self-Administered Account shall be rejected. The expense and risk of delivery, ownership and safekeeping of Bitcoins, until such Bitcoins have been received by the Trust, shall be borne solely by the Purchaser. Upon receipt of the Bitcoin Purchase Amount, the Custodian or delegated agent, as the case may be, shall transfer the Bitcoin Purchase Amount to the Trust Storage Account, the Trust Safekeeping Account or a cash account, as applicable. The Sponsor or its delegate shall then direct the Transfer Agent to credit the number of Units ordered to the Purchaser’s account on the next Business Day after the Purchase Order Date.

(vi) The Custodian may accept delivery of Bitcoins by such other means as the Sponsor, from time to time, may determine to be acceptable for the Trust.

(a) Notwithstanding anything to the contrary in this Section 3.2, the Sponsor shall have the authority to issue Units, from time to time, pursuant to Rule 504 under the Securities Act, under such terms and conditions as are disclosed to purchasers in the relevant offering documents and as the Sponsor deems necessary or advisable to comply with applicable law or regulation.

(b) Rejection. The delivery of the Units against deposit of the Bitcoin Purchase Amount may be suspended generally, or refused with respect to particular requested creations, during any period when the transfer books of the Sponsor or its delegate are closed or if any such action is deemed necessary or advisable by the Sponsor or its delegate or for any reason at any time



or from time to time. None of the Sponsor, its delegates, or the Custodian shall be liable for the rejection or acceptance of any Purchase Order or Bitcoin Purchase Amount.

### SECTION 3.3 *Book-Entry-Only System.*

(a) Units shall be held in book-entry form by the Transfer Agent. The Sponsor or its delegate shall direct the Transfer Agent (which may be the Sponsor or an Affiliate) to credit or debit the number of Units to the applicable Purchaser. The Transfer Agent shall issue or cancel each Purchaser's Units, as applicable.

(c) Secondary or Successor Custodian. If a successor to the Custodian shall be employed, the Trust and the Sponsor shall establish procedures acceptable to such successor with respect to the matters addressed in this Section.

SECTION 3.4 *Assets of the Trust.* The Trust Estate shall irrevocably belong to the Trust for all purposes, subject only to the rights of creditors of the Trust and except as may otherwise be required by applicable tax laws, and shall be so recorded upon the books of account of the Trust.

SECTION 3.5 *Liabilities of the Trust.* The Trust Estate shall be charged with the liabilities of the Trust; and all expenses, costs, charges and reserves attributable to the Trust. The Sponsor shall have full discretion, to the extent not inconsistent with applicable law, to determine which items shall be treated as income and which items as capital, and each such determination and allocation shall be conclusive and binding upon the Unitholders.

### SECTION 3.6 *Distributions.*

(d) Distributions on Units, if any, may be paid with such frequency as the Sponsor may determine, which may be daily or otherwise, to the Unitholders from the Trust Estate, after providing for actual and accrued liabilities. All distributions on Units thereof shall be distributed pro rata to the Unitholders in proportion to the total outstanding Units held by such Unitholders at the date and time of record established for the payment of such distribution. Such distributions may be made in cash or Units as determined by the Sponsor or pursuant to any program that the Sponsor may have in effect at the time for the election by each Unitholder of the mode of the making of such distribution to that Unitholder.

(e) The Units shall represent units of beneficial interest in the Trust Estate. Each Unitholder shall be entitled to receive its pro rata share of distributions in accordance with Section 3.6(a).

SECTION 3.7 *Voting Rights.* Notwithstanding any other provision hereof, on each matter submitted to a vote of the Unitholders, each Unitholder shall be entitled to a single vote for each Unit held by such Person, or a proportionate fraction thereof if such Unit is fractional, with the number of Units held by such Person determined by the number of Units in its name on the books of the Trust in accordance with Section 3.3.

SECTION 3.8 *Equality.* All Units shall represent an equal proportionate beneficial interest in the assets of the Trust subject to the liabilities of the Trust, and each Unit shall be equal to each other Unit. The Sponsor may from time to time divide or combine the Units into a greater or lesser number

of Units without thereby changing the proportionate beneficial interest in the assets of the Trust or in any way affecting the rights of Unitholders.

## ARTICLE IV

### THE SPONSOR

SECTION 4.1 *Management of the Trust.* Pursuant to Section 3806(b)(7) of the Delaware Trust Statute, the Trust shall be managed by the Sponsor in accordance with this Trust Agreement. The Sponsor may delegate as provided herein, the duty and authority to manage the affairs of the Trust. Any determination as to what is in the interests of the Trust made by the Sponsor in good faith shall be conclusive. In constructing the provisions of this Trust Agreement, the presumption shall be in favor of a grant of power to the Sponsor. The enumeration of any specific power in this Trust Agreement shall not be construed as limiting the aforesaid power.

SECTION 4.2 *Authority of Sponsor.* In addition to and not in limitation of any rights and powers conferred by law or other provisions of this Trust Agreement, and except as limited, restricted or prohibited by the express provisions of this Trust Agreement or the Delaware Trust Statute, the Sponsor shall have and may exercise on behalf of the Trust, all powers and rights necessary, proper, convenient or advisable to effectuate and carry out the purposes and objectives of the Trust, which shall include, without limitation, the following:

(a) To enter into, execute, deliver and maintain, and to cause the Trust to perform its obligations under, contracts, agreements (including but not limited to Subscription Agreements substantially in the form of Exhibit B hereto) and any or all other documents and instruments, and to do and perform all such things as may be in furtherance of Trust purposes or necessary or appropriate for the offer and sale of the Units, including, but not limited to, contracts with third parties various services, provided, however, that such services may be performed by an Affiliate or Affiliates of the Sponsor so long as the Sponsor has made a good faith determination that: (A) the Affiliate which it proposes to engage to perform such services is qualified to do so (considering the prior experience of the Affiliate or the individuals employed thereby); (B) the terms and conditions of the agreement pursuant to which such Affiliate is to perform services for the Trust are no less favorable to the Trust than could be obtained from equally-qualified unaffiliated third parties; and (C) the maximum period covered by the agreement pursuant to which such Affiliate is to perform services for the Trust shall not exceed one year, and such agreement shall be terminable without penalty upon one hundred twenty (120) days' prior written notice by the Trust;

(b) To establish, maintain, deposit into, sign checks and/or otherwise draw upon accounts on behalf of the Trust with appropriate banking and savings institutions, and execute and/or accept any instrument or agreement incidental to the Trust's purposes, any such instrument or agreement so executed or accepted by the Sponsor in the Sponsor's name shall be deemed executed and accepted on behalf of the Trust by the Sponsor;

(c) To deposit, withdraw, pay, retain and distribute the Trust Estate or any portion thereof in any manner consistent with the provisions of this Trust Agreement;

- (d) To supervise the preparation of the Memorandum and supplements and amendments thereto;
- (e) To pay or authorize the payment of distributions to the Unitholders and expenses of the Trust;
- (f) To act as Transfer Agent and perform functions customarily preferred by a transfer agent;
- (g) To prepare, or cause to be prepared, and file, or cause to be filed, an application to enable the Units to be traded on the OTCQX or any other financial market deemed by the Sponsor to be in the interest of Unitholders and to take any other action and execute and deliver any certificate or documents that may be necessary to effectuate such trading; and
- (h) In the sole and absolute discretion of the Sponsor, to admit an additional Sponsor. Notwithstanding the foregoing, the Sponsor may not admit Affiliate(s) of the Sponsor as an additional Sponsor if it has received notice of its removal as a Sponsor, pursuant to Section 7.2(d).

SECTION 4.3 *Obligations of the Sponsor*. In addition to the obligations expressly provided by the Delaware Trust Statute or this Trust Agreement, the Sponsor shall:

- (a) Devote such of its time to the business and affairs of the Trust as it shall, in its discretion exercised in good faith, determine to be necessary to carry out the purposes of the Trust for the benefit of the Trust and the Unitholders;
- (b) Execute, file, record and/or publish all certificates, statements and other documents and do any and all other things as may be appropriate for the formation, qualification and operation of the Trust and for the conduct of its business in all appropriate jurisdictions;
- (c) Retain independent public accountants to audit the accounts of the Trust;
- (d) Employ attorneys to represent the Sponsor and as necessary, the Trust;
- (e) Select and enter into agreements with the Trust's Trustee and any other service provider;
- (f) Use its best efforts to maintain the status of the Trust as a grantor trust for U.S. federal income tax purposes under Subpart E, Part I of Subchapter J of the Code;
- (g) Monitor all fees charged to the Trust, and the services rendered by the service providers to the Trust, to determine whether the fees paid by, and the services rendered to, the Trust are at competitive rates and are the best price and services available under the circumstances, and if necessary, renegotiate the fee structure to obtain such rates and services for the Trust;
- (h) Have fiduciary responsibility for the safekeeping and use of the Trust Estate, whether or not in the Sponsor's immediate possession or control, and the Sponsor will not

employ or permit others to employ the Trust Estate in any manner except for the benefit of the Trust, including, among other things, the utilization of any portion of the Trust Estate as compensating balances for the exclusive benefit of the Sponsor. The Sponsor shall at all times act with integrity and good faith and exercise due diligence in all activities relating to the Trust and in resolving conflicts of interest;

(i) Receive directly or through its delegates from Purchaser and process properly submitted Purchase Orders, as described in Section 3.2(a);

(j) Invest (except purchasing Bitcoins pursuant to a Purchase Order) or reinvest any cash held by the Trust (including reserves) in anything other than Permitted Investments.

(k) In connection with Purchase Orders, receive directly or through its delegates the number of Bitcoins in an amount equal to the Bitcoin Purchase Amount from Purchasers;

(l) In connection with Purchase Orders, after receiving the Bitcoin Purchase Amount and accepting a Purchaser's Purchase Order, the Sponsor or its delegate will direct the Transfer Agent to credit the Units to fill the Purchaser's Purchase Order within one Business Day immediately following the Purchase Order Date;

(m) Receive directly or through its delegates from Purchasers and process properly submitted Redemption Orders, as described in Section 6.1(a);

(n) In connection with Redemption Orders, after receiving the Redemption Order specifying the number of Units that the Unitholder wishes to redeem and confirming the Unitholder's Self-Administered Account information, the Sponsor or its delegates instructs the Custodian to send the Unitholder a number of Bitcoins equal to the Bitcoin Redemption Amount and directs the Transfer Agent to debit the number of Units redeemed from the Unitholder's account on the next business day after the redemption order date;

(o) Interact with the Custodian and any other party as required;

(p) If the OTCQX Application is approved by OTCQX, then the Sponsor, on behalf of the Trust, shall cause the Trust to comply with all rules, orders and regulations of the OTCQX to which the Trust is subject as a result of the approval of the OTCQX Application and the Sponsor will take all such other actions which may reasonably be taken which are necessary for the Units to remain traded on the OTCQX until the Trust is either terminated or if the Units are no longer traded on the OTCQX. In addition, the Sponsor is authorized and shall take, all actions to prepare and, to the extent required by this Agreement or by law, mail to Unitholders any reports, press releases or statements, financial or otherwise, that the Sponsor determines are required to be provided to Unitholders by applicable law or governmental regulation or the requirements of OTCQX, as applicable;

(q) Delegate those of its duties hereunder as it shall determine from time to time to one or more Distributors, add any additional service providers, if needed and as applicable;

(r) Perform such other services as the Sponsor believes that the Trust may from time to time require; and

(s) In general, to do everything necessary, suitable or proper for the accomplishment of any purpose or the attainment of any object or the furtherance of any power herein set forth, either alone or in association with others, and to do every other act or thing incidental or appurtenant to or growing out of or connected with the aforesaid purposes, objects or powers.

The foregoing clauses shall be construed both as objects and powers, and the foregoing enumeration of specific powers shall not be held to limit or restrict in any manner the general powers of the Sponsor. Any action by the Sponsor hereunder shall be deemed an action on behalf of the Trust, and not an action in an individual capacity.

SECTION 4.4 *General Prohibitions.* The Trust shall not:

- (a) Receive any property other than Bitcoin or U.S. Dollars upon the issuance or sale of Units;
- (b) Hold any property other than cash, Permitted Investments, Bitcoins (including any forked version thereof) or airdropped cryptocurrency coins;
- (c) Redeem the Units other than to fund a redemption request from a Unitholder, as provided in Section 4.10 or Section 5.2 or upon the dissolution of the Trust;
- (d) Borrow money from or loan money to any Unitholder (including the Sponsor) or other Person;
- (e) Except as expressly contemplated by this Agreement, create, incur, assume or suffer to exist any lien, mortgage, pledge conditional sales or other title retention agreement, charge, security interest or encumbrance, except for liens for taxes not delinquent or being contested in good faith and by appropriate proceedings and for which appropriate reserves have been established;
- (f) Commingle its assets with those of any other Person, except to the extent as permitted under applicable law and the regulation;
- (g) Permit rebates to be received by the Sponsor or any Affiliate of the Sponsor, or permit the Sponsor or any Affiliate of the Sponsor to engage in any reciprocal business arrangements which would circumvent the foregoing prohibition;
- (h) Enter into any contract with the Sponsor or an Affiliate of the Sponsor (except for selling agreements for the sale of Units) which has a term of more than one year and which does not provide that it may be canceled by the Trust without penalty on one hundred twenty (120) days prior written notice or for the provision of services, except at rates and terms at least as favorable as those which may be obtained from third parties in arm's length negotiations;

(i) Cause the Trust to elect to be treated as an association taxable as a corporation for U.S. federal income tax purposes.

SECTION 4.5 *Liability of Covered Persons.* A Covered Person shall have no liability to the Trust or to any Unitholder or other Covered Person for any loss suffered by the Trust which arises out of any action or inaction of such Covered Person if such Covered Person, in good faith, determined that such course of conduct was in the best interest of the Trust and such course of conduct did not constitute fraud, gross negligence, bad faith or willful misconduct of such Covered Person. Subject to the foregoing, neither the Sponsor nor any other Covered Person shall be personally liable for the return or repayment of all or any portion of the capital or profits of any Unitholder or assignee thereof, it being expressly agreed that any such return of capital or profits made pursuant to this Trust Agreement shall be made solely from the assets of the Trust without any rights of contribution from the Sponsor or any other Covered Person. A Covered Person shall not be liable for the conduct or misconduct of any delegatee selected by the Sponsor with reasonable care.

SECTION 4.6 *Fiduciary Duty.*

(a) To the extent that, at law or in equity, the Sponsor has duties (including fiduciary duties) and liabilities relating thereto to the Trust, the Unitholders or to any other Person, the Sponsor acting under this Trust Agreement shall not be liable to the Trust, the Unitholders or to any other Person for its good faith reliance on the provisions of this Trust Agreement subject to the standard of care in Section 4.6 herein. The provisions of this Trust Agreement, to the extent that they restrict or eliminate the duties and liabilities of the Sponsor otherwise existing at law or in equity are agreed by the parties hereto to replace such other duties and liabilities of the Sponsor. To the fullest extent permitted by law, no person other than the Sponsor and the Trustee shall have any duties (including fiduciary duties) or liabilities at law or in equity to the Trust and the Unitholder or any other person.

(b) Unless otherwise expressly provided herein:

(i) whenever a conflict of interest exists or arises between the Sponsor or any of its Affiliates, on the one hand, and the Trust or any Unitholder or any other Person, on the other hand; or

(ii) whenever this Trust Agreement or any other agreement contemplated herein or therein provides that the Sponsor shall act in a manner that is, or provides terms that are, fair and reasonable to the Trust, any Unitholder or any other Person, the Sponsor shall resolve such conflict of interest, take such action or provide such terms, considering in each case the relative interest of each party (including its own interest) to such conflict, agreement, transaction or situation and the benefits and burdens relating to such interests, any customary or accepted industry practices, and any applicable generally accepted accounting practices or principles. In the absence of bad faith by the Sponsor, the resolution, action or terms so made, taken or provided by the Sponsor shall not constitute a breach of this Trust Agreement or any other agreement contemplated herein or of any duty or obligation of the Sponsor at law or in equity or otherwise.

(c) The Sponsor and any Affiliate of the Sponsor may engage in or possess an interest in other profit-seeking or business ventures of any nature or description, independently or

with others, whether or not such ventures are competitive with the Trust and the doctrine of corporate opportunity, or any analogous doctrine, shall not apply to the Sponsor. If the Sponsor acquires knowledge of a potential transaction, agreement, arrangement or other matter that may be an opportunity for the Trust, it shall have no duty to communicate or offer such opportunity to the Trust, and the Sponsor shall not be liable to the Trust or to the Unitholders for breach of any fiduciary or other duty by reason of the fact that the Sponsor pursues or acquires for, or directs such opportunity to another Person or does not communicate such opportunity or information to the Trust. Neither the Trust nor any Unitholder shall have any rights or obligations by virtue of this Trust Agreement or the trust relationship created hereby in or to such independent ventures or the income or profits or losses derived therefrom, and the pursuit of such ventures, even if competitive with the purposes of the Trust, shall not be deemed wrongful or improper. Except to the extent expressly provided herein, the Sponsor may engage or be interested in any financial or other transaction with the Trust, the Unitholders or any Affiliate of the Trust or the Unitholders.

(d) To the fullest extent permitted by law and notwithstanding any other provision of this Agreement or in any agreement contemplated herein or applicable provisions of law or equity or otherwise, whenever in this Trust Agreement a Person is permitted or required to make a decision (a) in its “sole discretion” or “discretion” or under a grant of similar authority or latitude, the Person shall be entitled to consider only such interests and factors as it desires, including its own interests, and shall have no duty or obligation to give any consideration to any interest of or factors affecting the Trust, the Unitholders or any other Person, or (b) in its “good faith” or under another express standard, the Person shall act under such express standard and shall not be subject to any other or different standard. The term “good faith” as used in this Trust Agreement shall mean subjective good faith as such term is understood and interpreted under Delaware law.

#### SECTION 4.7 *Indemnification of the Sponsor.*

(a) The Sponsor shall be indemnified by the Trust against any losses, judgments, liabilities, expenses and amounts paid in settlement of any claims sustained by it in connection with its activities for the Trust, provided that (i) the Sponsor was acting on behalf of or performing services for the Trust and such liability or loss was not the result of fraud, gross negligence, bad faith, willful misconduct, or a material breach of this Trust Agreement on the part of the Sponsor and (ii) any such indemnification will only be recoverable from the Trust Estate. All rights to indemnification permitted herein and payment of associated expenses shall not be affected by the dissolution or other cessation to exist of the Sponsor, or the withdrawal, adjudication of bankruptcy or insolvency of the Sponsor, or the filing of a voluntary or involuntary petition in bankruptcy under Title 11 of the Code by or against the Sponsor.

(b) Notwithstanding the provisions of Section 4.7(a) above, the Sponsor and any Person acting as broker-dealer for the Trust shall not be indemnified for any losses, liabilities or expenses arising from or out of an alleged violation of U.S. federal or state securities laws unless (i) there has been a successful adjudication on the merits of each count involving alleged securities law violations as to the particular indemnitee and the court approves the indemnification of such expenses (including, without limitation, litigation costs), (ii) such claims have been dismissed with prejudice on the merits by a court of competent jurisdiction as to the particular indemnitee and the court approves the indemnification of such expenses (including, without limitation, litigation



costs) or (iii) a court of competent jurisdiction approves a settlement of the claims against a particular indemnitee and finds that indemnification of the settlement and related costs should be made.

(c) The Trust shall not incur the cost of that portion of any insurance which insures any party against any liability, the indemnification of which is herein prohibited.

(d) Expenses incurred in defending a threatened or pending civil, administrative or criminal action suit or proceeding against the Sponsor shall be paid by the Trust in advance of the final disposition of such action, suit or proceeding, if (i) the legal action relates to the performance of duties or services by the Sponsor on behalf of the Trust; (ii) the legal action is initiated by a third party who is not a Unitholder or the legal action is initiated by a Unitholder and a court of competent jurisdiction specifically approves such advance; and (iii) the Sponsor undertakes to repay the advanced funds with interest to the Trust in cases in which it is not entitled to indemnification under this Section 4.7.

(e) The term “Sponsor” as used only in this Section 4.7 shall include, in addition to the Sponsor, any other Covered Person performing services on behalf of the Trust and acting within the scope of the Sponsor’s authority as set forth in this Trust Agreement.

(f) In the event the Trust is made a party to any claim, dispute, demand or litigation or otherwise incurs any loss, liability, damage, cost or expense as a result of or in connection with any Unitholder’s (or assignee’s) obligations or liabilities unrelated to Trust business, such Unitholder (or assignees cumulatively) shall indemnify, defend, hold harmless, and reimburse the Trust for all such loss, liability, damage, cost and expense incurred, including attorneys’ and accountants’ fees.

#### SECTION 4.8 *Expenses and Limitations Thereon.*

(a) Management Fee.

(i) The Trust shall pay a Management Fee (“**Management Fee**”) which accrues daily at an annual rate of 0.49% of the NAV of the Trust and is payable to the Sponsor monthly in arrears.

(ii) Although the Management Fee is calculated in USD, the Management Fee shall be paid in the equivalent number of Bitcoins monthly in arrears. The exchange rate that shall be used to convert the Management Fee from USD to the appropriate number of Bitcoins shall be calculated based upon the Bitcoin Market Price at 4:00 p.m., Eastern time in the case of daily accruals and as of the last day of each month for withdrawal and payment in arrears (“**Management Fee Exchange Rate**”). The Management Fee Exchange Rate does not include fees and expenses for converting USD into Bitcoins.

(iii) After converting the Management Fee from USD into the required number of Bitcoins based upon the Actual Exchange Rate, the Sponsor, its delegates, or the Custodian shall withdraw the corresponding number of Bitcoins from the Trust Storage Account.



(iv) In order to pay the Management Fee in USD, the Sponsor may be required to convert the Management Fee, as reflected by the appropriate number of Bitcoins, into USD. The Sponsor shall use its best efforts within a reasonable time frame in order to seek the Actual Exchange Rate. It is expected that the Management Fee Exchange Rate and the Actual Exchange Rate may differ.

(v) At the Sponsor's election, the Sponsor may elect to (i) direct its delegates or the Custodian to withdraw the Bitcoin amount comprising the Management Fee, (ii) convert the Management Fee to USD and (iii) pay such dollar amount to the Sponsor, who will then pay itself as well as the relevant Assumed Expenses (as defined below). Alternatively, the Sponsor may elect to (i) direct its delegates or the Custodian to withdraw the Bitcoin amount comprising the Management Fee, (ii) convert the Management Fee to USD and (iii) pay certain Assumed Expenses from the Management Fee and the remaining amount, if any, to the Sponsor.

(vi) As consideration for receipt of the Management Fee, the Sponsor shall assume and pay all routine and ordinary administrative and operating expenses of the Trust (the "**Assumed Expenses**") other than audit fees, index license fees, aggregate legal fees in excess of \$50,000 and the fees of the Custodian (the "**Excluded Expenses**") and Extraordinary Expenses (as defined below).

(b) Extraordinary Expenses. In certain extraordinary circumstances, the Trust may pay expenses in addition to the Management Fee and the Excluded Expenses, such as, but not limited to, taxes and governmental charges, expenses and costs, expenses and indemnities related to any extraordinary services performed by the Sponsor (or any other Service Provider, including the Trustee) on behalf of the Trust to protect the Trust or the interests of Unitholders, indemnification expenses, fees and expenses related to public trading on OTCQX (collectively, "**Extraordinary Expenses**").

(c) The Sponsor, its delegates or the Custodian shall withdraw Bitcoins as needed from the Trust Storage Account to pay the Management Fees (as well as the Excluded Expenses and Extraordinary Expenses, if any).

The Sponsor or any Affiliate of the Sponsor may only be reimbursed for the actual cost to the Sponsor or such Affiliate of any expenses which it advances on behalf of the Trust for which payment the Trust is responsible. In addition, payment to the Sponsor or such Affiliate for indirect expenses incurred in performing services for the Trust in its capacity as the Sponsor of the Trust, such as salaries and fringe benefits of officers and directors, rent or depreciation, utilities and other administrative items generally falling within the category of the Sponsor's "overhead," is prohibited.

SECTION 4.9 *Business of Unitholders*. Except as otherwise specifically provided herein, any of the Unitholders and any shareholder, officer, director, employee or other person holding a legal or beneficial interest in an entity which is a Unitholder, may engage in or possess an interest in business ventures of every nature and description, independently or with others, and the pursuit of such ventures, even if competitive with the business of the Trust, shall not be deemed wrongful or improper.

SECTION 4.10 *Voluntary Withdrawal of the Sponsor*. The Sponsor may withdraw voluntarily as the Sponsor of the Trust only upon one hundred and twenty (120) days' prior written notice to all Unitholders and the Trustee. If the withdrawing Sponsor is the last remaining Sponsor, the Trust shall liquidate in accordance with Section 12.1(a)(vi) hereof. In the event of its removal or withdrawal, the Sponsor shall be entitled to a redemption of its Units at the Net Asset Value. If the Sponsor withdraws and a successor Sponsor is named, the withdrawing Sponsor shall pay all expenses as a result of its withdrawal.

SECTION 4.11 *Authorization of Memorandum*. Each Unitholder (or any permitted assignee thereof) hereby agrees that the Trust, the Sponsor and the Trustee are authorized to execute, deliver and perform the agreements, acts, transactions and matters contemplated hereby or described in or contemplated by the Memorandum on behalf of the Trust without any further act, approval or vote of the Unitholders, notwithstanding any other provision of this Trust Agreement, the Delaware Trust Statute or any applicable law, rule or regulation.

SECTION 4.12 *Litigation*. The Sponsor is hereby authorized to prosecute, defend, settle or compromise actions or claims at law or in equity as may be necessary or proper to enforce or protect the Trust's interests. The Sponsor shall satisfy any judgment, decree or decision of any court, board or authority having jurisdiction or any settlement of any suit or claim prior to judgment or final decision thereon, first, out of any insurance proceeds available therefor, next, out of the Trust's assets and, thereafter, out of the assets (to the extent that it is permitted to do so under the various other provisions of this Agreement) of the Sponsor.

## ARTICLE V

### TRANSFER OF UNITS

SECTION 5.1 *General Prohibition*. A Unitholder may not sell, assign, transfer or otherwise dispose of, or pledge, hypothecate or in any manner encumber any or all of his Units or any part of his right, title and interest in the capital or profits in the Trust except as permitted in this *Article* and any act in violation of this Article shall not be binding upon or recognized by the Trust (regardless of whether the Sponsor shall have knowledge thereof), unless approved in writing by the Sponsor.

#### *SECTION 5.2 Transfer of Sponsor's Units.*

(a) Upon an Event of Withdrawal (as defined in Section 12.1(0)), the Sponsor's Units shall be purchased by the Trust for a purchase price in cash equal to the Net Asset Value thereof. The Sponsor will not cease to be a Sponsor of the Trust merely upon the occurrence of its making an assignment for the benefit of creditors, filing a voluntary petition in bankruptcy, filing a petition or answer seeking for itself any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any statute, law or regulation, filing an answer or other pleading admitting or failing to contest material allegations of a petition filed against it in any proceeding of this nature or seeking, consenting to or acquiescing in the appointment of a trustee, receiver or liquidator for itself or of all or any substantial part of its properties.

(b) To the full extent permitted by law, and on sixty (60) days' prior written notice to the Unitholders, nothing in this Trust Agreement shall be deemed to prevent the merger of the Sponsor with another corporation or other entity, the reorganization of the Sponsor into or with any other corporation or other entity, the transfer of all the capital stock of the Sponsor or the assumption of the rights, duties and liabilities of the Sponsor by, in the case of a merger, reorganization or consolidation, the surviving corporation or other entity by operation of law or the transfer of the Sponsor's Units to an Affiliate of the Sponsor. Without limiting the foregoing, none of the transactions referenced in the preceding sentence shall be deemed to be a voluntary withdrawal for purposes of Section 4.10 or an Event of Withdrawal for purposes of Section 5.2(a).

SECTION 5.3 *Transfer of Units.* (a) Except for Units originally offered and sold in a transaction pursuant to Rule 504 under the Securities Act and freely transferable under applicable law or regulation, the Units are 'restricted securities' that cannot be resold, pledged, or otherwise transferred without registration under the Securities Act and state securities laws or exemption therefrom and may not be resold, pledged or otherwise transferred without the prior written consent of the Sponsor, which it may withhold in its sole discretion for any reason or for no reason. The Sponsor may provide such written consent in the Memorandum.

(b) Units shall be transferable on the books of account for the Trust only by the record holder thereof or by his or her duly authorized agent upon delivery to the Sponsor or the Transfer Agent or similar agent of a duly authorized instrument of transfer, and such evidence of the genuineness of each such execution of such other matters as may be required by the Sponsor. Upon such delivery, and subject to any further requirements specified by the Sponsor, the transfer shall be recorded on the books of account for the Trust. Until a transfer is so recorded, the Unitholder of record of the Units shall be deemed to be the Unitholder with respect to such Units for all purposes hereunder and neither the Sponsor nor the Trust, the Transfer Agent nor any similar agent or registrar or any officer, employee or agent of the Trust shall be affected by any notice of a proposed transfer.

## ARTICLE VI

### REDEMPTIONS

SECTION 6.1 *Redemption of Units.* The Trust may redeem Units upon receiving regulatory approval from the SEC or otherwise as determined by the Sponsor in its sole discretion. Prior to the Trust accepting such redemptions, the Sponsor shall amend this Trust Agreement to include Unit redemption procedures consistent with any such regulatory approval, pursuant to Section 10.1 hereof. Notwithstanding any provision herein to the contrary, a Unit may be redeemed no earlier than twelve (12) months after its date of issuance by the Trust.

## ARTICLE VII

### UNITHOLDERS

SECTION 7.1 *No Management or Control; Limited Liability; Exercise of Rights through a Participant.* The Unitholders shall not participate in the management or control of the Trust nor shall they enter into any transaction on behalf of the Trust or have the power to sign for or bind

the Trust, said power being vested solely and exclusively in the Sponsor. Except as provided in Section 7.3 hereof, no Unitholder shall be bound by, or be personally liable for, the expenses, liabilities or obligations of the Trust in excess of his share of the Trust Estate. Except as provided in Section 7.3 hereof, each Unit owned by a Unitholder shall be fully paid and no assessment shall be made against any Unitholder. No salary shall be paid to any Unitholder in his capacity as a Unitholder, nor shall any Unitholder have a drawing account or earn interest on its share of the Trust Estate. By the purchase and acceptance or other lawful delivery and acceptance of Units, each owner shall be deemed to be a Unitholder and beneficiary of the Trust and vested with beneficial undivided interest in the Trust to the extent of the Units owned beneficially by such Unitholder, subject to the terms and conditions of this Trust Agreement.

SECTION 7.2 *Rights and Duties.* The Unitholders shall have the following rights, powers, privileges, duties and liabilities:

(a) The Unitholders shall have the right to obtain from the Sponsor information on all things affecting the Trust, provided that such is for a purpose reasonably related to the Unitholder's interest as a beneficial owner of the Trust.

(b) The Unitholders shall receive the share of the distributions provided for in this Trust Agreement in the manner and at the times provided for in this Trust Agreement.

(c) Except for the Unitholders' redemption rights set forth in Article VI hereof, Unitholders shall have the right to demand the return of their capital only upon the dissolution and winding up of the Trust and only to the extent of funds available therefor as provided in Section 12.2. In no event shall a Unitholder be entitled to demand or receive property other than cash upon the dissolution and winding up of the Trust. No Unitholder shall have priority over any other Unitholder as to distributions. The Unitholder shall not have any right to bring an action for partition against the Trust.

(d) Except as expressly set forth in this Trust Agreement, the Unitholders shall have no voting or other rights with respect to the Trust.

SECTION 7.3 *Limitation of Liability.*

(a) Except as provided in Section 4.7(f) hereof, and as otherwise provided under Delaware law, the Unitholders shall be entitled to the same limitation of personal liability extended to stockholders of private corporations for profit organized under the general corporation law of Delaware and no Unitholder shall be liable for claims against, or debts of the Trust in excess of his share of the Trust Estate, except in the event that the liability is founded upon misstatements or omissions contained in such Unitholder's Participant Agreement delivered in connection with his purchase of Units. In addition, and subject to the exceptions set forth in the immediately preceding sentence, the Trust shall not make a claim against a Unitholder with respect to amounts distributed to such Unitholder or amounts received by such Unitholder upon redemption unless, under Delaware law, such Unitholder is liable to repay such amount.

(b) The Trust shall indemnify to the full extent permitted by law and the other provisions of this Agreement, and to the extent of the applicable Trust Estate, each Unitholder against

any claims of liability asserted against such Unitholder solely because he is a beneficial owner of one or more Units as a Unitholder.

(c) Every written note, bond, contract, instrument, certificate or undertaking made or issued by the Sponsor shall give notice to the effect that the same was executed or made by or on behalf of the Trust and that the obligations of such instrument are not binding upon the Unitholders individually but are binding only upon the assets and property of the Trust, and no resort shall be had to the Unitholders' personal property for satisfaction of any obligation or claim thereunder, and appropriate references may be made to this Trust Agreement and may contain any further recital which the Sponsor deems appropriate, but the omission thereof shall not operate to bind the Unitholders individually or otherwise invalidate any such note, bond, contract, instrument, certificate or undertaking. Nothing contained in this Section 7.3 shall diminish the limitation on the liability of the Trust to the extent set forth in Section 3.4 and 3.5 hereof.

#### SECTION 7.4 *Derivative Actions.*

In addition to any other requirements of applicable law including Section 3816 of the Delaware Trust Statute, no Unitholder shall have the right, power or authority to bring or maintain a derivative action, suit or other proceeding on behalf of the Trust unless two or more Unitholders who (i) are not affiliates of one another and (ii) collectively hold at least 10% of the outstanding Units join in the bringing or maintaining of such action, suit or other proceeding.

### ARTICLE VIII

#### BOOKS OF ACCOUNT AND REPORTS

SECTION 8.1 *Books of Account.* Proper books of account for the Trust shall be kept and shall be audited annually by an independent certified public accounting firm selected by the Sponsor in its sole discretion, and there shall be entered therein all transactions, matters and things relating to the Trust as are required by the applicable law and regulations and as are usually entered into books of account kept by trusts. The books of account shall be kept at the principal office of the Trust and each Unitholder (or any duly constituted designee of a Unitholder) shall have, at all times during normal business hours, free access to and the right to inspect and copy the same for any purpose reasonably related to the Unitholder's interest as a beneficial owner of the Trust. Such books of account shall be kept, and the Trust shall report its profits and losses on, the accrual method of accounting for financial accounting purposes on a Fiscal Year basis as described in Article X.

#### SECTION 8.2 *Quarterly Updates, Annual Updates and Account Statements.*

(a) The Sponsor will prepare and publish the Trust's Quarterly Updates and Annual Updates as required by the OTCQX's Alternative Reporting Standards and any other applicable rules and regulations of the OTCQX, in each case as and when applicable.

(b) The Unitholders will have access to the Trust's website, which shall allow Unitholders to view their unaudited account statements, as available.

SECTION 8.3 *Tax Information.* Appropriate tax information (adequate to enable each Unitholder to complete and file its U.S. federal tax return) shall be delivered to each Unitholder as soon as practicable following the end of each Fiscal Year but generally no later than March 15. All such tax returns and information will be filed in a manner consistent with the treatment of the Trust as a grantor trust. The Trust's taxable year shall be the calendar year. The Trust shall comply with all United States federal withholding requirements respecting distributions to, or receipts of amounts on behalf of, Unitholders that the Sponsor reasonably believes are applicable under the Code. The consent of Unitholders shall not be required for such withholding.

SECTION 8.4 *Calculation of Net Asset Value.* Net Asset Value shall be calculated at such times as the Sponsor shall determine from time to time.

SECTION 8.5 *Maintenance of Records.* The Sponsor shall maintain: (a) for a period of at least six Fiscal Years all books of account required by Section 8.1 hereof; a list of the names and last known address of, and number of Units owned by, all Unitholders, a copy of the Certificate of Trust and all certificates of amendment thereto, together with executed copies of any powers of attorney pursuant to which any certificate has been executed; copies of the Trust's U.S. federal, state and local income tax returns and reports, if any; and (b) for a period of at least six Fiscal Years copies of any effective written Trust Agreements, Participant Agreements, including any amendments thereto, and any financial statements of the Trust. The Sponsor may keep and maintain the books and records of the Trust in paper, magnetic, electronic or other format at the Sponsor may determine in its sole discretion, provided the Sponsor uses reasonable care to prevent the loss or destruction of such records. If there is a conflict between this Section 8.5 and the rules and regulations of the OTCQX with respect to the maintenance of records, the records will be maintained pursuant to the rules and regulations of the OTCQX.

## ARTICLE IX

### FISCAL YEAR

SECTION 9.1 *Fiscal Year.* The Fiscal Year shall begin on the 1<sup>st</sup> day of January and end on the 31<sup>st</sup> day of December of each year. The first Fiscal Year of the Trust commenced on January 3, 2019 and shall end on December 31, 2019. The Fiscal Year in which the Trust shall terminate shall end on the date of such termination.

## ARTICLE X

### AMENDMENT OF TRUST AGREEMENT; MEETINGS

SECTION 10.1 *Amendments to the Trust Agreement.*

(a) The Sponsor may, without the approval of the Unitholders, make such amendments to this Trust Agreement which (i) are necessary to add to the representations, duties or obligations of the Sponsor or surrender any right or power granted to the Sponsor herein, for the benefit of the Unitholders, (ii) are necessary to cure any ambiguity, to correct or supplement any provision herein which may be inconsistent with any other provision herein or in the Memorandum, or to make any other provisions with respect to matters or questions arising under this Trust



Agreement or the Memorandum which will not be inconsistent with the provisions of the Trust Agreement or the Memorandum, or (iii) the Sponsor deems advisable, provided, however, that no amendment shall be adopted pursuant to this clause 10.1(a) unless the adoption thereof (A) is not adverse to the interests of the Unitholders; (B) is consistent with Section 1.5 and Section 4.1 hereof; and (C) does not adversely affect the limitations on liability of the Unitholders, as described in Article VII hereof or the status of the Trust as a grantor trust for U.S. federal income tax purposes. Amendments to this document which adversely affect (i) the rights of Unitholders, (ii) the appointment of a new Sponsor pursuant to Section 4.2(h) above, (iii) the dissolution of the Trust pursuant to Section 12.1(a) below and (iv) any material changes in the Trust's purpose or structure shall occur only upon the written approval or affirmative vote of Unitholders holding Units equal to at least a majority (over 50%) of the Units.

Notwithstanding any provision to the contrary contained in Sections 10.1(a) hereof, the Sponsor may, without the approval of the Unitholders, amend the provisions of this Trust Agreement if the Trust is advised at any time by the Trust's accountants or legal counsel that the amendments made are necessary to ensure that the Trust's status as a grantor trust will be respected for U.S. federal income tax purposes.

(b) Upon amendment of this Trust Agreement, the Certificate of Trust shall also be amended, if required by the Delaware Trust Statute, to reflect such change. At the expense of the Sponsor, the Trustee shall execute and file any amendment to the Certificate of Trust if so directed by the Sponsor.

(c) No amendment affecting the rights or duties of the Trustee shall be binding upon or effective against the Trustee unless consented to by the Trustee in writing. No amendment shall be made to this Trust Agreement without the consent of the Trustee if the Trustee reasonably believes that such amendment adversely affects any of the rights, duties or liabilities of the Trustee. The Trustee shall be under no obligation to execute any amendment to the Trust Agreement or to any agreement to which the Trust is a party until it has received an instruction letter and certification from the Sponsor, in form and substance reasonably satisfactory to the Trustee (i) directing the Trustee to execute such amendment, (ii) representing and warranting to the Trustee that such execution is authorized and permitted by the terms of the Trust Agreement and (if applicable) such other agreement to which the Trust is a party and does not conflict with or violate any other agreement to which the Trust is a party and (iii) confirming that such execution and acts related thereto are covered by the indemnity provisions of the Trust Agreement in favor of the Trustee and do not adversely affect the Trustee. The Trustee may, but is not required to enter into any amendment that has an adverse effect on the Trustee.

(d) To the fullest extent permitted by law, no provision of this Trust Agreement may be amended, waived or otherwise modified orally but only by a written instrument adopted in accordance with this Section.

SECTION 10.2 *Meetings of the Trust.* Meetings of the Unitholders may be called by the Sponsor and will be called by it upon the written request of Unitholders holding Units equal to at least 30% of the Units. Such call for a meeting shall be deemed to have been made upon the receipt by the Sponsor of a written request from Unitholders representing the requisite percentage of Units. The Sponsor shall deposit in the United States mails, within 15 days after receipt of said

request, written notice to all Unitholders thereof of the meeting and the purpose of the meeting, which shall be held on a date, not less than 30 nor more than 60 days after the date of mailing of said notice, at a reasonable time and place. Any notice of meeting shall be accompanied by a description of the action to be taken at the meeting and an opinion of independent counsel as to the effect of such proposed action on the liability of Unitholders for the debts of the Trust. Unitholders may vote in person or by proxy at any such meeting.

SECTION 10.3 *Action Without a Meeting.* Any action required or permitted to be taken by Unitholders by vote may be taken without a meeting by written consent setting forth the actions so taken. Such written consents shall be treated for all purposes as votes at a meeting. If the vote or consent of any Unitholder to any action of the Trust or any Unitholder, as contemplated by this Trust Agreement, is solicited by the Sponsor, the solicitation shall be effected by notice to each Unitholder given in the manner provided in Section 13.5. The vote or consent of each Unitholder so solicited shall be deemed conclusively to have been cast or granted as requested in the notice of solicitation, whether or not the notice of solicitation is actually received by that Unitholder, unless the Unitholder expresses written objection to the vote or consent by notice given in the manner provided in Section 13.5 below and actually received by the Trust within 20 days after the notice of solicitation is affected. The Covered Persons dealing with the Trust shall be entitled to act in reliance on any vote or consent which is deemed cast or granted pursuant to this Section and shall be fully indemnified by the Trust in so doing. Any action taken or omitted in reliance on any such deemed vote or consent of one or more Unitholders shall not be void or voidable by reason of timely communication made by or on behalf of all or any of such Unitholders in any manner other than as expressly provided in Section 13.5.

## ARTICLE XI

### TERM

SECTION 11.1 *Term.* The term for which the Trust is to exist shall be perpetual, unless terminated pursuant to the provisions of Article XII hereof or as otherwise provided by law.

## ARTICLE XII

### TERMINATION

SECTION 12.1 *Dissolution of the Trust.*

(a) *Events Requiring Dissolution of the Trust.* The Trust shall dissolve at any time upon the happening of any of the following events

(i) a United States federal or state regulator requires the Trust to shut down or forces the Trust to liquidate its Bitcoins or seizes, impounds or otherwise restricts access to Trust assets;

(ii) the Trust is determined to be a “money service business” under the regulations promulgated by FinCEN under the authority of the US Bank Secrecy Act and is



required to comply with certain FinCEN regulations thereunder, and the Sponsor has made the determination that dissolution of the Trust is advisable;

(iii) the Trust is required to obtain a license or make a registration under any state law regulating money transmitters, money services business, providers of prepaid or stored value or similar entities, virtual currency business, and the Sponsor has made the determination that dissolution of the Trust is advisable;

(iv) any ongoing event exists that either prevents the Trust from making or makes impractical the Trust's reasonable efforts to make a fair determination of the Bitcoin Market Price;

(v) any ongoing event exists that either prevents the Trust from converting or makes impractical the Trust's reasonable efforts to convert Bitcoins to USD;

(vi) the filing of a certificate of dissolution or revocation of the Sponsor's charter (and the expiration of 90 days after the date of notice to the Sponsor of revocation without a reinstatement of its charter) or upon the withdrawal, removal, adjudication or admission of bankruptcy or insolvency of the Sponsor, or an event of withdrawal (each of the foregoing events an "**Event of Withdrawal**") unless at the time there is at least one remaining;

(vii) the Custodian resigns or is removed without replacement; or

(viii) if as of December 31, 2021, the Units are not quoted and trading on a secondary market in the United States (which may include the OTCQX Venture Market tier of the OTC Markets Group, Inc., any other market operated by the OTC Markets Group, Inc, or a national securities exchange), the Sponsor shall dissolve the Trust on or before January 31, 2022.

(b) *Discretionary Dissolution of the Trust.* The Sponsor may, in its sole discretion, dissolve the Trust if any of the following events occur:

(i) the SEC determines that the Trust is an investment company required to be registered under the Investment Company Act of 1940;

(ii) the CFTC determines that the Trust is a commodity pool under the Commodity Exchange Act;

(iii) the Trust becomes insolvent or bankrupt;

(iv) all of the Trust's assets are sold;

(v) the determination of the Sponsor that the ongoing management and operation of the Trust is imprudent or impractical and contrary to the interest of Unitholders, or that the aggregate net assets of the Trust in relation to the expenses of the Trust make it unreasonable or imprudent to continue the business of the Trust;

(vi) the Sponsor receives notice from the IRS or from counsel for the Trust or the Sponsor that the Trust fails to qualify for treatment, or will not be treated, as a grantor trust under the Code; and

(vii) if the Trustee notifies the Sponsor of the Trustee's election to resign and the Sponsor does not appoint a successor trustee within 60 days, the Trust will dissolve.

(c) The death, legal disability, bankruptcy, insolvency, dissolution, or withdrawal of any Unitholder (as long as such Unitholder is not the sole Unitholder of the Trust) shall not result in the termination of the Trust, and such Unitholder, his estate, custodian or personal representative shall have no right to withdraw or value such Unitholder's Units. Each Unitholder (and any assignee thereof) expressly agrees that in the event of his death, he waives on behalf of himself and his estate, and he directs the legal representative of his estate and any person interested therein to waive the furnishing of any inventory, accounting or appraisal of the assets of the Trust and any right to an audit or examination of the books of the Trust, except for such rights as are set forth in Article VIII hereof relating to the Books of Account and reports of the Trust.

SECTION 12.2 *Distributions on Dissolution.* Upon the dissolution of the Trust, the Sponsor (in such capacity, the "**Liquidating Trustee**") shall take full charge of the Trust Estate. The Liquidating Trustee shall have and may exercise, without further authorization or approval of any of the parties hereto, all of the powers conferred upon the Sponsor under the terms of this Trust Agreement, subject to all of the applicable limitations, contractual and otherwise, upon the exercise of such powers, and provided that the Liquidating Trustee shall not have general liability for the acts, omissions, obligations and expenses of the Trust. Thereafter, in accordance with Section 3808(e) of the Delaware Trust Statute, the affairs of the Trust shall be wound up and all assets shall be liquidated as promptly as is consistent with obtaining the fair value thereof, and the proceeds therefrom shall be applied and distributed in the following order of priority: (a) to the expenses of liquidation and termination and to creditors, including Unitholders who are creditors, to the extent otherwise permitted by law, in satisfaction of liabilities of the Trust (whether by payment or the making of reasonable provision for payment thereof) other than liabilities for distributions to Unitholders, and (b) to the Sponsor and each Unitholder pro rata in accordance with their respective Percentage Interests.

SECTION 12.3 *Termination; Certificate of Cancellation.* Following the dissolution and distribution of the assets of the Trust, the Trust shall terminate and Sponsor or Liquidating Trustee, as the case may be, shall instruct the Trustee to execute and cause such certificate of cancellation of the Certificate of Trust to be filed in accordance with the Delaware Trust Statute at the expense of the Sponsor or the Liquidating Trustee as the case may be. Notwithstanding anything to the contrary contained in this Trust Agreement, the existence of the Trust as a separate legal entity shall continue until the filing of such certificate of cancellation.

## ARTICLE XIII

### MISCELLANEOUS

SECTION 13.1 *Governing Law.* The validity and construction of this Trust Agreement and all amendments hereto shall be governed by the laws of the State of Delaware, and the rights of all

parties hereto and the effect of every provision hereof shall be subject to and construed according to the laws of the State of Delaware without regard to the conflict of laws provisions thereof; provided, however, that causes of action for violations of U.S. federal or state securities laws shall not be governed by this Section 13.1, and provided, further, that the parties hereto intend that the provisions hereof shall control over any contrary or limiting statutory or common law of the State of Delaware (other than the Delaware Trust Statute) and that, to the maximum extent permitted by applicable law, there shall not be applicable to the Trust, the Trustee, the Sponsor, the Unitholders or this Trust Agreement any provision of the laws (statutory or common) of the State of Delaware (other than the Delaware Trust Statute) pertaining to trusts which relate to or regulate in a manner inconsistent with the terms hereof: (a) the filing with any court or governmental body or agency of trustee accounts or schedules of trustee fees and charges, (b) affirmative requirements to post bonds for trustees, officers, agents, or employees of a trust, (c) the necessity for obtaining court or other governmental approval concerning the acquisition, holding or disposition of real or personal property, (d) fees or other sums payable to trustees, officers, agents or employees of a trust, (e) the allocation of receipts and expenditures to income or principal, (f) restrictions or limitations on the permissible nature, amount or concentration of trust investments or requirements relating to the titling, storage or other manner of holding of trust assets, or (g) the establishment of fiduciary or other standards or responsibilities or limitations on the acts or powers of trustees or managers that are inconsistent with the limitations on liability or authorities and powers of the Trustee or the Sponsor set forth or referenced in this Trust Agreement. Section 3540 of Title 12 of the Delaware Code shall not apply to the Trust. The Trust shall be of the type commonly called a “statutory trust,” and without limiting the provisions hereof, but subject to Sections 1.5 and 1.6, the Trust may exercise all powers that are ordinarily exercised by such a statutory trust under Delaware law. Subject to Sections 1.5 and 1.6, the Trust specifically reserves the right to exercise any of the powers or privileges afforded to statutory trusts and the absence of a specific reference herein to any such power, privilege or action shall not imply that the Trust may not exercise such power or privilege or take such actions.

SECTION 13.2 *Provisions In Conflict With Law or Regulations.*

(a) The provisions of this Trust Agreement are severable, and if the Sponsor shall determine, with the advice of counsel, that any one or more of such provisions (the “**Conflicting Provisions**”) are in conflict with the Code, the Delaware Trust Statute or other applicable U.S. federal or state laws or the rules and regulations of the OTCQX, the Conflicting Provisions shall be deemed never to have constituted a part of this Trust Agreement, even without any amendment of this Trust Agreement pursuant to this Trust Agreement; provided, however, that such determination by the Sponsor shall not affect or impair any of the remaining provisions of this Trust Agreement or render invalid or improper any action taken or omitted prior to such determination. No Sponsor or Trustee shall be liable for making or failing to make such a determination.

(b) If any provision of this Trust Agreement shall be held invalid or unenforceable in any jurisdiction, such holding shall not in any manner affect or render invalid or unenforceable such provision in any other jurisdiction or any other provision of this Trust Agreement in any jurisdiction.

SECTION 13.3 *Merger and Consolidation.* The Sponsor may cause (i) the Trust to be merged into or consolidated with, converted to or to sell all or substantially all of its assets to,

another trust or entity; (ii) the Units of the Trust to be converted into beneficial interests in another statutory trust (or series thereof); or (iii) the Units of the Trust to be exchanged for units in another trust or company under or pursuant to any U.S. state or federal statute to the extent permitted by law. For the avoidance of doubt, the Sponsor, with written notice to the Unitholders, may approve and effect any of the transactions contemplated under (i) — (iii) above without any vote or other action of the Unitholders.

SECTION 13.4 *Construction*. In this Trust Agreement, unless the context otherwise requires, words used in the singular or in the plural include both the plural and singular and words denoting any gender include all genders. The title and headings of different parts are inserted for convenience and shall not affect the meaning, construction or effect of this Trust Agreement.

SECTION 13.5 *Notices*. All notices or communications under this Trust Agreement (other than notices of pledge or encumbrance of Units, and reports and notices by the Sponsor to the Unitholders) shall be in writing and shall be effective upon personal delivery, or if sent by mail, postage prepaid, or if sent electronically, by facsimile or by overnight courier; and addressed, in each such case, to the address set forth in the books and records of the Trust or such other address as may be specified in writing, of the party to whom such notice is to be given, upon the deposit of such notice in the United States mail, upon transmission and electronic confirmation thereof or upon deposit with a representative of an overnight courier, as the case may be. Notices of pledge or encumbrance of Units shall be effective upon timely receipt by the Sponsor in writing.

All notices that are required to be provided to the Trustee shall be sent to:

Delaware Trust Company  
Attention: Corporate Trust Administration  
251 Little Falls Drive  
Wilmington, Delaware 19808

All notices that the Trustee is required to provide shall be sent

to: if to the Trust, at

Osprey Bitcoin Trust  
520 White Plains Road, Suite 500  
Tarrytown, NY 10591  
Attention: Chief Operating Officer

if to the Sponsor, at

Osprey Funds, LLC  
520 White Plains Road  
Tarrytown, NY 10591  
Attention: Chief Operating Officer

SECTION 13.6 *Counterparts*. This Trust Agreement may be executed in several counterparts, and all so executed shall constitute one agreement, binding on all of the parties hereto, notwithstanding that all the parties are not signatory to the original or the same counterpart.

SECTION 13.7 *Binding Nature of Trust Agreement*. The terms and provisions of this Trust Agreement shall be binding upon and inure to the benefit of the heirs, custodians, executors, estates, administrators, personal representatives, successors and permitted assigns of the respective Unitholders. For purposes of determining the rights of any Unitholder or assignee hereunder, the Trust and the Sponsor may rely upon the Trust records as to who are Unitholders and permitted assignees, and all Unitholders and assignees agree that the Trust and the Sponsor, in determining such rights, shall rely on such records and that Unitholders and assignees shall be bound by such determination.

SECTION 13.8 *No Legal Title to Trust Estate*. Subject to the provisions of Section 1.7 in the case of the Sponsor, the Unitholders shall not have legal title to any part of the Trust Estate.

SECTION 13.9 *Creditors*. No creditors of any Unitholders shall have any right to obtain possession of, or otherwise exercise legal or equitable remedies with respect to the Trust Estate.

SECTION 13.10 *Integration*. This Trust Agreement constitutes the entire agreement among the parties hereto pertaining to the subject matter hereof and supersedes all prior agreements and understandings pertaining thereto.

SECTION 13.11 *Goodwill; Use of Name*. No value shall be placed on the name or goodwill of the Trust, which shall belong exclusively to Osprey Funds, LLC.

**IN WITNESS WHEREOF**, the undersigned have duly executed this Declaration of Trust and Trust Agreement as of the day and year first above written.

**DELAWARE TRUST COMPANY**, as Trustee

By: /s/ Benjamin Hancock

Name: Benjamin Hancock

Title: Assistant Vice President

**OSPREY FUNDS, LLC**, as Sponsor

By: /s/ Gregory D. King

Name: Gregory D. King

Title: Chief Executive Officer

CUSTODIAL SERVICES AGREEMENT

Osprey Bitcoin Trust

&

Fidelity Digital Asset Services, LLC

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**THIS CUSTODIAL SERVICES AGREEMENT** (this “*Agreement*”) is made on May 18, 2020 (the “*Effective Date*”), by and between Osprey Bitcoin Trust, (the “*Client*”), and Fidelity Digital Asset Services, LLC (the “*Custodian*”, and collectively with the Client, the “*Parties*,” and each individually, a “*Party*”).

## 1. DEFINITIONS AND INTERPRETATION

A. **Definitions.** For purposes of this Agreement and any exhibit or schedule hereto, the following terms shall have the meanings ascribed to them below:

“*Affiliated Agent*” shall have the meaning set forth in Section 12.C.iii.

“*Assets*” means Cash and Eligible Assets that have been Delivered to the Custodian to be held in one or more Custody Accounts established and maintained by the Custodian on behalf of the Client, in each case until such Assets are withdrawn or cease to be Assets pursuant to this Agreement. Assets shall also mean any Forked Digital Asset that the Custodian, in its sole discretion, chooses to support pursuant to Section 8 hereof.

“*Authenticated Instruction*” means an Instruction that has been confirmed as originating from an Authorized Person through a video conference call, the use of a mobile phone application or hardware security module or other method of authentication in accordance with procedures specified by the Custodian from time to time as required to be used in connection with the services hereunder.

“*Authorized Agent*” means Osprey Funds, LLC.

“*Authorized Person*” shall have the meaning set forth in Section 5.A.

“*Blockchain Address*” means a public address on a blockchain in which a record of Eligible Assets can be held (including, without limitation, a bitcoin address for the asset commonly known as bitcoin).

“*Business Day*” means any day on which the Federal Reserve Bank of New York is open for business.

“*Cash*” has the meaning set forth in Section 2.A.ii.

“*Cut-Off Time*” has the meaning set forth in Section 5.G.

“*Delivery*” (or “*Deliver*” or “*Delivered*”) means the transfer of Eligible Assets to one or more Blockchain Addresses controlled by the receiving Party and provided by the receiving Party to the sending Party for such transfer. Eligible Assets shall be considered Delivered to the Custodian after the prevailing number of network confirmations as required by the Custodian from time to time have occurred on the blockchain used for the transaction transferring the Eligible Assets.

“*Digital Asset*” shall mean a digital asset (also called a “cryptocurrency,” “virtual currency,” “digital currency,” or “digital commodity”), such as bitcoin, which is based on the cryptographic protocol of a computer network that may be (i) centralized or decentralized, (ii) closed or open-source, and (iii) used as a medium of exchange and/or store of value.

“**Eligible Assets**” mean Digital Assets that are supported by the Custodian in its sole discretion on any given date in accordance with Section 2.C.

“**Fee Schedule**” means the schedule referred to in Section 12.D.i, as annexed hereto.

“**Force Majeure Event**” means any event due directly or indirectly to any cause or condition beyond the reasonable control of the Custodian, such as, but not limited to: changes in the functioning or features of Eligible Assets or the software protocols that govern their operation; sabotage or fraudulent manipulation of the protocols or network that govern Eligible Assets; changes in applicable Law; cybersecurity attacks, hacks or other intrusions; unavailability or malfunction of wire, communications or other technological systems; suspension or disruption of trading markets; requisitions; involuntary transfers; failure of utility services; fire; flooding; adverse weather or events of nature; explosions; acts of God, civil commotion, strikes or industrial action of any kind; riots, insurrection, terrorist acts; war (whether declared or undeclared); or acts of government or government agencies (U.S. or foreign).

“**Fork**” means a change in the consensus rules of a network for a Digital Asset, as further described in Schedule 3.

“**Forked Digital Asset**” means the resulting branches of a Digital Asset that has undergone a Fork.

“**Governmental Authority**” means any governmental body at the supranational, national, state, county, province, city, municipal, local or any other level, any agency, authority, instrumentality, regulatory body, quasi-regulatory authority, administrative tribunal, central bank, public office, court, arbitration or mediation panel, or other entity or subdivision exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of government, securities exchange or self-regulatory organization, in each case in any jurisdiction.

“**Ineligibility Determination**” shall have the meaning set forth in Section 2.C.

“**Instructions**” mean communications received by the Custodian through an on-line communication system, by e-mail, or other method or system, as specified by the Custodian from time to time as available for use in connection with the services hereunder.

“**Law**” means each of the following, including any updates thereto throughout the Term, to the extent applicable: any and all supranational, national, state, provincial or local laws, treaties, rules, regulations, regulatory guidance, directives, policies, orders or determinations of (or agreements with), and mandatory written direction from (or agreements with), any Governmental Authority or other regulatory authority, including export laws, sanctions regulations, and all federal and state statutes or regulations relating to banking, stored value, money transmission, unclaimed property, payment processing, telecommunications, unfair or deceptive trade practices or acts, anti-corruption, trade compliance, anti-money laundering, terrorist financing, “know your customer,” securities, commodities, derivatives, other financial products or services, privacy or data security.

“**Person**” means any natural person, corporation, general partnership, limited partnership, limited liability company, joint venture, trust, proprietorship, governmental body or other entity, association or organization of any nature. Any reference herein to any Person shall be construed to include such Person’s successors and assigns.



“*Proper Instructions*” shall have the meaning set forth in Section 5.B.

“*System Failure*” means a failure of any computer hardware or software used by the Custodian or a service provider to the Custodian, or any telecommunications lines or devices used by the Custodian or a service provider to the Custodian.

“*Taxes*” means all federal, state, local, foreign, and other taxes, government fees or the like, including, without limitation, income taxes, estimated taxes, alternative minimum taxes, franchise taxes, capital stock taxes, sales taxes, use taxes, ad valorem, or value-added taxes, employment and payroll-related taxes, withholding taxes, and transfer taxes, whether or not measured in whole or in part by net income, and all deficiencies, or other additions to tax, interest thereon, and fines and penalties imposed in connection therewith.

“*Trade Order*” shall have the meaning set forth in Section 4.A.

B. **Interpretation.** The words “hereof,” “herein” and “hereunder” and words of like import used in this Agreement will refer to this Agreement as a whole and not to any particular provision of this Agreement. References to Sections, Exhibits, Appendices and Schedules are to Sections, Exhibits, Appendices and Schedules of this Agreement unless otherwise specified. All Exhibits, Appendices and Schedules annexed hereto or referred to herein are hereby incorporated in and made a part of this Agreement as if set forth in full herein. Any capitalized terms used in any Exhibit, Appendix or Schedule but not otherwise defined therein, will have the meaning as defined in this Agreement. Any singular term in this Agreement will be deemed to include the plural, and any plural term the singular. Whenever the words “such as,” “include,” “includes” or “including” are used in this Agreement, they will be deemed to be followed by the words “without limitation,” whether or not they are in fact. The word “will” shall be construed to have the same meaning and effect as the word “shall.”

## 2. ESTABLISHMENT AND MAINTENANCE OF CUSTODY ACCOUNTS AND APPOINTMENT OF CUSTODIAN

A. **Custody Accounts.** The Client authorizes, approves and directs the Custodian to establish and maintain on its books, in the name of the Client, pursuant to the terms of this Agreement:

i. one or more custody accounts for the receipt, safekeeping and maintenance of Eligible Assets (each a “*Digital Asset Custody Account*”); and

ii. one or more cash accounts (each a “*Cash Custody Account*”, and, together with the Digital Asset Custody Accounts, the “*Custody Account*”), each corresponding to a Digital Asset Custody Account, to hold cash and monies received for deposit for the account of the Client (“*Cash*”) in accordance with the terms of this Agreement. Cash held for the Client in Cash Custody Accounts may be held by the Custodian in an omnibus, non-interest bearing cash account, along with the Cash of other customers of the Custodian, at an unaffiliated depository in the name of the Custodian, specifically designated for the purpose of holding funds of the Custodian’s customers. The Custodian may hold Cash in a Cash Custody Account subject to and in accordance with applicable local law, rules or practices. The establishment of the Custody Account in the name of the Client shall be subject to successful completion of the Custodian’s screening procedures.

B. **Digital Asset Segregation.**

- Digital Assets in the Digital Asset Custody Account will be held through an omnibus wallet structure, along with the Digital Assets of other customers of the Custodian (an “*Omnibus Wallet*”). The Client agrees that the Digital Assets that are transferred by the Client to the Custodian or acquired by the Client through Trade Orders (“*Client Digital Assets*”) will be treated as fungible with those Digital Assets of other clients of the Custodian that are based on the same cryptographic protocol or consensus rules of a computer network (subject to Schedule 3) that are also held in the Omnibus Wallet by the Custodian on behalf of such other clients. The Client acknowledges that the redelivery rights of the Client in respect of the Client Digital Assets are not necessarily for the same Digital Assets as the Client Digital Assets (or addresses or accounts that are associated with the Client Digital Asset), but rather will be in respect of an equal amount of Digital Assets that are based on the same cryptographic protocol or consensus rules of a computer network (subject to Schedule 3) as the Client Digital Asset. The Custodian will manage all associated private keys on behalf of the Client, subject to the terms of this Agreement.
- i.
  - ii. A portion of the Digital Assets held for clients in the Omnibus Wallet will be held within an offline storage system used by the Custodian in connection with the storage or maintenance of the Digital Assets.

- Acceptance and Holding of Assets.** The Custodian will determine in its sole discretion whether to accept Assets of any kind for custody in the Custody Account. If the Custodian determines in its sole discretion that, due to legal, regulatory, operational, security or reputational risk, an Asset currently held in custody is no longer an Eligible Asset (“*Ineligibility Determination*”), the Custodian shall (i) deliver the Client written notice of such Ineligibility Determination, (ii) provide no other services with respect to any such Asset, except for Digital Asset Debit Requests and the services described in this Section 2, following such Ineligibility Determination and (iii) within 60 Business Days, or if that is not reasonably practicable, as promptly as reasonably practicable, of the delivery of the Ineligibility Determination, Deliver Digital Assets that are of the same type as the Client Digital Assets (as set forth in Section 2.B.i) in the amount of the Digital Assets subject to the Ineligibility Determination.
- C.

- Designation of Assets.** The Custodian shall on its books and records segregate all Digital Assets from the proprietary property of the Custodian; provided that the Custodian may maintain in the Omnibus Wallet an amount of proprietary Digital Assets that are used for operational or other purposes. The ownership of all of the Client’s Assets shall be clearly recorded in the Custodian’s books and records as belonging to the Client.
- D.

- Status of Custodian.** The Custodian is a limited liability company and its capacity under this Agreement shall be:
- E.
- i. a bailee with respect to any Digital Asset Custody Account and any Digital Assets in such Digital Asset Custody Account;
  - ii. an agent for the exclusive benefit of the Client and other customers of the Custodian with respect to any Cash Custody Account and any cash deposits in such Cash Custody Account, subject to Section 12.C.vii; or
  - iii. agent or principal with respect to any actions taken by the Custodian with respect to the purchase and sale services pursuant to Section 4 of this Agreement, subject to Section 12.C.vii.

### 3. TRANSFER OF ASSETS

**Credits to the Digital Asset Custody Account.** Subject to the terms of this Agreement, the Client may transfer Eligible Assets from an external provider or other third parties to the Digital Asset Custody Account. In advance of any such transfer from an external provider or other third party, the Client shall send the Custodian the applicable Proper Instructions in accordance with Section 5.B (a “*Digital Asset Credit Request*”). The Custodian is not obligated to credit any Digital Assets to the Digital Asset Custody Account before the Custodian actually receives such Digital Assets by final settlement.

A.

The Custodian, upon receiving the Digital Asset Credit Request and verifying that such request complies with Section 5.B, will generate and deliver to the Client a recipient address and complete any Delivery to the Digital Asset Custody Account within two (2) Business Days after receipt of the Digital Assets at the recipient address specified by the Custodian to the Client (or at an address previously specified by the Custodian to the Client and not subsequently identified to the Client as invalid), subject to successful completion of the Custodian’s screening procedures. If a Digital Asset Credit Request is received after the Cut-off-Time on a Business Day, such Delivery will be completed within two (2) Business Days of the following Business Day. Delivery to the Digital Asset Custody Account is subject to the payment of the Custodian’s fees as specified in the Fee Schedule.

i.

The Custodian shall monitor associated nodes, as determined to be necessary by the Custodian in its sole discretion, for incoming transactions. The Custodian shall advise the Client of Eligible Assets availability after Eligible Assets have been Delivered to the Digital Asset Custody Account.

ii.

**Debits to the Digital Asset Custody Account.** Subject to the terms of this Agreement, the Client may Deliver Eligible Assets from the Digital Asset Custody Account by sending the Custodian the applicable Proper Instructions in accordance with Section 5.B (a “*Digital Asset Debit Request*”).

B.

The Custodian, upon receiving the Digital Asset Debit Request and verifying that such request complies with Section 5.B, will initiate the transfer and broadcast the Digital Asset Debit Requests to the blockchain supporting the relevant Eligible Asset within two (2) Business Days after the Custodian receives such Digital Asset Debit Request, subject to successful completion of the Custodian’s screening procedures.

i.

The Custodian shall provide the Client with a confirmation of a pending debit transaction. Within the three (3) hours immediately following receipt of such confirmation, the Client may notify the Custodian to query or halt the transaction.

ii.

If the Custodian has received a Digital Asset Debit Request that would result in the transfer of Assets from the Custody Account exceeding the credit to the Custody Account for that Asset, the Custodian may, in its sole and absolute discretion, reject such Instructions.

iii.

**Request for Additional Information.** The Client shall promptly provide to the Custodian such additional information as the Custodian may request regarding the source or ownership of the Eligible Assets that are subject to a Digital Asset Credit Request or the recipient of Eligible Assets that are the subject of a Digital Asset Debit Request.

C.

D. **Credits to the Cash Custody Account.** Subject to the terms of this Agreement, the Client may transfer Cash into the Client's Cash Custody Account from a third-party bank account or a third party by sending the Custodian the applicable Proper Instructions in accordance with Section 5.B (a "**Cash Credit Request**").

The Custodian, upon receiving the Cash Credit Request and verifying that such request complies with Section 5.B, will complete any transfer to the Cash Custody Account within two (2) Business Days after receipt of the Cash Credit Request. If a Cash Credit Request is received after the Cut-off-Time, such transfer will be completed within two (2) Business Days of the following Business Day. Transfers to the Cash Custody Account are subject to fees specified in the Fee Schedule.

E. **Debits to the Cash Custody Account.** Subject to the terms of this Agreement, the Client may transfer Cash from the Cash Custody Account to an account at a third-party bank established and maintained in the name of the Client or in the name of a third party in connection with the Client's purchase of Digital Assets by sending the Custodian the applicable Proper Instructions in accordance with Section 5.B (a "**Cash Debit Request**").

The Custodian, upon receiving the Cash Debit Request and verifying that such request complies with Section 5.B, will complete any transfer from the Cash Custody Account on the Business Day in which the Cash Debit Request was received, provided that it was received by the Cut-off Time. If a Cash Debit Request is received after the Cut-off-Time, such request may need to be resubmitted on another Business Day. Transfers from the Cash Custody Account are subject to fees specified in the Fee Schedule.

ii. Such transfer may only be effected via wire transfer.

F. **Purpose of Transfer of Cash.** Any transfer of Cash to or from the Client's Cash Custody Account requested by the Client pursuant to this Agreement shall be solely for the purpose of the settlement of transactions that are the subject of the Client's Digital Asset Credit Request or Digital Asset Debit Request, to transfer Cash to an account at a third-party bank established and maintained in the name of the Client or to pay fees or expenses of the Custodian.

G. **Investment in and Transfer of Assets.** The Client shall bear the sole risk and expense associated with investing, transferring or otherwise transacting in respect of Digital Assets (except to the extent otherwise specifically provided in this Agreement).

H. **Transaction Limits.** The Custodian may, for risk management or other reasons, impose limits on the number or size, or both, of transactions processed for the Client under this Section 3.

#### 4. PURCHASE AND SALE OF DIGITAL ASSETS

A. **Role of Custodian.** The Custodian may purchase any Digital Assets constituting Eligible Assets from the Client or sell any such Digital Assets to the Client upon receipt of a sale or purchase order in the form of Proper Instructions from the Client ("**Trade Orders**").

B. **Execution and Order Fulfillment.** The Custodian will execute and fulfill the Client's Trade Orders in accordance with the terms set forth in Schedule 2 attached hereto, as such terms and procedures may be modified by the Custodian from time to time. The Custodian's execution and settlement of Trade Orders is subject to available liquidity and market conditions generally. The

Custodian reserves the right to cancel or reject any Trade Order, in whole or in part, for any reason.

## 5. INSTRUCTIONS

**Authorized Persons and Authorized Agents.** The Persons identified as “Authorized Persons” on the Firm Authorized User Form(s) completed by the Client or the Authorized Agent shall, subject to approval by the Custodian, be authorized to act on behalf of the Client in the performance of those acts or duties specified for each such person from time to time in the Firm Authorized User Form(s) (“**Authorized Persons**”). The Client, or

A. Authorized Agent acting on behalf of the Client, may, from time to time, add to or remove names from the list of Authorized Persons maintained by the Custodian, or change the authorizations granted to any Authorized Person, by delivery of a new or revised Firm Authorized User Form to the Custodian. If at any time there are no Authorized Persons designated by the Client or the Authorized Agent, the president/chief executive officer and chief financial officer of the Client shall be deemed Authorized Persons hereunder.

### B. Proper Instructions.

i. “Proper Instructions” mean:

a) With respect to Digital Assets Debit Requests or Cash Debit Requests, an Authenticated Instruction delivered by an Authorized Person (or Person that the Custodian believes in good faith to be an Authorized Person) that is confirmed by an Authenticated Instruction from at least one additional Authorized Person (or Person that the Custodian believes in good faith to be an Authorized Person);

b) With respect to Digital Assets Credit Requests or Cash Credit Requests, an Authenticated Instruction delivered by an Authorized Person (or Person that the Custodian believes in good faith to be an Authorized Person);

c) With respect to Trade Orders, an Instruction delivered by an Authorized Person (or Person that the Custodian believes in good faith to be an Authorized Person) through the user interface specified by the Custodian to submit Trade Orders; and

d) With respect to requests not involving the transfer of Assets from or to the Custody Account, an Instruction delivered by an Authorized Person (or Person that the Custodian believes in good faith to be an Authorized Person).

ii. The Custodian may act upon and rely upon any Proper Instruction received from, or believed in good faith by the Custodian to be received from, an Authorized Person, that have been validated in accordance with procedures in place from time to time, unless or until the Custodian has (i) received written notice of any change thereto from the Client and (ii) had a reasonable time to note and implement such change. Validation procedures used by the Custodian are designed only to verify the source of the Instruction and not to detect errors in the content of that Instruction or to prevent duplicate Instructions. The Client agrees that the Custodian shall have no obligation to act in accordance with

purported Instructions to the extent that they conflict with applicable Law. The Custodian shall not be liable for any loss resulting from a delay while it obtains clarification of any Proper Instructions. The Client agrees that the Custodian is not responsible for any errors made by or on behalf of the Client, any errors resulting, directly or indirectly, from fraud or the duplication of any Instruction by or on behalf of the Client, or any losses resulting from the malfunctioning of any devices used by the Client or loss or compromise of credentials used by the Client to deliver Instructions.

C. **Rejection of Instruction.** The Custodian may reject or decide, in its sole and absolute discretion, not to act on any Instruction to transfer Eligible Assets (i) based on the Custodian's applicable policies and procedures, including the results of the Custodian's transaction monitoring and screening procedures, (ii) where it reasonably doubts such Instruction's contents, authorization, origination or compliance with the Custodian's policies and procedures, (iii) where it reasonably believes that acting on the Instruction could (a) require it to register or qualify as a regulated entity, (b) violate or facilitate the violation of any Law or (c) subject the Custodian to any financial or other liability for which it has not been provided adequate indemnification, and, in each case, the Custodian covenants to promptly notify the Client of its decision in such instance if permitted to do so by Law, or (iv) in order to give effect to transaction limits imposed in accordance with Section 3.H. In the event the Custodian shall receive conflicting Instructions from the Client or any Authorized Person, the Custodian shall be entitled, at its option, to refrain from taking action until such conflicting Instructions are reconciled to its reasonable satisfaction.

D. **Responsibility for Instructions.** The Client is responsible for any Proper Instructions actually given to the Custodian or on which the Custodian is entitled to rely hereunder, whether or not properly authorized by the Client. The Custodian shall have no duty or responsibility to inquire into, make recommendations, or determine the suitability of any Proper Instructions or transactions affecting the Custody Account.

E. **Acknowledgment of Risk.** The Client expressly acknowledges and agrees that the use of electronic communication systems to convey Instructions does not eliminate the risk of error and fraudulent activities or security and privacy issues.

F. **English.** Instructions are to be given in the English language only.

G. **Cut-Off Times.** The Custodian may act on Instructions only within applicable cut-off times specified by the Custodian from time to time on Business Days when the Custodian is open for business in the ordinary course (a "*Cut-Off Time*").

## 6. PERFORMANCE BY THE CUSTODIAN

A. **Custodial Duties Requiring Instructions** The Custodian shall carry out any of the following actions only upon receipt of specific Instructions, delivered in accordance with Section 5, authorizing and requesting same:

- i. Receive or deliver any Assets, except as otherwise specifically provided for in this Agreement;
- ii. Carry out any action affecting Assets and the Custody Account, other than those specified in Section 6.B below; provided, however, that each instance shall be subject to the prior approval and agreement of the Custodian; provided further, that all instructions regarding Forked Digital Assets are subject to Section 8 of this Agreement; and



iii. Transfer Assets in connection with the services described in Section 3.

**B. Non-Discretionary Custodial Duties.** Absent a contrary Instruction, the Custodian shall be permitted, and is hereby authorized and directed by Client to, and may authorize subcustodians or depositories to, carry out any of the following actions without any further Instructions or approval by or on behalf of Client:

i. In the Client's name or on its behalf, sign any affidavits, certificates of ownership and other certificates and documents relating to Assets which may be required (a) to obtain any Assets, or (b) by any tax or regulatory authority having jurisdiction over the Assets or the Custody Account;

ii. Notify the Client of notices, circulars, reports and announcements that require discretionary action, in each case, which the Custodian has received in the course of acting in the capacity of custodian of any Assets held on the Client's behalf; and

iii. Attend to all non-discretionary matters in connection with anything provided in this Section 6.B or any Instruction.

**C. Use of Third Parties.**

The Custodian may perform any of its duties or obligations under this Agreement through depositories, subcustodians, subcontractors or agents (including its affiliates), whenever and on such terms and conditions as it deems necessary or advisable to perform such duties or obligations or liabilities.

The Custodian shall act in good faith and use reasonable care in the selection and continued appointment of unaffiliated depositories, subcustodians, subcontractors or agents. The Custodian will provide written notice to the Client of any appointed unaffiliated subcustodians and will provide information as may be reasonably requested by the Client, no more than once per calendar year, with respect to other appointed unaffiliated depositories, subcontractors or agents.

The Custodian will not be responsible for any losses caused by any unaffiliated third parties; provided, that the Custodian shall have acted in good faith and used reasonable care in the selection and continued appointment of such third parties.

**D. Reporting.** The Custodian will provide to Client quarterly account statements identifying the Digital Assets in the Custody Account on a quarterly basis and setting forth all transactions in the Custody Account during such quarter. Upon written request from the Authorized Agent, the Custodian will also provide copies of quarterly account statements to the Authorized Agent.

**E. Security of Assets.** The Custodian may take such steps that it determines, in its sole discretion, may be necessary or advisable to inspect and protect the security of the Assets, the Custody Account or the Omnibus Wallet or enhance the Custodian's ability to secure the Assets or the Omnibus Wallet, including cancelling, interrupting, terminating or suspending any or all of the Custodian's services and operations hereunder and the Client's access to the Custodian's services and operations, to any Assets or to the Custody Accounts. The Custodian may from time to time review and amend its policies and procedures or impose such additional policies and procedures as the Custodian, in its sole discretion, considers necessary or advisable to enhance the Custodian's ability to secure the Assets or the Omnibus Wallet.

## 7. TAXATION

- Client's Tax Obligations.** The Client shall, for all tax purposes, be treated as the owner of all Assets held by the Custodian pursuant to this Agreement. It is the Client's sole responsibility to determine whether and to what extent Taxes and Tax reporting obligations may apply to the Client with respect to its Assets, Custody Accounts, and transactions, and the Client shall timely pay all such Taxes and shall file all returns, reports, and disclosures required by applicable law.
- A.

- Tax Information.** Upon execution of this Agreement, as well as upon request of the Custodian, the Client will promptly provide the Custodian with all forms, certifications, documentation, representations and warranties and any other information as the Custodian may request ("**Account Tax Documentation**"), including a duly completed and executed W-9 or W-8 (both available at [www.irs.gov](http://www.irs.gov)), as applicable, as to the Client's and/or the Client's underlying beneficial owners' tax status and/or residence. The Client warrants that, when given, such Account Tax Documentation is true, complete and correct. If any such Account Tax Documentation becomes inaccurate, incorrect or obsolete, the Client will notify the Custodian immediately and promptly provide updated Account Tax Documentation. The Client understands that the Custodian may disclose any information with respect to Client Assets, Custody Accounts and transactions required or requested by any applicable taxing authority or other governmental entity.
- B.

- Payments; Indemnity.** Custodian is authorized to deduct and/or withhold Taxes, including Taxes arising as a result of the Client's failure to provide Account Tax Documentation pursuant to Section 7.B above, from Client's Assets, Custody Account or cash or other property of the Client and remit such amounts to the relevant taxing authority. If any Taxes become payable with respect to any prior payment made to the Client by the Custodian, the Custodian may withhold any cash or other property of the Client held or received with respect to Client's Assets, Custody Accounts or cash or other property in satisfaction of such prior Taxes. The Client shall remain liable for any Tax deficiency. If Taxes are required to be deducted or withheld from any payments made by the Client to Custodian, the Client will pay such additional amounts as are necessary so that Custodian receives a net amount equal to the amount Custodian would have received absent such withholding or deduction. Without limiting Section 13 hereof, the Client shall indemnify and hold the Custodian harmless from and against any and all liabilities, penalties, interest or additions to tax with respect to, or resulting from, any delay in, or failure by, the Custodian to pay, withhold or report any Taxes imposed on Client's Assets, cash or other property.
- C.

## 8. DIGITAL ASSET FORKS

The Custodian is not responsible for any Fork of a Digital Asset, including any Eligible Assets, and is not liable for any loss in value of the Assets held by the Custodian on the Client's behalf as a result of any Fork or otherwise. It is the responsibility of the Client to make itself aware of anticipated or upcoming operational or systemic changes in a Digital Asset and the Client must carefully consider publicly available information as well as information provided by the Custodian, if any, in determining whether to continue to use an account with the Custodian in connection with a Forked Digital Asset. In the event of a Fork of an Eligible Asset, the Custodian will use reasonable efforts to investigate the technical and operational feasibility of providing services with respect to Forked Digital Assets and will act in accordance with its Policy Statement on Forks as set forth in Schedule 3 attached hereto, which may be supplemented or modified by the Custodian from time to time in its sole discretion; provided that the Custodian retains the right, in its sole discretion, to determine whether or not to support (or cease supporting) each Forked Digital Asset.



## 9. VALUE AND SUPPLY OF DIGITAL ASSETS; INSURANCE

**VALUE FLUCTUATION.** THE CLIENT UNDERSTANDS THAT THE VALUE OF DIGITAL ASSETS AND ANY UNSUPPORTED FORKED DIGITAL ASSET CAN FLUCTUATE SUBSTANTIALLY, WHICH MAY RESULT IN A SIGNIFICANT OR TOTAL LOSS OF THE VALUE OF THE ASSETS HELD BY THE CUSTODIAN ON THE CLIENT'S BEHALF OR ANY UNSUPPORTED FORKED DIGITAL ASSET. THE CLIENT AGREES THAT THE CUSTODIAN WILL NOT BE LIABLE FOR ANY LOSS IN VALUE OF THE ASSETS OR UNSUPPORTED FORKED DIGITAL ASSET AT ANY TIME.

A.

**SUPPLY OF DIGITAL ASSETS.** THE SUPPLY OF DIGITAL ASSETS AVAILABLE TO THE CUSTODIAN TO PROVIDE TO THE CLIENT THROUGH TRADE ORDERS AND THE ABILITY OF THE CUSTODIAN TO DELIVER DIGITAL ASSETS DEPENDS ON THIRD PARTY PROVIDERS THAT ARE OUTSIDE OF THE CUSTODIAN'S CONTROL. THE CUSTODIAN DOES NOT OWN OR CONTROL ANY OF THE PROTOCOLS THAT ARE USED IN CONNECTION WITH DIGITAL ASSETS AND THEIR RELATED NETWORKS, INCLUDING THOSE RESULTING FROM A FORK. ACCORDINGLY, THE CUSTODIAN DISCLAIMS ALL LIABILITY RELATING TO SUCH PROTOCOLS AND ANY CHANGE IN THE VALUE OF ANY DIGITAL ASSETS (WHETHER FORKED DIGITAL ASSETS OR NOT), ANY ELIGIBLE ASSETS, OR ANY ASSETS, AND MAKES NO GUARANTEES REGARDING THE SECURITY, FUNCTIONALITY, OR AVAILABILITY OF SUCH PROTOCOLS OR NETWORKS. THE CLIENT ACCEPTS ALL RISKS ASSOCIATED WITH THE USE OF THE SERVICES TO CONDUCT TRANSACTIONS, INCLUDING, BUT NOT LIMITED TO, RISKS IN CONNECTION WITH THE FAILURE OF HARDWARE, SOFTWARE AND INTERNET CONNECTIONS.

B.

**INSURANCE.** THE CLIENT ACCEPTS THAT DIGITAL ASSETS ARE NOT SUBJECT TO THE PROTECTIONS OR INSURANCE PROVIDED BY THE FEDERAL DEPOSIT INSURANCE CORPORATION OR THE SECURITIES INVESTOR PROTECTION CORPORATION. IN ADDITION, ALTHOUGH THE CUSTODIAN MAY MAINTAIN INSURANCE FOR ITS OWN BENEFIT IN CONNECTION WITH ITS BUSINESS, THIS INSURANCE, IF MAINTAINED, IS SOLELY FOR THE BENEFIT OF THE CUSTODIAN AND DOES NOT GUARANTEE OR INSURE THE CLIENT IN ANY WAY.

C.

## 10. ACKNOWLEDGMENT OF DIGITAL ASSET RISKS

**General Risks.** The Client understands and acknowledges that investing in, buying, and selling Digital Assets presents a variety of risks that are not presented by investing in, buying, and selling products in other, more traditional asset classes. These risks include, but are not limited to, the following:

A.

- i. Digital Assets are not legal tender, operate without central authority or banks, and are not backed by any government.
- ii. Digital Assets are a new technological innovation with a limited history and are a highly speculative asset class, and as such, have in the past experienced, and are likely in the future to continue to experience, high volatility, including periods of extreme volatility.
- iii. Digital Assets could become subject to Forks, and various types of cyberattacks, including but not limited to a "51% Attack" or a "Replay Attack," as described in the Policy Statement on Forks attached to this Agreement as Schedule 3.

- iv. Trading platforms on which Digital Assets are traded, including exchanges that may be used by the Custodian to fill Trade Orders, may stop operating or shut down due to fraud, technical problems, hackers or malware, and these trading platforms may be more susceptible to fraud and security breaches than established, regulated exchanges for other products.
- v. The decentralized, open source protocol of the peer-to-peer computer network supporting a Digital Asset could be affected by internet disruptions, fraud or cybersecurity attacks, and such network may not be adequately maintained and protected by its participants.
- vi. Regulatory actions or policies may limit the ability to exchange a Digital Asset or utilize it for payments, and federal, state or foreign governments may restrict the use and exchange of Digital Assets.
- vii. It may be or in the future become illegal to acquire, own, sell, or use a Digital Asset in one or more countries, and the regulation of Digital Assets within and outside of the United States is still developing.
- viii. A Digital Asset could decline in popularity, acceptance or use, thereby impairing its price and liquidity.

B. **Acknowledgement.** The risks described in this Section 10 are just some of the risks presented by investing in, buying and selling Digital Assets, and the Client acknowledges that the Client is solely responsible for understanding and accepting the risks involved in investing in, buying, and selling Digital Assets, acknowledges that, subject to the other provisions of this Agreement, the Custodian has no control or influence over such risks, and acknowledges that the Custodian shall not be liable for any loss in value of Digital Assets that occurs in connection, directly or indirectly, with these risks.

## 11. REPRESENTATIONS AND WARRANTIES

A. **General.** Each Party hereto represents and warrants to the other Party, as of the date this Agreement, that:

- i. It is duly organized and in good standing in its jurisdiction of formation;
- ii. It has the requisite power and authority to execute this Agreement and to perform its obligations hereunder;
- iii. It has taken all necessary action to authorize the execution and delivery of this Agreement and the consummation of the transactions contemplated hereby;
- iv. This Agreement, when executed and delivered, will be its legal, valid and binding obligation, enforceable against it in accordance with its terms, except as such enforceability may be limited by applicable bankruptcy or other similar laws;
- v. Any consent, authorization or Instruction required in connection with its execution and performance of this Agreement has been provided by any relevant third party;

- vi. Any act reasonably required by any relevant governmental or other authority to be done in connection with its execution and performance of this Agreement has been or will be done (and will be renewed if necessary); and
- vii. Neither the execution nor performance of this Agreement by such Party will materially breach any applicable Law, contract or other requirement to which such Party is bound.

B. **Client.** In addition to the general representations set forth in Section 11(A) hereof, the Client also represents, warrants and covenants to the Custodian that:

- i. Its principal place of business is in Tarrytown, NY, and it will notify the Custodian before changing its principal place of business to another jurisdiction;
- ii. It has the requisite power and authority to deposit the Assets in the Custody Account;

iii. Any factual information heretofore or contemporaneously furnished by or on behalf of the Client in writing to the Custodian for purposes of or in connection with the services contemplated by this Agreement is true and accurate in all material respects on the date as of which such information is dated or certified and not incomplete by omitting to state any fact necessary to make such information not misleading in any material respect at such time; provided that, with respect to forecasts or projections, the Client represents only that such information was prepared in good faith based upon assumptions believed to be reasonable at the time;

iv. There is no claim pending, or to the Client's knowledge, threatened, and no encumbrance or other lien, in each case, that may adversely affect any delivery of Assets made in accordance with this Agreement;

v. It has not relied on any oral or written representation or warranty made by the Custodian or any other person on the Custodian's behalf, other than those explicitly set forth in Section 11.A. hereof;

vi. It owns the Assets in the Custody Account free and clear of all liens, claims, security interests and encumbrances (except those granted herein) and it has all rights, title and interest in and to the Assets in the Custody Account as necessary for the Custodian to perform its obligations under this Agreement;

vii. It acknowledges that Digital Assets are new forms of assets, that the law regarding their ownership, custody and transfer is developing and uncertain, and that custody of such assets poses certain risks that are not present in the case of more traditional asset classes, including the risks of fraud and theft; and it understands that it will bear such risks and the potential loss or diminution in value of Digital Assets due to (a) changes or developments in the Law or conditions under existing Law in which its rights in and to such Digital Assets are not adequately protected, (b) changes in the Custodian's policies or procedures made in the Custodian's sole discretion in light of legal, regulatory, operational, security or reputational risks, (c) an Ineligibility Determination or (d) fraud and theft;

viii. It is not, and no transferee of Assets pursuant to any Digital Asset Debit Request is, (a) the target of any economic, financial or trade sanctions or embargoes, export controls or other restrictive measures imposed by the United States of America (including those

administered by the United States Department of the Treasury's Office of Foreign Assets Control), the European Union, any member state of the European Union, the United Kingdom or the United Nations (the "**Sanctions**"), or (b) located, organized or resident in a country or territory with which dealings are broadly restricted or prohibited by any Sanctions (as of the date hereof, Crimea, Cuba, Iran, North Korea and Syria)(any such country, territory, entity or individual described in this clause (ix), a "**Sanctioned Party**");

ix. The Client does not know or have any reason to suspect that (a) any part of the Assets are or will be derived from, held for the benefit of, or related in any way to transactions with or on behalf of, any Sanctioned Party, and (b) any Sanctioned Party has or will have any legal or beneficial interest in the Client or any of the Assets;

x. The Client does not know or have any reason to suspect that (a) any part of the Assets was derived from unlawful activities, or (b) any part of the Assets or proceeds of the Assets will be used to finance any unlawful activities;

xi. If the Client is a non-U.S. banking institution (a "**Non-U.S. Bank**") or is holding the Assets directly or indirectly on behalf of or for the benefit of a Non-U.S. Bank, such Non-U.S. Bank (a) maintains a place of business at a fixed address, other than solely a post office box or an electronic address, in a country where the Non-U.S. Bank is authorized to conduct banking activities; (b) at such location, employs one or more individuals on a full-time basis; (c) maintains operating records related to its banking activities; (d) is subject to inspection by the banking authority that licensed the Non-U.S. Bank; and (e) does not provide banking services to any other Non-U.S. Bank that does not have a physical presence in any country and that is not a registered affiliate of such Non-U.S. Bank;

xii. If the Client is an entity holding the Assets on behalf of third parties, (a) the Client is in compliance in all material respects with Sanctions and, as applicable to the Client, the U.S. Bank Secrecy Act, as amended, the U.S. Money Laundering Control Act of 1986, as amended, the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, as amended, or any similar U.S. federal, state or foreign law or regulation, (b) the Client has anti-money laundering policies and procedures in place reasonably designed to verify the identity of its customers and investors and their sources of funds, and (c) the Client has established the identities of and conducted thorough due diligence with respect to all of its customers or investors who beneficially own or will beneficially own, directly or indirectly, any of the Assets;

xiii. It acknowledges that the Custodian may, with or without prior notice to the Client, "freeze" the Client's Custody Account, or any other Assets of the Client in the Custodian's possession or control, including, but not limited to, prohibiting transfers, declining any Cash Debit Request, Cash Credit Request, Digital Asset Debit Request or Digital Asset Credit Request, and/or segregating Assets or property, if the Custodian determines, suspects, or is advised that such actions are necessary or advisable to comply with any applicable anti-money laundering, OFAC or other laws or regulations in any relevant jurisdiction. The Client acknowledges that the Custodian may be required to report transactions that raise suspicions of money laundering or OFAC violations and to disclose the identity of the Client and any related parties to appropriate government authorities;

xiv. It does conduct and intends to continue to conduct its business in material compliance with all applicable Laws, and has obtained all regulatory licenses, approvals and consents necessary to carry on its business as now conducted; without limiting the generality of the foregoing, it will not use the services provided by Custodian hereunder in any manner that is, or would result in, a violation of any applicable Law;

xv. It is aware of and familiar with, and has been fully informed of, the risks associated with giving Proper Instructions, and is willing to accept such risks, and it shall (and shall cause each Authorized Person to) safeguard and treat with extreme care any devices or credentials related to Proper Instructions, understands that there may be alternative methods of giving or delivering the same than the methods selected by the Custodian, agrees that the security procedures (if any) to be followed in connection therewith provide a commercially reasonable degree of protection in light of its particular needs and circumstances, and acknowledges and agrees that a deposit or withdrawal request may conclusively be presumed by the Custodian to have been given by Authorized Person(s) duly authorized to do so, and may be acted upon as given; and

xvi. (a) the aggregate interest in any class of shares of the Client held by benefit plan investors (as such term is interpreted under The Employee Retirement Income Security Act of 1974, as amended (“*ERISA*”)) shall not at any time equal or exceed twenty-five percent of the outstanding shares of such class and (b) the Client shall not permit the assets of the Client to be deemed assets of an employee benefit plan that is subject to ERISA;

xvii. It is not an investment company, as defined in the Investment Company Act of 1940, as amended;

xviii. It is not a broker or dealer, as respectively defined in the Securities Exchange Act of 1934, as amended; and

xix. It has determined, and agrees that it is solely responsible for ensuring, that the services offered by the Custodian under this Agreement are sufficient for all legal, regulatory, contractual, operational and other requirements and obligations of the Client, and that such services are appropriate and desirable for the Client, including, but not limited to, determining whether the services provided by the Custodian hereunder are sufficient for satisfying any obligation of the Client to arrange for a qualified custodian to maintain Client funds and securities under the Investment Advisers Act of 1940, as amended. The Custodian makes no express or implied warranty, guarantee, or representation that the services offered by the Custodian under this Agreement satisfy any legal or regulatory requirements applicable to the custody of Client Assets. The Custodian shall have no liability whatsoever for, and the Client shall indemnify and hold the Custodian harmless against, any loss in value of the Assets held by the Custodian on the Client’s behalf and any other loss, expense, cost or liability of any kind incurred by the Custodian arising directly or indirectly out of the Client’s failure or alleged failure to comply with any Law, contract or operational requirements applicable to the Client, including, but not limited to, any Law applicable to the custody of Client Assets.

C. **Custodian.** The Custodian represents to the Client that the Custodian is (A) a New York State limited liability trust company authorized pursuant to Section 102-a of the New York Banking Law to engage in all activities described in Sections 96 and 100 of the New York Banking Law, with the exception of accepting deposits and making loans, and (B) a “bank” as defined in Section 202(a) of the Investment Advisers Act of 1940, as amended.

## 12. SCOPE OF RESPONSIBILITY

A. **Standard of Care.** The Custodian shall exercise the reasonable care of a professional custodian for hire, with such standard of care being deemed satisfied if the Custodian exercises such care as it exercises with respect to any Custody Account, and Assets of a similar type, owned by the Custodian or any of its affiliates.

### B. Limitations on Losses.

i. In no event will the Custodian be responsible or liable for any loss, claim or damage suffered by the Client, except to the extent of a final, non-appealable judicial determination that such loss, claim or damage directly resulted from the gross negligence, willful misconduct or fraud of the Custodian. In the event of such final, non-appealable judicial determination, the liability of the Custodian will not exceed the lesser of (a) the replacement cost of any Assets and (b) the market value of the Assets (as determined by the Custodian) to which such loss or damage relates at the time the Client reasonably should have been aware of such gross negligence, willful misconduct or fraud. In the event of any loss sustained by the Client for which the Custodian is liable hereunder, the liability of the Custodian shall be reduced to the extent that the Client's own negligence contributed to such loss.

ii. The Custodian shall not be liable for any loss caused, directly or indirectly, by (a) the failure of the Client to adhere to the Custodian's policies and procedures that have been disclosed to the Client, (b) a Force Majeure Event or (c) any action taken pursuant to Section 6.E.

iii. Under no circumstances will the Custodian be liable to the Client for (a) acting in accordance with or conclusively relying upon any Instruction that it reasonably believes in good faith to have been authorized by the Client or any Person acting on behalf of the Client, or (b) any indirect, consequential, incidental, special or punitive loss or damage, even if the Custodian has been advised of or otherwise might have anticipated the possibility of such loss or damage.

iv. The Custodian shall not be responsible or liable to the Client for any loss caused, directly or indirectly, by (a) any failure or delay to act by any service provider to the Custodian or (b) any System Failure (other than a System Failure caused by the gross negligence, misconduct or fraud of the Custodian or the Custodian's affiliates), that prevents the Custodian from fulfilling its obligations under this Agreement.

### C. Limitations on the Custodian's Responsibility

i. **General.** The Custodian shall only be responsible for the performance of those duties as are expressly set forth herein, including the performance of any Proper Instructions given in accordance with this Agreement. The Custodian shall have no implied duties or obligations whatsoever. The Custodian shall not be subject to, nor required to comply with, any other agreement to which the Client is a party.

ii. [Reserved.]

iii. **Sole Obligations of the Custodian.** The Client understands and agrees that notwithstanding any delegation by the Custodian of any of its obligations and duties to

any affiliate of the Custodian (defined as an “*Affiliated Agent*”), no such agreement with any Affiliated Agent shall discharge the Custodian from its obligations hereunder, and the rights of the Client with respect to the Custodian extend only to the Custodian and do not extend to any Affiliated Agent of the Custodian. The Client shall have no direct or indirect rights or causes of action against any Affiliated Agent, nor shall any Affiliated Agent have any responsibility or liability to any Client of the Custodian.

iv. **Performance Subject to Laws.** The Client understands and agrees that the Custodian’s performance of this Agreement may be subject to relevant Laws and any rules, operating procedures, practices, and protocols related to Digital Assets, all of which may be subject to change. The Custodian may from time to time review and amend its policies and procedures or impose such additional policies and procedures as the Custodian, in its discretion, considers necessary or advisable due to change in any Law, including any Law related to Digital Assets.

v. **Preventing of Performance.** The Custodian will not be responsible for any failure to perform any of its obligations to the extent such performance is prevented, hindered or delayed by a Force Majeure Event, by changes in the Custodian’s policies or procedures made in the Custodian’s sole discretion, after having been previously disclosed to Client, in light of legal, regulatory, operational, security or reputational risks or after an Ineligibility Determination. In such case, the Custodian’s obligations will be suspended for so long as the Force Majeure Event continues or any change in the Custodian’s policies or procedures or Ineligibility Determination remains in effect.

vi. **Validity of Assets.** The Custodian does not warrant or guarantee the form, authenticity, value or validity of any Asset received by the Custodian.

vii. **No Fiduciary Duties.** The Custodian has no fiduciary duty to the Client in any respect, including with respect to the Assets held in the Custody Account under this Agreement (irrespective of whether an affiliate of the Custodian has provided other services or is currently providing other services to the Client on other matters).

viii. **Capacity of Custodian.** For the avoidance of doubt, the Custodian is not acting as an investment manager or as a broker or dealer (as respectively defined in the Securities Exchange Act of 1934, as amended), nor is it acting as an investment, financial, legal or tax adviser to the Client. This Agreement is an arm’s length, commercial transaction between the Client and the Custodian. The Custodian is not recommending that the Client take any investment or other action with respect to the Assets held in the Custody Account under this Agreement.

ix. **Forwarded Information; Contents of Documents.** The Custodian is not responsible for the form, accuracy or content of any notice, circular, report, announcement or other material provided under Section 6.B.ii of this Agreement not prepared by the Custodian and the Custodian shall not be required to make any investigation into the facts or matters stated in any certificate, report, or other document.

x. **Reliance on Counsel.** The Custodian may consult with legal counsel(s) of its own choosing as to any matter relating to this Agreement, and the Custodian shall not incur any liability with respect to anything done or omitted by it in order to comply with applicable Law in accordance with any advice from such counsel.



xi. **Security of Assets.** The Custodian shall not be liable to the Client for any loss resulting from actions reasonably taken by the Custodian to inspect, protect or improve the security of the Client's Assets pursuant to Section 6.E.

xii. **Conflicting Claims.** In the event of any dispute or conflicting claims by any person or persons with respect to the Assets, the Custodian shall be entitled to refuse to act until either (a) such dispute or conflicting claim shall have been finally determined by a court of competent jurisdiction or settled by agreement between conflicting parties, and the Custodian shall have received written evidence satisfactory to it of such determination or agreement or (b) the Custodian shall have received an indemnity, security or both, satisfactory to it and sufficient to hold it harmless from and against any and all loss, liability and expense that the Custodian may incur as a result of its actions.

xiii. **Legal and Regulatory Compliance.** The Custodian shall have no obligation to review, monitor or otherwise ensure compliance by the Client or the Authorized Agent with (a) any Law applicable to the Client or the Authorized Agent or (b) any term or condition of any agreement between the Client and any third party, including the Authorized Agent.

xiv. **Reliance on Written Items.** The Custodian may rely on and shall be protected in acting or refraining from acting upon any written notice, instruction, statement, certificate, request, waiver, consent, opinion, report, receipt or other paper or document furnished to it in accordance with this Agreement, not only as to its due execution and validity, but also as to the truth and accuracy of any information therein contained, which it in good faith believes to be genuine and signed or presented by an Authorized Person. The Custodian shall be entitled to presume the genuineness and due authority of any signature appearing thereon. The Custodian shall not be bound to make any independent investigation into the facts or matters stated in any such notice, instruction, statement, certificate, request, waiver, consent, opinion, report, receipt or other paper or document.

#### D. **Client Obligations.**

i. The Client agrees to pay all fees, expenses, charges and obligations incurred from time to time for any services pursuant to this Agreement as determined in accordance with the terms of the Fee Schedule attached hereto, which may be changed from time to time by the Custodian upon prior written notice to the Client or the Authorized Agent, together with any other amounts payable to the Custodian under the Agreement. The Client authorizes the Authorized Agent to agree to any changes to the Fee Schedule on behalf of the Client without notifying or obtaining prior consent from the Client, and the Client agrees to be bound by any fees or charges agreed to by the Authorized Agent. Unless otherwise agreed, all fees and expenses paid to the Custodian shall be paid in U.S. Dollars.

ii. The Client hereby acknowledges that the Custodian is subject to various laws including those verifying the identities of customers, pursuant to which the Custodian will obtain, verify and record information that allows the Custodian to identify each Client. Accordingly, prior to entering into this Agreement, the Custodian will ask the Client to provide certain information including, but not limited to, the Client's name, physical address, tax identification number and other information that will help the Custodian to identify and verify the Client's identity, such as organizational documents, certificate of good standing, license to do business or other pertinent identifying information. The Custodian may obtain and verify comparable information for any Authorized Person.



The Client shall provide the Custodian with documentation to allow for obtaining and verifying the beneficial owners and control persons of customers that are legal entities. The Client acknowledges that the Custodian cannot provide services under this Agreement until the Custodian verifies the identity of the Client (and, if applicable, Authorized Persons and/or beneficial owners) in accordance with its customer identification and verification procedures. The Client's Custody Account may be restricted or closed if the Custodian cannot obtain and verify this information. The Custodian will not be responsible for any losses or damages (including, but not limited to, lost opportunities) that may result if a Client's Custody Account is restricted or closed.

iii. The Client will promptly provide the Custodian with such additional information and documentation (including, as applicable, by executing additional documentation) as the Custodian may request to confirm ownership of Assets, for the Custodian to comply with its policies and procedures, and to enable the Custodian to perform its duties and obligations under this Agreement.

iv. The Client shall promptly inform the Custodian if (a) the Client is or becomes a Sanctioned Person, (b) the Client is or becomes located, organized, or resident in, or begins to conduct business in or with a country or territory with which dealings are broadly restricted or prohibited by any Sanctions (including, as of the date hereof, Crimea, Cuba, Iran, North Korea and Syria) or (c) the Client becomes aware that the Client or any Asset, or any transaction involving an Asset, is or becomes the target of any Sanctions or investigation (including the reasonable details thereof).

v. The Client shall not grant any other Person a lien, security interest, charge or similar rights or claims against the Assets without the Custodian's prior consent.

vi. In giving any Instructions which purport to be Proper Instructions under this Agreement, the Client will act, and will cause the Authorized Agent to act, in accordance with the provisions of any and all constitutional documents of the Client, any and all documents governing the Assets and any related laws and regulations.

vii. The Client and its Authorized Persons are responsible for creating a strong password and maintaining adequate security and control of any and all IDs, passwords, hints, personal identification numbers, or any other codes that the Client and any Authorized Person uses to access the services provided by the Custodian under this Agreement. Any loss or compromise of the foregoing information and/or the Client's personal information may result in unauthorized access to the Custody Account by third-parties and the loss or theft of any Digital Assets or Assets held in the Custody Account and any associated accounts. The Client is responsible for keeping the Client's contact information, including email address and telephone number, up to date in order to receive any notices or alerts that the Custodian may send to the Client. The Custodian assumes no responsibility for any loss that the Client may sustain due to compromise of account login credentials not due to fault of the Custodian, or due to any failure by the Client, any Authorized Person or the Authorized Agent to follow or act on any notices or alerts that the Custodian may send to the Client, an Authorized Person or the Authorized Agent.

viii. At any time, the Custodian may request Instructions from any Authorized Person or Authorized Agent (or Person that the Custodian believes in good faith to be an Authorized Person or Authorized Agent), and may consult with its own legal counsel or outside legal counsel for the Client, at the expense of the Client, with respect to any

matter arising in connection with the services to be performed by the Custodian under this Agreement. The Client agrees to pay all fees, expenses, charges and obligations incurred by the Custodian in connection with such Instructions or consultations.

### 13. INDEMNITY

**Indemnity to the Custodian.** The Client agrees to indemnify, defend and hold harmless the Custodian, its parent companies, subsidiaries and affiliates, and its and their directors, officers, agents and employees, against any and all claims, costs, causes of action, losses, liabilities, lawsuits, demands and damages, fines, penalties and expenses, including without limitation, any and all court costs and reasonable attorney's fees, in any way related to or arising out of or in connection with this Agreement or any action taken or not taken pursuant hereto, except to the extent that the Custodian would be liable under Section 12.B hereunder. The foregoing indemnifications shall survive any termination of this Agreement.

**Client's Direct Liability.** The disclosure by the Client to the Custodian that the Client has entered into this Agreement as the agent or representative of another person shall not relieve the Client of any of its obligations under this Agreement, including those described in Section 13.A above.

### 14. CLIENT FINAL DISTRIBUTION OF ASSETS

The Client agrees that the Assets will be finally distributed, transferred and delivered to the Client only upon the Client's indefeasible payment in full of any amounts due and owing to the Custodian hereunder.

### 15. REMEDIES UPON NONPAYMENT

If the Client, upon demand, fails to pay the Custodian any required amount in respect of any Asset subject to this Agreement, the Custodian may, without notice to the Client (except as required by law) and at any time appropriate, sell such Asset and/or exercise in respect of each such Asset any and all the rights and remedies of a secured party on default under applicable law.

### 16. LIEN AND SET OFF

In addition to all rights and remedies available to the Custodian under applicable law, the Custodian shall have, and the Client hereby grants, a continuing lien on and valid and perfected first-priority security interest in all Assets in the Custody Account until the satisfaction of all liabilities of the Client to the Custodian arising under this Agreement, including without limitation liabilities in respect of any fees and expenses or credit exposures in relation to the Custody Account incurred in the performance of services under this Agreement. Custodian shall have all the remedies of a secured party under the Uniform Commercial Code in effect in the Commonwealth of Massachusetts. The Client shall not grant any other Person a lien, security interest, charge or similar rights or claims against the Assets without the Custodian's prior written consent.

Without limiting any other rights and remedies of the Custodian under this Agreement or applicable law, to the extent permitted by applicable law, the Custodian may, with prior notice to the Client, set off any payment obligation owed to the Custodian by the Client against any payment obligations owed by the Custodian to the Client, regardless of the place of payment, delivery and/or currency of any obligation (and for such purposes may make any necessary

conversions of currencies or Digital Assets). If any obligation is unliquidated or unascertained, the Custodian may set off an amount estimated by the Custodian in good faith to be the amount of that obligation.

## 17. RECORDS

The Client shall examine each statement sent by the Custodian and notify the Custodian in writing within five (5) Business Days of the date of such statement of (A) any discrepancy between Instructions given by the Client and the position shown on the statement and (B) any other errors known to the Client. Absent such timely notification, the Custodian's liability for any loss or damage in regards to such discrepancy shall not accrue beyond such five (5) Business Day period.

## 18. CONFIDENTIAL INFORMATION

Each of the Custodian and the Client agrees that it will maintain any confidential and proprietary information disclosed to it by the other Party hereto, including the fees set forth on Schedule 1 hereto ("**Confidential Information**"), in a confidential manner using the same care it uses to protect the confidentiality of its own confidential information, and will not use for its own benefit or otherwise the Confidential Information of the other Party except (x) as expressly authorized by this Agreement and to the extent necessary for performance of this Agreement or (y) upon the prior written consent of the other Party; provided, however, that each of the Custodian and the Client may disclose any such confidential or proprietary information of the other Party to those of its affiliates and its and their officers, directors, employees, agents (including attorneys and financial advisors), and contractors, in each case, who need to know such information for purposes of this Agreement and who are bound by confidentiality obligations consistent with the terms hereof. Notwithstanding the foregoing, Confidential Information shall not include information that was (a) publicly available prior to disclosure by such disclosing party; (b) already in the receiving party's possession and not subject to an obligation of confidentiality; (c) obtained by the receiving party from a third party without restriction on disclosure; (d) entirely independently developed by the receiving party without reference to any Confidential Information of the disclosing party; (e) the tax treatment and any facts that may be relevant to the income tax consequences of the transactions contemplated by this Agreement.

If, at any time, the receiving party is required by law or regulation to make any disclosure of any of the Confidential Information, by summons, subpoena, judicial or administrative order or otherwise, the receiving party shall (to the extent permissible and practicable under the circumstances) give prompt prior written notice of such requirement to the disclosing party and permit the disclosing party to intervene in any relevant proceedings to protect its interests in the Confidential Information, and provide reasonable cooperation and assistance to the disclosing party in lawful efforts to resist, limit or delay disclosure at the disclosing party's sole expense. Notwithstanding the foregoing, the Custodian may disclose the Client's Confidential Information to the Custodian's regulators without any notice thereof.

The receiving party shall promptly notify the disclosing party in writing of any loss, or use, access or disclosure of Confidential Information of the disclosing party in violation of this Agreement promptly following recipient's discovery and shall promptly take measures to minimize the effect and prevent its recurrence. The receiving party shall be liable under this Agreement to the disclosing party for any loss, or access, use, or disclosure in violation of this Agreement by itself or its representatives.

## 19. TRADE NAMES

The Client acknowledges that the names and logos of the Custodian and its affiliates including, but not limited to, “Fidelity”, “Fidelity Investments®” and “Fidelity Digital Assets” (collectively, “*Names*”) are proprietary trademarks and trade names and are of significant value and importance. Client will not undertake any written or oral sales, advertising, press release, marketing, promotional or solicitational activities which identify, make reference to or otherwise use these Names, or suggest either orally or in writing that Client is an agent of, affiliated with or in any way part of the Fidelity organization, except as otherwise approved in writing by the Custodian. No reference to the Custodian or Fidelity companies may be made in such a way as to potentially mislead customers of the Client.

Notwithstanding the preceding paragraph, during the term of this Agreement, Client shall have permission to use the Custodian’s full legal entity name, Fidelity Digital Asset Services, LLC or its associated trade name, Fidelity Digital Assets, in the marketing of the Client’s services when referring to the Custodian as providing custody, trade execution or other applicable services, as the case may be, as a simple statement of fact, without providing notice to, or receiving prior written consent from the Custodian.

## 20. TERMINATION

A. **Term.** The term of this Agreement shall commence on the Effective Date and terminate when terminated pursuant to this Section 20 (the “*Term*”).

B. **Termination.** Either Party may terminate this Agreement in whole or in part, with or without cause, by giving not less than thirty (30) days’ prior written notice to the other Party.

C. **Immediate Termination by Either Party.** Without prejudice to any accrued rights and remedies under this Agreement, either Party may terminate this Agreement immediately by giving written notice to the other Party upon the occurrence of any of the following events (provided such notice to terminate is given within three (3) months following the occurrence of the event):

- i. if the other Party commits any material breach of any of its obligations under this Agreement and, in the case of any breach which is capable of remedy, fails to remedy such breach within seven (7) days of delivery of a written notice to the other Party specifying such breach (or such longer period as the notice may specify); or
- ii. if the other Party becomes insolvent, enters into liquidation (apart from solvent liquidation for the purposes of amalgamation or reconstruction) or is dissolved or declared bankrupt or has a receiver, administrator or administrative receiver appointed over all or a substantial part of its assets or enters into an arrangement with its creditors or takes or suffers similar action.

D. **Immediate Termination by Custodian.** Without prejudice to any accrued rights and remedies under this Agreement, the Custodian may terminate this Agreement immediately by giving written notice to the Client if in its sole discretion it has determined that (i) continuing to provide services under this Agreement would result in violation of any Law, (ii) any of the representations or warranties made by the Client under this Agreement cease to be true on a continuing basis or that (iii) the Client has conducted or participated in any activity, transaction or conduct that may present a material adverse impact or reflection on the Custodian’s reputation.

**Effect on Assets.** Upon termination of this Agreement and subject to Section 14 hereof, the Custodian shall deliver the Client's Assets as instructed by the Client in writing. If by the termination date the Client has not given instructions to the Custodian regarding where to deliver any Assets, the Custodian will continue to safekeep such Assets until the Client provides such Proper Instructions to effect a free delivery of such, and the Client shall be liable to pay monthly storage fees in the amount determined by the Custodian until all Assets are removed. However, the Custodian will provide no other services with respect to any such Assets following termination. Notwithstanding termination of this Agreement or any Proper Instruction, the Custodian may retain sufficient Assets to close out or complete any transaction that was in process prior to such termination or to pay any fees of the Custodian or amounts otherwise outstanding hereunder.

F. **Surviving Terms.** The rights and obligations contained in Sections 7, 11, 13, 15, 16, 18 and 19 of this Agreement shall survive the termination of this Agreement.

## 21. GOVERNING LAW AND JURISDICTION

A. **Governing Law.** This Agreement is solely and exclusively governed, construed and enforced in accordance with the laws of the Commonwealth of Massachusetts, without giving effect to conflict of law rules or principles that would cause the application of the laws of any other jurisdiction.

B. **Jurisdiction.** Both Parties submit to personal jurisdiction in the federal and state courts located in Commonwealth of Massachusetts, and further agree that any and all claims and controversies arising out of this Agreement that cannot be amicably resolved by the Parties shall be brought solely and exclusively in a court in the Commonwealth of Massachusetts.

C. **Venue.** Each Party hereto waives any objection it may have at any time, to the laying of venue of any actions or proceedings brought in an inconvenient forum and further waives the rights to object that such court does not have jurisdiction over such parties.

## 22. MISCELLANEOUS

A. **Entire Agreement; Amendments.** This Agreement, including all exhibits and schedules, constitutes the entire Agreement and understanding between the Parties, and supersedes all previous communications, representations or agreements, whether written or oral, with respect to the subject matter hereof. In the event that this Agreement conflicts with any exhibit, schedule, or terms of use, the terms of this Agreement shall control and govern. Except as specified in this Agreement, this Agreement may be modified only by written agreement signed by both Parties.

B. **Notices.** For the purposes of any notices or other communications required to be delivered hereunder, the Custodian's address shall be 245 Summer Street, Boston, MA 02210 and the Client's address shall be as set forth in the account opening documentation provided by the Client to the Custodian, as updated from time to time. Either Party may provide such notice by sending written notice by registered or certified mail or by e-mail to the address designated by the other Party. Any notices provided under this provision shall be effective, upon receipt (in the case of registered or certified mail) or by the recipient acknowledging receipt (in the case of e-mail).

C. **Third Parties.** This Agreement is not intended to confer any rights or benefits to any third parties, including, but not limited to, the Client's end customers or investors.

D. **Severability.** If any provision of this Agreement is or becomes illegal, invalid, or unenforceable under any applicable law, the remaining provisions shall remain in full force and effect (as shall that provision under any other law).

E. **Waiver of Rights.** No failure or delay of the Client or the Custodian in exercising any right or remedy under this Agreement shall constitute a waiver of that right. Any waiver of any right will be limited to the specific instance. The exclusion or omission of any provision or term from this Agreement shall not be deemed to be a waiver of any right or remedy the Client or the Custodian may have under applicable law.

F. **Recordings.** The Client and the Custodian consent to telephonic or electronic recordings for security and quality of service purposes and agree that either may produce telephonic or electronic recordings or computer records as evidence in any proceedings brought in connection with this Agreement.

G. **Assignment.** Either Party may assign this Agreement, delegate its duties hereunder, and transfer the Custody Account to any of its affiliates or to its successors and assigns, whether by merger, consolidation, or otherwise, in each case, upon prompt written notice to the other Party hereto. Neither Party may otherwise assign or transfer any of its rights or obligations under this Agreement without the other Party's prior written consent. Any attempted transfer or assignment in violation hereof shall be null and void.

H. **No Agency.** Nothing contained in this Agreement shall constitute the Client and/or the Custodian (and/or any other Person) as members of any partnership, joint venture, association, syndicate, unincorporated business or similar assignment as a result of or by virtue of the engagement or relationship established by this Agreement. Neither the Client nor the Custodian shall hold itself out as an agent, partner or joint venture partner of the other or any of the subsidiaries or companies controlled directly or indirectly by or affiliated with the other.

I. **No Affiliate Obligations.** The Client acknowledges and agrees that (i) the obligations and duties of the Custodian hereunder apply only to the Custodian and are not obligations or duties of any other member of the Fidelity organization; (ii) notwithstanding any affiliation of the Custodian with the Fidelity organization or any member thereof (including FMR LLC, the parent company of the Custodian), this Agreement is with the Custodian only, and the rights of the Client under this Agreement apply only to the Custodian and not to FMR LLC or any other affiliate of the Custodian; and (iii) the Custodian may in its sole and absolute discretion in the performance of its responsibilities hereunder make such arrangements as it sees fit with any affiliate to have access to and use the services and resources of its affiliates, and in such event, the Custodian alone shall remain solely responsible to the Client for the provision of services hereunder and any such affiliate shall have no duty, responsibility or liability whatsoever to any Client in connection herewith.

J. **Other Business.** Nothing herein shall prevent the Custodian or any of its affiliates from engaging in other business, or from entering into any other transaction or financial or other relationship with, or receiving fees from or from rendering services of any kind to the Client or any other Person. The Custodian and its affiliates may own and trade Digital Assets and are not prohibited from engaging in other business or activities, including those that might be in direct competition with the Client. The Custodian and its affiliates (or funds or other accounts advised or managed by them) may have investments in, or other commercial arrangements with, counterparties that fill Trade Orders or other service providers to the Custodian. Affiliates of the Custodian (and funds or other accounts advised or managed by them) may themselves utilize the

Custodian's trade execution service and submit Trade Orders that could be internally crossed with Trade Orders of the Client.

K. **Headings.** Titles to Sections of this Agreement are included for convenience of reference only and shall be disregarded in construing the language contained in this Agreement.

L. **Counterparts; Electronic Signatures.** This Agreement may be executed in several counterparts, each of which shall be an original, but all of which together shall constitute one and the same agreement. This Agreement may be accepted, executed, and agreed to through the use of electronic signatures and electronic transmission.

*[signature page follows]*

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their respective officers thereunto duly authorized.

OSPREY BITCOIN TRUST



By: \_\_\_\_\_  
Name: Gregory King  
Title: CEO, Osprey Funds, LLC  
as Sponsor to Osprey Bitcoin Trust.

FIDELITY DIGITAL ASSET SERVICES, LLC

By: \_\_\_\_\_  
DocuSigned by:  
*Michael O'Reilly*  
9C72149393C0497...

Name: Michael O'Reilly  
Title: VP and COO, FDAS, LLC



## Information Statement

# OSPREY BITCOIN TRUST

Osprey Bitcoin Trust (the “Trust”) issues common units of fractional undivided beneficial interest (“Units”), which represent ownership in the Trust. The Trust’s purpose is to hold Bitcoins, which are digital assets that are created and transmitted through the operations of the peer-to-peer Bitcoin Network, a decentralized network of computers that operates on cryptographic protocols. The investment objective of the Trust is for the Units to reflect the value of the Bitcoin held by the Trust, determined by reference to Coin Metrics CMBI Bitcoin Index (the “Index”) provided by Coin Metrics Inc. (the “Index Provider”), less the Aggregate Trust’s Expenses (defined below) and other liabilities. The Trust determines the current value of Bitcoin by reference to Bitcoin price as measured at 4:00 P.M., New York time available at <https://pro.coinbase.com/trade/BTC-USD> (the “Bitcoin Market Price”). The Units are intended to constitute a cost-effective and convenient means of gaining investment exposure to Bitcoin. The Units provide investors with an alternative that constitutes a more cost-effective way to participate in Bitcoin markets through the securities market. Osprey Funds, LLC is the sponsor of the Trust (the “Sponsor”), Delaware Trust Company is the trustee of the Trust (the “Trustee”), Continental Stock Transfer & Trust Company is the transfer agent of the Trust (in such capacity, the “Transfer Agent”), Theorem Fund Services is the administrator of the Trust (in such capacity, the “Administrator”), and Fidelity Digital Assets Services, LLC is the custodian for the Trust (the “Custodian”), and will custody the Trust’s Bitcoin.

The Trust issues Units only in connection with purchase orders for a minimum of \$25,000.00. The Units represent common units of fractional undivided beneficial interest in and ownership of the Trust and have no par value. The Units may be purchased from the Trust on an ongoing basis, but only by an accredited investor (“Accredited Investor”) (as defined in Rule 501 under the Securities Act of 1933, as amended (the “Securities Act”). At this time, the Sponsor is not operating a redemption program for the Units and therefore Units are not redeemable by the Trust. Due to the lack of an ongoing redemption program as well as price volatility, low trading volume and closings of Bitcoin exchanges due to fraud, failure, security breaches or otherwise, there can be no assurance that the market value of the Units will reflect the per Unit value of the Trust’s Bitcoin, less the Trust’s expenses and other liabilities (“NAV per Unit”), and the Units may trade at a substantial premium over, or a substantial discount to, the NAV per Unit.

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**Investments in the Units involves significant risks. See “[Risk Factors](#)” starting on page 7.**

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The Units are neither interests in nor obligations of the Sponsor or the Trustee.

Units are distributed by the Sponsor through sales in private placement transactions exempt from the registration requirements of the Securities Act pursuant to Rule 506(c) thereunder. The Units are quoted on OTC Markets Group Inc.’s OTCQX<sup>®</sup> Best Marketplace (“OTCQX”) under the ticker symbol “OBTC.”

The Trust uses the Bitcoin Market Price to calculate its “Bitcoin Holdings,” which is the aggregate value, expressed in U.S. dollars, of the Trust’s assets (other than U.S. dollars, other fiat currency, Additional Currency), less the U.S. dollar value of the Trust’s expenses and other liabilities calculated in the manner set forth under “Valuation of Bitcoin and Determination of the Trust’s Bitcoin Holdings.” “Bitcoin Holdings per Unit” is calculated by dividing Bitcoin Holdings by the number of Units currently outstanding.

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**The date of this Information Statement is July 8, 2021**

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Neither the Sponsor nor the Trust have authorized anyone to provide you with information different from that contained in this Information Statement or any amendment or supplement to this Information Statement prepared by us or on our behalf. Neither the Sponsor nor the Trust take any responsibility for, or can provide any assurance as to the reliability of, any information other than the information in this Information Statement or any amendment or supplement to this Information Statement prepared by the Sponsor, the Trust or on the Trust's behalf. The information in this Information Statement is accurate only as of the date of this Information Statement.

In this Information Statement, unless otherwise stated or the context otherwise requires, "we," "our" and "us" refers to the Sponsor acting on behalf of the Trust.

### Industry and Market Data

Although we are responsible for all disclosure contained in this Information Statement, in some cases we have relied on certain market and industry data obtained from third-party sources that we believe to be reliable. Market estimates are calculated by using independent industry publications in conjunction with our assumptions regarding the Bitcoin industry and market. While we are not aware of any misstatements regarding any market, industry or similar data presented herein, such data involves risks and uncertainties and is subject to change based on various factors, including those discussed under the headings "Statement Regarding Forward-Looking Statements" and "Risk Factors" in this Information Statement.

## STATEMENT REGARDING FORWARD-LOOKING STATEMENTS

This Information Statement contains “forward-looking statements” with respect to the Trust’s financial conditions, results of operations, plans, objectives, future performance and business. Statements preceded by, followed by or that include words such as “may,” “might,” “will,” “should,” “expect,” “plan,” “anticipate,” “believe,” “estimate,” “predict,” “potential” or “continue,” the negative of these terms and other similar expressions are intended to identify some of the forward-looking statements. All statements (other than statements of historical fact) included in this Information Statement that address activities, events or developments that will or may occur in the future, including such matters as changes in market prices and conditions, the Trust’s operations, the Sponsor’s plans and references to the Trust’s future success and other similar matters are forward-looking statements. These statements are only predictions. Actual events or results may differ materially from such statements. These statements are based upon certain assumptions and analyses the Sponsor made based on its perception of historical trends, current conditions and expected future developments, as well as other factors appropriate in the circumstances. You should specifically consider the numerous risks outlined under “Risk Factors.” Whether or not actual results and developments will conform to the Sponsor’s expectations and predictions, however, is subject to a number of risks and uncertainties, including:

- the risk factors discussed in this Information Statement, including the particular risks associated with new technologies such as Bitcoin and blockchain technology;
- the inability to redeem Units;
- the economic conditions in the Bitcoin industry and market;
- general economic, market and business conditions;
- the use of technology by us and our vendors, including the Custodian, in conducting our business, including disruptions in our computer systems and data centers and our transition to, and quality of, new technology platforms;
- changes in laws or regulations, including those concerning taxes, made by governmental authorities or regulatory bodies;
- the costs and effect of any litigation or regulatory investigations;
- our ability to maintain a positive reputation; and
- other world economic and political developments.

Consequently, all the forward-looking statements made in this Information Statement are qualified by these cautionary statements, and there can be no assurance that the actual results or developments the Sponsor anticipates will be realized or, even if substantially realized, that they will result in the expected consequences to, or have the expected effects on, the Trust’s operations or the value of the Units. Should one or more of the risks discussed under “Risk Factors” or other uncertainties materialize, or should underlying assumptions prove incorrect, actual outcomes may vary materially from those described in forward-looking statements. Forward-looking statements are made based on the Sponsor’s beliefs, estimates and opinions on the date the statements are made and neither the Trust nor the Sponsor is under a duty or undertakes an obligation to update forward-looking statements if these beliefs, estimates and opinions or other circumstances should change, other than as required by applicable laws. Moreover, neither the Trust, the Sponsor, nor any other person assumes responsibility for the accuracy and completeness of any of these forward-looking statements.

## KEY OPERATING METRICS

The Trust’s Bitcoins are carried, for financial statement purposes, at fair value, as required by the U.S. generally accepted accounting principles (“GAAP”). The Trust determines the fair value of Bitcoins based on the

Bitcoin Market Price (as defined herein) that the Trust considers its principal market as of 4:00 p.m., New York time, on the valuation date. The net asset value of the Trust determined on a GAAP basis is referred to in this Information Statement as “NAV.”

To determine which market is the Trust’s principal market (or in the absence of a principal market, the most advantageous market) for purposes of calculating the Trust’s NAV, the Trust follows Financial Accounting Standards Board (“FASB”) Accounting Standards Codification (“ASC”) 820-10, which outlines the application of fair value accounting. ASC 820-10 determines fair value to be the price that would be received for Bitcoin in a current sale, which assumes an orderly transaction between market participants on the measurement date. ASC 820-10 requires the Trust to assume that Bitcoin is sold in its principal market to market participants or, in the absence of a principal market, the most advantageous market. Market participants are defined as buyers and sellers in the principal or most advantageous market that are independent, knowledgeable, and willing and able to transact.

The Trust purchases Bitcoin directly from various counterparties at the daily net asset value as determined by the Bitcoin Market Price, such as Galaxy Digital, Grapefruit Trading, and Cumberland DRW LLC, and does not itself transact in any Bitcoin markets. Therefore, the Trust looks to these counterparties when assessing entity-specific and market-based volume and the level of activity for Bitcoin markets. The Trust relies on the Bitcoin Market Price to determine the value of Bitcoin at any given time. The Trust determines its principal market (or in the absence of a principal market the most advantageous market) annually and conducts a quarterly analysis to determine (i) if there have been recent changes to each Bitcoin market’s trading volume and level of activity in the trailing twelve months, (ii) if any Bitcoin markets have developed that the Trust has access to, or (iii) if recent changes to each Bitcoin market’s price stability have occurred that would materially impact the selection of the principal market and necessitate a change in the Trust’s determination of its principal market.

The cost basis of the investment in Bitcoin recorded by the Trust for financial reporting purposes is the fair value of Bitcoin at the time of contribution of the Bitcoin to the Trust transfer. The cost basis recorded by the Trust may differ from proceeds collected by the Sponsor from the sale of the corresponding Units to investors.

The investment objective of the Trust is for the Units to reflect the value of the Bitcoin held by the Trust, determined by reference to the Index, less the Aggregate Trust’s Expenses and other liabilities. See “Overview of the Bitcoin Industry and Market—Bitcoin Value—The Bitcoin Market Price.” The redemption of Units is not currently contemplated, and the Trust does not currently operate a redemption program. In addition, the Trust may from time to time halt creations. As a result, there can be no assurance that the market value of the Units will reflect the value of the Trust’s Bitcoin, less the Trust’s expenses and other liabilities. The Units may trade at a substantial premium over, or a substantial discount to, the NAV per Unit, less the Trust’s expenses and other liabilities, as a result of price volatility, trading volume and closings of Bitcoin exchanges due to fraud, failure, security breaches or otherwise.

The Trust uses the Bitcoin Market Price to calculate its “Bitcoin Holdings,” which is the aggregate value, expressed in U.S. dollars, of the Trust’s assets (other than U.S. dollars, other fiat currency, Additional Currency), less the U.S. dollar value of the Trust’s expenses and other liabilities calculated in the manner set forth under “Valuation of Bitcoin and Determination of the Trust’s Bitcoin Holdings.” “Bitcoin Holdings per Unit” is calculated by dividing Bitcoin Holdings by the number of Units currently outstanding. Bitcoin Holdings and Bitcoin Holdings per Unit are not measures calculated in accordance with GAAP. Bitcoin Holdings is not intended to be a substitute for the Trust’s NAV calculated in accordance with GAAP, and Bitcoin Holdings per Unit is not intended to be a substitute for the Trust’s NAV per Unit calculated in accordance with GAAP.

## SUMMARY

*The following is a summary only and is qualified in its entirety by reference to the more detailed information set forth in the Trust Agreement and in the other agreements described herein. To the extent of any conflict between this summary and the Trust Agreement, the terms of the Trust Agreement will govern.*

*See “Glossary of Defined Terms” for the definition of certain capitalized terms used in this Information Statement. All other capitalized terms used, but not defined, herein have the meanings given to them in the Trust Agreement.*

### **Overview of the Trust and the Units**

The Trust is a Delaware Statutory Trust that was formed on January 3, 2019 by the filing of the Certificate of Trust with the Delaware Secretary of State in accordance with the provisions of the Delaware Statutory Trust Act. The Trust issues Units, which represent common units of fractional undivided beneficial interest in, and ownership of, the Trust, on an ongoing basis to certain “accredited investors” within the meaning of Rule 501(a) of Regulation D under the Securities Act.

The purpose of the Trust is to provide investors a cost-effective and convenient way to invest in Bitcoin, while avoiding the complication of directly holding Bitcoins. The Trust’s investment objective is for the Units (based on Bitcoin per Unit) to reflect the value of the Bitcoins held by the Trust, determined by reference to the Index, less the Trust’s expenses and other liabilities. The Trust issues Units only in connection with purchase orders for a minimum of \$25,000.00. The Units represent common units of fractional undivided beneficial interest in and ownership of the Trust and have no par value. See “Description of Issuance of Units.”

Most Units purchased directly from the Trust are restricted securities that may not be resold except in transactions exempt from registration under the Securities Act and state securities laws and any such transaction must be approved in advance by the Sponsor. In determining whether to grant approval, the Sponsor will specifically look at whether the conditions of Rule 144 under the Securities Act and any other applicable laws have been met. Any attempt to sell Units without the approval of the Sponsor in its sole discretion will be void ab initio. See “Description of the Units—Transfer Restrictions” for more information. The Units are quoted on OTCQX under the ticker symbol “OBTC.” Units quoted on the OTCQX either were sold originally to investors “unrestricted” in a limited offering pursuant to Rule 504 under the Securities Act, or have become unrestricted in accordance with Rule 144 under the Securities Act. See “Description of Units—Transfer Restrictions” for more detail. We intend to seek to list the Units on a national securities exchange (the “Listing Exchange”) under the ticker symbol “OBTC” sometime in the future. Any such listing will require the Listing Exchange to first receive approval from the SEC. As a result, there can be no guarantee that we will be successful in listing the Units on the Listing Exchange. See “Risk Factors—Risk Factors Related to the Trust and the Units—There is no guarantee that an active trading market for the Units will continue to develop.”

At this time, the Trust is not operating a redemption program for the Units and therefore Units are not redeemable by the Trust. Because the Trust does not currently operate a redemption program and because the Trust may from time to time halt creations, there can be no assurance that the market value of the Units will reflect the value of the Trust’s Bitcoin Holdings per Unit, and the Units may trade at a substantial premium over, or a substantial discount to, the NAV per Unit. The Units may also trade at a substantial premium over, or a substantial discount to, NAV per Unit as a result of price volatility, trading volume and closings of Bitcoin exchanges due to fraud, failure, security breaches or otherwise. As a result of the foregoing, in the past, the price of the Units as quoted on OTCQX has varied significantly from the value of the Trust’s Bitcoin Holdings per Unit.

### **Valuation of Bitcoin and Bitcoin Holdings**

The Trust’s Bitcoin Holdings is the aggregate U.S. dollar value of the Trust’s assets (other than U.S. dollars and other fiat currency), less the U.S. dollar value of its expenses and other liabilities. The Trust’s primary assets are Bitcoins and the Trust values its Bitcoins by reference to the Bitcoin Market Price, which is the Bitcoin rate in U.S. dollars as measured at 4:00 P.M. New York time, available at <https://pro.coinbase.com/trade/BTC-USD>. The Bitcoin

Market Price is calculated using non-GAAP methodology and is not used in the Trust's financial statements. See "Overview of the Bitcoin Industry and Market—Bitcoin Value—The Bitcoin Market Price."

If the Bitcoin Market Price becomes unavailable, or if the Sponsor determines in good faith that the Bitcoin Market Price does not reflect an accurate Bitcoin price, then the Sponsor will, on a best efforts basis, contact Coinbase Global Inc. to obtain the Bitcoin Market Price directly. If after such contact the Bitcoin Market Price remains unavailable or the Sponsor continues to believe in good faith that the Bitcoin Market Price does not reflect an accurate Bitcoin price, then the Sponsor will employ a cascading set of rules to determine the Bitcoin Market Price, as described in "Overview of the Bitcoin Industry and Market—Bitcoin Value—The Bitcoin Market Price."

As of March 31, 2021, the Bitcoin Holdings per Unit, which is equal to the price at which Units are issued to Unitholders, was 0.00034.

### **Additional Currency**

From time to time, the Trust may come into possession of rights incident to its ownership of Bitcoins, which permit the Trust to acquire, or otherwise establish dominion and control over, other virtual currencies. These rights are generally expected to arise in connection with forks in the Blockchain, airdrops offered to holders of Bitcoins and other similar events and arise without any action of the Trust or of the Sponsor or Trustee on behalf of the Trust. We refer to these rights as "Incidental Rights" and any such virtual currency acquired through Incidental Rights as "Additional Currency." The Trust does not expect to take any Additional Currency it may hold into account for purposes of determining the Trust's Bitcoin Holdings or the Bitcoin Holdings per Unit. See "Activities of the Trust—Additional Currency."

With respect to any fork, airdrop or similar event, the Sponsor will, in its discretion, decide to cause the Trust to distribute the Additional Currency in-kind to an agent of the Unitholders for resale by such agent, or to irrevocably abandon the Additional Currency. In the case of a distribution in-kind, the Unitholders' agent would attempt to sell the Additional Currency, and if the agent is able to do so, remit the cash proceeds to Unitholders. There can be no assurance as to the price or prices for any Additional Currency that the agent may realize, and the value of the Additional Currency may increase or decrease after any sale by the agent. In the case of abandonment, the Trust would not receive any direct or indirect consideration for the Additional Currency and thus the value of the Units will not reflect the value of the Additional Currency.

### **Trust Expenses**

The Trust will pay as an ordinary recurring charge the remuneration due to the Sponsor (the "Management Fee"). The Management Fee equals an annualized 0.49% of the average daily NAV of the Trust for each year. The Management Fee will accrue daily in Bitcoin and will be payable, at the Sponsor's sole discretion, in Bitcoin or in U.S. dollars at the Bitcoin Market Price in effect at the time of such payment. The Sponsor expects that the Trust will pay the Management Fee in monthly installments in arrears.

The Trust may use the Additional Currency to pay the Management Fee and or Extraordinary Expenses (as defined below) of the Trust, if any. However, the Trust does not expect to take any such Additional Currency it may hold into account for purposes of determining the Trust's Bitcoin Holdings, the Bitcoin Holdings per Unit, the NAV and the NAV per Unit.

If the Trust holds any Additional Currency at any time, the Trust may also pay the Management Fee, in whole or in part, with such Additional Currency by entering into an agreement with the Sponsor and transferring such Additional Currency to the Sponsor at a value to be determined pursuant to such agreement. However, the Trust may use Additional Currency to pay the Management Fee only if such agreement and transfer do not otherwise conflict with the terms of the Trust Agreement. The value of any such Additional Currency will be determined on an arm's-length basis. The Trust currently expects that the value of any such Additional Currency would be determined by reference to the principal market. If the Trust pays the Management Fee in Additional Currency, in whole or in part, the amount of Bitcoins that would otherwise have been used to satisfy such payment will be correspondingly reduced.



The Sponsor will bear the routine operational, administrative and other ordinary fees and expenses of the Trust (the “Assumed Expenses”) other than audit fees, index license fees, aggregate legal fees in excess of \$50,000 per annum and the fees of the Custodian (“Excluded Expenses,” collectively with Assumed Expenses, the “Aggregate Trust Expenses”). and certain extraordinary expenses of the Trust, including but not limited to taxes and governmental charges, expenses and costs, expenses and indemnities related to any extraordinary services performed by the Sponsor (or any other Service Provider, including the Trustee) on behalf of the Trust to protect the Trust or the interest of Unitholders, indemnification expenses, fees and expenses related to public trading on OTCQX (“Extraordinary Expenses,” collectively with Assumed Expenses, the “Aggregate Trust Expenses”). Although the Sponsor can provide no assurance as to the frequency or magnitude of any Extraordinary Expenses, the Sponsor expects that they may occur infrequently, if at all.

If the Trust incurs any Extraordinary Expenses, the Sponsor or its delegate (i) will instruct the Custodian to withdraw from the Bitcoin Account Bitcoins, Additional Currency in such quantity as may be necessary to permit payment of such Extraordinary Expenses and (ii) may either (x) cause the Trust (or its delegate) to convert such Bitcoins, Additional Currency into U.S. dollars or other fiat currencies at the Actual Exchange Rate or (y) cause the Trust (or its delegate) to deliver such Bitcoins, Additional Currency in kind in satisfaction of such Extraordinary Expenses. However, the Trust may use Additional Currency to pay Extraordinary Expenses only if doing so does not otherwise conflict with the terms of the Trust Agreement. The value of any such Additional Currency will be determined on an arm’s-length basis. The Trust currently expects that the value of any such Additional Currency would be determined by reference to the principal market. If the Trust pays the Extraordinary Expenses in Additional Currency, in whole or in part, the amount of Bitcoin that would otherwise have been used to satisfy such payment will be correspondingly reduced. The number of Bitcoins represented by a Unit will decline each time the Trust pays the Management Fee or any Extraordinary Expenses by transferring or selling Bitcoins. See “Expenses; Sales of Bitcoins.”

The quantity of Bitcoins, Additional Currency to be delivered to the Sponsor or other relevant payee in payment of the Management Fee or any Extraordinary Expenses, or sold to permit payment of Extraordinary Expenses, will vary from time to time depending on the level of the Trust’s expenses and the value of Bitcoins and Additional Currency held by the Trust. See “Activities of the Trust—Trust Expenses.” Assuming that the Trust is a grantor trust for U.S. federal income tax purposes, each delivery or sale of Bitcoins, and Additional Currency by the Trust for the payment of expenses will be a taxable event to Unitholders. See “Certain U.S. Federal Income Tax Consequences—Tax Consequences to U.S. Holders.”

### **Emerging Growth Company Status**

The Trust is an “emerging growth company” as defined in the Jumpstart Our Business Startups Act of 2012 (the “JOBS Act”). For as long as the Trust is an emerging growth company, unlike other public companies, it will not be required to, among other things:

- provide an auditor’s attestation report on management’s assessment of the effectiveness of our system of internal control over financial reporting pursuant to Section 404(b) of the Sarbanes-Oxley Act of 2002; or
- comply with any new audit rules adopted by the PCAOB after April 5, 2012, unless the SEC determines otherwise.

The Trust will cease to be an “emerging growth company” upon the earliest of (i) it having \$1.07 billion or more in annual revenues, (ii) it becoming a “large accelerated filer,” as defined in Rule 12b-2 of the Exchange Act, (iii) it issuing more than \$1.0 billion of non-convertible debt over a three-year period or (iv) the last day of the fiscal year following the fifth anniversary of its initial public offering.

In addition, Section 107 of the JOBS Act also provides that an emerging growth company can take advantage of the extended transition period provided in Section 7(a)(2)(B) of the Securities Act for complying with new or revised accounting standards. In other words, an emerging growth company can delay the adoption of certain accounting standards until those standards would otherwise apply to private companies; however, the Trust is choosing to “opt out” of such extended transition period, and as a result, the Trust will comply with new or revised accounting standards on the relevant dates on which adoption of such standards is required for non-emerging growth companies.

Section 107 of the JOBS Act provides that the Trust's decision to opt out of the extended transition period for complying with new or revised accounting standards is irrevocable.

**Principal Offices**

The Sponsor's principal office is located at 520 White Plains Road, Suite 500, Tarrytown, New York, New York 10591 and its telephone number is (914) 214-4174. The Trustee's principal office is located at 251 Little Falls Drive, Wilmington, Delaware 19808. The Custodian's principal office is located at 28 Liberty Street, New York, New York 10005.



## RISK FACTORS

An investment in the Units involves certain risks as described below. These risks should also be read in conjunction with the other information included in this Information Statement, including the Trust's financial statements and related notes thereto. See "Glossary of Defined Terms" for the definition of certain capitalized terms used in this Information Statement.

### Summary Risk Factors

The following is a summary of some of the risks and uncertainties that could materially adversely affect our business, financial condition and results of operations. You should read this summary together with the more detailed description of each risk factor contained below.

#### Risk Factors Related to Digital Assets

- Digital assets such as Bitcoin were only introduced within the past decade, and the medium-to-long term value of the Units is subject to a number of factors relating to the capabilities and development of blockchain technologies and to the fundamental investment characteristics of digital assets.
  - The Bitcoin Network is part of a new and rapidly evolving industry, and the value of the Units depends on the development and acceptance of the Bitcoin Network.
  - A determination that Bitcoin or any other digital asset is a "security" may adversely affect the value of Bitcoin and the value of the Units, and result in potentially extraordinary, nonrecurring expenses to, or termination of the Trust.
  - Changes in the governance of a digital asset network may not receive sufficient support from users and miners, which may negatively affect that digital asset network's ability to grow and respond to challenges.
  - Digital asset networks face significant scaling challenges and efforts to increase the volume of transactions may not be successful.
  - A temporary or permanent "fork" could adversely affect the value of the Units.
  - Unitholders may not receive the benefits of any forks or "airdrops."
- In the event of a hard fork of the Bitcoin Network, the Sponsor will, if permitted by the terms of the Trust Agreement, use its discretion to determine which network should be considered the appropriate network for the Trust's purposes, and in doing so may adversely affect the value of the Units.
- If the digital asset award for solving blocks and transaction fees for recording transactions on the Bitcoin Network are not sufficiently high to incentivize miners, miners may cease expanding processing power or demand high transaction fees, which could negatively impact the value of Bitcoin and the value of the Units.

#### Risk Factors Related to the Bitcoin Markets

- The value of the Units relates directly to the value of Bitcoins, the value of which may be highly volatile and subject to fluctuations due to a number of factors.
- Due to the unregulated nature and lack of transparency surrounding the operations of Bitcoin exchanges, they may experience fraud, security failures or operational problems, which may adversely affect the value of Bitcoin and, consequently, the value of the Units.
- Competition from the emergence or growth of other digital assets or methods of investing in Bitcoin could have a negative impact on the price of Bitcoin and adversely affect the value of the Units.
- Failure of funds that hold digital assets or that have exposure to digital assets through derivatives to receive SEC approval to list their shares on exchanges could adversely affect the value of the Units.
- NAV may not always correspond to the weighted-average market price of Bitcoin and, as a result, Units may be purchased (or redeemed, if ever permitted) at a value that differs from the secondary market price of the Units.
- Suspension or disruptions of market trading may adversely affect the value of units.
- The lack of active trading markets for the Units may result in losses on an investment in the Trust at the time of disposition of Units.
- A possible "short squeeze" due to a sudden increase in demand for the Units that largely exceeds supply may lead to price volatility in the Units.
- Difficulties or limitations in the processes of issuance and redemption (if any) of Units may interfere with opportunities for arbitrage transactions intended to keep the price of the Units closely linked to the price of Bitcoin, which may adversely affect an investment in the Units.

- Disruptions at OTC trading desks and potential consequences of an OTC trading desk's failure could adversely affect an investment in the Units.
- Disruptions at Bitcoin exchanges and potential consequences of a Bitcoin exchange's failure could adversely affect an investment in the Units.
- Momentum pricing of Bitcoin may subject the Bitcoin price to greater volatility and adversely affect an investment in the Units.

**Risk Factors Related to the Trust and the Units**

- The Trust has only a limited performance history.
- The Units are new securities and their value could decrease if unanticipated operational or trading problems arise.
- Fees and expenses are charged regardless of profitability and may result in depletion of assets.
- The security of our Bitcoin Holdings cannot be assured, by the Trust, the Custodian or any other person.
- Possibility of termination of the Trust may adversely affect a Unitholder's portfolio.
- Any errors, discontinuance or changes in determining the value of the Bitcoin held by the Trust may have an adverse effect on the value of the Units.
- The value of the Units will be adversely affected if the Trust is required to indemnify the Sponsor or the Custodian as contemplated in the Trust Agreement or the Custodial Services Agreement.
- The Trust's Bitcoin trading may subject the Trust to the risk of counterparty non-performance, potentially negatively affecting the market price of the Units.
- The Trust's Bitcoin Holdings could become illiquid, which could cause large losses to Unitholders at any time or from time to time.
- Transactions in Bitcoin are irreversible, and the Trust may be unable to recover improperly transferred Bitcoin.
- The Trust's Bitcoin may be lost, stolen, or subject to other inaccessibility.
- Any disruptions to the computer technology used by the Trust or its service providers could adversely affect the Trust's ability to function and an investment in the Units.
- The Sponsor's computer infrastructure may be vulnerable to security breaches. Any such problems could cause interruptions in the Trust's operations and adversely affect an investment in the Units.
- Technology system failures could cause interruptions in the Trust's ability to operate.

**Risk Factors Related to the Regulation of the Trust and the Units**

- Regulation of the Bitcoin industry continues to evolve and is subject to change; future regulatory developments are impossible to predict but may significantly and adversely affect the Trust.
- The sale of the Units could be subject to SEC or state securities registration.
- The Trust is not a registered investment company.
- The Trust could be, or could become, subject to the Commodity Exchange Act.
- Future regulations may impose other regulatory burdens, which could harm the Trust or even cause the Trust to liquidate.
- Banks may not provide banking services, or may cut off banking services, to businesses that provide Bitcoin-related services or that accept Bitcoin as payment, which could directly impact the Trust's operations, damage the public perception of Bitcoin and the utility of Bitcoin as a payment system and could decrease the price of Bitcoin and adversely affect an investment in the Units.
- It may be illegal now, or in the future, to acquire, own, hold, sell or use Bitcoin in one or more countries, and ownership of, holding or trading in Units may also be considered illegal and subject to sanctions.
- If regulatory changes or interpretations of the Trust's or Sponsor's activities require registration as money service businesses under the regulations promulgated by FinCEN under the authority of the U.S. Bank Secrecy Act or as money transmitters or digital currency businesses under state regimes for the licensing of such businesses, the Trust and/or Sponsor could suffer reputational harm and also extraordinary, recurring and/or nonrecurring expenses, which would adversely impact an investment in the Units.
- The treatment of the Trust for U.S. federal income tax purposes is uncertain.
- Shareholders could incur a tax liability without an associated distribution.
- The treatment of Bitcoin for U.S. federal income tax purposes is uncertain.
- Future developments regarding the treatment of digital currency for U.S. federal income tax purposes could adversely affect the value of the Units.

- Future developments in the treatment of digital currency for tax purposes other than U.S. federal income tax purposes could adversely affect the value of the Units.
- A U.S. tax-exempt Unitholder may recognize “unrelated business taxable income” a consequence of an investment in Units.
- Non-U.S. Holders may be subject to U.S. federal withholding tax on income derived from forks, airdrops and similar occurrences.

#### **Risk Factors Related to Potential Conflicts of Interest**

Potential conflicts of interest may arise among the Sponsor or its affiliates and the Trust. The Sponsor and its affiliates have no

- fiduciary duties to the Trust and its Unitholders other than as provided in the Trust Agreement, which may permit them to favor their own interests to the detriment of the Trust and its Unitholders.
- Unitholders cannot be assured of the Sponsor’s continued services, the discontinuance of which may be detrimental to the Trust.
- The Custodian could resign or be removed by the Sponsor, which would trigger early termination of the Trust.
- Unitholders may be adversely affected by the lack of independent advisers representing investors in the Trust.

#### **Risk Factors Related to Digital Assets**

*Digital assets such as Bitcoin were only introduced within the past decade, and the medium-to-long term value of the Units is subject to a number of factors relating to the capabilities and development of blockchain technologies and to the fundamental investment characteristics of digital assets.*

Digital assets such as Bitcoin were only introduced within the past decade, and the medium-to-long term value of the Units is subject to a number of factors relating to the capabilities and development of blockchain technologies, such as the infancy of their development, their dependence on the internet and other technologies, their dependence on the role played by miners and developers and the potential for malicious activity. For example, the realization of one or more of the following risks could materially adversely affect the value of the Units:

- The trading prices of many digital assets, including Bitcoin, have experienced extreme volatility in recent periods and may continue to do so. For instance, there were steep increases in the value of certain digital assets, including Bitcoin, over the course of 2017, and multiple market observers asserted that digital assets were experiencing a “bubble.” These increases were followed by steep drawdowns throughout 2018 in digital asset trading prices, including for Bitcoin. These drawdowns notwithstanding, Bitcoin prices have increased significantly again during 2019 and the Bitcoin markets may still be experiencing a bubble or may experience a bubble again in the future. Extreme volatility in the future, including further declines in the trading prices of Bitcoin, could have a material adverse effect on the value of the Units and the Units could lose all or substantially all of their value.
- Digital asset networks and the software used to operate them are in the early stages of development. Digital assets have experienced, and we expect will experience in the future, sharp fluctuations in value. Given the infancy of the development of digital asset networks, parties may be unwilling to transact in digital assets, which would dampen the growth, if any, of digital asset networks.
- Digital asset networks are dependent upon the internet. A disruption of the internet or a digital asset network, such as the Bitcoin Network, would affect the ability to transfer digital assets, including Bitcoin, and, consequently, their value.
- The acceptance of software patches or upgrades by a significant, but not overwhelming, percentage of the users and miners in a digital asset network, such as the Bitcoin Network, could result in a “fork” in such network’s blockchain, resulting in the operation of multiple separate networks.

- Governance of the Bitcoin Network is by voluntary consensus and open competition. As a result, there may be a lack of consensus or clarity on the governance of the Bitcoin Network, which may stymie the Bitcoin Network's utility and ability to grow and face challenges. In particular, it may be difficult to find solutions or marshal sufficient effort to overcome any future problems on the Bitcoin Network, especially long-term problems.

- The foregoing notwithstanding, the Bitcoin Network's protocol is informally managed by a group of core developers that propose amendments to the Bitcoin Network's source code. The core developers evolve over time, largely based on self-determined participation. To the extent that a significant majority of users and miners adopt amendments to the Bitcoin Network, the Bitcoin Network will be subject to new protocols that may adversely affect the value of Bitcoin.

- The loss or destruction of a private key required to access a digital asset such as Bitcoin may be irreversible. If a private key is lost, destroyed or otherwise compromised and no backup of the private key is accessible, the Trust will be unable to access the Bitcoin held in the Bitcoin Account corresponding to that private key and the private key will not be capable of being restored by the Bitcoin Network.

- Bitcoins have only recently become selectively accepted as a means of payment by retail and commercial outlets, and use of Bitcoins by consumers to pay such retail and commercial outlets remains limited. Banks and other established financial institutions may refuse to process funds for Bitcoin transactions; process wire transfers to or from Bitcoin exchanges, Bitcoin-related companies or service providers; or maintain accounts for persons or entities transacting in Bitcoin. As a result, the prices of Bitcoins are largely determined by speculators and miners, thus contributing to price volatility that makes retailers less likely to accept it as a form of payment in the future.

- Miners, developers and users may switch to or adopt certain digital assets at the expense of their engagement with other digital asset networks, which may negatively impact those networks, including the Bitcoin Network.

- Over the past several years, digital asset mining operations have evolved from individual users mining with computer processors, graphics processing units and first generation application specific integrated circuit machines to "professionalized" mining operations using proprietary hardware or sophisticated machines. If the profit margins of digital asset mining operations are not sufficiently high, digital asset miners are more likely to immediately sell tokens earned by mining, resulting in an increase in liquid supply of that digital asset, which would generally tend to reduce that digital asset's market price.

- To the extent that any miners cease to record transactions that do not include the payment of a transaction fee in solved blocks or do not record a transaction because the transaction fee is too low, such transactions will not be recorded on the Blockchain until a block is solved by a miner who does not require the payment of transaction fees or is willing to accept a lower fee. Any widespread delays in the recording of transactions could result in a loss of confidence in the digital asset network.

- Many digital asset networks face significant scaling challenges and are being upgraded with various features to increase the speed and throughput of digital asset transactions. These attempts to increase the volume of transactions may not be effective.

- The open-source structure of many digital asset network protocols, such as the protocol for the Bitcoin Network, means that developers and other contributors are generally not directly compensated for their contributions in maintaining and developing such protocols. As a result, the developers and other contributors of a particular digital asset may lack a financial incentive to maintain or develop the network, or may lack the resources to adequately address emerging issues. Alternatively, some developers may be funded by companies whose interests are at odds with other

participants in a particular digital asset network. A failure to properly monitor and upgrade the protocol of the Bitcoin Network could damage that network.

- Banks may not provide banking services, or may cut off banking services, to businesses that provide digital asset-related services or that accept digital assets as payment, which could dampen liquidity in the market and damage the public perception of digital assets generally or any one digital asset in particular, such as Bitcoin, and their or its utility as a payment system, which could decrease the price of digital assets generally or individually.

Moreover, because digital assets, including Bitcoin, have been in existence for a short period of time and are continuing to develop, there may be additional risks in the future that are impossible to predict as of the date of this Information Statement.

***The Bitcoin Network is part of a new and rapidly evolving industry, and the value of the Units depends on the development and acceptance of the Bitcoin Network.***

The Bitcoin Network was first launched in 2009 and Bitcoins were the first cryptographic digital assets created to gain global adoption and critical mass. Although the Bitcoin Network is the most established digital asset network, the Bitcoin Network and other cryptographic and algorithmic protocols governing the issuance of digital assets represent a new and rapidly evolving industry that is subject to a variety of factors that are difficult to evaluate. For example, the realization of one or more of the following risks could materially adversely affect the value of the Units:

- As the Bitcoin Network continues to develop and grow, certain technical issues might be uncovered, and the troubleshooting and resolution of such issues requires the attention and efforts of Bitcoin’s global development community.

- In August 2017, the Bitcoin Network underwent a hard fork that resulted in the creation of a new digital asset network called Bitcoin Cash. This hard fork was contentious, and as a result some users of the Bitcoin Cash network may harbor ill will toward the Bitcoin Network. These users may attempt to negatively impact the use or adoption of the Bitcoin Network.

- Also in August 2017, the Bitcoin Network was upgraded with a technical feature known as “Segregated Witness” that, among other things, potentially doubles the transactions per second that can be handled on-chain and enables so-called second layer solutions, such as the Lightning Network or payment channels, that have the potential to substantially increase transaction throughput (i.e., millions of transactions per second). As of the date of this Information Statement, wallets and intermediaries that support Segregated Witness or Lightning Network-like technologies do not yet have material adoption. This upgrade may fail to work as expected leading to a decline in support and price of Bitcoin.

- As of June 27, 2021, the largest 100 Bitcoin wallets held approximately 15.59% of the Bitcoins in circulation and it is possible that some of these wallets are controlled by the same person or entity. Moreover, it is possible that other persons or entities control multiple wallets that collectively hold a significant number of Bitcoin, even if they individually only hold a small amount. As a result of this concentration of ownership, large sales by such holders could have an adverse effect on the market price of Bitcoin.

Moreover, in the past, flaws in the source code for digital assets have been exposed and exploited, including flaws that disabled some functionality for users, exposed users’ personal information and/or resulted in the theft of users’ digital assets. The cryptography underlying Bitcoin could prove to be flawed or ineffective, or developments in mathematics and/or technology, including advances in digital computing, algebraic geometry and quantum computing, could result in such cryptography becoming ineffective. In any of these circumstances, a malicious actor may be able to take the Trust’s Bitcoin, which would adversely affect the value of the Units. Moreover, functionality of the Bitcoin Network may be negatively affected such that it is no longer attractive to users, thereby dampening demand for

Bitcoin. Even if another digital asset other than Bitcoin were affected by similar circumstances, any reduction in confidence in the source code or cryptography underlying digital assets generally could negatively affect the demand for digital assets and therefore adversely affect the value of the Units.

The Trust is not actively managed and will not have any formal strategy relating to the development of the Bitcoin Network.

***A determination that Bitcoin or any other digital asset is a “security” may adversely affect the value of Bitcoin and the value of the Units, and result in potentially extraordinary, nonrecurring expenses to, or termination of the Trust***

The SEC has stated that certain digital assets may be considered “securities” under the federal securities laws. The test for determining whether a particular digital asset is a “security” is complex and the outcome is difficult to predict. Further, if any other digital asset is determined to be a “security” under federal or state securities laws by the SEC or any other agency, or in a proceeding in a court of law or otherwise, it may have material adverse consequences for Bitcoin as a digital asset due to negative publicity or a decline in the general acceptance of digital assets. As such, any determination that Bitcoin or any other digital asset is a security under federal or state securities laws may adversely affect the value of Bitcoin and, as a result, the value of the Units.

To the extent that Bitcoin is determined to be a security, the Trust and the Sponsor may also be subject to additional regulatory requirements, including under the Investment Company Act, and the Sponsor may be required to register as an investment adviser under the Investment Advisers Act. See “—Risks Relating to the Regulation of the Trust and the Units—Regulatory changes or interpretations could cause the Trust and the Sponsor to register and comply with new regulations, resulting in potentially extraordinary, nonrecurring expenses to the Trust.” If the Sponsor determines not to comply with such additional regulatory and registration requirements, the Sponsor will terminate the Trust. Any such termination could result in the liquidation of the Trust’s Bitcoin at a time that is disadvantageous to Unitholders.

***Changes in the governance of a digital asset network may not receive sufficient support from users and miners, which may negatively affect that digital asset network’s ability to grow and respond to challenges.***

The governance of decentralized networks, such as the Bitcoin and Ethereum networks, is by voluntary consensus and open competition. As a result, there may be a lack of consensus or clarity on the governance of any particular decentralized digital asset network, which may stymie such network’s utility and ability to grow and face challenges. The foregoing notwithstanding, the protocols for some decentralized networks, such as the Bitcoin network, are informally managed by a group of core developers that propose amendments to the relevant network’s source code. Core developers’ roles evolve over time, largely based on self-determined participation. If a significant majority of users and miners adopt amendments to a decentralized network based on the proposals of such core developers, such network will be subject to new protocols that may adversely affect the value of the relevant digital asset.

As a result of the foregoing, it may be difficult to find solutions or marshal sufficient effort to overcome any future problems, especially long-term problems, on digital asset networks.

***Digital asset networks face significant scaling challenges and efforts to increase the volume of transactions may not be successful.***

Many digital asset networks face significant scaling challenges due to the fact that public blockchains generally face a tradeoff regarding security and scalability. One means through which public blockchains achieve security is decentralization, meaning that no intermediary is responsible for securing and maintaining these systems. For example, a greater degree of decentralization generally means a given digital asset network is less susceptible to manipulation or capture. In practice, this typically means that every single node on a given digital asset network is responsible for securing the system by processing every transaction and maintaining a copy of the entire state of the network. As a result, a digital asset network may be limited in the number of transactions it can process by the capabilities of each single fully participating node.



As corresponding increases in throughput lag behind growth in the use of digital asset networks, average fees and settlement times may increase considerably. For example, the Bitcoin Network has been, at times, at capacity, which has led to increased transaction fees. Since January 1, 2017, Bitcoin transaction fees have increased from \$0.35 per Bitcoin transaction, on average, to a high of \$55.16 per transaction, on average, on December 22, 2017. As of June 2021, Bitcoin transaction fees stood around \$6 per transaction, on average. Increased fees and decreased settlement speeds could preclude certain uses for Bitcoin (e.g., micropayments), and could reduce demand for, and the price of, Bitcoin, which could adversely impact the value of the Units.

Many developers are actively researching and testing scalability solutions for public blockchains that do not necessarily result in lower levels of security or decentralization (e.g., off-chain payment channels like the Lightning Network, sharding, or off-chain computations). However, there is no guarantee that any of the mechanisms in place or being explored for increasing the scale of settlement of the Bitcoin Network transactions will be effective, or how long these mechanisms will take to become effective, which could adversely impact the value of the Units.

***If a malicious actor or botnet obtains control of more than 50% of the processing power on the Bitcoin Network, or otherwise obtains control over the Bitcoin Network through its influence over core developers or otherwise, such actor or botnet could manipulate the Blockchain to adversely affect the value of the Units or the ability of the Trust to operate.***

If a malicious actor or botnet (a volunteer or hacked collection of computers controlled by networked software coordinating the actions of the computers) obtains a majority of the processing power dedicated to mining on the Bitcoin Network, it may be able to alter the Blockchain on which transactions in Bitcoin rely by constructing fraudulent blocks or preventing certain transactions from completing in a timely manner, or at all. The malicious actor or botnet could also control, exclude or modify the ordering of transactions. Although the malicious actor or botnet would not be able to generate new tokens or transactions using such control, it could “double-spend” its own tokens (i.e., spend the same tokens in more than one transaction) and prevent the confirmation of other users’ transactions for so long as it maintained control. To the extent that such malicious actor or botnet did not yield its control of the processing power on the Bitcoin Network or the Bitcoin community did not reject the fraudulent blocks as malicious, reversing any changes made to the Blockchain may not be possible. Further, a malicious actor or botnet could create a flood of transactions in order to slow down the Bitcoin Network.

Although there are no known reports of malicious activity on, or control of, the Bitcoin Network, it is believed that certain mining pools may have exceeded the 50% threshold on the Bitcoin Network. The possible crossing of the 50% threshold indicates a greater risk that a single mining pool could exert authority over the validation of Bitcoin transactions, and this risk is heightened if over 50% of the processing power on the network falls within the jurisdiction of a single governmental authority. For example, it is believed that more than 50% of the processing power on the Bitcoin Network is located in China. Because the Chinese government has subjected digital assets to heightened levels of scrutiny recently, reportedly forcing several digital asset exchanges to shut down, there is a risk that the Chinese government could also achieve control over more than 50% of the processing power on the Bitcoin Network. If network participants, including the core developers and the administrators of mining pools, do not act to ensure greater decentralization of Bitcoin mining processing power, the feasibility of a malicious actor obtaining control of the processing power on the Bitcoin Network will increase, which may adversely affect the value of the Units.

A malicious actor may also obtain control over the Bitcoin Network through its influence over core developers by gaining direct control over a core developer or an otherwise influential programmer. To the extent that the Bitcoin ecosystem does not grow, the possibility that a malicious actor may be able obtain control of the processing power on the Bitcoin Network in this manner will remain heightened.

***A temporary or permanent “fork” could adversely affect the value of the Units.***

The Bitcoin Network operates using open-source protocols, meaning that any user can download the software, modify it and then propose that the users and miners of Bitcoin adopt the modification. When a modification is introduced and a substantial majority of users and miners consent to the modification, the change is implemented and the network remains uninterrupted. However, if less than a substantial majority of users and miners consent to the proposed modification, and the modification is not compatible with the software prior to its modification, the consequence would be what is known as a “hard fork” of the Bitcoin Network, with one group running the pre-



modified software and the other running the modified software. The effect of such a fork would be the existence of two versions of Bitcoin running in parallel, yet lacking interchangeability. For example, in August 2017, Bitcoin “forked” into Bitcoin and a new digital asset, Bitcoin Cash, as a result of a several-year dispute over how to increase the rate of transactions that the Bitcoin Network can process.

Forks may also occur as a network community’s response to a significant security breach. For example, in June 2016, an anonymous hacker exploited a smart contract running on the Ethereum network to syphon approximately \$60 million of ETH held by The DAO, a distributed autonomous organization, into a segregated account. In response to the hack, most participants in the Ethereum community elected to adopt a “fork” that effectively reversed the hack. However, a minority of users continued to develop the original blockchain, now referred to as “Ethereum Classic” with the digital asset on that blockchain now referred to as Ether Classic, or ETC. ETC now trades on several digital asset exchanges. A fork may also occur as a result of an unintentional or unanticipated software flaw in the various versions of otherwise compatible software that users run. Such a fork could lead to users and miners abandoning the digital asset with the flawed software. It is possible, however, that a substantial number of users and miners could adopt an incompatible version of the digital asset while resisting community-led efforts to merge the two chains. This could result in a permanent fork, as in the case of Ether and Ether Classic.

In addition, many developers have previously initiated hard forks in the Blockchain to launch new digital assets, such as Bitcoin Gold and Bitcoin Diamond. To the extent such digital assets compete with Bitcoin, such competition could impact demand for Bitcoin and could adversely impact the value of the Units.

Furthermore, a hard fork can lead to new security concerns. For example, when the Ethereum and Ethereum Classic networks split in July 2016, replay attacks, in which transactions from one network were rebroadcast to nefarious effect on the other network, plagued Ethereum exchanges through at least October 2016. An Ethereum exchange announced in July 2016 that it had lost 40,000 Ether Classic, worth about \$100,000 at that time, as a result of replay attacks. Another possible result of a hard fork is an inherent decrease in the level of security due to significant amounts of mining power remaining on one network or migrating instead to the new forked network. After a hard fork, it may become easier for an individual miner or mining pool’s hashing power to exceed 50% of the processing power of the digital asset network that retained or attracted less mining power, thereby making digital assets that rely on proof-of-work more susceptible to attack.

A future fork in the Bitcoin Network could adversely affect the value of the Units or the ability of the Trust to operate.

***Unitholders may not receive the benefits of any forks or “airdrops.”***

In addition to forks, a digital asset may become subject to a similar occurrence known as an “airdrop.” In an airdrop, the promoters of a new digital asset announce to holders of another digital asset that such holders will be entitled to claim a certain amount of the new digital asset for free, based on the fact that they hold such other digital asset.

Unitholders may not receive the benefits of any forks, the Trust may not choose, or be able, to participate in an airdrop, and the timing of receiving any benefits from a fork, airdrop or similar event is uncertain. We refer to the right to receive any such benefit as an “Incidental Right” and any such virtual currency acquired through an Incidental Right as “Additional Currency.” There are likely to be operational, tax, securities law, regulatory, legal and practical issues that significantly limit, or prevent entirely, Unitholders’ ability to realize a benefit, through their interests in the Trust, from any such Additional Currency. For instance, the Custodian may not agree to provide access to the Additional Currency. In addition, the Sponsor may determine that there is no safe or practical way to custody the Additional Currency, or that trying to do so may pose an unacceptable risk to the Trust’s holdings in Bitcoin, or that the costs of taking possession and/or maintaining ownership of the Additional Currency exceed the benefits of owning the Additional Currency. Additionally, laws, regulation or other factors may prevent Unitholders from benefiting from the Additional Currency even if there is a safe and practical way to custody and secure the Additional Currency. For example, it may be illegal to sell or otherwise dispose of the Additional Currency, or there may not be a suitable market into which the Additional Currency can be sold (immediately after the fork or airdrop, or ever). The Sponsor may also determine, in consultation with its legal advisors and tax consultants, that the Additional Currency is, or is likely to be deemed, a security under federal or state securities laws. In such a case, the Sponsor would irrevocably

abandon, as of any date on which the Trust creates Units, such Additional Currency if holding it would have an adverse effect on the Trust and it would not be practicable to avoid such effect by disposing of the Additional Currency in a manner that would result in Unitholders receiving more than insignificant value thereof. In making such a determination, the Sponsor expects to take into account a number of factors, including the definition of a “security” under Section 2(a)(1) of the Securities Act and Section 3(a)(10) of the Exchange Act, SEC v. W.J. Howey Co., 328 U.S. 293 (1946) and the case law interpreting it, as well as reports, orders, press releases, public statements and speeches by the SEC providing guidance on when a digital asset is a “security” for purposes of the federal securities laws.

***In the event of a hard fork of the Bitcoin Network, the Sponsor will, if permitted by the terms of the Trust Agreement, use its discretion to determine which network should be considered the appropriate network for the Trust’s purposes, and in doing so may adversely affect the value of the Units.***

In the event of a hard fork of the Bitcoin Network, the Sponsor will, if permitted by the terms of the Trust Agreement, use its discretion to determine, in good faith, which peer-to-peer network, among a group of incompatible forks of the Bitcoin Network, is generally accepted as the Bitcoin Network and should therefore be considered the appropriate network for the Trust’s purposes. The Sponsor will base its determination on a variety of then relevant factors, including, but not limited to, the Sponsor’s beliefs regarding expectations of the core developers of Bitcoin, users, services, businesses, miners and other constituencies, as well as the actual continued acceptance of, mining power on, and community engagement with, the Bitcoin Network. There is no guarantee that the Sponsor will choose the digital asset that is ultimately the most valuable fork, and the Sponsor’s decision may adversely affect the value of the Units as a result. The Sponsor may also disagree with Unitholders, security vendors and the Index Provider on what is generally accepted as Bitcoin and should therefore be considered “Bitcoin” for the Trust’s purposes, which may also adversely affect the value of the Units as a result.

***If the digital asset award for solving blocks and transaction fees for recording transactions on the Bitcoin Network are not sufficiently high to incentivize miners, miners may cease expanding processing power or demand high transaction fees, which could negatively impact the value of Bitcoin and the value of the Units.***

If the digital asset awards for solving blocks and the transaction fees for recording transactions on the Bitcoin Network are not sufficiently high to incentivize miners, miners may cease expending processing power to solve blocks and confirmations of transactions on the Blockchain could be slowed. A reduction in the processing power expended by miners on the Bitcoin Network could increase the likelihood of a malicious actor or botnet obtaining control.

Miners have historically accepted relatively low transaction confirmation fees on most digital asset networks. If miners demand higher transaction fees for recording transactions in the Blockchain or a software upgrade automatically charges fees for all transactions on the Bitcoin Network, the cost of using Bitcoin may increase and the marketplace may be reluctant to accept Bitcoin as a means of payment. Alternatively, miners could collude in an anti-competitive manner to reject low transaction fees on the Bitcoin Network and force users to pay higher fees, thus reducing the attractiveness of the Bitcoin Network. Higher transaction confirmation fees resulting through collusion or otherwise may adversely affect the attractiveness of the Bitcoin Network, the value of Bitcoin and the value of the Units.

## **Risk Factors Related to the Bitcoin Markets**

***The value of the Units relates directly to the value of Bitcoins, the value of which may be highly volatile and subject to fluctuations due to a number of factors.***

The value of the Units relates directly to the value of the Bitcoins held by the Trust and fluctuations in the price of Bitcoin could adversely affect the value of the Units. The market price of Bitcoin may be highly volatile, and subject to a number of factors, including:

- An increase in the global Bitcoin supply;
- Manipulative trading activity on Bitcoin exchanges, which are largely unregulated;

- The adoption of Bitcoin as a medium of exchange, store-of-value or other consumptive asset and the maintenance and development of the open-source software protocol of the Bitcoin Network;
- Forks in the Bitcoin Network;
- Investors' expectations with respect to interest rates, the rates of inflation of fiat currencies or Bitcoin, and digital asset exchange rates;
- Consumer preferences and perceptions of Bitcoin specifically and digital assets generally;
- Fiat currency withdrawal and deposit policies on Bitcoin exchanges;
- The liquidity of Bitcoin markets;
- Investment and trading activities of large investors that invest directly or indirectly in Bitcoin;
- A "short squeeze" resulting from speculation on the price of Bitcoin, if aggregate short exposure exceeds the number of Units available for purchase;
- An active derivatives market for Bitcoin or for digital assets generally;
- Monetary policies of governments, trade restrictions, currency devaluations and revaluations and regulatory measures or enforcement actions, if any, that restrict the use of Bitcoin as a form of payment or the purchase of Bitcoin on the Bitcoin markets;
- Global or regional political, economic or financial conditions, events and situations;
- Fees associated with processing a Bitcoin transaction and the speed at which Bitcoin transactions are settled;
- Interruptions in service from or failures of major Bitcoin exchanges;
- Decreased confidence in Bitcoin exchanges due to the unregulated nature and lack of transparency surrounding the operations of Bitcoin exchanges;
- Increased competition from other forms of digital assets or payment services; and
- The Trust's own acquisitions or dispositions of Bitcoin, since there is no limit on the number of Bitcoin that the Trust may acquire.

In addition, there is no assurance that Bitcoin will maintain its value in the long or intermediate term. In the event that the price of Bitcoin declines, the Sponsor expects the value of the Units to decline proportionately.

The value of a Bitcoin as represented by the Bitcoin Market Price or by the Trust's principal market may also be subject to momentum pricing due to speculation regarding future appreciation in value, leading to greater volatility that could adversely affect the value of the Units. Momentum pricing typically is associated with growth stocks and other assets whose valuation, as determined by the investing public, accounts for future appreciation in value, if any. The Sponsor believes that momentum pricing of Bitcoins has resulted, and may continue to result, in speculation regarding future appreciation in the value of Bitcoin, inflating and making the Bitcoin Market Price more volatile. As a result, Bitcoin may be more likely to fluctuate in value due to changing investor confidence, which could impact future appreciation or depreciation in the Bitcoin Market Price and could adversely affect the value of the Units.

***Due to the unregulated nature and lack of transparency surrounding the operations of Bitcoin exchanges, they may experience fraud, security failures or operational problems, which may adversely affect the value of Bitcoin and, consequently, the value of the Units.***

Bitcoin exchanges are relatively new and, in some cases, unregulated. Furthermore, while many prominent Bitcoin exchanges provide the public with significant information regarding their ownership structure, management teams, corporate practices and regulatory compliance, many Bitcoin exchanges do not provide this information. As a result, the marketplace may lose confidence in Bitcoin exchanges, including prominent exchanges that handle a significant volume of Bitcoin trading.

For example, in 2019 there were reports claiming that 80-95% of Bitcoin trading volume on Bitcoin exchanges was false or non-economic in nature, with specific focus on unregulated exchanges located outside of the U.S. Such reports may indicate that the Bitcoin exchange market is significantly smaller than expected and that the U.S. makes up a significantly larger percentage of the Bitcoin exchange market than is commonly understood. Nonetheless, any actual or perceived false trading in the Bitcoin exchange market, and any other fraudulent or manipulative acts and practices, could adversely affect the value of Bitcoin and/or negatively affect the market perception of Bitcoin.

In addition, over the past several years, some Bitcoin exchanges have been closed due to fraud and manipulative activity, business failure or security breaches. In many of these instances, the customers of such Bitcoin exchanges were not compensated or made whole for the partial or complete losses of their account balances in such Bitcoin exchanges. While smaller Bitcoin exchanges are less likely to have the infrastructure and capitalization that make larger Bitcoin exchanges more stable, larger Bitcoin exchanges are more likely to be appealing targets for hackers and malware and may be more likely to be targets of regulatory enforcement action. For example, the collapse of Mt. Gox, which filed for bankruptcy protection in Japan in late February 2014, demonstrated that even the largest Bitcoin exchanges could be subject to abrupt failure with consequences for both users of Bitcoin exchanges and the Bitcoin industry as a whole. In particular, in the two weeks that followed the February 7, 2014 halt of Bitcoin withdrawals from Mt. Gox, the value of one Bitcoin fell on other exchanges from around \$795 on February 6, 2014 to \$578 on February 20, 2014. Additionally, in January 2015, Bitstamp announced that approximately 19,000 Bitcoin had been stolen from its operational or “hot” wallets. Further, in August 2016, it was reported that almost 120,000 Bitcoins worth around \$78 million were stolen from Bitfinex, a large Bitcoin exchange. The value of Bitcoin immediately decreased over 10% following reports of the theft at Bitfinex and the Units suffered a corresponding decrease in value. In July 2017, the Financial Crimes Enforcement Network (“FinCEN”) assessed a \$110 million fine against BTC-E, a now defunct Bitcoin exchange, for facilitating crimes such as drug sales and ransomware attacks. In addition, in December 2017, Yopian, the operator of Seoul-based cryptocurrency exchange Youbit, suspended digital asset trading and filed for bankruptcy following a hack that resulted in a loss of 17% of Yopian’s assets. Following the hack, Youbit users were allowed to withdraw approximately 75% of the digital assets in their exchange accounts, with any potential further distributions to be made following Yopian’s pending bankruptcy proceedings. In addition, in January 2018, the Japanese digital asset exchange, Coincheck, was hacked, resulting in losses of approximately \$535 million, and in February 2018, the Italian digital asset exchange, Bitgrail, was hacked, resulting in approximately \$170 million in losses. Most recently in May 2019, one of the world’s largest Bitcoin exchanges, Binance, was hacked, resulting in losses of approximately \$40 million.

Negative perception, a lack of stability in the Bitcoin markets and the closure or temporary shutdown of Bitcoin exchanges due to fraud, business failure, hackers or malware, or government-mandated regulation may reduce confidence in the Bitcoin Network and result in greater volatility in the prices of Bitcoin. Furthermore, the closure or temporary shutdown of a Bitcoin exchange used in calculating the Bitcoin Market Price may result in a loss of confidence in the Trust’s ability to determine its Bitcoin Holdings on a daily basis. These potential consequences of such a Bitcoin exchange’s failure could adversely affect the value of the Units.

***Competition from the emergence or growth of other digital assets or methods of investing in Bitcoin could have a negative impact on the price of Bitcoin and adversely affect the value of the Units.***

Bitcoin was the first digital asset to gain global adoption and critical mass, and as a result, it has a “first to market” advantage over other digital assets. As of April 19, 2021, Bitcoin was the largest digital asset by market capitalization and had the largest user base and largest combined mining power. Despite this first to market advantage,

as of April 19, 2021, there were over 4,000 alternative digital assets tracked by CoinMarketCap.com, having a total market-capitalization of approximately \$2.05 trillion (including the approximately \$1.047 trillion market cap of Bitcoin), as calculated using market prices and total available supply of each digital asset. In addition, many consortiums and financial institutions are also researching and investing resources into private or permissioned blockchain platforms rather than open platforms like the Bitcoin Network. Competition from the emergence or growth of alternative digital assets could have a negative impact on the demand for, and price of, Bitcoin and thereby adversely affect the value of the Units.

Investors may invest in Bitcoin through means other than the Units, including through direct investments in Bitcoin and other potential financial vehicles, possibly including securities backed by or linked to Bitcoin and digital asset financial vehicles similar to the Trust. Market and financial conditions, and other conditions beyond the Sponsor's control, may make it more attractive to invest in other financial vehicles or to invest in Bitcoin directly, which could limit the market for, and reduce the liquidity of, the Units. In addition, to the extent digital asset financial vehicles other than the Trust tracking the price of Bitcoin are formed and represent a significant proportion of the demand for Bitcoin, large purchases or redemptions of the securities of these digital asset financial vehicles, or private funds holding Bitcoin, could negatively affect the Bitcoin Market Price, the Bitcoin Holdings, the price of the Units, the NAV and the NAV per Unit.

***Failure of funds that hold digital assets or that have exposure to digital assets through derivatives to receive SEC approval to list their shares on exchanges could adversely affect the value of the Units.***

There have been a growing number of attempts to list on national securities exchanges the shares of funds that hold digital assets or that have exposures to digital assets through derivatives. These investment vehicles attempt to provide institutional and retail investors exposure to markets for digital assets and related products. The SEC has repeatedly denied such requests. On January 18, 2018, the SEC's Division of Investment Management outlined several questions that sponsors would be expected to address before the SEC will consider granting approval for funds holding "substantial amounts" of cryptocurrencies or "cryptocurrency-related products." The questions, which focus on specific requirements of the Investment Company Act of 1940, generally fall into one of five key areas: valuation, liquidity, custody, arbitrage and potential manipulation. The SEC has not explicitly stated whether each of the questions set forth would also need to be addressed by entities with similar products and investment strategies that instead pursue registered offerings under the Securities Act, although such entities would need to comply with the registration and prospectus disclosure requirements of the Securities Act. The exchange listing of shares of digital asset funds would create more opportunities for institutional and retail investors to invest in the digital asset market. If exchange-listing requests are not approved by the SEC and the outstanding requests are ultimately denied by the SEC, increased investment interest by institutional or retail investors could fail to materialize, which could reduce the demand for digital assets generally and therefore adversely affect the value of the Units.

***NAV may not always correspond to the weighted-average market price of Bitcoin and, as a result, Units may be purchased (or redeemed, if ever permitted) at a value that differs from the secondary market price of the Units.***

The NAV of the Trust will change as fluctuations occur in the market price of the Trust's Bitcoin holdings. Unitholders should be aware that the secondary market trading price of a Unit may be different from the NAV per Unit (i.e., Units may trade at a premium over, or a discount to, the NAV), and similarly the secondary market trading price per Unit may be different from the NAV per Unit, for a number of reasons, including price volatility, trading volume and any closings of Bitcoin trading platforms due to fraud, failure, security breaches or otherwise. Consequently, an investor may be able to purchase Units at a discount or a premium to the market trading price per Unit (if and when Units trade on a secondary trading market). This price difference may be due, in large part, but not exclusively, to the fact that supply and demand forces at work in the secondary trading market for Units are related, but not identical, to the supply and demand forces influencing the market price of Bitcoin. Unitholders also should note that the size of the Trust in terms of total Bitcoin held may change substantially over time and as Units are issued and redeemed (if ever permitted).

***Suspension or disruptions of market trading may adversely affect the value of units.***

On January 14, 2021, FINRA determined the Units met the criteria for quotation and trading on the OTCQX under the ticker symbol "OBTC." Nevertheless, there can be no assurance that, the Units will trade with sufficient

liquidity for the quotation to be of practical use to investors. Moreover, quotation may be halted due to market conditions, or in light of the OTCQX rules and procedures. There can be no assurance that the requirements necessary to maintain the quotation of the Units on the OTCQX will continue to be met.

***The lack of active trading markets for the Units may result in losses on an investment in the Trust at the time of disposition of Units.***

There can be no guarantee that an active trading market for the Units will develop or will be maintained. Even if an active trading market does develop, it may not provide significant liquidity, and the Units may not trade at prices advantageous to Unitholders. If a Unitholder wishes to sell Units at a time when no active market for such Units exists, the price received for the Units (assuming that the Unitholder is able to sell them) likely will be lower than the price a Unitholder would receive if an active market did exist and, accordingly, the Unitholder may suffer significant losses.

***The Trust's acquisition and sale of Bitcoin may impact the supply and demand of Bitcoin, which may have a negative impact on the price of the Units.***

If the number of Bitcoin acquired by the Trust is large enough relative to global Bitcoin supply and demand, further issuances and redemptions (if any) of Units could have an impact on the supply of and demand for Bitcoin in a manner unrelated to other factors affecting the global market for Bitcoin. Such an impact could affect the Bitcoin Market Price, which would directly affect the price at which Units are quoted on the OTCQX or the price of future Units issued or redeemed (if permitted) by the Trust.

***A possible "short squeeze" due to a sudden increase in demand for the Units that largely exceeds supply may lead to price volatility in the Units.***

Bitcoin price speculation may involve long and short exposures. To the extent that aggregate short exposure exceeds the number of Units available for purchase (for example, in the event that large redemption requests by Unitholders dramatically affect Unit liquidity), Unitholders with short exposure may have to pay a premium to repurchase Units for delivery to Unit lenders. Those repurchases may, in turn, dramatically increase the price of the Units until additional Units are issued. This is often referred to as a "short squeeze." A short squeeze could lead to volatile price movements in the Units that are not directly correlated to the price of Bitcoin.

***The Trust's buying and selling activity associated with the issuance and redemption (if any) of Units may adversely affect an investment in the Units.***

The Trust's purchase of Bitcoin in connection with Unit issuance orders may cause the price of Bitcoin to increase, which will result in higher prices for the Units. Increases in the Bitcoin prices may also occur as a result of Bitcoin purchases by other market participants who attempt to benefit from an increase in the market price of Bitcoin when Units are issued. The market price of Bitcoin may therefore decline immediately after Units are issued. Selling activity associated with sales of Bitcoin from the Trust in connection with redemption orders may decrease the Bitcoin prices, which will result in lower prices for the Units. Decreases in Bitcoin prices may also occur as a result of selling activity by other market participants. In addition to the effect that purchases and sales of Bitcoin by the Trust may have on the price of Bitcoin, other exchange-traded products with similar investment objectives could represent a substantial portion of demand for Bitcoin at any given time and the sales and purchases by such investment vehicles may impact the price of Bitcoin. If the price of Bitcoin declines, the trading price of the Units will generally also decline.

***Difficulties or limitations in the processes of issuance and redemption (if any) of Units may interfere with opportunities for arbitrage transactions intended to keep the price of the Units closely linked to the price of Bitcoin, which may adversely affect an investment in the Units.***

If the processes of issuance and redemption of the Units encounter any unanticipated difficulties, potential market participants who would otherwise be willing to purchase or redeem Units to take advantage of any arbitrage opportunity arising from discrepancies between the price of the Units and the price of the underlying Bitcoin may not



take the risk that, as a result of those difficulties, they may not be able to realize the profit they expect. If this is the case, the liquidity of Units may decline and the price of the Units may fluctuate independently of the price of Bitcoin and may fall. In addition, the Sponsor may postpone, suspend or reject purchase or redemption orders, as applicable, for a variety of permitted reasons under certain circumstances. To the extent such orders are postponed, suspended or rejected, the arbitrage mechanism resulting from the process through which investors purchase and redeem Units directly with the Trust may fail to closely link the price of the Units to the value of the underlying Bitcoin, as measured using the Bitcoin Market Price. If this is the case, the liquidity of the Units may decline and the price of the Units may fluctuate independently of the Bitcoin Market Price and may fall.

***Disruptions at OTC trading desks and potential consequences of an OTC trading desk's failure could adversely affect an investment in the Units.***

There are a limited number of OTC trading desks with which the Trust can transact in Bitcoin to effect issuances and redemptions (if any). A disruption at or withdrawal from the market by any such OTC trading desk may adversely affect the Trust's ability to purchase or sell Bitcoin, which may potentially negatively impact the market price of the Units. A disruption at one or more OTC trading desks will reduce liquidity in the market and may negatively impact the Trust's ability to value its Bitcoin. Because there is currently no publicly disseminated and verifiable feed with respect to the price of Bitcoin on a regulated exchange, investors must rely on other pricing sources, such as the Bitcoin Market Price or prices obtained directly from the OTC trading desks, to obtain the price of Bitcoin.

***Disruptions at Bitcoin exchanges and potential consequences of a Bitcoin exchange's failure could adversely affect an investment in the Units.***

Bitcoin exchanges operate websites on which users can trade Bitcoin for U.S. dollars, other government currencies and other cryptocurrencies. Trades on Bitcoin exchanges are unrelated to transfers of Bitcoin between users via the Bitcoin network. Bitcoin trades on exchanges are recorded on the exchange's internal ledger only, and each internal ledger entry for a trade will correspond to an entry for an offsetting trade in U.S. dollars or other government currency. To sell Bitcoin on a Bitcoin exchange, a user will transfer Bitcoin (using the Bitcoin network) from him or herself to the Bitcoin exchange. Conversely, to buy Bitcoin on a Bitcoin exchange, a user will transfer U.S. dollars or other government currency to the Bitcoin exchange. After completing the transfer of Bitcoin or U.S. dollars, the user will execute his or her trade and withdraw either the Bitcoin (using the Bitcoin network) or the U.S. dollars back to the user. Bitcoin exchanges are an important part of the Bitcoin industry.

Bitcoin exchanges have a limited history. Since 2009, several Bitcoin exchanges have been closed or experienced disruptions due to fraud, failure, security breaches or distributed denial of service attacks, a/k/a "DDoS Attacks." In many of these instances, the customers of such exchanges were not compensated or made whole for the partial or complete losses of their funds, Bitcoin or other cryptocurrencies held at the exchanges. In 2014, the largest Bitcoin exchange at the time, Mt. Gox, filed for bankruptcy in Japan amid reports the exchange lost up to 850,000 Bitcoin, valued then at over \$450 million. Bitcoin exchanges are also appealing targets for hackers and malware. In August 2016, Bitfinex, an exchange located in Hong Kong, reported a security breach that resulted in the theft of approximately 120,000 Bitcoin valued at the time at approximately \$72 million, a loss which was allocated to all Bitfinex account holders (rather than just specified holders whose wallets were affected directly), regardless of whether the account holder held Bitcoin or cash in their account. In February 2017 following a statement by the People's Bank of China, China's three largest exchanges (BTCC, Huobi and OKCoin) suspended withdrawals of users' Bitcoin. Although withdrawals were permitted to resume in late May 2017, Chinese regulators in September 2017 issued a directive to Chinese exchanges to cease operations with respect to Chinese users by September 30, 2017. In July 2017, the Financial Crimes Enforcement Network ("FinCEN") and the U.S. Department of Justice levied a \$110 million fine and an indictment against BTC-e, another Bitcoin exchange and one of its operators for financial crimes. The Department of Justice also seized the Internet domain of the exchange. Similar to the outcome of the Bitfinex breach, losses due to assets seized by FinCEN were allocated among exchange users. In addition, it has been reported that Bitcoin exchange Coincheck lost approximately \$500 million to hackers in 2018 and that Bitcoin exchange Binance lost approximately \$40 million to hackers in 2019. The potential for instability of Bitcoin exchanges and the closure or temporary shutdown of exchanges due to fraud, business failure, hackers, DDoS or malware, or government-mandated regulation may reduce confidence in Bitcoin, which may result in greater volatility in the Bitcoin Market Price.



Despite efforts to ensure accurate pricing, the Bitcoin Market Price and the price of Bitcoin generally, remains subject to volatility. Such volatility can adversely affect an investment in the Units.

***Momentum pricing of Bitcoin may subject the Bitcoin price to greater volatility and adversely affect an investment in the Units.***

Momentum pricing typically is associated with growth stocks and other assets whose valuation, as determined by the investing public, accounts for anticipated future appreciation in value. The Sponsor believes that momentum pricing of Bitcoin has resulted, and may continue to result, in speculation regarding future appreciation in the value of Bitcoin, inflating and making more volatile the value of a Bitcoin. As a result, Bitcoin may be more likely to fluctuate in value due to changing investor confidence in future appreciation in the Bitcoin price, which could adversely affect an investment in the Units.

#### **Risk Factors Related to the Trust and the Units**

***As the Sponsor and its management have little history of operating the Trust, their experience may be inadequate or unsuitable to manage the Trust.***

The Sponsor has only a limited history of past performance in managing the Trust. Similarly, the Sponsor's management has only a limited history of past performance in managing the Trust. The past performances of the Sponsor and management in other positions are no indication of their ability to manage an investment vehicle such as the Trust. If the experience of the Sponsor and its management is inadequate or unsuitable to manage an investment vehicle such as the Trust, the operations of the Trust may be adversely affected.

***The Trust has only a limited performance history.***

The Trust has only a limited operating history. Therefore, a potential Unitholder has little performance history, aside from the historical price of Bitcoin, to serve as a factor in evaluating an investment in the Trust.

***The Units are new securities and their value could decrease if unanticipated operational or trading problems arise.***

The mechanisms and procedures governing the issuance, redemption (if any) and offering of the Units have been developed specifically for the Trust. Consequently, there may be unanticipated problems or issues with respect to the mechanisms of the operations of the Trust and the trading of the Units, which could have a material adverse effect on an investment in the Units. In addition, to the extent that unanticipated operational or trading problems or issues arise, the Trust management's past experience and qualifications may not be suitable for solving these problems or issues.

***Fees and expenses are charged regardless of profitability and may result in depletion of assets.***

Unitholders in the Trust will pay fees and expenses in connection with their investment in Units, including the Management Fee of an annualized 0.49% of the average daily NAV of the Trust for each. The Sponsor will bear the routine operational, administrative and other ordinary fees and expenses of the Trust (the "Assumed Expenses"); provided, however, that the Trust shall be responsible for audit fees, index license fees, aggregate legal fees in excess of \$50,000 per annum and the fees of the Custodian (the "Excluded Expenses") and certain extraordinary expenses of the Trust, including but not limited to taxes and governmental charges, expenses and costs, expenses and indemnities related to any extraordinary services performed by the Sponsor (or any other Service Provider, including the Trustee) on behalf of the Trust to protect the Trust or the interest of Unitholders, indemnification expenses, fees and expenses related to public trading on OTCQX (the "Extraordinary Expenses").

***The security of our Bitcoin Holdings cannot be assured, by the Trust, the Custodian or any other person.***

The Trust's Bitcoin holdings will be held by the Custodian subject to security methods and procedures designed to ensure the Trust's control over those holdings and keep those holdings safe from unauthorized use, theft or other misuse. See "Other Parties – Custodian – The Custodian's Role." However, no security measures can provide

assurance that the Trust's Bitcoin holdings will not be affected by theft, misuse, cybersecurity breaches or other harms. Moreover, the Trust must use the Custodian's service on an "as is" basis and the Custodian's standard of care is limited to that of "reasonable care." Further, the Custodian is not liable for any loss that is caused, directly or indirectly, by any non-adherence by the Trust to the Custodian's policies and procedures, any action taken to secure the digital assets or accounts of the Trust or other exceptions under the Custodial Services Agreement (the "Custodial Services Agreement"). In addition, although we may be entitled to indemnification for certain breaches of the Custodial Services Agreement or the loss or theft of our assets, securing recovery for any such losses may require us to devote substantial time and resources to the task, with no guarantee of success. While the Trust has taken and will continue to take steps to secure its assets, the Trust's assets are continuously subject to risks of theft, fraud and other security breaches, and some or all of the Trust's assets may be lost or otherwise compromised as a result of such security breaches.

***Possibility of termination of the Trust may adversely affect a Unitholder's portfolio.***

The Sponsor may terminate the Trust in its sole discretion upon the occurrence of certain events, and shall terminate the Trust upon the occurrence of certain other events. If this power is so exercised, Unitholders who may wish to continue to invest in Bitcoin through the Trust will have to find another vehicle, and may not be able to find another vehicle that offers the same features as the Trust. Such detrimental developments could cause a Unitholder to liquidate its investments and upset the overall maturity and timing of its investment portfolio.

***Any errors, discontinuance or changes in determining the value of the Bitcoin held by the Trust may have an adverse effect on the value of the Units.***

The Administrator will determine the NAV of the Trust and the NAV per Unit on a daily basis as soon as practicable after 4:00 P.M. New York time on each business day. The Administrator's determination will be made based on the Bitcoin Market Price. To the extent that such NAV or NAV per Unit is incorrectly calculated, there may be no liability for any error, but such misreporting of valuation data could adversely affect an investment in the Units.

***Unitholders may be adversely affected by redemption orders that are subject to postponement, suspension, or rejection under certain circumstances.***

If redemptions of Units are ever permitted, the Sponsor may nevertheless, in its discretion, suspend the right of redemption or postpone the redemption settlement date if (1) the order is not in proper form as determined by the Trust or Sponsor, (2) during an emergency as a result of which delivery, disposal or evaluation of Bitcoin is not reasonably practicable, or (3) for such other period as the Sponsor determines to be necessary for the protection of Unitholders. Any such postponement, suspension or rejection could adversely affect a redeeming investor. For example, the resulting delay may adversely affect the value of the investor's redemption proceeds if the NAV of the Trust declines during the period of delay. The Trust disclaims any liability for any loss or damage that may result from any such suspension or postponement.

***As a Unitholder, you will not have the rights normally associated with ownership of Units of other types of investment vehicles. For example, you will have no voting rights, in comparison to those of securityholders in traditional operating companies.***

The Trust is a passive investment vehicle with no management and no board of directors. Thus, the Units are not entitled to the same rights as shares issued by a corporation operating a business enterprise with management and a board of directors. By acquiring Units, you are not acquiring the right to elect directors, to vote on certain matters regarding the issuer of your Units or to take other actions normally associated with the ownership of shares, such as the right to bring "oppression" or "derivative" actions. You will only have the extremely limited rights described under "Description of the Units."

***The value of the Units will be adversely affected if the Trust is required to indemnify the Sponsor or the Custodian as contemplated in the Trust Agreement or the Custodial Services Agreement.***

Under the Trust Agreement, each of the Sponsor and the Trustee has a right to be indemnified from the Trust for any liability or expense it incurs without gross negligence, bad faith or willful misconduct on its part. Under the Trust Agreement, the Trust's officers, directors, employees and agents also have a right to be indemnified from the Trust for any liability or expense they incur without gross negligence, bad faith, or willful misconduct on their part. Similarly, the Custodial Services Agreement provides for indemnification of the Custodian by the Trust under certain circumstances. That means that it may be necessary to sell assets of the Trust to cover losses or liability suffered by any of the foregoing parties. Any sale of that kind would reduce the NAV of the Trust and the NAV per Unit.

***The Trust's Bitcoin Holdings could become illiquid, which could cause large losses to Unitholders at any time or from time to time.***

The Trust may not always be able to liquidate its Bitcoin at a desired price, or at all. It may become difficult to execute a trade at a specific price when there is a relatively small volume of buy and sell orders in the marketplace, including on Bitcoin exchanges and with OTC Bitcoin participants.

A market disruption, such as a foreign government taking political actions that disrupt the market in its currency, its commodity production or exports, or in another major export, can also make it difficult to liquidate a position. In the event of a fork of the Bitcoin network, certain Bitcoin exchanges and/or OTC counterparties may halt deposits and withdrawals of Bitcoin for a set period of time thus reducing liquidity in the markets. Unexpected market illiquidity may cause major losses to Unitholders at any time. The large amount of Bitcoin the Trust may acquire increases the risk of illiquidity by both making its Bitcoin more difficult to liquidate and increasing the losses incurred while trying to do so. To the extent the Trust is unable to purchase or sell Bitcoin at a desired price as a result of illiquidity, the Trust may not be able to effect issuances and redemptions (if permitted) of Units for cash.

***Transactions in Bitcoin are irreversible and the Trust may be unable to recover improperly transferred Bitcoin.***

Bitcoin transactions are irreversible. An improper transfer, whether accidental or resulting from theft, can only be undone by the receiver of the Bitcoin agreeing to send the Bitcoin back to the original sender in a separate subsequent transaction. To the extent the Trust erroneously transfers, whether accidental or otherwise, Bitcoin in incorrect amounts or to the wrong recipients, the Trust may be unable to recover the Bitcoin, which could adversely affect an investment in the Units.

***The Trust's Bitcoin may be lost, stolen, or subject to other inaccessibility.***

There is a risk that part or all of the Trust's Bitcoin could be lost, stolen or destroyed. Although the Trust will secure the Trust's Bitcoin to seek to minimize the risk of loss, the Trust cannot guarantee that such a loss will be prevented. Access to the Trust's Bitcoin could also be restricted by natural events (such as a hurricane, earthquake or pandemic) or human actions (such as a terrorist attack). Any of these events may adversely affect the operations of the Trust and, consequently, an investment in the Units. See the section below entitled "The Bitcoin Security System" for more information relating to the Trust's security measures.

***Any disruptions to the computer technology used by the Trust or its service providers could adversely affect the Trust's ability to function and an investment in the Units.***

The Trust will monitor its technology and may develop and redesign its technology, including enhancements and alterations that may be implemented from time to time, and it expects its service providers to do the same. In doing so, there is risk that failures may occur and result in service interruptions or other negative consequences. Any technology updates that cause disruptions in the proper functioning of the Trust's or any of its service provider's technology systems may have an adverse impact on the Trust and an investment in the Units.

The Trust may take such steps as the Sponsor determines, in its sole judgment, to be required to maintain and upgrade its technology systems, in order to protect against failure, hacking, malware and general security threats, and it expects its service providers to take their own steps to maintain and upgrade their own technology systems with the same goals in mind. The Trust is not liable to Unitholders for the failure or penetration of technology systems absent gross negligence, willful misconduct or bad faith. To the extent technology systems fail or are penetrated, any loss of the Trust's Bitcoin or loss of confidence in the Trust's ability to safeguard its Bitcoin may adversely affect an investment in the Units.

***The Sponsor's computer infrastructure may be vulnerable to security breaches. Any such problems could cause interruptions in the Trust's operations and adversely affect an investment in the Units.***

The Sponsor's computer infrastructure is potentially vulnerable to physical or electronic computer break-ins, viruses and similar disruptive problems and security breaches. Any such problems or security breaches could give rise to a halt in the Trust's operations, and expose the Trust to a risk of financial loss, litigation and other liabilities. In the event of a security breach, the Trust may cease operations, suspend redemptions or suffer a loss of Bitcoin or other assets. Any of these events, particularly if they result in a loss of confidence in the Trust's ability to operate, could have a material adverse effect on an investment in the Units.

***Technology system failures could cause interruptions in the Trust's ability to operate.***

If the Sponsor's systems fail to perform, the Trust could experience disruptions in operations and slower response times, which may cause delays in the Trust's ability to buy or sell Bitcoin. Any such failures may also result in the theft, loss or damage of the Trust's Bitcoin. Any such theft, loss or damage of the Trust's Bitcoin would have a negative impact on the value of the Units and adversely affect the Trust's ability to operate. In addition, a loss of confidence in the Trust's ability to secure the Trust's Bitcoin with its technology system may adversely affect the Trust and the value of an investment in the Units.

## **Risk Factors Related to the Regulation of the Trust and the Units**

***Regulation of the Bitcoin industry continues to evolve and is subject to change; future regulatory developments are impossible to predict but may significantly and adversely affect the Trust.***

Both domestic and foreign regulators and governments have focused on regulation of Bitcoin. In the U.S., developments include the following:

- On May 7, 2014 the SEC published an investor alert that highlighted fraud and other concerns relating to certain investment opportunities denominated in Bitcoin and fraudulent and unregistered investment schemes targeted at participants in online Bitcoin forums. On July 25, 2017, the SEC issued a Report of Investigation (the "Report") which concluded that digital assets or tokens issued for the purpose of raising funds may be securities within the meaning of the federal securities laws.
- The Report emphasized that whether a digital asset is a security is based on the particular facts and circumstances, including the economic realities of the transactions. On January 7, 2020, the SEC issued a press release announcing that digital assets and electronic investments, would be at the top of the SEC's priorities for 2020. The SEC continues to take action against persons or entities misusing Bitcoin in connection with fraudulent schemes (i.e., Ponzi scheme), inaccurate and inadequate publicly disseminated information, and the offering of unregistered securities.

On September 17, 2015, the CFTC provided clarity regarding the regulatory treatment of Bitcoin in the Coinflip civil enforcement case. There the CFTC determined that Bitcoin and other virtual currencies are regulated as commodities under the CEA. Based on this determination, the CFTC applied Commodity Exchange Act provisions and CFTC regulations to a Bitcoin derivatives trading platform. Also of significance, the CFTC took the position that Bitcoin is not encompassed by the definition of currency under the Commodity Exchange Act and CFTC regulations. The CFTC defined Bitcoin and other “virtual currencies” as “a digital representation of value that functions as a medium of exchange, a unit of account, and/or a store of value, but does not have legal tender status in any jurisdiction. Bitcoin and other virtual currencies are distinct from ‘real’ currencies, which are the coin and paper money of the United States or another country that are designated as legal tender, circulate, and are customarily used and accepted as a medium of exchange in the country of issuance.”

On July 6, 2017, the CFTC granted LedgerX, LLC an order of registration as a Swap Execution Facility for digital assets and on July 24, 2017, the CFTC approved LedgerX, LLC as the first derivatives clearing organization for digital currency. On September 21, 2017, the CFTC filed a civil enforcement action in federal court against a New York corporation and its principal, charging them with fraud, misappropriation, and issuing false account statements in connection with a Ponzi scheme involving investments in Bitcoin, which the CFTC asserted is a commodity subject to its jurisdiction. On October 17, 2017, the CFTC’s LabCFTC office issued A CFTC Primer on Virtual Currencies (“Primer”). As noted in the Primer, beyond instances of fraud or manipulation, the CFTC staff does not claim general jurisdiction over “spot” or cash-market exchanges and transactions involving virtual currencies that do not utilize margin, leverage or financing. On December 1, 2017, the CFTC approved the self-certification of binary Bitcoin options for the Cantor Exchange and exchange-traded Bitcoin futures contracts for the Chicago Mercantile Exchange Inc. and CBOE Futures Exchange. On December 15, 2017, the CFTC issued a proposed interpretation of the “actual delivery” requirements with respect to virtual currencies under the CEA. Section 2(c)(2)(D) of the Commodity Exchange Act provides the CFTC with direct oversight authority over “retail commodity transactions” – defined as agreements, contracts or transactions in any commodity that are entered into with, or offered to retail market participants on a leveraged or margined basis, or financed by the offeror, the counterparty or a person acting in concert with the offeror or counterparty on a similar basis. Such a transaction is subject to the Commodity Exchange Act as if it were a commodity future. The statute contains an exception for contracts of sale that result in “actual delivery” within 28 days from the date of the transaction. The proposed interpretation establishes two primary factors necessary to demonstrate “actual delivery” of retail commodity transactions in virtual currency: (1) a customer having the ability to: (i) take possession and control of the entire quantity of the commodity, whether it was purchased on commerce (both within and away from any particular platform) no later than 28 days from the date of the transaction; and (2) the offeror and counterparty seller (including any of their respective affiliates or other persons acting in concert with the offeror or counterparty seller on a similar basis) not retaining any interest in or control over any of the commodity purchased on margin, leverage, or other financing arrangement at the expiration of 28 days from the date of the transaction.

Currently, the CFTC takes the position that Bitcoin is a commodity, although it has not issued regulations to formalize this position. The Trust is not registered as a commodity pool for purposes of the CEA, and the Sponsor is not registered as a commodity pool operator, a commodity trading advisor or otherwise. The Trust and the Sponsor will continue to monitor and evaluate whether any such registrations may be or may become required.

On March 25, 2014, the Internal Revenue Service (the “IRS”) released a notice (the “Notice”) noting that Bitcoin will be treated as property for U.S. Federal income tax purposes and that Bitcoin may be held as a capital asset. On October 9, 2019, the IRS released Revenue Ruling 2019-24 (the “Revenue Ruling”) and published a frequently asked questions document (the “FAQs”) on reporting virtual currency transactions. The Revenue Ruling provides more guidance to taxpayers and tax practitioners regarding the treatment of a cryptocurrency hard forks and airdrops. The FAQs provide guidance on how to report virtual currency transactions for those who hold virtual currency as a capital asset.

On March 18, 2013, FinCEN issued interpretive guidance relating to the application of the Bank Secrecy Act to distributing, exchanging and transmitting “virtual currencies.” More specifically, it determined that a user of virtual currencies (such as Bitcoin) for its own account will not be considered a money

service business (“MSB”) or be required to register, report and perform recordkeeping; however, an administrator or exchanger of virtual currency must be a registered money services business under FinCEN’s money transmitter regulations. As a result, Bitcoin exchanges that deal with U.S. residents or otherwise fall under U.S. jurisdiction are required to obtain licenses and comply with FinCEN regulations. FinCEN released additional guidance clarifying that, under the facts presented, miners acting solely for their own benefit, software developers, hardware manufacturers, escrow service providers and investors in Bitcoin would not be required to register with FinCEN on the basis of such activity alone, but that Bitcoin exchanges, certain types of payment processors and convertible digital asset administrators would likely be required to register with FinCEN on the basis of the activities described in the October 2014 and August 2015 letters. FinCEN has also taken significant enforcement steps against companies alleged to have violated its regulations, including the assessment in July 2017 of a civil money penalty in excess of \$110 million against BTC-e for alleged willful violation of U.S. anti-money laundering laws. On May 9, 2019 FinCEN published a guidance entitled “Application of FinCEN’s Regulations to Certain Business Models Involving Convertible Virtual Currencies.” In that guidance, FinCEN consolidated and clarified regulatory requirements and prior guidance since 2011. In February 2020, former U.S. Treasury Secretary Steven Mnuchin testified in Congress that FinCEN was set to release new requirements related to cryptocurrencies. In December 2020, FinCEN released a notice of proposed rulemaking setting forth proposed U.S. anti-money laundering regulations that would expand the application of U.S. anti-money laundering rules to virtual currencies. Such rules have not yet been finalized.

- In a report titled “Strategies for Improving the U.S. Payment System,” published in January 2015 by the Federal Reserve, “Digital Value Transfer Vehicles” technology was identified for further exploration and monitoring. Since then, the Federal Reserve Chairman, Jerome Powell confirmed that the Federal Reserve is in the initial stages of exploring and analyzing the “costs and benefits of pursuing” a central bank digital currency initiative.

- In June 2015, the New York Department of Financial Services (the “NYDFS”) finalized a rule that requires most businesses involved in digital currency business activity in or involving New York, excluding merchants and consumers, to apply for a license (“BitLicense”) from the NYDFS and to comply with anti-money laundering, cyber security, consumer protection, and financial and reporting requirements, among others. As an alternative to the BitLicense in New York, firms can apply for a charter to become limited purpose trust companies qualified to engage in digital currency business activity. Other states have considered regimes similar to the BitLicense, or have required digital currency businesses to register with their states as money transmitters, such as Washington and Georgia, which results in digital currency businesses being subject to requirements similar to those of NYDFS’ BitLicense regime. Certain state regulators, such as the Texas Department of Banking, Kansas Office of the State Bank Commissioner and the Illinois Department of Financial and Professional Regulation, have found that mere transmission of Bitcoin, without activities involving transmission of fiat currency, does not constitute money transmission requiring licensure. The North Carolina Commissioner of Banks has issued guidance providing that North Carolina’s money transmission regulations only apply to the transmission of digital currency and not its use. In July 2017, Delaware amended its General Corporation Law to provide for the creation and maintenance of certain required records by blockchain technology and permit its use for electronic transmission of stockholder communications.

- On September 15, 2015, the Conference of State Bank Supervisors finalized their proposed model regulatory framework for state regulation of participants in “virtual currency activities.” The Conference of State Bank Supervisors’ proposed framework is a non-binding model and would have to be independently adopted, in sum or in part, by state legislatures or regulators on a case-by-case basis. In July 2017, the Uniform Law Commission (the “ULC”), a private body of lawyers and legal academics from the several U.S. states, voted to finalize and approve a uniform model state law for the regulation of virtual currency businesses, including Bitcoin (the “Uniform Virtual Currency Act”). Having been approved by the ULC, the Uniform Virtual Currency Act now goes to each of the U.S. states and territories for their consideration and would have to be independently adopted, in sum or in part, by state legislatures or regulators on a case-by-case basis.



The regulation of Bitcoin, digital assets and related products and services continues to evolve. The inconsistent and sometimes conflicting regulatory landscape may make it more difficult for Bitcoin businesses to provide services, which may impede the growth of the Bitcoin economy and have an adverse effect on consumer adoption of Bitcoin. There is a possibility of future regulatory change altering, perhaps to a material extent, the nature of an investment in the Units or the ability of the Trust to continue to operate. Additionally, to the extent that Bitcoin itself is determined to be a security, commodity future or other regulated asset, or to the extent that a United States or foreign government or quasi-governmental agency exerts regulatory authority over the Bitcoin network, Bitcoin trading or ownership in Bitcoin, such determination may have an adverse effect on the value of your investment in the Trust. In sum, Bitcoin regulation takes many different forms and will, therefore, impact Bitcoin and its usage in a variety of manners.

***The sale of the Units could be subject to SEC or state securities registration.***

The offer and sale of the Units in a Rule 506 offering is not registered with the SEC under the Securities Act or with a state regulator under the securities laws of any state. If a regulator or a court determines that the sale of the Units should have been registered, the Trust may be required to provide investors who purchased in the offering the option to rescind their investment on terms favorable to those investors. If this occurs, the Trust may lack sufficient assets to repay all purchasers seeking rescission, the secondary market for the Units, if any, may be negatively impacted, and the value of the Units held by remaining investors may decrease.

***The Trust is not a registered investment company.***

The Trust is not a registered investment company subject to the Investment Company Act of 1940, as amended (the “1940 Act”). Consequently, Unitholders of the Trust do not have the regulatory protections provided to shareholders in registered investment companies which, for example, require that investment companies have a certain percentage of disinterested directors and requirements as to the relationship between the investment company and certain of its affiliates.

***The Trust could be, or could become, subject to the Commodity Exchange Act.***

Currently, the CFTC takes the position that Bitcoin is a commodity, although it has not issued regulations to formalize this position. The Trust is not registered as a commodity pool for purposes of the CEA, and the Sponsor is not registered as a commodity pool operator, a commodity trading advisor or otherwise. The Trust and the Sponsor will continue to monitor and evaluate whether any such registrations may be or may become required.

***Trading on Bitcoin markets outside the United States is not subject to U.S. regulation, and may be less reliable than U.S. Markets.***

To the extent any of the Trust’s assets are valued based on trading conducted on Bitcoin markets outside the U.S., trading on such markets is not regulated by any U.S. governmental agency and may involve certain risks not applicable to trading in U.S. markets. Certain foreign markets may be more susceptible to disruption than U.S. markets. These factors could adversely affect the performance of the Trust.

***Future regulations may impose other regulatory burdens, which could harm the Trust or even cause the Trust to liquidate.***

Current and future legislation, CFTC and SEC rulemaking and other regulatory developments may affect the manner in which Bitcoin are treated for classification and clearing purposes, and the manner in which the Units, the Trust and the Sponsor are regulated. Currently, the CFTC takes the position that Bitcoin is a commodity and has brought enforcement actions against Bitcoin operators who have not registered as futures commission merchants or commodity pool operators, although several court challenges to this position are still pending and the CFTC has not yet issued regulations to formalize its position. Although several U.S. federal district courts have recently held for certain purposes that Bitcoin is a currency or a form of money, these rulings are not definitive and the Sponsor and the Trust cannot be certain as to how future regulatory developments may affect the treatment of Bitcoin under the law. In the face of such developments, new or additional registration and compliance steps may result in extraordinary



expenses to the Trust. If the Sponsor decides to terminate the Trust in response to changed regulatory circumstances, the Trust may be dissolved or liquidated at a time that is disadvantageous to Unitholders.

To the extent that Bitcoin is deemed to fall within the definition of a “commodity interest” under the CEA, the Trust and the Sponsor may be subject to additional regulation under the Commodity Exchange Act and CFTC regulations. The Sponsor or the Trust may be required to register as a commodity pool operator or commodity trading advisor with the CFTC and become a member of the National Futures Association and may be subject to additional regulatory requirements with respect to the Trust, including disclosure and reporting requirements. These additional requirements may result in extraordinary, recurring and nonrecurring expenses. If the Sponsor or the Trust determines not to comply with such additional regulatory requirements, the Sponsor will terminate the Trust. Any such termination could result in the liquidation of the Trust’s Bitcoin at a time that is disadvantageous to Unitholders.

To the extent that Bitcoin is deemed to fall within the definition of a security under U.S. federal securities laws, the Trust and the Sponsor may be subject to additional requirements under the 1940 Act and Investment Advisers Act of 1940, as amended (the “Advisers Act”). The Sponsor or the Trust may be required to register as an investment adviser under the Advisers Act. Such additional registration may result in extraordinary, recurring and non-recurring expenses. If the Sponsor or the Trust determines not to comply with such additional regulatory requirements, the Sponsor will terminate the Trust. Any such termination could result in the liquidation of the Trust’s Bitcoin at a time that is disadvantageous to Unitholders.

***Banks may not provide banking services, or may cut off banking services, to businesses that provide Bitcoin-related services or that accept Bitcoin as payment, which could directly impact the Trust’s operations, damage the public perception of Bitcoin and the utility of Bitcoin as a payment system and could decrease the price of Bitcoin and adversely affect an investment in the Units.***

A number of companies that provide Bitcoin-related services have been unable to find banks that are willing to provide them with bank accounts and banking services. This may have an adverse impact on the Trust’s operations. Similarly, a number of such companies have had their existing bank accounts closed by their banks. Banks may refuse to provide bank accounts and other banking services to Bitcoin-related companies or companies that accept Bitcoin for a number of reasons, such as perceived compliance risks or costs. The difficulty that many businesses that provide Bitcoin-related services have and may continue to have in finding banks willing to provide them with bank accounts and other banking services may be currently decreasing the usefulness of Bitcoin as a payment system and harming public perception of Bitcoin or could decrease its usefulness and harm its public perception in the future. Similarly, the usefulness of Bitcoin as a payment system and the public perception of Bitcoin could be damaged if banks were to close the accounts of many or of a few key businesses providing Bitcoin-related services. This could decrease the price of Bitcoin and therefore adversely affect an investment in the Units.

***It may be illegal now, or in the future, to acquire, own, hold, sell or use Bitcoin in one or more countries, and ownership of, holding or trading in Units may also be considered illegal and subject to sanctions.***

The United States, China, Russia, India or other jurisdictions may take additional regulatory actions in the future that further restrict the right to acquire, own, hold, sell or use Bitcoin or to exchange Bitcoin for fiat currency. Such an action may also result in the restriction of ownership, holding or trading in the Units. Such a restriction could subject the Trust or the Sponsor to investigations, civil or criminal fines and penalties, which could harm the reputation of the Trust or its Sponsor, and could result in the termination and liquidation of the Trust at a time that is disadvantageous to Unitholders, or may adversely affect an investment in the Units.

***If regulatory changes or interpretations of the Trust’s or Sponsor’s activities require registration as money service businesses under the regulations promulgated by FinCEN under the authority of the U.S. Bank Secrecy Act or as money transmitters or digital currency businesses under state regimes for the licensing of such businesses, the Trust and/or Sponsor could suffer reputational harm and also extraordinary, recurring and/or nonrecurring expenses, which would adversely impact an investment in the Units.***

If regulatory changes or interpretations of the Trust’s or Sponsor’s activities require the registration of the Trust or Sponsor as a money services business under the regulations promulgated by FinCEN under the authority of the U.S. Bank Secrecy Act, the Trust or Sponsor may be required to register and comply with such regulations. If

regulatory changes or interpretations of the Trust's or Sponsor's activities require the licensing or other registration as a money transmitter or business engaged in digital currency activity (e.g., under the New York BitLicense regime) (or equivalent designation) under state law in any state in which the Trust or Sponsor operates, the Trust or Sponsor may be required to seek licensure or otherwise register and comply with such state law. In the event of any such requirement, to the extent that the Sponsor decides to continue the Trust, the required registrations, licensure and regulatory compliance steps may result in extraordinary, nonrecurring expenses to the Trust. Regulatory compliance would include, among other things, implementing anti-money laundering and consumer protection programs.

To the extent the Trust or Sponsor is found to have operated without appropriate state or federal licenses, it may be subject to investigation, administrative or court proceedings, and civil or criminal monetary fines and penalties, all of which would harm the reputation of the Trust or its Sponsor, decrease the liquidity of the Trust, and have a material adverse effect on the price of the Units. If the Sponsor decides to comply with such additional federal or state regulatory obligations and continue the Trust, the required registrations, licensure and regulatory compliance steps may result in extraordinary, nonrecurring expenses to the Trust, possibly affecting an investment in the Units in a material and adverse manner. Furthermore, the Trust and its service providers may not be capable of complying with certain federal or state regulatory obligations applicable to money service businesses' money transmitters and businesses involved in digital currency business activity. If the Sponsor and/or the Trust determines not to comply with such requirements, the Sponsor will act to dissolve and liquidate the Trust. Any such termination could result in the liquidation of the Trust's Bitcoin at a time that is disadvantageous to Unitholders.

***The treatment of the Trust for U.S. federal income tax purposes is uncertain.***

The Sponsor intends to take the position that the Trust is properly treated as a grantor trust for U.S. federal income tax purposes. Assuming that the Trust is a grantor trust, the Trust will not be subject to U.S. federal income tax. Rather, if the Trust is a grantor trust, each beneficial owner of Units will be treated as directly owning its pro rata share of the Trust's assets and a pro rata portion of the Trust's income, gain, losses and deductions will "flow through" to each beneficial owner of Units.

Because of the evolving nature of digital currencies, it is not possible to predict potential future developments that may arise with respect to digital currencies, including forks, airdrops and other similar events. Assuming that the Trust is currently a grantor trust for U.S. federal income tax purposes, certain future developments could render it impossible, or impracticable, for the Trust to continue to be treated as a grantor trust for such purposes.

If the Trust is not properly classified as a grantor trust, the Trust might be classified as a partnership for U.S. federal income tax purposes. However, due to the uncertain treatment of digital currency for U.S. federal income tax purposes (as discussed below in "Certain U.S. Federal Income Tax Consequences—Uncertainty Regarding the U.S. Federal Income Tax Treatment of Digital Currency"), there can be no assurance in this regard. If the Trust were classified as a partnership for U.S. federal income tax purposes, the tax consequences of owning Units generally would not be materially different from the tax consequences described herein, although there might be certain differences, including with respect to timing of the recognition of taxable income or loss. In addition, tax information reports provided to beneficial owners of Units would be made in a different form. If the Trust were not classified as either a grantor trust or a partnership for U.S. federal income tax purposes, it would be classified as a corporation for such purposes. In that event, the Trust would be subject to entity-level U.S. federal income tax (currently at the rate of 21%) on its net taxable income and certain distributions made by the Trust to Unitholders would be treated as taxable dividends to the extent of the Trust's current and accumulated earnings and profits. Any such dividend distributed to a beneficial owner of Units that is a non-U.S. person for U.S. federal income tax purposes would be subject to U.S. federal withholding tax at a rate of 30% (or such lower rate as provided in an applicable tax treaty).

***Shareholders could incur a tax liability without an associated distribution.***

In the normal course of business, it is possible that the Trust could incur a taxable gain in connection with the delivery or sale of Bitcoin (including, as a result of the Trust using Bitcoin and Additional Currency to pay its expenses) that is otherwise not associated with a distribution to shareholders. In the event that this occurs, shareholders may be subject to tax due to the grantor trust status of the Trust even though there is not a corresponding distribution from the Trust. See "Certain U.S. Federal Income Tax Consequences—Tax Consequences to U.S. Holders."

***The treatment of Bitcoin for U.S. federal income tax purposes is uncertain.***

As discussed in the section entitled “Certain U.S. Federal Income Tax Consequences—Uncertainty Regarding the U.S. Federal Income Tax Treatment of Digital Currency” below, assuming that the Trust is properly treated as a grantor trust for U.S. federal income tax purposes, each beneficial owner of Units will be treated for U.S. federal income tax purposes as the owner of an undivided interest in the Bitcoin (and, if applicable, any Additional Currency) held in the Trust. Due to the new and evolving nature of digital currencies and the absence of comprehensive guidance with respect to digital currencies, many significant aspects of the U.S. federal income tax treatment of digital currency are uncertain.

In 2014, the IRS released a Notice discussing certain aspects of “convertible virtual currency” (that is, digital currency that has an equivalent value in fiat currency or that acts as a substitute for fiat currency) for U.S. federal income tax purposes and, in particular, stating that such digital currency (i) is “property” (ii) is “not treated as currency” for purposes of the rules relating to foreign currency gain or loss and (iii) may be held as a capital asset. In 2019, the IRS released a Revenue Ruling in which the IRS concluded that a hard fork on a digital currency blockchain (i) does not create taxable income if the taxpayer does not subsequently receive new units of digital currency and (ii) does create taxable ordinary income if the taxpayer receives new units of cryptocurrency by airdrop. Simultaneously with the release of the Revenue Ruling, the IRS also published the FAQs, which address, among other issues, how to determine the fair market value of digital currencies and the proper method of determining a holder’s holding period and tax basis for units of digital currency (including those acquired at different times or at varying prices. However, the Notice, Revenue Ruling and FAQs do not address other significant aspects of the U.S. federal income tax treatment of digital currencies, including: (i) whether convertible virtual currencies are properly treated as “commodities” for U.S. federal income tax purposes; (ii) whether convertible virtual currencies are properly treated as “collectibles” for U.S. federal income tax purposes; (iii) the proper method of determining a holder’s holding period and tax basis for convertible virtual currencies acquired at different times or at varying prices; and (iv) whether and how a holder of convertible virtual currencies acquired at different times or at varying prices may designate, for U.S. federal income tax purposes, which of the convertible virtual currencies is transferred in a subsequent sale, exchange or other disposition. The uncertainty surrounding the U.S. federal income tax treatment of digital currencies and other digital assets could affect the performance of the Trust. Moreover, although the Revenue Ruling and FAQs address the treatment of hard forks, there continues to be uncertainty with respect to the timing and amount of the income inclusions.

There can be no assurance that the IRS will not alter its position with respect to digital currencies in the future or that a court would uphold the treatment set forth in the Notice, Revenue Ruling and FAQs. It is also unclear what additional guidance on the treatment of digital currencies for U.S. federal income tax purposes may be issued in the future. Any such alteration of the current IRS positions or additional guidance could result in adverse tax consequences for Unitholders and could have an adverse effect on the value of Bitcoin. Future developments that may arise with respect to digital currencies may increase the uncertainty with respect to the treatment of digital currencies for U.S. federal income tax purposes. For example, the Notice addresses only digital currency that is “convertible virtual currency,” and it is conceivable that, as a result of a fork, airdrop or similar occurrence, the Trust will hold certain types of digital currency that are not within the scope of the Notice.

Unitholders are urged to consult their tax advisers regarding the tax consequences of owning and disposing of Units and digital currencies in general.

***Future developments regarding the treatment of digital currency for U.S. federal income tax purposes could adversely affect the value of the Units.***

As discussed above, many significant aspects of the U.S. federal income tax treatment of digital currency, such as Bitcoin, are uncertain, and it is unclear what guidance on the treatment of digital currency for U.S. federal income tax purposes may be issued in the future. It is possible that any such guidance would have an adverse effect on the prices of digital currency, including on the price of Bitcoin in the Bitcoin markets, and therefore may have an adverse effect on the value of the Units.

Because of the evolving nature of digital currencies, it is not possible to predict potential future developments that may arise with respect to digital currencies, including forks, airdrops and similar occurrences. Such developments

may increase the uncertainty with respect to the treatment of digital currencies for U.S. federal income tax purposes. Moreover, certain future developments could render it impossible, or impracticable, for the Trust to continue to be treated as a grantor trust for U.S. federal income tax purposes.

***Future developments in the treatment of digital currency for tax purposes other than U.S. federal income tax purposes could adversely affect the value of the Units.***

The taxing authorities of certain states, including New York, (i) have announced that they will follow the Notice with respect to the treatment of digital currencies for state income tax purposes and/or (ii) have issued guidance exempting the purchase and/or sale of digital currencies for fiat currency from state sales tax. However, it is unclear what further guidance on the treatment of digital currencies for state tax purposes may be issued in the future.

The treatment of digital currencies for tax purposes by non-U.S. jurisdictions may differ from the treatment of digital currencies for U.S. federal, state or local tax purposes. It is possible, for example, that a non-U.S. jurisdiction would impose sales tax or value-added tax on purchases and sales of digital currencies for fiat currency. If a foreign jurisdiction with a significant share of the market of Bitcoin users imposes onerous tax burdens on digital currency users, or imposes sales or value-added tax on purchases and sales of digital currency for fiat currency, such actions could result in decreased demand for Bitcoin in such jurisdiction.

Any future guidance on the treatment of digital currencies for state, local or non-U.S. tax purposes could increase the expenses of the Trust and could have an adverse effect on the prices of digital currencies, including on the price of Bitcoin in the Bitcoin markets. As a result, any such future guidance could have an adverse effect on the value of the Units.

***A U.S. tax-exempt Unitholder may recognize “unrelated business taxable income” a consequence of an investment in Units.***

Under the guidance provided in Revenue Ruling and FAQs, hard forks, airdrops and similar occurrences with respect to digital currencies will under certain circumstances be treated as taxable events giving rise to ordinary income. In the absence of guidance to the contrary, it is possible that any such income recognized by a U.S. tax-exempt Unitholder would constitute “unrelated business taxable income” (“UBTI”). A tax-exempt Unitholder should consult its tax advisor regarding whether such Unitholder may recognize UBTI as a consequence of an investment in Units.

***Non-U.S. Unitholders may be subject to U.S. federal withholding tax on income derived from forks, airdrops and similar occurrences.***

The Revenue Ruling and FAQs do not address whether income recognized by a non-U.S. person as a result of a fork, airdrop or similar occurrence could be subject to the 30% withholding tax imposed on U.S.-source “fixed or determinable annual or periodical” income. Non-U.S. Unitholders should assume that, in the absence of guidance, a withholding agent is likely to withhold 30% of any such income recognized by a non-U.S. Unitholder in respect of its Units, including by deducting such withheld amounts from proceeds that such non-U.S. Unitholder would otherwise be entitled to receive in connection with a distribution of Additional Currency.

#### **Risk Factors Related to Potential Conflicts of Interest**

***Potential conflicts of interest may arise among the Sponsor or its affiliates and the Trust. The Sponsor and its affiliates have no fiduciary duties to the Trust and its Unitholders other than as provided in the Trust Agreement, which may permit them to favor their own interests to the detriment of the Trust and its Unitholders.***

The Sponsor will manage the affairs of the Trust. Conflicts of interest may arise among the Sponsor and its affiliates, including the Index Provider, on the one hand, and the Trust and its Unitholders, on the other hand. As a result of these conflicts, the Sponsor may favor its own interests and the interests of its affiliates over the Trust and its Unitholders. These potential conflicts include, among others, the following:

- The Sponsor has no fiduciary duties to, and is allowed to take into account the interests of parties other than, the Trust and its Unitholders in resolving conflicts of interest;
- The Trust has agreed to indemnify the Sponsor and its affiliates pursuant to the Trust Agreement;
- The Sponsor is responsible for allocating its own limited resources among different clients and potential future business ventures, to each of which it owes fiduciary duties;
- The Sponsor and its staff also service affiliates of the Sponsor, including several other digital asset investment vehicles, and their respective clients and cannot devote all of its, or their, respective time or resources to the management of the affairs of the Trust;
- The Sponsor, its affiliates and their officers and employees are not prohibited from engaging in other businesses or activities, including those that might be in direct competition with the Trust;
- There is an absence of arm’s-length negotiation with respect to certain terms of the Trust, and, where applicable, there has been no independent due diligence conducted with respect to the Trust;
- The Sponsor decides whether to retain separate counsel, accountants or others to perform services for the Trust;
- The Sponsor may appoint an agent to act on behalf of the Unitholders, including in connection with the distribution of any Additional Currency, which agent may be the Sponsor or an affiliate of the Sponsor.

By purchasing the Units, Unitholders agree and consent to the provisions set forth in the Trust Agreement. See “Description of the Trust Documents—Description of the Trust Agreement.”

For a further discussion of the conflicts of interest among the Sponsor, the Index Provider, the Trust and others, see “Conflicts of Interest.”

***Unitholders cannot be assured of the Sponsor’s continued services, the discontinuance of which may be detrimental to the Trust.***

Unitholders cannot be assured that the Sponsor will be willing or able to continue to serve as sponsor to the Trust for any length of time. If the Sponsor discontinues its activities on behalf of the Trust and a substitute sponsor is not appointed, the Trust will terminate and liquidate its Bitcoins.

Appointment of a substitute sponsor will not guarantee the Trust’s continued operation, successful or otherwise. Because a substitute sponsor may have no experience managing a digital asset financial vehicle, a substitute sponsor may not have the experience, knowledge or expertise required to ensure that the Trust will operate successfully or continue to operate at all. Therefore, the appointment of a substitute sponsor may not necessarily be beneficial to the Trust and the Trust may terminate. See “Conflicts of Interest—The Sponsor.”

***The Custodian could resign or be removed by the Sponsor, which would trigger early termination of the Trust.***

The Custodian may terminate the Custodial Services Agreement for cause at any time, and the Custodian can terminate the Agreement for any reason upon the notice period provided under the Custodial Services Agreement. If the Custodian resigns or is removed without replacement, the Trust will dissolve in accordance with the terms of the Trust Agreement.

***Unitholders may be adversely affected by the lack of independent advisers representing investors in the Trust.***

The Sponsor has consulted with counsel, accountants and other advisers regarding the formation and operation of the Trust. No counsel was appointed to represent investors in connection with the formation of the Trust or the establishment of the terms of the Trust Agreement and the Units. Moreover, no counsel has been appointed to represent Unitholders in connection with an investment in the Units. Accordingly, an investor should consult his, her or its own legal, tax and financial advisers regarding the desirability of an investment in the Units. Lack of such consultation may lead to an undesirable investment decision with respect to investment in the Units.

## OVERVIEW OF THE BITCOIN INDUSTRY AND MARKET

### Introduction to Bitcoin and the Bitcoin Network

“Bitcoin” is a digital asset and the first so-called cryptocurrency. It uses peer-to-peer technology and cryptographic security features to decentralize control of the overall Bitcoin computer network (the “Bitcoin Network”), and blockchain technology to ensure the secure transfer and authenticity of each Bitcoin. Bitcoin are stored in digital wallets and can be used to pay for goods and services. They can also be purchased, sold and traded on websites that facilitate the transfer of Bitcoin in exchange for government-issued currencies or other cryptocurrencies, traded on cryptocurrency exchanges and transferred in individual end-user-to-end-user transactions under a barter system. Bitcoin benefits include security, decentralization, low transaction costs compared to many other payment systems, the potential for universal use and the ability to divide a single Bitcoin by up to eight decimal places.

A Blockchain is a decentralized, distributed ledger that records the provenance of digital assets. The ledger is public and accessible to all, and portions and copies of it are stored in a decentralized manner on the several thousand computers comprising the Bitcoin Network. Transaction data is permanently recorded in data files called “blocks,” which reflect transactions that have been recorded and authenticated by Bitcoin Network participants known as “miners.” Each newly recorded block of transactions refers back to and “connects” with the immediately preceding recorded block in the ledger. Each new block records outstanding Bitcoin transactions, and outstanding transactions are settled and validated through such recording. The Blockchain is designed to represent a complete, transparent, secure and unbroken history of all the transactions that have occurred on the Bitcoin Network. The Bitcoin Network software source code includes the protocols that govern the creation, or “mining”, of new Bitcoin and the cryptographic system that secures and verifies Bitcoin transactions. New Bitcoin are allocated by the Bitcoin Network protocol through the mining process, subject to a well-known issuance schedule contained within the protocol.

The Blockchain constitutes a record of every Bitcoin, every Bitcoin transaction (including the mining of new Bitcoin) and every Bitcoin address associated with a quantity of Bitcoin. The Bitcoin Network and Bitcoin Network software programs can interpret the Blockchain to determine the exact Bitcoin balance, if any, of any public Bitcoin address listed in the Blockchain as having taken part in a transaction on the Bitcoin Network. Bitcoin Network miners engage in a set of prescribed, complex mathematical calculations in order to add a block to the Blockchain and thereby confirm Bitcoin transactions included in that block’s data. In addition to confirming the authenticity of recent transactions and referencing the preceding block, each block also contains an answer to a mathematical problem. Miners generate potential answers to this mathematical problem at a rapid rate, effectively searching for a correct answer via computational trial-and-error. New blocks cannot be submitted to the network without a correct answer to the mathematical problem. The mathematical problem in each block is extremely difficult to solve, but once a valid solution is found, it is very easy for the rest of the network to confirm that the solution is correct. Once the mathematical problem has been solved, the miner may then transmit a copy of the newly-formed block to peers on the Bitcoin Network, which then update their respective copies of the Blockchain by appending the new block. A new block that is added to the Blockchain serves to take recent, but as yet unconfirmed, transactions and verify that none are fraudulent, and the miner that first solves such block receives a reward of a fixed number of Bitcoin for the miner’s effort. In addition to the block reward, end users pay fees as an incentive for a miner to confirm their transactions in newly created blocks.

### *History of Bitcoin*

*The Bitcoin Network was initially contemplated in a white paper that also described Bitcoin and the operating software to govern the Bitcoin Network. The white paper was purportedly authored by Satoshi Nakamoto; however, no individual with that name has been reliably identified as Bitcoin’s creator, and the general consensus is that the name is a pseudonym for the actual inventor or inventors. The first Bitcoin was created in 2009 after Nakamoto*



*released the Bitcoin Network source code (the software and protocol that created and launched the Bitcoin Network).*

### ***Overview of the Bitcoin Network's Operations***

In order to own, transfer or use Bitcoin directly on the Bitcoin Network (as opposed to through an intermediary, such as a custodian), a person generally must have internet access to connect to the Bitcoin Network. Bitcoin transactions may be made directly between end-users without the need for a third-party intermediary. To prevent the possibility of double-spending Bitcoin, a user must notify the Bitcoin Network of the transaction by broadcasting the transaction data to its network peers. The Bitcoin Network provides confirmation against double-spending by memorializing every transaction in the Blockchain, which is publicly accessible and transparent. This memorialization and verification against double-spending is accomplished through the Bitcoin Network mining process, which adds “blocks” of data, including recent transaction information, to the Blockchain.

### ***Brief Description of Bitcoin Transfers***

Prior to engaging in Bitcoin transactions directly on the Bitcoin Network, a user generally must first install on its computer or mobile device a Bitcoin Network software program that will allow the user to generate a private and public key pair associated with a Bitcoin address commonly referred to as a “wallet.” The Bitcoin Network software program and the Bitcoin address also enable the user to connect to the Bitcoin Network and transfer Bitcoin to, and receive Bitcoin from, other users.

Each Bitcoin Network address, or wallet, is associated with a unique “public key” and “private key” pair. To receive Bitcoin, the Bitcoin recipient must provide its public key to the party initiating the transfer. This activity is analogous to a recipient for a transaction in U.S. dollars providing a routing address in wire instructions to the payor so that cash may be wired to the recipient’s account. The payor approves the transfer to the address provided by the recipient by “signing” a transaction that consists of the recipient’s public key with the private key of the address from where the payor is transferring the Bitcoin. The recipient, however, does not make public or provide to the sender its related private key.

Neither the recipient nor the sender reveal their private keys in a transaction, because the private key authorizes transfer of the funds in that address to other users. Therefore, if a user loses his private key, the user may permanently lose access to the Bitcoin contained in the associated address. Likewise, Bitcoins are irretrievably lost if the private key associated with them is deleted and no backup has been made. When sending Bitcoin, a user’s Bitcoin Network software program must validate the transaction with the associated private key. The resulting digitally validated transaction is sent by the user’s Bitcoin Network software program to the Bitcoin Network to allow transaction confirmation.

Some Bitcoin transactions are conducted “off-blockchain” and are therefore not recorded in the Blockchain. Some “off-blockchain transactions” involve the transfer of control over, or ownership of, a specific digital wallet holding Bitcoin or the reallocation of ownership of certain Bitcoin in a pooled-ownership digital wallet, such as a digital wallet owned by a Bitcoin exchange. In contrast to on-blockchain transactions, which are publicly recorded on the Blockchain, information and data regarding off-blockchain transactions are generally not publicly available. Therefore, off-blockchain transactions are not truly Bitcoin transactions in that they do not involve the transfer of transaction data on the Bitcoin Network and do not reflect a movement of Bitcoin between addresses recorded in the Blockchain. For these reasons, off-blockchain transactions are subject to risks as any such transfer of Bitcoin ownership is not protected by the protocol behind the Bitcoin Network or recorded in, and validated through, the blockchain mechanism.

### ***Summary of a Bitcoin Transaction***

In a Bitcoin transaction directly on the Bitcoin Network between two parties (as opposed to through an intermediary, such as a custodian), the following circumstances must initially be in place: (i) the party seeking to send Bitcoin must have a Bitcoin Network public key, and the Bitcoin Network must recognize that public key as having



sufficient Bitcoin for the transaction; (ii) the receiving party must have a Bitcoin Network public key; and (iii) the spending party must have internet access with which to send its spending transaction.

The receiving party must provide the spending party with its public key and allow the Blockchain to record the sending of Bitcoin to that public key. After the provision of a recipient's Bitcoin Network public key, the spending party must enter the address into its Bitcoin Network software program along with the number of Bitcoin to be sent. The number of Bitcoin to be sent will typically be agreed upon between the two parties based on a set number of Bitcoin or an agreed upon conversion of the value of fiat currency to Bitcoin. Since every computation on the Bitcoin Network requires the payment of Bitcoin, including verification and memorialization of Bitcoin transfers, there is a transaction fee involved with the transfer, which is based on computation complexity and not on the value of the transfer and is paid by the payor with a fractional number of Bitcoin.

After the entry of the Bitcoin Network address, the number of Bitcoin to be sent and the transaction fees, if any, to be paid, will be transmitted by the spending party. The transmission of the spending transaction results in the creation of a data packet by the spending party's Bitcoin Network software program, which is transmitted onto the decentralized Bitcoin Network, resulting in the distribution of the information among the software programs of users across the Bitcoin Network for eventual inclusion in the Blockchain.

As discussed in greater detail below in “—Creation of New Bitcoin,” Bitcoin Network miners record transactions when they solve for and add blocks of information to the Blockchain. When a miner solves for a block, it creates that block, which includes data relating to (i) the solution to the block, (ii) a reference to the prior block in the Blockchain to which the new block is being added and (iii) transactions that have occurred but have not yet been added to the Blockchain. The miner becomes aware of outstanding, unrecorded transactions through the data packet transmission and distribution discussed above.

Upon the addition of a block included in the Blockchain, the Bitcoin Network software program of both the spending party and the receiving party will show confirmation of the transaction on the Blockchain and reflect an adjustment to the Bitcoin balance in each party's Bitcoin Network public key, completing the Bitcoin transaction. Once a transaction is confirmed on the Blockchain, it is irreversible.

### **Creation of New Bitcoin**

New Bitcoins are created through the mining process as discussed below.

The Bitcoin Network is kept running by computers all over the world. In order to incentivize those who incur the computational costs of securing the network by validating transactions, there is a reward that is given to the computer that was able to create the latest block on the chain. Every 10 minutes, on average, a new block is added to the Blockchain with the latest transactions processed by the network, and the computer that generated this block is currently awarded 6.25 Bitcoin. Due to the nature of the algorithm for block generation, this process (generating a “proof-of-work”) is guaranteed to be random. Over time, rewards are expected to be proportionate to the computational power of each machine.

The process by which Bitcoin is “mined” results in new blocks being added to the Blockchain and new Bitcoin tokens being issued to the miners. Computers on the Bitcoin Network engage in a set of prescribed complex mathematical calculations in order to add a block to the Blockchain and thereby confirm Bitcoin transactions included in that block's data.

To begin mining, a user can download and run Bitcoin Network mining software, which turns the user's computer into a “node” on the Bitcoin Network that validates blocks. Each block contains the details of some or all of the most recent transactions that are not memorialized in prior blocks, as well as a record of the award of Bitcoin to the miner who added the new block. Each unique block can be solved and added to the Blockchain by only one miner. Therefore, all individual miners and mining pools on the Bitcoin Network are engaged in a competitive process of constantly increasing their computing power to improve their likelihood of solving for new blocks. As more miners join the Bitcoin Network and its processing power increases, the Bitcoin Network adjusts the complexity of the block-solving equation to maintain a predetermined pace of adding a new block to the Blockchain approximately every ten

minutes. A miner's proposed block is added to the Blockchain once a majority of the nodes on the Bitcoin Network confirms the miner's work. Miners that are successful in adding a block to the Blockchain are automatically awarded Bitcoin for their effort and may also receive transaction fees paid by transferors whose transactions are recorded in the block. This reward system is the method by which new Bitcoin enter into circulation to the public.

The Bitcoin Network is designed in such a way that the reward for adding new blocks to the Blockchain decreases over time. Once new Bitcoin tokens are no longer awarded for adding a new block, miners will only have transaction fees to incentivize them, and as a result, it is expected that miners will need to be better compensated with higher transaction fees to ensure that there is adequate incentive for them to continue mining.

### **Limits on Bitcoin Supply**

The supply of new Bitcoin is mathematically controlled so that the number of Bitcoin grows at a limited rate pursuant to a pre-set schedule. The number of Bitcoin awarded for solving a new block is automatically halved after every 210,000 blocks are added to the Blockchain. The initial block reward when the Bitcoin Network was introduced in 2009 was 50 Bitcoin per block. That number has and will continue to halve approximately every four years until approximately 2140, when it is estimated that block rewards will go to zero. The most recent halving occurred on May 11, 2020, which reduced the block reward from 12.5 to 6.25 Bitcoin. This deliberately controlled rate of Bitcoin creation means that the number of Bitcoin in existence will increase at a controlled rate until the number of Bitcoin in existence reaches the pre-determined 21 million Bitcoin. As of the date of this information statement, 2021, approximately 18.7 million Bitcoins were outstanding and the date when the 21 million Bitcoin limitation will be reached is estimated to be the year 2140.

### **Modifications to the Bitcoin Protocol**

Because the Bitcoin Network has no central authority, the implementation of a change in the Bitcoin Network is achieved by users and miners downloading and running updated versions of Bitcoin Network software. The Bitcoin Network protocol is built using open source software, allowing for any developer to review the underlying code and suggest changes. There is no official company or group that is responsible for making modifications to the Bitcoin Network, however, there are a number of individual developers that regularly contribute to a specific distribution of Bitcoin Network software dubbed "Bitcoin Core." Significant changes to the Bitcoin Network protocol are typically accomplished through a so-called Bitcoin Improvement Proposal or BIP. Such proposals are generally posted on websites, and the proposals explain technical requirements for the protocol changes as well as reasons why the change should be accepted. If a significant proportion of Bitcoin Network users and miners decide to adopt a change to the Bitcoin Network that is not compatible with previous software, then this software will recognize and process transactions differently on a going-forward basis. If another significant proportion of Bitcoin Network users and miners decide not to adopt such change, then these two Bitcoin Network groups would not process transactions in the same way on a going forward basis. In this scenario, the blocks recognized as valid by one group of users will be different from the blocks recognized as valid by the other group of users, which will cause transaction records to diverge, or "fork," on a going-forward basis. If this were to occur, two separate Bitcoin Networks could result, one running the pre-modification software program and the other running the modified version (*i.e.*, a second "Bitcoin" network). In the event of a permanent fork with two separate and incompatible Bitcoin Networks, the price movements of different versions of Bitcoin on different Bitcoin Networks may deviate. In such a case, the Sponsor will evaluate the characteristics of each Bitcoin Network to determine in its sole discretion which Bitcoin Network will provide exposure that best comports with the Trust's investment objective. On August 1, 2017, the Bitcoin Network was forked by a group of developers and miners accepting changes to the Bitcoin Network software intended to increase transaction capacity. On October 25, 2017, the Bitcoin Network was forked by a group of developers accepting changes to the Bitcoin Network software intended to reduce the use of specialized hardware in the Bitcoin mining process. Blocks mined on these networks now diverge from blocks mined on the Bitcoin Network, which has resulted in the creation of new blockchains whose digital assets are referred to as "Bitcoin Cash" and "Bitcoin Gold," respectively. The Bitcoin Network, the Bitcoin Cash network, and the Bitcoin Gold network now operate as separate, independent networks. In mid-November of 2017, an additional protocol change labeled "Segwit2x," which had substantial support from large numbers of Bitcoin users, was cancelled by its proponents shortly before it was due to be implemented. Multiple proposals for increasing the capacity of the Bitcoin Network still exist, and it is possible that one or more of these proposals could result in further network "forks," which may become increasingly frequent.

## Bitcoin Value

### Bitcoin Exchange Valuation

The value of Bitcoin, as with most assets, is influenced by several factors, including the supply of and demand for Bitcoin, costs associated with mining Bitcoin, rewards issued to miners for verifying transactions, the number of competing cryptocurrencies, how Bitcoin trades, regulations governing its sale and trade, and the protocol itself. Due to the dynamic nature of these factors as well as others, the value of a Bitcoin is difficult to determine, and the price of a Bitcoin can fluctuate significantly and over short periods of time. In all events, benefits of transacting in Bitcoin typically include low transaction costs, near-zero transportation costs and low-to-zero storage costs.

### Bitcoin Exchange Public Market Data

On each online Bitcoin exchange, Bitcoin is traded with publicly disclosed valuations for each executed trade, measured by one or more fiat currencies such as the U.S. dollar or Euro. Over-the-counter dealers or market makers do not typically disclose their trade data.

Currently, there are several Bitcoin exchanges operating worldwide and online Bitcoin exchanges represent a substantial percentage of Bitcoin buying and selling activity and provide the most data with respect to prevailing valuations of Bitcoins. These exchanges include established exchanges such as Bitstamp, Coinbase Pro and itBit, which provide a number of options for buying and selling Bitcoins. The below table reflects the trading volume (in Bitcoins) and market share of the BTC-U.S. dollar trading pair of each of the Bitcoin exchanges included in the Index as of May 10, 2021 using data reported by the Index Provider from January 1, 2018 to May 10, 2021:

Bitcoin Exchanges included in the Index as of May 10, 2021	Volume (BTC)	Market Share
Binance.us	385,152	1%
Bitstamp	11,037,067	27%
Bittrex	634,845	2%
Coinbase	18,499,347	45%
Gemini	1,679,624	4%
itBit	711,659	2%
Kraken	7,793,677	19%
<b>Total BTC-U.S. dollar trading pair</b>	<b>40,741,371</b>	<b>100%</b>

The domicile, regulation and legal compliance of the Bitcoin exchanges included in the Index varies. Information regarding each Bitcoin exchange may be found, where available, on the websites for such Bitcoin exchanges, among other places.

Historically, a large percentage of the global Bitcoin trading volume occurred on self-reported, unregulated Bitcoin exchanges located in China. Throughout 2017, however, the Chinese government took several steps to tighten controls on Bitcoin exchanges, culminating in a ban on domestic cryptocurrency exchanges in November 2017, which forced such exchanges to cease their operations or relocate. As a result, reported Bitcoin trading volume on Chinese exchanges is now substantially lower, representing a de minimis share of the global trade volume.

From time to time, there may be intra-day price fluctuations across Bitcoin exchanges. However, they are generally relatively immaterial. For example, the variance of prices on Bitcoin exchanges with the highest transaction volumes on average is lower than 2%. These variances usually stem from small changes in the fee structures on different Bitcoin exchanges or differences in administrative procedures required to deposit and withdraw fiat currency in exchange for Bitcoins and vice versa. The greatest variances are found at (i) smaller exchanges with relatively low transaction volumes where even small trades can be large relative to an exchange's transaction volume and as a result impact the trading price on those exchanges and (ii) exchanges that are inaccessible to the Trust because they do not meet the Trust's regulatory requirements, and as a result are accessed and used by a captured market or by parties that

do not have regulatory or compliance requirements. Historically, the Trust has not needed to make any changes in the determination of principal market due to variances in pricing, although it has changed its principal market due to disruption of operations of the Bitcoin market considered to be the principal market.

### ***The Index***

The Index is a U.S. dollar-denominated composite reference rate for the price of Bitcoin. The Index is designed to (1) mitigate instances of fraud, manipulation and other anomalous trading activity, (2) provide a real-time, trade-weighted fair value of Bitcoin and (3) appropriately handle and adjust for non-market related events.

### ***Bitcoin Market Price***

The Sponsor will use the following cascading set of rules to calculate the Bitcoin Market Price. For the avoidance of doubt, the Sponsor will employ the below rules sequentially and in the order as presented below, should one or more specific rule(s) fail:

- Bitcoin Market Price = The Bitcoin rate, as measured at 4:00 p.m., New York time, on the valuation date, available at: <https://pro.coinbase.com/trade/BTC-USD> (the “Exchange,” and the Bitcoin rate, “Coinbase Pro Market Price”). If the Coinbase Pro Market Price becomes unavailable, or if the Sponsor determines in good faith that the Coinbase Pro Market Price does not reflect an accurate Bitcoin price, then the Sponsor will, on a best efforts basis, contact Coinbase Global Inc. to obtain the Bitcoin Market Price directly. If after such contact the Coinbase Pro Market Price remains unavailable or the Sponsor continues to believe in good faith that the Coinbase Pro Market Price does not reflect an accurate Bitcoin price, then the Sponsor will employ the next rule to determine the Bitcoin Market Price.
- 1.

- Bitcoin Market Price = The volume-weighted average Bitcoin price for the immediately preceding 24-hour period at 4:00 p.m., New York time, on the trade date as published by a third party’s public data feed that is reasonably reliable, subject to the requirement that such data is calculated based upon a volume-weighted price obtained from the major Bitcoin exchanges (the “Source”). Subject to the next sentence, if the Source becomes unavailable (e.g., data sources from the Source for Bitcoin prices become unavailable, unwieldy or otherwise impractical for use) or if the Sponsor determines in good faith that the Source does not reflect an accurate Bitcoin price, then the Sponsor will, on a best efforts basis, contact the Source in an attempt to obtain the relevant data. If after such contact the Source remains unavailable after such contact or the Sponsor continues to believe in good faith that the Source does not reflect an accurate Bitcoin price, then the Sponsor will employ the next rule to determine the Bitcoin Market Price.
- 2.

- Bitcoin Market Price = The volume-weighted average price as calculated by dividing the sum of the total volume of Bitcoin transactions in U.S. dollar by the total volume of transactions in Bitcoin, in each case for the immediately preceding 24-hour period as of 4:00 p.m., New York time, on the trade date as published by a third party’s public data feed that is reasonably reliable, subject to the requirement that such data is calculated based upon a volume-weighted price obtained from the major Bitcoin exchanges (the “Second Source”). Subject to the next sentence, if the Second Source becomes unavailable (e.g., data sources from the Second Source become unavailable, unwieldy or otherwise impractical for use) or if the Sponsor determines in good faith that the Second Source does not reflect an accurate Bitcoin price, then the Sponsor will, on a best efforts basis, contact the Second Source in an attempt to obtain the relevant data. If after such contact the Second Source remains unavailable after such contact or the Sponsor continues to believe in good faith that the Second Source does not reflect an accurate Bitcoin price, then the Sponsor will employ the next rule to determine the Bitcoin Market Price.
- 3.

- Bitcoin Market Price = The volume-weighted average price as calculated by dividing the sum of the total volume of Bitcoin transactions in U.S. dollar by the total volume of transactions in Bitcoin, in each case for the immediately preceding 24-hour period as of 4:00 p.m., New York time, on the trade date on the Bitcoin benchmark exchanges that represent at least 25% of the aggregate trading
- 4.

volume of the Bitcoin exchange market during the last 30 consecutive calendar days and that to the knowledge of the Sponsor are in substantial compliance with the laws, rules and regulations, including any anti-money laundering and know-your-customer procedures (collectively, “Bitcoin Benchmark Exchanges”). If there are fewer than three individual Bitcoin Benchmark Exchanges each of which represent at least 25% of the aggregate trading volume on the Bitcoin exchange market during the last 30 consecutive calendar days, then the Bitcoin Benchmark Exchanges that will serve as the basis for the Bitcoin Market Price calculation will be those Bitcoin Benchmark Exchanges that meet the above-described requirements, as well as one or more additional Bitcoin exchanges, as selected by the Sponsor, that has had a monthly trading volume of at least 50,000 Bitcoin during the last 30 consecutive calendar days.

The Sponsor will review the composition of the exchanges that comprise the Bitcoin Benchmark Exchanges at the beginning of each month in order to ensure the accuracy of such composition.

Subject to the next sentence, if one or more of the Bitcoin Benchmark Exchanges become unavailable (e.g., data sources from the Bitcoin Benchmark Exchanges of Bitcoin prices becomes unavailable, unwieldy or otherwise impractical for use) or if the Sponsor determines in good faith that one or more Bitcoin Benchmark Exchanges do not reflect an accurate Bitcoin price, then the Sponsor will, on a best efforts basis, contact the Bitcoin Benchmark Exchange that is experiencing the service outages in an attempt to obtain the relevant data. If after such contact one or more of the Bitcoin Benchmark Exchanges remain unavailable after such contact or the Sponsor continues to believe in good faith that one or more Bitcoin Benchmark Exchanges do not reflect an accurate Bitcoin price, then the Sponsor will employ the next rule to determine the Bitcoin Market Price.

5. Bitcoin Market Price = The Sponsor will use its best judgment to determine a good faith estimate of the Bitcoin Market Price.

In the event of a fork, the Sponsor has full discretion to calculate the Bitcoin Market Price itself using its best judgment.

### **Forms of Attack Against the Bitcoin Network**

All networked systems are vulnerable to various kinds of attacks. As with any computer network, the Bitcoin Network contains certain flaws. For example, the Bitcoin Network is currently vulnerable to a “51% attack” where, if a mining pool were to gain control of more than 50% of the hash rate for a digital asset, a malicious actor would be able to gain full control of the network and the ability to manipulate the Blockchain.

In addition, many digital asset networks have been subjected to a number of denial of service attacks, which has led to temporary delays in block creation and in the transfer of Bitcoin. Any similar attacks on the Bitcoin Network that impact the ability to transfer Bitcoin could have a material adverse effect on the price of Bitcoin and the value of the Units.

### **Market Participants**

#### ***Miners***

Miners range from Bitcoin enthusiasts to professional mining operations that design and build dedicated machines and data centers, including mining pools, which are groups of miners that act cohesively and combine their processing to solve blocks. When a pool solves a new block, the pool operator receives the Bitcoin and, after taking a nominal fee, splits the resulting reward among the pool participants based on the processing power each of them contributed to solve for such block. Mining pools provide participants with access to smaller, but steadier and more frequent, Bitcoin payouts. See “—Creation of New Bitcoin” above.

### ***Investment and Speculative Sector***

This sector includes the investment and trading activities of both private and professional investors and speculators. Historically, larger financial services institutions are publicly reported to have limited involvement in investment and trading in digital assets, although the participation landscape is beginning to change.

### ***Retail Sector***

The retail sector includes users transacting in direct peer-to-peer Bitcoin transactions through the direct sending of Bitcoin over the Bitcoin Network. The retail sector also includes transactions in which consumers pay for goods or services from commercial or service businesses through direct transactions or third-party service providers.

### ***Service Sector***

This sector includes companies that provide a variety of services including the buying, selling, payment processing and storing of Bitcoin. Bitfmx, Bitstamp, Coinbase Pro, Kraken and itBit are some of the largest Bitcoin exchanges by volume traded. Fidelity Digital Asset Services, the Custodian for the Trust, is a digital asset custodian that provides custodial accounts that store Bitcoin for users. As the Bitcoin Network continues to grow in acceptance, it is anticipated that service providers will expand the currently available range of services and that additional parties will enter the service sector for the Bitcoin Network.

### ***Competition***

Bitcoin is not the only available decentralized digital asset. Other digital assets have been developed since the inception of the Bitcoin, including, but not limited to, Ethereum, Litecoin, Monero, and Zcash. Although a competitive digital asset could displace the market share Bitcoin currently occupies, it would face significant headwinds due to the network effect and financial and intellectual investments currently enjoyed by the market leader. As of May 31, 2021, the Bitcoin network market share of the total digital market capitalization was estimated to be approximately 46%. Further, many Bitcoin exchanges use Bitcoin as the exchange comparison for other cryptocurrencies. For example, to purchase certain cryptocurrencies you first need to purchase Bitcoin on an exchange and then use the Bitcoin to purchase other cryptocurrencies.

### ***Government Oversight – Regulation of Bitcoin***

As digital assets have grown in both popularity and market size, the U.S. Congress and a number of U.S. federal and state agencies (including FinCEN, SEC, CFTC, FINRA, the Consumer Financial Protection Bureau (“CFPB”), the Department of Justice, the Department of Homeland Security, the Federal Bureau of Investigation, the IRS and state financial institution regulators) have been examining the operations of digital asset networks, digital asset users and the digital asset spot markets, with particular focus on the extent to which digital assets can be used to launder the proceeds of illegal activities or fund criminal or terrorist enterprises and the safety and soundness of spot markets or other service-providers that hold digital assets for users. Many of these state and federal agencies have issued consumer advisories regarding the risks posed by digital assets to investors. In addition, federal and state agencies, and other countries have issued rules or guidance about the treatment of digital asset transactions or requirements for businesses engaged in digital asset activity. As noted previously, the SEC has not asserted regulatory authority over bitcoin or trading or ownership of bitcoin and has not expressed the view that bitcoin should be classified or treated as a security for purposes of U.S. federal securities laws.

The CFTC has regulatory jurisdiction over the bitcoin futures markets. In addition, because the CFTC has determined that bitcoin is a “commodity” under the CEA and the rules thereunder, it has jurisdiction to prosecute fraud and manipulation in the cash, or spot, market for bitcoin. The CFTC has pursued enforcement actions relating to fraud and manipulation involving Bitcoin and Bitcoin markets. Beyond instances of fraud or manipulation, the CFTC generally does not oversee cash or spot market exchanges or transactions involving bitcoin that do not use collateral, leverage, or financing.

On December 1, 2017, two designated contract markets (“DCMs”) registered with the CFTC self-certified new contracts for bitcoin futures products. DCMs are boards of trades (or exchanges) that operate under the regulatory oversight of the CFTC, pursuant to Section 5 of the Commodity Exchange Act. To obtain and maintain designation



as a DCM, an exchange must comply on an initial and ongoing basis, with twenty-three Core Principles established in Section 5(d) of the CEA. Among other things, DCMs are required to establish self-regulatory programs designed to enforce the DCM's rules, prevent market manipulation and customer and market abuses, and ensure the recording and safe storage of trade information. The CFTC engaged in a "heightened review" of the self-certification of bitcoin futures, which required DCMs to enter direct information sharing agreements with spot market platforms to allow access to trade and trader data; monitor data from cash markets with respect to price settlements and other bitcoin prices more broadly, and identify anomalies and disproportionate moves in the cash markets compared to the futures markets; engage in inquiries, including at the trade settlement level when necessary; and agree to regular coordination with CFTC surveillance staff on trade activities, including providing the CFTC surveillance team with trade settlement data upon request.

Various foreign jurisdictions have, and may continue to, in the near future, adopt laws, regulations or directives that affect the Bitcoin Network, the Bitcoin markets, and their users, particularly bitcoin spot markets and service providers that fall within such jurisdictions' regulatory scope. Foreign jurisdictions including Canada, Germany, and Sweden have also approved exchange-traded bitcoin products.

The effect of any future regulatory change on the Trust or bitcoin is impossible to predict, but such change could be substantial and adverse to the Trust and the value of the Shares.

**U.S. regulators, at both the state and federal level, and foreign regulators and legislatures have taken action against digital asset businesses or enacted restrictive regimes in response to adverse publicity arising from cybersecurity risks, potential consumer harm, or digital assets used in connection with criminal activity. The value of Bitcoin could be impacted by such adverse publicity. Various foreign jurisdictions may, in the near future, adopt laws, regulations or directives that affect the Bitcoin Network, the Bitcoin exchange market and their users, particularly Bitcoin exchanges and service providers that fall within such jurisdictions' regulatory scope, which may in turn, impact the price of Bitcoin. Such laws, regulations or directives may conflict with those of the United States and may negatively impact the acceptance of Bitcoin by users, merchants and service providers outside the United States and may therefore impede the growth or sustainability of the Bitcoin economy globally, or otherwise negatively affect the value of Bitcoin. The regulatory uncertainty surrounding the treatment of Bitcoin creates risks for the Trust.**

#### **Not a Regulated Commodity Pool**

The Trust will not trade, buy, sell or hold Bitcoin derivatives, including Bitcoin futures contracts, on any futures exchange. The Trust is authorized solely to take immediate delivery of actual Bitcoin (or, if applicable, purchase at NAV). The Sponsor does not believe the Trust's activities are required to be regulated by the CFTC under the CEA as a "commodity pool" under current law, regulation and interpretation. The Trust will not be operated by a CFTC-regulated commodity pool operator because it will not trade, buy, sell or hold Bitcoin derivatives, including Bitcoin futures contracts, on any futures exchange. Unitholders of the Trust will not receive the regulatory protections afforded to investors in regulated commodity pools, nor may the COMEX division of the New York Mercantile Exchange or any futures exchange enforce its rules with respect to the Trust's activities. In addition, Unitholders of the Trust will not benefit from the protections afforded to investors in Bitcoin futures contracts on regulated futures exchanges.

### **MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS**

*The following discussion and analysis of our financial condition and results of operations should be read together with, and is qualified in its entirety by reference to, our audited and unaudited financial statements and related notes included elsewhere in this Information Statement, which have been prepared in accordance with U.S. Generally Accepted Accounting Principles ("GAAP"). The following discussion may contain forward-looking statements based on assumptions we believe to be reasonable. Our actual results could differ materially from those discussed in these forward-looking statements. Factors that could cause or contribute to these differences include, but are not limited to, those discussed below and elsewhere in this Information Statement, particularly in "Risk Factors" and "Statement Regarding Forward-Looking Statements."*



## Trust Overview

The activities of the Trust are limited to (i) issuing Units in exchange for cash or Bitcoin transferred to the Trust as consideration in connection with the issuance of those Units, (ii) transferring or selling Bitcoin (including forks in the Bitcoin Network) as necessary to cover the 0.49% Management Fee, audit fees, index license fees, aggregate legal fees in excess of \$50,000 and the fees of the Custodian (“Excluded Expenses”) and certain extraordinary expenses of the Trust, including but not limited to taxes and governmental charges, expenses and costs, expenses and indemnities related to any extraordinary services performed by the Sponsor (or any other service provider, including the Trustee) on behalf of the Trust to protect the Trust or the interest of Unitholders, indemnification expenses, fees and expenses related to public trading on OTCQX (“Extraordinary Expenses”), (iii) transferring Bitcoin in exchange for Units surrendered for redemption (subject to obtaining regulatory approval from the SEC and approval from the Sponsor), (iv) causing the Sponsor to sell Bitcoins on the termination of the Trust, (v) making distributions of Bitcoin (including virtual currency incidental to airdrops or forks) or cash from the sale thereof, and (vi) engaging in all administrative and security procedures necessary to accomplish such activities in accordance with the provisions of the Trust Agreement and the Custodial Services Agreement.

The Trust will not be actively managed. It will not engage in any activities designed to obtain a profit from, or to ameliorate losses caused by, changes in the market prices of Bitcoins.

The investment objective of the Trust is for the Units to reflect the value of the Bitcoin held by the Trust, determined by reference to the Index, less the Trust’s expenses and other liabilities. The Units are intended to constitute a cost-effective and convenient means of gaining investment exposure to Bitcoin. Although the Units will not be the exact equivalent of a direct investment in Bitcoin, they provide investors with an alternative that constitutes a relatively cost-effective way to participate in Bitcoin markets through the securities market.

***At this time, the Trust is not operating a redemption program for Units and therefore Units are not redeemable by the Trust. In addition, the Trust may halt issuances of Units for extended periods of time.*** As a result, the value of the Units of the Trust may not approximate, and when traded on any secondary market, the Units may trade at a substantial premium over, or discount to, the value of the Bitcoins held by the Trust, less the Trust’s expenses and other liabilities.

### ***Additional Currency***

From time to time, the Trust may come into possession of rights incident to its ownership of Bitcoins, which permit the Trust to acquire, or otherwise establish dominion and control over, other virtual currencies. These rights are generally expected to arise in connection with forks in the Blockchain, airdrops offered to holders of Bitcoins and other similar events and arise without any action of the Trust or of the Sponsor or Trustee on behalf of the Trust. We refer to these rights as “Incidental Rights” and any such virtual currency acquired through Incidental Rights as “Additional Currency.” The Trust does not expect to take any Additional Currency it may hold into account for purposes of determining the Trust’s Bitcoin Holdings or the Bitcoin Holdings per Unit. See “Activities of the Trust—Additional Currency.”

With respect to any fork, airdrop or similar event, the Sponsor may, in its discretion, decide to cause the Trust to distribute the Additional Currency in-kind to an agent of the Unitholders for resale by such agent, or to irrevocably abandon the Additional Currency. In the case of a distribution in-kind, the Unitholders’ agent would attempt to sell the Additional Currency, and if the agent is able to do so, remit the cash proceeds to Unitholders. There can be no assurance as to the price or prices for any Additional Currency that the agent may realize, and the value of the Additional Currency may increase or decrease after any sale by the agent. In the case of abandonment, the Trust would not receive any direct or indirect consideration for the Additional Currency and thus the value of the Units will not reflect the value of the Additional Currency.

### ***Trust Expenses***

The Trust’s only ordinary recurring expenses are expected to be Management Fee, Index License Fees, and Custody Fees. The Management Fee equals an annual rate of 0.49% of the daily NAV of the Trust and will accrue

solely in Bitcoins and will be payable at the Sponsor's sole discretion, in Bitcoins or U.S. dollars for the Bitcoin Market Price in effect for such Bitcoin at the time of such payment. The Management Fee is payable in Bitcoins to the Sponsor monthly in arrears.

To cause the Trust to pay Trust Expenses, the Sponsor will instruct the Custodian to (i) withdraw from the Bitcoin Account the number of Bitcoins equal to the accrued but unpaid Fees and (ii) transfer such Bitcoins to the Sponsor's account at such times as the Sponsor determines in its absolute discretion.

As partial consideration for its receipt of the Management Fee, the Sponsor has assumed the obligation to pay the Sponsor-paid Expenses. The Sponsor has not assumed the obligation to pay Assumed Expenses (as defined below).

After payment of the Sponsor-paid Expenses for the Trust, the Sponsor may use the remaining portion of the Management Fee received from the Trust at its discretion, which may include the payment of fees from time to time for the referral of new investors in the Trust.

The number of Bitcoins represented by a Unit will decline each time the Trust pays the Management Fee or any Assumed Expenses by transferring or selling Bitcoins

### Disposition of Bitcoin

Because the Trust's Assumed Expenses are payable through the transfer of Bitcoin each month, the Sponsor, its delegates or the Custodian will withdraw Bitcoin as needed from the Bitcoin Account to pay such fees. If the Trust incurs Extraordinary Expenses in U.S. dollars, Bitcoin will be converted to U.S. dollars at the exchange rate at the time of conversion to pay these Extraordinary Expenses. Unitholders do not have the option of choosing to pay their proportionate Units of Extraordinary Expenses in lieu of having their Units of Extraordinary Expenses paid by the Trust's sale of Bitcoin. Assuming that the Trust is treated a grantor trust for U.S. federal income tax purposes, each delivery or sale of Bitcoins by the Trust for the payment of expenses by the Trust will result in a taxable event to Unitholders.

Because the number of the Trust's Bitcoin will decrease as a consequence of the payment of the Management Fee in Bitcoin or the sale of Bitcoin to pay Extraordinary Expenses (and the Trust will incur additional fees associated with converting Bitcoin into U.S. dollars), the number of Bitcoin represented by a Unit will decline at such time and the NAV of the Trust may also decrease. Accordingly, the Unitholders will bear the cost of the Management Fee and any Extraordinary Expenses.

The Sponsor will also cause the sale of the Trust's Bitcoin if the Sponsor determines that sale is required by applicable law or regulation or in connection with the termination and liquidation of the Trust. The Sponsor will not be liable or responsible in any way for depreciation or loss incurred by reason of any sale of Bitcoin.

### Review of Financial Results

#### *Financial Highlights for the Three Months ended March 31, 2021 and 2020 (unaudited)*

(All amounts in the following table, except Unit, per Unit, Bitcoin and price per Bitcoin amounts, are in thousands)

	Three Months Ended	
	March 31,	
	2021	2020
Net realized gain (loss) and net change in unrealized appreciation (depreciation) on investment in Bitcoin	\$ 54,187	\$ (905)
Net (decrease) increase in net assets resulting from operations	\$ 54,033	\$ (934)
Net assets	\$ 166,075	\$ 8,904

\* Units have been adjusted retroactively to reflect the 4:1 stock split effective January 5, 2021.

An individual Unitholder's return, ratios, and per Unit performance may vary from those presented above based on the timing of Unit transactions.

Total return is calculated assuming an initial investment made at the net asset value at the beginning of the year and assuming redemption on the last day of the year. Ratios have been annualized for the partial periods ended March 31, 2021 and March 31, 2020. The net asset value per unit at the beginning of the period for 2021 performance has been adjusted to reflect the stock split that occurred effective January 5, 2021.

During the first quarter of 2021, net realized loss and net change in unrealized appreciation on investment in Bitcoin was \$54,187,494 which include a realized loss of \$13,890 on the transfer of Bitcoin to pay the Management Fee, Custody Fee, and Index License Fee, and net change in unrealized appreciation on investment in Bitcoin of \$54,201,384. Net realized loss and net change in unrealized appreciation on investment in Bitcoin for the quarter was driven by Bitcoin price appreciation from \$29,026.66 on December 31, 2020 to \$59,135.73 as of March 31, 2021. Net increase in net assets resulting from operations was \$54,033,107 for the first quarter of 2021, which consist of the net realized and unrealized gain on investment in Bitcoin, net the Management Fee of \$103,240 and other fees of \$51,147. Net assets increased to \$166,075,112 at March 31, 2021.

### ***Financial Highlights for the Years Ended December 31, 2020 and 2019***

**(All amounts in the following table, except per Unit, Bitcoin and price of Bitcoin amounts, are in thousands)**

	<b>For the Year Ended December 31,</b>	
	<b>2020</b>	<b>2019</b>
Net realized gain (loss) and net change in unrealized appreciation (depreciation) on investment in Bitcoin	\$ 32,063	\$ 4,959
Net (decrease) increase in net assets resulting from operations	\$ 31,894	\$ 4,862
Net assets	\$ 44,907	\$ 9,837

The Trust launched on January 22, 2019 with seed capital of 1,376.48 bitcoin with a value of \$4,933,869. Net realized gain and net change in unrealized appreciation on investment in Bitcoin for the period from January 22, 2019 (commencement of operations) to December 31, 2019 was \$4,959,361 which includes a realized gain of \$46,753 on the transfer of Bitcoin to pay the Management Fee, Custody Fee, and Index License Fee, and net change in unrealized appreciation on investment in Bitcoin of \$4,912,608. Net realized gain and net change in unrealized appreciation on investment in Bitcoin for the year was driven by Bitcoin price appreciation from \$3,584.41 per Bitcoin on January 22, 2019 to \$7,153.38 per Bitcoin as of December 31, 2019. Net increase in net assets resulting from operations was \$4,861,974 for the period from January 22, 2019 (commencement of operations) to December 31, 2019, which consisted of the net realized gain and net change in unrealized appreciation on investment in Bitcoin, less the Management Fee of \$97,387. Net assets increased to \$9,837,135 at December 31, 2019.

Net realized gain and net change in unrealized appreciation on investment in Bitcoin for the year ended December 31, 2020 was \$32,062,851 which includes a realized gain of \$18,466 on the transfer of Bitcoin to pay the Management Fee, Custody Fee, and Index License Fee, and net change in unrealized appreciation on investment in Bitcoin of \$32,044 385. Net realized gain and net change in unrealized appreciation on investment in Bitcoin for the year was driven by Bitcoin price appreciation from \$7,153.38 per Bitcoin on December 31, 2019 to \$29,026.66 per Bitcoin as of December 31, 2020. Net increase in net assets resulting from operations was \$31,893,722 for the year ended December 31, 2020, which consisted of the net realized gain and net change in unrealized appreciation on investment in Bitcoin, net the Management Fee of \$132,210 and other fees of \$36,919. Net assets increased to \$44,906,682 at December 31, 2020.

### ***Off-Balance Sheet Arrangements***

The Trust is not a party to any off-balance sheet arrangements.

### ***Cash Resources and Liquidity***

When selling Bitcoins and/or Additional Currency to pay Extraordinary Expenses, the Sponsor endeavors to sell the exact number of Bitcoins and/or Additional Currency needed to pay expenses in order to minimize the Trust's

holdings of assets other than Bitcoin. As a consequence, the Sponsor expects that the Trust will not record any cash flow from its operations and that its cash balance will be zero at the end of each reporting period.

In exchange for the Management Fee, the Sponsor has agreed to assume most of the expenses incurred by the Trust. As a result, the only ordinary expense of the Trust during the periods covered by this Information Statement was the Management Fee. The Trust is not aware of any trends, demands, conditions or events that are reasonably likely to result in material changes to its liquidity needs.

### Quantitative and Qualitative Disclosures about Market Risk

The Trust Agreement does not authorize the Trustee to borrow for payment of the Trust's ordinary expenses. The Trust does not engage in transactions in foreign currencies which could expose the Trust or holders of Units to any foreign currency related market risk. The Trust does not invest in derivative financial instruments and has no foreign operations or long-term debt instruments.

### Selected Operating Data

#### Three Months Ended March 31, 2021 and 2020

	Three Months Ended March 31,	
	2021	2020
(Bitcoin balances are rounded to the nearest two decimal places)		
<b>Bitcoins:</b>		
Opening balance	1,548.46	1,376.48
Creations	1,264.53	-
Management Fee, related party	(1.34)	(3.43)
Custody Fee	(0.64)	-
Closing balance	2,811.01	1,373.05
Accrued but unpaid Management Fee, related party	(1.31)	-
Accrued but unpaid Custody Fee	(1.30)	-
Accrued but unpaid Index Fee	(0.03)	-
Net closing balance	2,808.37	1,373.05
<b>Number of Units:</b>		
Opening balance	4,529,312	3,980,128
Creations	3,708,525	-
Closing balance	8,237,837	3,980,128

\* Units have been adjusted retroactively to reflect the 4:1 stock split effective January 5, 2021.

	As of March 31,	
	2021	2019
Price of Bitcoin on principal market	\$ 59,135.73	\$ 4,078.15
NAV per Unit	\$ 20.16	\$ 1.42
Bitcoin Market Price	\$ 59,135.73	\$ 4,078.15
Bitcoin Holdings per Unit	\$ 0.00034	\$ 0.00035

*Years Ended December 31, 2020 and 2019*

**For the Year Ended December 31,**  
**2020**                      **2019**  
**(All Bitcoin balances are rounded to the nearest**  
**two decimal places)**

<b>Bitcoins:</b>		
Opening balance	1,376.48	-
Creations	187.84	1,388
Management Fee, related party	(13.41)	(11.52)
Custody Fee	(2.45)	-
Closing balance	1,548.46	1,376.48
Accrued but unpaid Management Fee, related party	(0.64)	(0.77)
Accrued but unpaid Custody Fee	(0.74)	-
Net closing balance	1,547.09	1,375.71
<b>Number of Units:</b>		
Opening balance	3,980,128	3,980,128
Creations	549,184	-
Closing balance	4,529,312	3,980,128

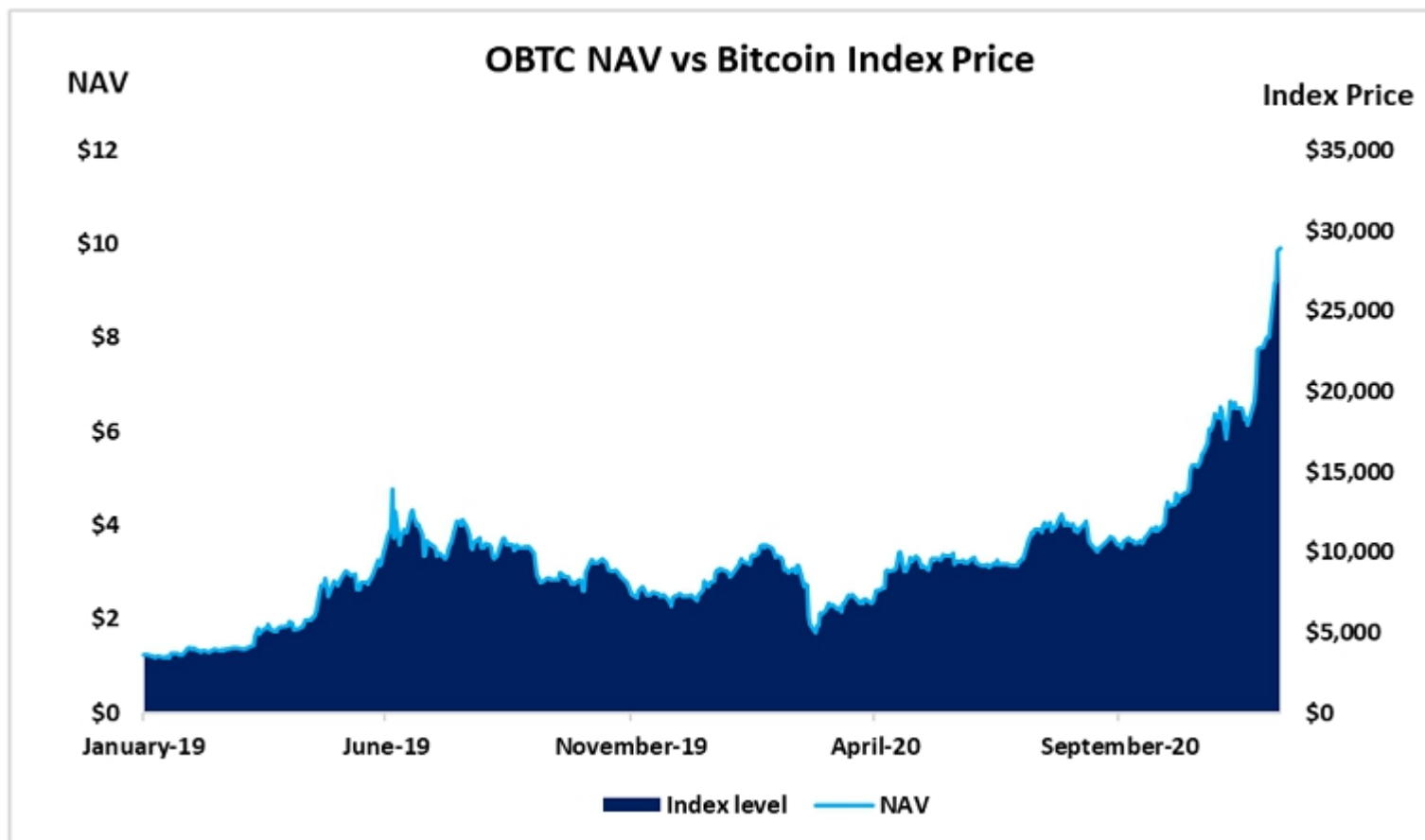
\* Units have been adjusted retroactively to reflect the 4:1 stock split effective January 5, 2021.

	<b>December 31,</b>	
	<b>2020</b>	<b>2019</b>
Price of Bitcoin on principal market	\$ 29,026.66	\$ 7,153.38
NAV per Unit	\$ 9.91	\$ 2.47
Bitcoin Market Price	\$ 29,026.66	\$ 7,153.38
Bitcoin Holdings per Unit	\$ 0.00034	\$ 0.00035

**Historical Bitcoin Holdings and Bitcoin Prices**

As movements in the price of Bitcoins will directly affect the price of the Units, investors should understand recent movements in the price of Bitcoin. Investors, however, should also be aware that past movements in the Bitcoin price are not indicators of future movements. Movements may be influenced by various factors, including, but not limited to, government regulation, security breaches experienced by Service Providers, as well as political and economic uncertainties around the world.

The following chart illustrates the movement in the Trust’s Bitcoin Holdings per Unit (as adjusted for the Unit Split for periods prior to January 5, 2021) versus the Bitcoin Market Price and the Trust’s NAV per Unit (as adjusted for the Unit Split for periods prior to January 5, 2021) from January 3, 2019 to December 31, 2020. For more information on the determination of the Trust’s Bitcoin Holdings, see “Overview of the Bitcoin Industry and Market—Bitcoin Value—The Bitcoin Market Price.”



The following table illustrates the movements in the Bitcoin Market Price from the beginning of the Trust’s operations on January 3, 2019 to December 31, 2020. Since the beginning of the Trust’s operations, the Bitcoin Market Price has ranged from \$3,358.67 to \$59,135.73, with the straight average being \$13,214.82. The Sponsor has not observed a material difference between the Bitcoin Market Price and average prices from the constituent Bitcoin exchanges individually or as a group.

Period	Average	High	Date	Low	Date	End of period	Last business day
From January 3, 2019 to December 31, 2019	\$ 7,379.15	\$13,724.33	6/26/2019	\$3,358.67	2/7/2019	\$ 7,153.38	\$ 7,153.38
Twelve months ended December 31, 2020	\$11,131.27	\$29,026.66	12/31/2020	\$4,956.92	3/16/2020	\$29,026.66	\$29,026.66
January 3, 2019 (the inception of the Trust’s operations) to December 31, 2020	\$ 9,262.66	\$29,026.66	12/31/2020	\$3,358.67	2/7/2019	\$29,026.66	\$29,026.66

The following table illustrates the movements in the price of Bitcoin, as reported on the Trust’s principal market, from the beginning of the Trust’s operations on January 3, 2019 to December 31, 2020. Since the beginning of the Trust’s operations, the price of Bitcoin has ranged from \$3,358.67 to \$13,214.82, with the straight average being \$13,214.82:

Period	Average	High	Date	Low	Date	End of period	Last business day
From January 3, 2019 to December 31, 2019	\$ 7,379.15	\$13,724.33	6/26/2019	\$3,358.67	2/7/2019	\$ 6,153.38	\$ 7,153.38
Twelve months ended December 31, 2020	\$11,131.27	\$29,026.66	12/31/2020	\$4,956.92	3/16/2020	\$29,026.66	\$29,026.66

January 3, 2019 (the inception of the Trust's operations) to December 31, 2020	\$ 9,262.66	\$29,026.66	12/31/ 2020	\$3,358.67	2/7/ 2019	\$29,026.66	\$29,026.66
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## Secondary Market Trading

The Trust's Units have been quoted on OTC Markets since February 12, 2021, and on OTCQX under the symbol OBTC since February 26, 2021. The price of the Units as quoted on OTCQX (and OTC Markets) has varied significantly from the NAV per Unit. From February 12, 2021 to March 31, 2021, the maximum premium of the closing price of the Units quoted on OTCQX (and OTC Markets) over the value of the Trust's NAV per Unit was approximately 280% and the average premium was approximately 60%. As of March 31, 2021, the Trust's Units were quoted on OTCQX at a premium of approximately 25% to the Trust's NAV per Unit.

The following table sets out the range of high and low closing prices for the Units as reported by OTCQX, the Trust's NAV per Unit and the Trust's Bitcoin Holdings per Unit for each of the quarters since February 12, 2021.

	High			Low		
	OTCQX	NAV per Unit	Bitcoin Holdings per Unit	OTCQX	NAV per Unit	Bitcoin Holdings per Unit
<b>2021</b> First Quarter (through March 31, 2021)	56.39	20.16	0.00034	20.09	15.87	0.00034

## ACTIVITIES OF THE TRUST

The activities of the Trust are limited to (i) issuing Units in exchange for cash or Bitcoin transferred to the Trust as consideration in connection with the issuance of the Units, (ii) transferring or selling Bitcoin, as necessary to cover the 0.49% Management Fee, as well as any Excluded Expenses and any Extraordinary Expenses (as each is defined in the Trust Agreement, “Aggregate Trust Expenses”), (iii) transferring Bitcoin in exchange for Units surrendered for redemption (subject to obtaining regulatory approval from the SEC and approval from the Sponsor), (iv) causing the Sponsor to sell Bitcoin on the termination of the Trust, (v) making distributions of Bitcoin (including virtual currency incidental to airdrops or forks) or cash from the sale thereof and (vi) engaging in all administrative and security procedures necessary to accomplish such activities in accordance with the provisions of the Trust Agreement and the Custodial Services Agreement.

The Trust will not be actively managed. It will not engage in any activities designed to obtain a profit from, or to ameliorate losses caused by, changes in the market prices of Bitcoin.

### Trust Objective

The investment objective of the Trust is for the Units to reflect the value of the Bitcoin held by the Trust, determined by reference to the Index, less the Aggregate Trust’s Expenses and other liabilities. The Units are intended to constitute a cost-effective and convenient means of gaining investment exposure to Bitcoin. Although the Units will not be the exact equivalent of a direct investment in Bitcoin, they provide investors with an alternative that constitutes a relatively cost-effective way to participate in Bitcoin markets through the securities market.

*At this time, the Trust is not operating a redemption program for Units and therefore Units are not redeemable by the Trust. In addition, the Trust may halt issuances of Units for extended periods of time.* As a result, the value of the Units of the Trust may not approximate, and if traded on any secondary market, the Units may trade at a substantial premium over, or discount to, the NAV per Unit, less the Trust’s expenses and other liabilities.

### Strategy Behind the Units

The Units are intended to offer investors an opportunity to participate in Bitcoin markets through an investment in securities. The logistics of accepting, transferring and safekeeping of Bitcoin are dealt with by the Sponsor and the Custodian, and the related expenses are built into the price of the Units. Therefore, Unitholders do not have additional tasks or costs over and above those generally associated with investing in any other privately placed security.

The Units are intended to provide Accredited Investors with a simple and cost-effective means, with minimal credit risk, of gaining investment benefits similar to those of directly holding Bitcoin.

### Secondary Market Trading

While the Trust’s investment objective is for the Units to reflect the value of the Bitcoin held by the Trust, as determined by reference to the Index, less the Aggregate Trust Expenses and other liabilities, the Units may trade in the Secondary Market on the OTCQX (or on another Secondary Market in the future) at prices that are lower or higher than the Bitcoin Holdings per Unit. The amount of the discount or premium in the trading price relative to the Bitcoin Holdings per Unit may be influenced by non-concurrent trading hours and liquidity between OTCQX and larger Bitcoin exchanges in the Bitcoin exchange market. While the Sponsor has obtained approval for listing and trading of the Units on the OTCQX, there is no guarantee that a liquid secondary market in the Units will develop or be maintained. Investors should therefore be willing to risk being unable to sell their Units in a liquid, organized secondary market, potentially leading to a reduction in Unit value.

### Trust Expenses

The Trust will pay as an ordinary recurring charge the remuneration due to the Sponsor (the “Management Fee”). The Management Fee equals an annualized 0.49% of the average daily NAV of the Trust for each year. The

Management Fee will accrue daily in Bitcoin and will be payable, at the Sponsor’s sole discretion, in Bitcoin or in U.S. dollars at the Bitcoin Market Price in effect at the time of such payment. The Sponsor expects that the Trust will pay the Management Fee in monthly installments in arrears.

The Sponsor will bear the routine operational, administrative and other ordinary fees and expenses of the Trust (the “Assumed Expenses”); provided, however, that the Trust shall be responsible for audit fees, index license fees, aggregate legal fees in excess of \$50,000 per annum and the fees of the Custodian (the “Excluded Expenses”) and certain extraordinary expenses of the Trust, including but not limited to taxes and governmental charges, expenses and costs, expenses and indemnities related to any extraordinary services performed by the Sponsor (or any other Service Provider, including the Trustee) on behalf of the Trust to protect the Trust or the interest of Unitholders, indemnification expenses, fees and expenses related to public trading on OTCQX (the “Extraordinary Expenses”). Although the Sponsor can provide no assurance as to the frequency or magnitude of any Extraordinary Expenses, the Sponsor expects that they may occur infrequently, if at all.

### Hypothetical Expense Example

The following table illustrates the anticipated impact of the payment of the Trust’s expenses on the number of Bitcoins represented by each outstanding Unit for three years, assuming that the Trust does not make any payments using any Additional Currency. It assumes that the only transfers of Bitcoins will be those needed to pay the Management Fee and that the price of Bitcoins and the number of Units remain constant during the three-year period covered. The table does not show the impact of any Extraordinary Expenses. Any Extraordinary Expenses, if and when incurred, will accelerate the decrease in the fractional number of Bitcoins represented by each Unit. In addition, the table does not show the effect of any waivers of the Management Fee that may be in effect from time to time.]

	Year		
	1	2	3
Hypothetical price per Bitcoin	\$100.00	\$100.00	\$100.00
Management Fee	0.49%	0.49%	0.49%
Units of Trust, beginning	100,000.00	100,000.00	100,000.00
Bitcoins in Trust, beginning	10,000.00	9,951.00	9,902.24
Hypothetical value of Bitcoins in Trust	\$1,000,000.00	\$995,100.00	\$990,224.00
Beginning Bitcoin Holdings of the Trust	\$1,000,000.00	\$995,100.00	\$990,224.00
Bitcoins to be delivered to cover the Management Fee	49.00	48.76	48.52
Bitcoins in Trust, ending	9,951.00	9,902.24	9,853.72
Ending Bitcoin Holdings of the Trust	\$995,100.00	\$990,224.00	\$985,372.00
Ending Bitcoin Holdings per Unit	0.995	0.990	0.985
Hypothetical price per Bitcoin	\$100.00	\$100.00	\$100.00

### DESCRIPTION OF THE TRUST

The Trust is a Delaware Statutory Trust that was formed on January 3, 2019 by the filing of the Certificate of Trust with the Delaware Secretary of State in accordance with the provisions of the Delaware Statutory Trust Act (“DSTA”). The Trust operates pursuant to the Trust Agreement.

The investment objective of the Trust is for the Units to reflect the value of the Bitcoins held by the Trust, determined by reference to the Index, less the Trust’s expenses and other liabilities. The Sponsor believes that, for many investors, the Units will represent a cost-effective and convenient investment relative to a direct, outright investment in Bitcoins. Although the redemption of Units is provided for in the Trust Agreement, the redemption of Units is not currently permitted and the Trust does not currently operate a redemption program. In addition, the Trust may from time to time halt creations of Units. As a result, there can be no assurance that the value of the Units will reflect the value of the Trust’s Bitcoin Holdings per Unit, and the Units may trade at a substantial premium over, or a substantial discount to, the NAV per Unit.

The Units represent common units of fractional undivided beneficial interest in and ownership of the Trust and have no par value. The Trust is a passive investment vehicle and is not engaged in any business activities. The Trust's Bitcoins are held by the Custodian on behalf of the Trust. The Trust's Bitcoins will be transferred out of the Bitcoin Account only in the following circumstances: (i) transferred to pay the Management Fee or any Extraordinary Expenses, (ii) sold on an as-needed basis to pay Extraordinary Expenses or (iii) sold on behalf of the Trust in the event the Trust terminates and liquidates its assets or as otherwise required by law or regulation. Assuming that the Trust is treated as a grantor trust for U.S. federal income tax purposes, each delivery or sale of Bitcoins by the Trust to pay the Management Fee or any Extraordinary Expenses will be a taxable event for Unitholders. See "Certain U.S. Federal Income Tax Consequences—Tax Consequences to U.S. Holders."

The Trust is not registered as an investment company under the Investment Company Act and the Sponsor believes that the Trust is not required to register under the Investment Company Act. The Trust will not hold or trade in commodity futures contracts or other derivative contracts regulated by the CEA, as administered by the CFTC. The Sponsor believes that the Trust is not a commodity pool for purposes of the CEA, and that neither the Sponsor nor the Trustee is subject to regulation as a commodity pool operator or a commodity trading adviser in connection with the operation of the Trust.

The Trust is authorized under the Trust Agreement to create and issue an unlimited number of Units. The Trust issues Units only in connection with purchase orders for a minimum of \$25,000.00. The Units may be purchased from the Trust on an ongoing basis, upon the order of an Accredited Investor to purchase a minimum of \$25,000.00 of Units. From June 2020 until August 2020, the Trust offered up to \$5,000,000 worth of Units, in minimum round lots of 100 Units, pursuant to Rule 504 of Regulation D under the Securities Act, to investors residing in Connecticut and New York. Purchasers in that offering included non-accredited investors. Initially, each Unit represented 0.00138335 of a Bitcoin. Unitholders that are not Accredited Investors may not purchase Units from the Trust upon orders. At this time, the Trust is not operating a redemption program for Units and therefore Units are not redeemable by the Trust.

The Sponsor will determine the Trust's Bitcoin Holdings on each business day as of 4:00 p.m., New York time, or as soon thereafter as practicable. The Sponsor will also determine the Bitcoin Holdings per Unit, which equals the Bitcoin Holdings divided by the number of outstanding Units. Each business day, the Sponsor will publish the Trust's Bitcoin Holdings and Bitcoin Holdings per Unit on the Sponsor's website, <https://ospreyfund.io/products/>, as soon as practicable after the Trust's Bitcoin Holdings and Bitcoin Holdings per Unit have been determined by the Sponsor. See "Valuation of Bitcoin and Determination of the Trust's Bitcoin Holdings."

The Trust's assets consist solely of Bitcoins, Additional Currency, proceeds from the sale of Bitcoins, and Additional Currency pending use of such cash for payment of Extraordinary Expenses or distribution to the Unitholders and any rights of the Trust pursuant to any agreements, other than the Trust Agreement, to which the Trust is a party. Each Unit represents a proportional interest, based on the total number of Units outstanding, in each of the Trust's assets as determined in the case of Bitcoin by reference to the Bitcoin Market Price, less the Trust's expenses and other liabilities (which include accrued but unpaid fees and expenses). The Sponsor expects that the market price of the Units will fluctuate over time in response to the market prices of Bitcoins. In addition, because the Units reflect the estimated accrued but unpaid expenses of the Trust, the number of Bitcoins represented by a Unit will gradually decrease over time as the Trust's Bitcoins are used to pay the Trust's expenses. The Trust does not expect to take any Additional Currency it may hold into account for purposes of determining the Trust's Bitcoin Holdings or the Bitcoin Holdings per Unit.

Bitcoin pricing information is available on a 24-hour basis from various financial information service providers or Bitcoin Network information sites such as [Tradeblock.com](https://www.Tradeblock.com) or [Bitcoincharts.com](https://www.Bitcoincharts.com). The spot price and bid/ask spreads may also be available directly from Bitcoin exchanges. As of the date of this Information Statement, the constituent Bitcoin exchanges of the Index were [Binance.US](https://www.Binance.US), [Bitstamp](https://www.Bitstamp.com), [Bittrex](https://www.Bittrex.com), [Coinbase](https://www.Coinbase.com), [Gemini](https://www.Gemini.com), [itBit](https://www.itBit.com), and [Kraken](https://www.Kraken.com). Market prices for the Units will be available from a variety of sources, including brokerage firms, information websites and other information service providers. In addition, on each business day the Trust's website will provide pricing information for the Units.

The Trust has no fixed termination date.

## THE SPONSOR

The Trust's Sponsor is Osprey Funds, LLC, a Delaware limited liability company formed on October 31, 2018. The Sponsor's principal place of business is 520 White Plains Road, Suite 500, Tarrytown, New York, 10591 and its telephone number is (914) 214-4174. Under the Delaware Limited Liability Company Act and the governing documents of the Sponsor, is not responsible for the debts, obligations and liabilities of the Sponsor solely by reason of being the sole member of the Sponsor.

The Sponsor is neither an investment adviser registered with the SEC nor a commodity pool operator registered with the CFTC, and will not be acting in either such capacity with respect to the Trust, and the Sponsor's provision of services to the Trust will not be governed by the Advisers Act or the Commodity Exchange Act.

### **The Sponsor's Role**

The Sponsor arranged for the creation of the Trust and quotation of the Units on the OTCQX. As partial consideration for its receipt of the 0.49% Management Fee from the Trust, the Sponsor is obligated to pay the Assumed Expenses.

The Sponsor is generally responsible for the day-to-day administration of the Trust under the provisions of the Trust Agreement. This includes (i) preparing and providing periodic reports and financial statements on behalf of the Trust for investors, (ii) processing orders to create (and, should the Trust commence a redemption program, redeem) Units and coordinating the processing of such orders with the Custodian and the Transfer Agent, (iii) calculating and publishing the Bitcoin Holdings and the Bitcoin Holdings per Unit of the Trust each business day as of 4:00 p.m., New York time, or as soon thereafter as practicable, (iv) selecting and monitoring the Trust's service providers and from time to time engaging additional, successor or replacement service providers, (v) instructing the Custodian to withdraw the Trust's Bitcoin as needed to pay the Management Fee and the other Aggregate Trust Expenses, (vi) upon dissolution of the Trust, distributing the Trust's remaining Bitcoin or the cash proceeds of the sale thereof to the owners of record of the Units and (vii) when applicable, establishing the principal market for GAAP valuation. In addition, if there is a fork in the Bitcoin Network after which there is a dispute as to which network resulting from the fork is the Bitcoin Network, the Sponsor has the authority to select the network that it believes in good faith is the Bitcoin Network, unless such selection or authority would otherwise conflict with the Trust Agreement.

The Sponsor does not store, hold, or maintain custody or control of the Trust's Bitcoin but instead has entered into the Custodial Services Agreement with the Custodian to facilitate the security of the Trust's Bitcoin.

The Sponsor may transfer all or substantially all of its assets to an entity that carries on the business of the Sponsor if at the time of the transfer the successor assumes all of the obligations of the Sponsor under the Trust Agreement. In such an event, the Sponsor will be relieved of all further liability under the Trust Agreement.

The Management Fee is paid by the Trust to the Sponsor as compensation for services performed under the Trust Agreement and as partial consideration for the Sponsor's agreement to pay the specified Sponsor-paid expenses of the Trust.

### **Index Provider Agreement**

The Index Provider and the Sponsor have entered into an index provider agreement (the "Index Provider Agreement") governing the Sponsor's use of the Index for calculation of the Bitcoin Market Price. The Index Provider may adjust the calculation methodology for the Index without notice to, or consent of, the Trust or its Unitholders. Under the Index Provider Agreement, the Sponsor pays a monthly fee and a fee based on the Bitcoin Holdings of the Trust to the Index Provider in consideration of its license to the Sponsor of Index-related intellectual property.

Under the Index Provider Agreement, the Index Provider general disclaims all warranties, including non-infringement and fitness for a particular purpose. The Index is provided on an "as-is," "as available," and on an "with all faults" basis. The Index Provider, however, agreed to indemnify the Sponsor

Under the Index Provider Agreement, the Sponsor may use the Index, including without limitation, for use in internal fund administration such as portfolio valuation and accounting and for display on Sponsor's websites, social media, or mobile applications, as well as inclusion in publications, reports, advertisements and other informational materials.

The Sponsor is required to indemnify the Index Provider, including its officers, directors, employees, agents, contractors, representatives and affiliates against any claims made or brought against the Index Provider arising from Sponsor's breach, or alleged breach, of the Index Provider Agreement.

The Index Provider Agreement is governed by the laws of the Commonwealth of Massachusetts.

### **Management of the Sponsor**

Under the Trust Agreement, all management functions of the Trust have been delegated to and are conducted by the Sponsor, its agents and its affiliates, including without limitation, the Custodian and its agents. As officers of the Sponsor, Gregory D. King, the Chief Executive Officer of the Sponsor, Robert Rokose, the Chief Financial Officer of the Sponsor, and Matthew Mascera, as Director of Operations of the Sponsor, may take certain actions and execute certain agreements and certifications for the Trust, in their capacity as the principal officers of the Sponsor.

The following individuals are the officers of the Sponsor responsible for overseeing the business and operations of the Trust:

#### ***Gregory D. King, Chief Executive Officer***

Gregory D. King is Founder and CEO of Osprey Funds, LLC and has served as CEO of the Sponsor since its inception in October 2018. Greg is the primary author of several financial industry innovations including creating the first ever exchange-traded note ("ETN") for Barclays in 2006. In 2009, Greg co-founded VelocityShares, LLC, a provider of alternative ETPs, partnering with Credit Suisse as product issuer. VelocityShares was acquired by Janus Capital in 2014. During his career, Greg has created and launched over 100 exchange traded funds and notes for Barclays, Credit Suisse, Global X Funds, VelocityShares, Rex Shares, LLC, and Osprey Funds. Greg received a Master's in Business Administration from the University of California, Davis, and is a CFA Charter holder. He has been an investor in bitcoin since 2013.

#### **Robert Rokose, Chief Financial Officer and Treasurer**

Robert Rokose became Treasurer and CFO of the Sponsor in March 2020. He is also CFO of REX Shares, LLC, originally the parent company to the Sponsor. Bob has 28 years of accounting and financial services experience. His previous roles include CFO of U.S. Funds at JP Morgan Asset Management, Managing Director & CFO for PIMCO/Allianz Funds and Assistant Vice President & Assistant Controller of publicly held Lexington Global Asset Managers. Mr. Rokose has served as a Financial Services Consultant and has acted in that role since November 2016. From May 2014 to October 2016, Mr. Rokose was Chief Financial Officer and Treasurer of AccuShares Investment Management where he led all financial accounting and reporting for the organization. Bob is a Certified Public Accountant, licensed in the state of New York. He has an undergraduate degree from Pace University and a Master's of Business Administration from the University of Connecticut.

#### **Jack Drogin, General Counsel**

Jack Drogin became General Counsel and Chief Compliance Officer of the Sponsor in May 2021. He has over thirty years' experience as an attorney, including ten on the Staff of the U.S. Securities and Exchange Commission, Division of Trading and Markets, from January 1991-June 2001. Prior to joining Osprey Funds, LLC, Jack was a shareholder in the Washington, D.C. office of Murphy & McGonigle, P.C., a firm focusing on financial services law and regulation. He holds an undergraduate degree from the University of Pennsylvania and a law degree from Harvard Law School. Jack is a member of the New York and District of Columbia bars.

## THE TRUSTEE

Delaware Trust Company serves as Delaware trustee of the Trust under the Trust Agreement. The Trustee has its principal office at 251 Little Falls Drive, Wilmington, Delaware 19808. The Trustee is unaffiliated with the Sponsor. A copy of the Trust Agreement is available for inspection at the Sponsor's principal office identified above.

### **The Trustee's Role**

The Trustee is appointed to serve as the trustee of the Trust in the State of Delaware for the sole purpose of satisfying the requirement of Section 3807(a) of the DSTA that the Trust have at least one trustee with a principal place of business in the State of Delaware. The duties of the Trustee will be limited to (i) accepting legal process served on the Trust in the State of Delaware and (ii) the execution of any certificates required to be filed with the Delaware Secretary of State which the Delaware Trustee is required to execute under the DSTA. To the extent that, at law or in equity, the Trustee has duties (including fiduciary duties) and liabilities relating thereto to the Trust or the Unitholders, such duties and liabilities will be replaced by the duties and liabilities of the Trustee expressly set forth in the Trust Agreement. The Trustee will have no obligation to supervise, nor will it be liable for, the acts or omissions of the Sponsor, Transfer Agent, Custodian or any other person.

Neither the Trustee, either in its capacity as trustee or in its individual capacity, nor any director, officer or controlling person of the Trustee is, or has any liability as, the issuer, director, officer or controlling person of the issuer of Units. The Trustee's liability in connection with the issuance and sale of Units is limited solely to the express obligations of the Trustee as set forth in the Trust Agreement.

The Trustee has not prepared or verified, and will not be responsible or liable for, any information, disclosure or other statement in this Information Statement or in any other document issued or delivered in connection with the sale or transfer of the Units. The Trust Agreement provides that the Trustee will not be responsible or liable for the genuineness, enforceability, collectability, value, sufficiency, location or existence of any of the Bitcoins or other assets of the Trust. See "Description of the Trust Documents—Description of the Trust Agreement."

The Trustee is permitted to resign upon at least 60 days' notice to the Trust. The Trustee will be compensated by the Sponsor and indemnified by the Sponsor and the Trust against any expenses it incurs relating to or arising out of the formation, operation or termination of the Trust, or the performance of its duties pursuant to the Trust Agreement except to the extent that such expenses result from gross negligence, willful misconduct or bad faith of the Trustee. The Sponsor has the discretion to replace the Trustee.

Fees paid to the Trustee are a Sponsor-paid Expense.

## THE TRANSFER AGENT

Continental Stock Transfer & Trust Company, a Delaware corporation, serves as the Transfer Agent of the Trust pursuant to the terms and provisions of the Transfer Agency and Service Agreement. The Transfer Agent has its principal office at 1 State Street, 30th Floor, New York, New York 10004. A copy of the Transfer Agency and Service Agreement is available for inspection at the Sponsor's principal office identified herein.

### **The Transfer Agent's Role**

The Transfer Agent holds the Units primarily in book-entry form. The Sponsor directs the Transfer Agent to credit the number of Creation Baskets to the investor on behalf of which an Authorized Participant submitted a creation order. The Transfer Agent will issue Creation Baskets. The Transfer Agent will also assist with the preparation of Unitholders' account and tax statements.

The Sponsor will indemnify and hold harmless the Transfer Agent, and the Transfer Agent will incur no liability for the refusal, in good faith, to make transfers which it, in its judgment, deems improper or unauthorized.

Fees paid to the Transfer Agent are a Sponsor-paid Expense.



## THE CUSTODIAN

Fidelity Digital Asset Services, LLC is a qualified custodian for purposes of Rule 206(4)-2(d)(6) under the Investment Advisers Act of 1940, as amended. The Custodian is authorized to serve as the Trust's custodian under the Trust Agreement and pursuant to the terms and provisions of the Custodial Services Agreement. The Custodian has its principal office at 245 Summer Street, Boston, MA 02210. A copy of the Custodial Services Agreement is available for inspection at the Sponsor's principal office identified herein.

### The Custodian's Role

Under the Custodial Services Agreement, the Custodian controls and secures the Trust's "Digital Asset Custody Accounts," one or more custody accounts that allow for the receipt, safekeeping and maintenance of the Trust's Digital Assets (as defined in the Custodial Services Agreement) and "Cash Custody Accounts," one or more cash accounts to hold cash and monies received for deposit, on the Trust's behalf. The Custodian's services (i) allow Digital Assets to be deposited from a public blockchain address to the Trust's Digital Asset Custody Account and (ii) allow the Trust or Sponsor to withdraw Digital Assets from the Trust's Digital Asset Custody Account to a blockchain supporting the relevant Digital Asset (the "Custodial Services"). A portion of the Digital Assets held for the Trust will be held within an offline storage, or "cold" storage, system to secure the Trust's private keys. The term cold storage refers to a safeguarding method by which the private keys corresponding to digital assets are disconnected and/or deleted entirely from the internet.

The Custodian may withdraw from the Trust's Digital Assets Custody Account the amount of Digital Assets necessary to pay the Trust's expenses. Fees paid to the Custodian are a Sponsor-paid Expense.

Under the Custodial Services Agreement, the Trust has agreed to indemnify and hold harmless the Custodian from any third-party claim or third-party demand (including all court costs and reasonable attorneys' fees) arising out of or in connection with the Custodial Services Agreement or any action taken or not taken pursuant thereto, except where such claim directly results from the gross negligence, fraud or willful misconduct of the Custodian.

The Digital Assets in the Trust's custody accounts will be treated as fungible with those digital assets of other clients of the Custodian that are based on the same cryptographic protocol or consensus rules of a computer network that are also held in an omnibus wallet by the Custodian on behalf of such other clients. The Custodian has no fiduciary duty to the Trust, including with respect to the assets held in the custody accounts under the Custodial Services Agreement.

The Custodian will provide to the Trust quarterly account statements identifying the Digital Assets in the custody accounts on a quarterly basis and setting forth all transactions in the custody accounts during such quarter. Upon written request from the Sponsor, the Custodian will also provide copies of quarterly account statements to the Sponsor. In addition, the Custodian may take such steps that it determines may be necessary or advisable to inspect and protect the security of the assets and the custody accounts.

If the Custodian resigns in its capacity as custodian, the Sponsor may appoint an additional or replacement custodian and enter into a custodian agreement on behalf of the Trust with such custodian. Furthermore, the Sponsor and the Trust may use Bitcoin custody services or similar services provided by entities other than Fidelity Digital Asset Services, LLC at any time without prior notice to Fidelity Digital Asset Services, LLC.

## CONFLICTS OF INTEREST

### General

The Sponsor has not established formal procedures to resolve all potential conflicts of interest. Consequently, investors may be dependent on the good faith of the respective parties subject to such conflicts to resolve them equitably. Although the Sponsor attempts to monitor these conflicts, it is extremely difficult, if not impossible, for the Sponsor to ensure that these conflicts do not, in fact, result in adverse consequences to the Trust.

Prospective investors should be aware that the Sponsor presently intends to assert that Unitholders have, by subscribing for Units of the Trust, consented to the following conflicts of interest in the event of any proceeding alleging that such conflicts violated any duty owed by the Sponsor to investors.

### **The Sponsor**

The Sponsor has a conflict of interest in allocating its own limited resources among, when applicable, different clients and potential future business ventures, to each of which it owes fiduciary duties. Additionally, the professional staff of the Sponsor also services other affiliates of the Trust, including, Rex Shares, LLC, a company under common control with the Sponsor. Although the Sponsor and its professional staff cannot and will not devote all of its or their respective time or resources to the management of the affairs of the Trust, the Sponsor intends to devote, and to cause its professional staff to devote, sufficient time and resources to manage properly the affairs of the Trust consistent with its or their respective fiduciary duties to the Trust and others.

### **The Initial Purchaser**

As of December 31, 2020, the biggest investor in the Trust was the Initial Purchaser. Because the Initial Purchaser has no voting rights in the Trust or the Sponsor, and there are currently no redemption rights associated with the Trust, the Sponsor does not believe the Initial Purchaser is a control person of the Sponsor.

The Initial Purchaser, through the proprietary Bitcoin trading firm he operates may engage in Bitcoin trading with the Trust entities. For example, when the Sponsor receives the Management Fee in Bitcoin, it sells the Bitcoin through the open market, which may include the Individual Purchaser's proprietary Bitcoin trading firm. For this service, the Individual Purchaser's firm may earn a transaction fee, which would be borne by the Trust.

### **Proprietary Trading/Other Clients**

Because the officers of the Sponsor may trade Bitcoin for their own personal trading accounts (subject to certain internal trading policies and procedures) at the same time as they are managing the account of the Trust, prospective investors should be aware that the activities of the officers of the Sponsor, subject to their fiduciary duties, may, from time-to-time, result in their taking positions in their personal trading accounts which are opposite of the positions taken for the Trust. Records of the Sponsor's officers' personal trading accounts will not be available for inspection by Unitholders.

## **PRINCIPAL UNITHOLDERS**

The following table sets forth certain information with respect to the beneficial ownership of the Units for:

- each person that, to the Sponsor's knowledge based solely on the records of the Transfer Agent, owns beneficially a significant portion of the Units;
- each executive officer of the Sponsor individually; and
- all officers of the Sponsor as a group.

The number of Units beneficially owned and percentages of beneficial ownership set forth below are based on the number of Units outstanding as of March 31, 2021 and do not take into account ownership of the Units held through Cede & Co., a nominee of DTC, for which there is no publicly available information.

In accordance with the rules of the SEC, beneficial ownership includes voting or investment power with respect to securities.

Name and Address of Beneficial Owner	Amount and Nature of Beneficial Ownership	Percentage of Beneficial Ownership
<b>Significant Unitholders:</b>		
Celsius Network Ltd.	2,932,321	35.4%
<b>Executive Officers of the Sponsor: (1)</b>		
Gregory D. King	7,980	*0%
Robert Rokose	2,056	*0%
Jack Drogin	0	*0%
Executive officers of the Sponsor as a group	10,836	*0%

(1) The Trust does not have any directors, officers or employees. Under the Trust Agreement, all management functions of the Trust have been delegated to and are conducted by the Sponsor, its agents and its affiliates.

\* Represents beneficial ownership of less than 1%.

The business address for Celsius Network Ltd. is 1 Bartholomew Lane, London, EC2N 2AX UK. The business address for each executive officer of the Sponsor is c/o Osprey Funds, LLC, 520 White Plains Road, Suite 500, Tarrytown, New York 10591.

## DESCRIPTION OF THE UNITS

### General

The Trust is authorized under the Trust Agreement to create and issue an unlimited number of Units. The Trust issues Units only in connection with purchase orders for a minimum of \$25,000.00. The Units represent common units of fractional undivided beneficial interest in and ownership of the Trust and have no par value.

Generally, the Units may be purchased from the Trust on an ongoing basis upon the order of an Accredited Investor to purchase a minimum of \$25,000.00 of Units. Initially, each Unit represented 0.00138335 of a Bitcoin. Unitholders that are not Accredited Investors may not purchase Units from the Trust upon orders. At this time, the Trust is not operating a redemption program for Units and therefore Units are not redeemable by the Trust.

As of May 31, 2021, there were 8,287,077 Units issued and outstanding (after a four to one Unit split effective January 5, 2021 for Unitholders of record as of December 31, 2020 (the “Units Split”).

### *Recent Sales of Unregistered Units*

The Trust commenced an offering pursuant Rule 504 of Regulation D under the Securities Act (“Rule 504 Offering”) on June 1, 2020, which terminated on August 12, 2020. In the Rule 504 Offering, the Trust sold 38,546 Units to investors residing in Connecticut and New York. Purchasers in the Rule 504 Offering included non-accredited investors.

The Trust commenced a subsequent offering, which is ongoing, pursuant to Rule 506(c) of Regulation D, commencing on November 12, 2020 (the “Current Offering”), pursuant to which the Trust sold 1,215,485 restricted Units as of March 5, 2021.

### Description of Limited Rights

The Units do not represent a traditional investment and should not be viewed as similar to “shares” of a corporation operating a business enterprise with management and a board of directors. A Unitholder will not have the statutory rights normally associated with the ownership of Units of a corporation. Each Unit is transferable (except to the extent restricted under the Securities Act), is fully paid and non-assessable and entitles the holder to vote on the limited matters upon which Unitholders may vote under the Trust Agreement. For example, Unitholders do not have the right to elect directors and will not receive dividends. The Units do not entitle their holders to any conversion or pre-emptive rights or, except as discussed below, any redemption rights or rights to distributions.

## Voting and Approvals

The Unitholders take no part in the management or control of the Trust. Under the Trust Agreement, Unitholders have limited voting rights. However, no amendments to the Trust Agreement that materially adversely affect the interests of Unitholders may be made without the vote of at least a majority (over 50%) of the Units (not including any Units held by the Sponsor or its affiliates). The Sponsor may generally make any other amendments to the Trust Agreement in its sole discretion without Unitholders' consent.

## Distributions

Pursuant to the terms of the Trust Agreement, the Trust may make distributions on its Units in cash or in Units, with such frequency as the Sponsor may determine.

The Units are offered by the Trust and the Sponsor and its officers, in reliance upon the exemption from broker registration contained in Rule 3a4-1 of the Securities Exchange Act of 1934. Currently, the Trust does not expect to use underwriters, finders or other intermediaries to offer or sell Units, but it may choose to do so, and in any such case pay the fees of such intermediaries itself or pass some or all of such fees on to purchasers (in which case the Trust will make advanced disclosure of such fee arrangements to such purchasers).

In addition, if the Trust is terminated and liquidated, the Sponsor will distribute to the Unitholders any amounts of the cash proceeds (or Bitcoin) of the liquidation remaining after the satisfaction of all outstanding liabilities of the Trust and the establishment of reserves for applicable taxes, other governmental charges and contingent or future liabilities as the Sponsor will determine. Unitholders of record on the record date fixed by the Transfer Agent for a distribution will be entitled to receive their pro rata portions of any distribution.

See "Management's Discussion and Analysis of Financial Condition and Results of Operations—Review of Financial Results" for further detail.

## Issuance of Units

Generally, the Units may be purchased from the Trust on an ongoing basis upon the order of an Accredited Investor to purchase a minimum of \$25,000.00 of Units. As of May 31, 2021, each Unit represented 0.00034 of a Bitcoin. Unitholders that are not Accredited Investors may not purchase Units from the Trust upon orders. See "Description of Issuance of Units." The Trust may from time to time halt new issuances. As a result, the Units may trade at a substantial premium over, or substantial discount to, the NAV per Unit. This is because Authorized Participants would not be able to take advantage of arbitrage opportunities created when the market value of the Units deviates from the value of the Trust's Bitcoin Holdings per Unit.

## Redemption of Units

Due to regulatory restrictions, the Trust is not currently operating a redemption program, and redemptions of Units are currently not permitted. Subject to receipt of regulatory approval from the SEC and approval by the Sponsor in its sole discretion, the Trust may in the future operate a redemption program. ***Because the Trust does not believe that the SEC would, at this time, entertain an application for the waiver of rules needed in order to operate an ongoing redemption program, the Trust currently has no intention of seeking regulatory approval from the SEC to operate an ongoing redemption program.***

Even if such relief is sought, no assurance can be given as to the timing of such relief or that such relief will be granted. If such relief is granted and the Sponsor approves a redemption program, the Units will be redeemable only in accordance with the provisions of the Trust Agreement and any applicable conditions imposed by the SEC or its Staff.

## Transfer Restrictions

The Units are restricted securities that may not be resold except in transactions exempt from registration under the Securities Act and state securities laws and any such transaction must be approved by the Sponsor. In determining whether to grant approval, the Sponsor will specifically look at whether the conditions of Rule 144 under the Securities Act and any other applicable laws have been met. Any attempt to sell Units without the approval of the Sponsor in its sole discretion will be void ab initio. *A minimum one year holding period will apply to all Units purchased from the Trust, as set forth under Rule 144.* The holding period did not apply to purchases in the Rule 504 Offering.

*Because of the one-year holding period and the lack of an ongoing redemption program, Units should be considered an illiquid investment. No assurances are given that after the one year holding period, there will be any market for the resale of Units, or, if there is such a market, as to the price at which such Units may be sold into such a market.*

In addition, because the Trust Agreement prohibits the transfer or sale of Units without the prior written consent of the Sponsor, the Sponsor must provide a written consent that explicitly states that it irrevocably consents to the transfer and resale of the Units. Once the transfer restriction legends have been removed from a Unit and the Sponsor has provided its written consent to the transfer of that Unit, no consent of the Sponsor is required for future transfers of that particular Unit.

## Book-Entry Form

Units of the Trust are held primarily in book-entry form by the Transfer Agent. Transfers will be made in accordance with standard securities industry practice. The Sponsor may cause the Trust to issue Units in certificated form in limited circumstances in its sole discretion.

## Unit Splits

In its discretion, the Sponsor may direct the Transfer Agent to declare a split or reverse split in the number of Units outstanding and to make a corresponding change in the number of Units constituting a Basket. For example, if the Sponsor believes that the per Unit price in the secondary market for Units has risen or fallen outside a desirable trading price range, it may declare such a split or reverse split.

## CUSTODY OF THE TRUST'S BITCOINS

Digital assets and digital asset transactions are recorded and validated on blockchains, the public transaction ledgers of a digital asset network. Each digital asset blockchain serves as a record of ownership for all of the units of such digital asset, even in the case of certain privacy-focused digital assets, where the transactions themselves are not publicly viewable. All digital assets recorded on a blockchain are associated with a public blockchain address, also referred to as a digital wallet. Digital assets held at a particular public blockchain address may be accessed and transferred using a corresponding private key.

## Key Generation

Public addresses and their corresponding private keys are generated by the Custodian in secret key generation ceremonies at secure locations inside faraday cages, which are enclosures used to block electromagnetic fields and thus mitigate against attacks. The Custodian uses quantum random number generators to generate the public and private key pairs.

Once generated, private keys are encrypted, separated into “shards” and then further encrypted. After the key generation ceremony, all materials used to generate private keys, including computers, are destroyed. All key generation ceremonies are performed offline. No party other than the Custodian has access to the private key shards of the Trust.

## Key Storage

Private key shards are distributed geographically in secure vaults around the world, including in the United States. The locations of the secure vaults may change regularly and are kept confidential by the Custodian for security purposes.

The Bitcoin Account uses offline storage, or “cold” storage, mechanisms to secure the Trust’s private keys. The term cold storage refers to a safeguarding method by which the private keys corresponding to digital assets are disconnected and/or deleted entirely from the internet. Cold storage of private keys may involve keeping such keys on a non-networked (or “airgapped”) computer or electronic device or storing the private keys on a storage device (for example, a USB thumb drive) or printed medium (for example, papyrus, paper or a metallic object). A digital wallet may receive deposits of digital assets but may not send digital assets without use of the digital assets’ corresponding private keys. In order to send digital assets from a digital wallet in which the private keys are kept in cold storage, either the private keys must be retrieved from cold storage and entered into an online, or “hot,” digital asset software program to sign the transaction, or the unsigned transaction must be transferred to the cold server in which the private keys are held for signature by the private keys and then transferred back to the online digital asset software program. At that point, the user of the digital wallet can transfer its digital assets.

## Security Procedures

The Custodian is the custodian of the Trust’s private keys in accordance with the terms and provisions of the Custodial Services Agreement. Transfers from the Bitcoin Account requires certain security procedures, including but not limited to, multiple encrypted private key shards, usernames, passwords and 2-step verification. Multiple private key shards held by the Custodian must be combined to reconstitute the private key to sign any transaction in order to transfer the Trust’s assets. Private key shards are distributed geographically in secure vaults around the world, including in the United States.

As a result, if any one secure vault is ever compromised, this event will have no impact on the ability of the Trust to access its assets, other than a possible delay in operations, while one or more of the other secure vaults is used instead. These security procedures are intended to remove single points of failure in the protection of the Trust’s assets.

Transfers of Bitcoins to the Bitcoin Account will be available to the Trust once processed on the Blockchain.

Subject to obtaining regulatory approval to operate a redemption program and authorization of the Sponsor, the process of accessing and withdrawing Bitcoins from the Trust to redeem a Unit by a Unitholder will follow the same general procedure as transferring Bitcoins to the Trust to create a Unit by a Unitholder, only in reverse. See “Description of Issuance of Units.”

## DESCRIPTION OF ISSUANCE OF UNITS

The following is a description of the material terms of the Trust Documents as they relate to the issuance of the Trust’s Units on an ongoing basis from time to time through sales in private placement transactions exempt from the registration requirements of the Securities Act.

The Units are offered by the Trust and the Sponsor and its officers, in reliance upon the exemption from broker registration contained in Rule 3a4-1 of the Securities Exchange Act of 1934. Currently, the Trust does not expect to use underwriters, finders or other intermediaries to offer or sell Units, but it may choose to do so, and in any such case pay the fees of such intermediaries itself or pass some or all of such fees on to purchasers (in which case the Trust will make advanced disclosure of such fee arrangements to such purchasers).

The Trust Documents also provide procedures for the redemption of Units. However, the Trust does not currently operate a redemption program and the Units are not currently redeemable. Subject to receipt of regulatory approval from the SEC and approval by the Sponsor in its sole discretion, the Trust may in the future operate a redemption program. ***Because the Trust does not believe that the SEC would, at this time, entertain an application***

*for the waiver of rules needed in order to operate an ongoing redemption program, the Trust currently has no intention of seeking regulatory approval from the SEC to operate an ongoing redemption program.*

The Trust is authorized under the Trust Agreement to issue an unlimited number of Units. The Trust issues Units only in connection with purchase orders for a minimum of \$25,000.00. The Units represent common units of fractional undivided beneficial interest in and ownership of the Trust and have no par value.

The Units may be purchased from the Trust on an ongoing basis, but only upon the order of an Accredited Investor to purchase a minimum of \$25,000.00 of Units. As of May 31, 2021, each Unit represented 0.00034 of a Bitcoin.

Accredited Investors are the only persons that may place orders to purchase Units (the “Purchasers”). Each Purchaser must (i) enter into a Subscription Agreement with the Sponsor and the Trust, and (ii) if purchasing in-kind, has access to a Bitcoin wallet address previously known to the Custodian as belonging to the Purchaser (the “Purchaser Self-Administered Account”).

The creation of Units requires the delivery to the Trust of the Bitcoin Purchase Amount.

The Subscription Agreement provides the procedures for the creation of Units and for the delivery of the whole and fractional Bitcoins required for such creations. The Subscription Agreement and the related procedures attached thereto may be amended by the Sponsor and the relevant Purchaser. Under the Subscription Agreement, the Sponsor has agreed to indemnify each Purchaser against certain liabilities, including liabilities under the Securities Act.

Purchasers do not pay a transaction fee to the Trust in connection with the creation of Units, but there may be transaction fees associated with the validation of the transfer of Bitcoins by the Bitcoin Network. Purchasers who deposit Bitcoins with the Trust in exchange for Units will receive no fees, commissions or other form of compensation or inducement of any kind from either the Sponsor or the Trust, and no such person has any obligation or responsibility to the Sponsor or the Trust to effect any sale or resale of Units.

The following description of the procedures for the creation of Units is only a summary and Unitholders should refer to the relevant provisions of the Trust Agreement and the form of Subscription Agreement for more detail.

#### **Purchase Procedures**

On any business day, a Purchaser may deposit the amount of cash to purchase Units (the “Bitcoin Purchase Amount”) with Signature Bank, the Trust’s bank, and submit an order to create Units (a “Purchase Order”) from the Trust via notification to the Sponsor or its delegate in the manner provided in the Subscription Agreement. Purchase Orders must be received by 3:00 p.m., Eastern time on a business day. The Sponsor or its delegate will process Purchase Orders only from Purchasers with respect to whom a Subscription Agreement is in full force and effect.

Once the Sponsor or its delegate confirms the total amount of purchase funds for a Purchase Order, it will choose a counterparty to purchase Bitcoin on agreed upon terms. The Sponsor rotates through various counterparties based on various factors including, but not limited to, pricing, liquidity, and settlement. Upon trade confirmation with the counterparty, the Sponsor will wire funds to the trading counterparty and confirm the wallet address for the Trust to receive Bitcoin at the Custodian.

All Purchase Orders are accepted (or rejected) by the Sponsor on the business day on which the relevant Purchase Order is placed. If a Purchase Order is accepted, the Sponsor generally will fill the Purchaser’s Purchase Order within five business days immediately following the day on which the relevant Purchase Order is placed. The expense and risk of delivery, ownership and safekeeping of Bitcoins will be borne solely by the Purchaser until such Bitcoin have been received by the Trust.



## **Suspension or Rejection of Purchase Orders and Bitcoin Purchase Amount**

The delivery of the Units against deposit of the Bitcoin Purchase Amount may be suspended generally, or refused with respect to particular requested creations, during any period when the transfer books of the Sponsor or its delegate are closed or if any such action is deemed necessary or advisable by the Sponsor or its delegate or for any reason at any time or from time to time. None of the Sponsor, its delegates, or the Custodian shall be liable for the rejection or acceptance of any Purchase Order or Bitcoin Purchase Amount.

## **Tax Responsibility**

Purchasers are responsible for any transfer tax, sales or use tax, stamp tax, recording tax, value-added tax or similar tax or governmental charge applicable to the creation of Units, regardless of whether such tax or charge is imposed directly on the Purchasers, and agree to indemnify the Sponsor and the Trust if the Sponsor or the Trust is required by law to pay any such tax, together with any applicable penalties, additions to tax or interest thereon.

## **VALUATION OF BITCOIN AND DETERMINATION OF BITCOIN HOLDINGS**

The Sponsor will evaluate the Bitcoins held by the Trust and determine the Bitcoin Holdings of the Trust in accordance with the relevant provisions of the Trust Documents. The following is a description of the material terms of the Trust Documents as they relate to valuation of the Trust's Bitcoins and the Bitcoin Holdings calculations.

On each business day at 4:00 p.m., New York time, or as soon thereafter as practicable (the "Evaluation Time"), the Sponsor will evaluate the Bitcoins held by the Trust and calculate and publish the Bitcoin Holdings of the Trust. To calculate the Bitcoin Holdings, the Sponsor will:

1. Determine the Bitcoin Market Price as of such business day.
2. Multiply the Bitcoin Market Price by the Trust's aggregate number of Bitcoins owned by the Trust as of 4:00 p.m., New York time, on the immediately preceding day, less the aggregate number of Bitcoins payable as the accrued and unpaid Management Fee as of 4:00 p.m., New York time, on the immediately preceding day.
3. Add the U.S. dollar value of Bitcoins, calculated using the Bitcoin Market Price, receivable under pending Purchase Orders, if any, determined by multiplying the number of the Units represented by such Purchase Orders by the Bitcoin Purchase Amount and then multiplying such product by the Bitcoin Market Price.
4. Subtract the U.S. dollar amount of accrued and unpaid Excluded Expenses, if any.
5. Subtract the U.S. dollar amount of accrued and unpaid Extraordinary Expenses, if any.
6. Subtract the U.S. dollar amount of the Management Fee that accrues for such business day, as calculated based on the Bitcoin Holdings Fee Basis Amount for such business day.

In the event that the Sponsor determines that the primary methodology used to determine the Bitcoin Market Price is not an appropriate basis for valuation of the Trust's Bitcoins, the Sponsor will utilize the cascading set of rules as described in "Overview of the Bitcoin Industry Market—Bitcoin Value—The Bitcoin Market Price." In addition, in the event that the Trust holds any Additional Currency, the Sponsor may, at its discretion, include the value of such Additional Currency in the determination of the Bitcoin Holdings, provided that the Sponsor has determined in good faith a method for assigning an objective value to such Additional Currency. At this time, the Trust does not expect to take any Additional Currency it may hold into account for the purposes of determining the Bitcoin Holdings or the Bitcoin Holdings per Unit.

The Sponsor will publish the Bitcoin Market Price, the Trust's Bitcoin Holdings and the Bitcoin Holdings per Unit on the Trust's website as soon as practicable after its determination. If the Bitcoin Holdings and Bitcoin Holdings per Unit have been calculated using a price per Bitcoin other than the Bitcoin Market Price for such Evaluation Time, the publication on the Trust's website will note the valuation methodology used and the price per Bitcoin resulting from such calculation.

In the event of a hard fork of the Bitcoin Network, the Sponsor will, if permitted by the terms of the Trust Agreement, use its discretion to determine, in good faith, which peer-to-peer network, among a group of incompatible forks of the Bitcoin Network, is generally accepted as the network for Bitcoin and should therefore be considered the appropriate network for the Trust's purposes. The Sponsor will base its determination on a variety of then relevant factors, including (but not limited to) the following: (i) the Sponsor's beliefs regarding expectations of the core developers of Bitcoin, users, services, businesses, miners and other constituencies and (ii) the actual continued acceptance of, mining power on, and community engagement with the Bitcoin Network.

The Unitholders may rely on any evaluation furnished by the Sponsor. The determinations that the Sponsor makes will be made in good faith upon the basis of, and the Sponsor will not be liable for any errors contained in, information reasonably available to it. The Sponsor will not be liable to the Authorized Participants, the Unitholders or any other person for errors in judgment. However, the preceding liability exclusion will not protect the Sponsor against any liability resulting from gross negligence, willful misconduct or bad faith in the performance of its duties.

## **EXPENSES; SALES OF BITCOINS**

### **Expenses**

The Trust shall pay a Management Fee which accrues daily at an annual rate of 0.49% of the NAV of the Trust and is payable to the Sponsor monthly in arrears. The Management Fee is payable at the Sponsor's sole discretion, in Bitcoin or in U.S. dollars for the Bitcoin Market Price in effect for such Bitcoin at the time of payment.

At the Sponsor's election, the Sponsor may elect to (i) direct its delegates or the Custodian to withdraw the Bitcoin amount comprising the Management Fee, (ii) convert the Management Fee to USD and (iii) pay such dollar amount to the Sponsor, who will then pay itself as well as the relevant Assumed Expenses. Alternatively, the Sponsor may elect to (i) direct its delegates or the Custodian to withdraw the Bitcoin amount comprising the Management Fee, (ii) convert the Management Fee to USD and (iii) pay certain Assumed Expenses from the Management Fee and the remaining amount, if any, to the Sponsor.

As consideration for receipt of the Management Fee, the Sponsor shall assume and pay all routine and ordinary administrative and operating expenses of the Trust (the "Assumed Expenses") other than audit fees, index license fees, aggregate legal fees in excess of \$50,000 and the fees of the Custodian (the "Excluded Expenses") and Extraordinary Expenses (as defined below).

### **Extraordinary Expenses**

In certain extraordinary circumstances, the Trust may pay expenses in addition to the Management Fee and the Excluded Expenses, such as, but not limited to, taxes and governmental charges, expenses and costs, expenses and indemnities related to any extraordinary services performed by the Sponsor (or any other Service Provider, including the Trustee) on behalf of the Trust to protect the Trust or the interests of Unitholders, indemnification expenses, fees and expenses related to public trading on OTCQX (collectively, "Extraordinary Expenses").

### **Disposition of Bitcoins**

Because the Trust's Assumed Expenses are payable through the transfer of Bitcoin each month, the Sponsor, its delegates or the Custodian will withdraw Bitcoin as needed from the Bitcoin Account to pay such fees. If the Trust incurs Extraordinary Expenses in U.S. dollars, Bitcoin will be converted to U.S. dollars at the exchange rate at the time of conversion to pay these Extraordinary Expenses. Unitholders do not have the option of choosing to pay their proportionate Units of Extraordinary Expenses in lieu of having their Units of Extraordinary Expenses paid by the Trust's sale of Bitcoin. Assuming that the Trust is treated a grantor trust for U.S. federal income tax purposes, each delivery or sale of Bitcoins by the Trust for the payment of expenses by the Trust will result in a taxable event to Unitholders.

Because the number of the Trust's Bitcoin will decrease as a consequence of the payment of the Management Fee in Bitcoin or the sale of Bitcoin to pay Extraordinary Expenses (and the Trust will incur additional fees associated with converting Bitcoin into U.S. dollars), the number of Bitcoin represented by a Unit will decline at such time and the NAV of the Trust may also decrease. Accordingly, the Unitholders will bear the cost of the Management Fee and any Extraordinary Expenses.

The Sponsor will also cause the sale of the Trust's Bitcoin if the Sponsor determines that sale is required by applicable law or regulation or in connection with the termination and liquidation of the Trust. The Sponsor will not be liable or responsible in any way for depreciation or loss incurred by reason of any sale of Bitcoin.

## **STATEMENTS, FILINGS AND REPORTS**

### **Statements, Filings and Reports**

After the end of each fiscal year, the Sponsor will cause to be prepared an annual report containing audited financial statements prepared in accordance with U.S. GAAP for the Trust. The annual report will be in such form and contain such information as will be required by applicable laws, rules and regulations and may contain such additional information which the Sponsor determines shall be included. The annual report shall be filed with the SEC and OTCQX and shall be distributed to such persons and in such manner, as shall be required by applicable laws, rules and regulations. The Sponsor will also prepare, or cause to be prepared, and file any periodic reports or updates required under the Exchange Act.

The accounts of the Trust will be audited, as required by law and as may be directed by the Sponsor, by independent registered public accountants designated by the Sponsor. The accountants' report will be furnished by the Sponsor to Unitholders upon request.

The Sponsor will make elections, file tax returns and prepare, disseminate and file tax reports, as advised by its counsel or accountants and/or as required by any applicable statute, rule or regulation.

### **Fiscal Year**

The fiscal year of the Trust is the period ending December 31 of each year. The Sponsor may select an alternate fiscal year.

## **DESCRIPTION OF THE TRUST DOCUMENTS**

### **Description of the Trust Agreement**

The following is a description of the material terms of the Trust Agreement. The Trust Agreement establishes the roles, rights and duties of the Sponsor and the Trustee.

### **The Sponsor**

#### ***Liability of the Sponsor and Indemnification***

The Sponsor and its affiliates (each a "Covered Person") will not be liable to the Trust or any Unitholder for any action taken, or for refraining from taking any action in good faith, having determined that such course of conduct was in the best interests of the Trust. However, the preceding liability exclusion will not protect the Sponsor against any liability resulting from its own willful misconduct, bad faith or gross negligence in the performance of its duties.

Each Covered Person will be indemnified by the Trust and held harmless against any loss, judgment, liability, expense incurred or amount paid in settlement of any claim sustained by it in connection with the Covered Person's activities for the Trust, without fraud, gross negligence, bad faith, willful misconduct or a material breach of the Trust Agreement on the part of such indemnified party arising out of or in connection with the performance of its obligations under the Trust Agreement and under each other agreement entered into by the Sponsor in furtherance of the

administration of the Trust (including, without limiting the scope of the foregoing, any Subscription Agreement) or any actions taken in accordance with the provisions of the Trust Agreement. Such indemnity shall include payment from the Trust of the costs and expenses incurred by such indemnified party in defending itself against any claim or liability in its capacity as Sponsor. Any amounts payable to an indemnified party may be payable in advance or shall be secured by a lien on the Trust. The Sponsor may, in its discretion, undertake any action that it may deem necessary or desirable in respect of the Trust Agreement and the interests of the Unitholders and, in such event, the legal expenses and costs of any such actions shall be expenses and costs of the Trust and the Sponsor shall be entitled to be reimbursed therefor by the Trust.

### ***Fiduciary and Regulatory Duties of the Sponsor***

The Sponsor is not effectively subject to the duties and restrictions imposed on “fiduciaries” under both statutory and common law. Rather, the general fiduciary duties that would apply to the Sponsor are defined and limited in scope by the Trust Agreement.

The Trust Agreement provides that in addition to any other requirements of applicable law, no Unitholder shall have the right, power or authority to bring or maintain a derivative action, suit or other proceeding on behalf of the Trust unless two or more Unitholders who (i) are not affiliates of one another and (ii) collectively hold at least 10% of the outstanding Units join in the bringing or maintaining of such action, suit or other proceeding.

Beneficial owners may have the right, subject to certain legal requirements, to bring class actions in federal court to enforce their rights under the federal securities laws and the rules and regulations promulgated thereunder by the SEC. Beneficial owners who have suffered losses in connection with the purchase or sale of their beneficial interests may be able to recover such losses from the Sponsor where the losses result from a violation by the Sponsor of the anti-fraud provisions of the federal securities laws.

### ***Actions Taken to Protect the Trust***

The Sponsor may, in its own discretion, prosecute, defend, settle or compromise actions or claims at law or in equity that it considers necessary or proper to protect the Trust or the interests of the Unitholders. The expenses incurred by the Sponsor in connection therewith (including the fees and disbursements of legal counsel) will be expenses of the Trust and are deemed to be Extraordinary Expenses. The Sponsor will be entitled to be reimbursed for the Extraordinary Expenses.

### ***Successor Sponsors***

If the Sponsor is adjudged bankrupt or insolvent, the Sponsor may terminate and liquidate the Trust and distribute its remaining assets in the Sponsor’s capacity as Liquidating Trustee.

### **The Trustee**

The Trustee is a fiduciary under the Trust Agreement and must satisfy the requirements of Section 3807 of the Delaware Trust Statute. However, the fiduciary duties, responsibilities and liabilities of the Trustee are limited by, and are only those specifically set forth in, the Trust Agreement.

### ***Limitation on Trustee’s Liability***

Under the Trust Agreement, the Sponsor has exclusive control of the management of all aspects of the activities of the Trust and the Trustee has only nominal duties and liabilities to the Trust. The Trustee is appointed to serve as the trustee for the sole purpose of satisfying Section 3807(a) of the Delaware Statutory Trust Act (“DSTA”) which requires that the Trust have at least one trustee with a principal place of business in the State of Delaware. The duties of the Trustee are limited to (i) accepting legal process served on the Trust in the State of Delaware and (ii) the execution of any certificates required to be filed with the Delaware Secretary of State which the Trustee is required to execute under the DSTA.

To the extent the Trustee has duties (including fiduciary duties) and liabilities to the Trust or the Unitholders under the DSTA, such duties and liabilities will be replaced by the duties and liabilities of the Trustee expressly set forth in the Trust Agreement. The Trustee will have no obligation to supervise, nor will it be liable for, the acts or omissions of the Sponsor, Custodian or any other person. Neither the Trustee, either in its capacity as trustee or in its individual capacity, nor any director, officer or controlling person of the Trustee is, or has any liability as, the issuer, director, officer or controlling person of the issuer of Units. The Trustee's liability is limited solely to the express obligations of the Trustee as set forth in the Trust Agreement.

Under the Trust Agreement, the Sponsor has the exclusive management, authority and control of all aspects of the activities of the Trust. The Trustee has no duty or liability to supervise or monitor the performance of the Sponsor, nor does the Trustee have any liability for the acts or omissions of the Sponsor. The existence of a trustee should not be taken as an indication of any additional level of management or supervision over the Trust. The Trust Agreement provides that the management authority with respect to the Trust is vested directly in the Sponsor. The Trust Agreement provides that the Trustee is not responsible or liable for the genuineness, enforceability, collectability, value, sufficiency, location or existence of any of the Bitcoin or other assets of the Trust.

#### ***Possible Repayment of Distributions Received by Unitholders; Indemnification by Unitholders***

The Units are limited liability investments. Investors may not lose more than the amount that they invest plus any profits recognized on their investment. Although it is unlikely, the Sponsor may, from time to time, make distributions to the Unitholders. However, Unitholders could be required, as a matter of bankruptcy law, to return to the estate of the Trust any distribution they received at a time when the Trust was in fact insolvent or in violation of its Trust Agreement. In addition, the Trust Agreement provides that Unitholders will indemnify the Trust for any harm suffered by it as a result of Unitholders' actions unrelated to the activities of the Trust.

The foregoing repayment of distributions and indemnity provisions (other than the provision for Unitholders indemnifying the Trust for taxes imposed upon it by a state, local or foreign taxing authority, which is included only as a formality due to the fact that many states do not have statutory trust statutes therefore the tax status of the Trust in such states might, theoretically, be challenged) are commonplace in statutory trusts and limited partnerships.

#### ***Indemnification of the Trustee***

The Trustee and any of the officers, directors, employees and agents of the Trustee shall be indemnified by the Trust as primary obligor and held harmless against any loss, damage, liability, claim, action, suit, cost, expense, disbursement (including the reasonable fees and expenses of counsel), tax or penalty of any kind and nature whatsoever, arising out of, imposed upon or asserted at any time against such indemnified person in connection with the performance of its obligations under the Trust Agreement, the creation, operation or termination of the Trust or the transactions contemplated therein; provided, however, that neither the Trust shall be required to indemnify any such indemnified person for any such expenses which are a result of the willful misconduct, bad faith or gross negligence of such indemnified person.

#### ***Holding of Trust Property***

The Trust will hold and record the ownership of the Trust's assets in a manner such that it will be owned for the benefit of the Unitholders for the purposes of, and subject to and limited by the terms and conditions set forth in, the Trust Agreement. Other than issuance of the Units, the Trust will not create, incur or assume any indebtedness or borrow money from or loan money to any person. The Trustee may not commingle its assets with those of any other person.

The Trustee may employ agents, attorneys, accountants, auditors and nominees and will not be answerable for the conduct or misconduct of any such custodians, agents, attorneys or nominees if such custodians, agents, attorney and nominees have been selected with reasonable care.

### ***Resignation, Discharge or Removal of Trustee; Successor Trustees***

The Trustee may resign as Trustee by written notice of its election so to do, delivered to the Sponsor with at least 60 days' notice. The Sponsor may remove the Trustee in its discretion. If the Trustee resigns or is removed, the Sponsor, acting on behalf of the Unitholders, shall appoint a successor trustee. The successor Trustee will become fully vested with all of the rights, powers, duties and obligations of the outgoing Trustee.

### ***Amendments to the Trust Agreement***

The Sponsor may amend the Trust Agreement without the consent of any Unitholder if the amendment does not adversely affect the interests of the Unitholders or affect the allocation of profits and losses among the Unitholders or between the Unitholders and the Sponsor. Any amendment that adversely affects the rights of Unitholders, dissolves the Trust or makes any material change to the Trust's basic investment policies or structure must be approved by the affirmative vote of Unitholders owning at least 50% of the outstanding Units.

### ***Termination of the Trust***

The Trust will dissolve if any of the following events occur:

- a U.S. federal or state regulator requires the Trust to shut down or forces the Trust to liquidate its Bitcoin or seizes, impounds or otherwise restricts access to Trust assets;

- The Trust is determined to be a "money service business" under the regulations promulgated by FinCEN under the authority of the U.S. Bank Secrecy Act and is required to comply with certain FinCEN regulations thereunder, and the Sponsor has made the determination that dissolution of the Trust is advisable;

- the Trust is required to obtain a license or make a registration under any state law regulating money transmitters, money services business, providers of prepaid or stored value, virtual currency business or similar entities, and the Sponsor has made the determination that dissolution of the Trust is advisable;

- any ongoing event exists that either prevents the Trust from making or makes impractical the Trust's reasonable efforts to make a fair determination of the Bitcoin Market Price;

- any ongoing event exists that either prevents the Trust from converting or makes impractical the Trust's reasonable efforts to convert Bitcoin to U.S. Dollars;

- the filing of a certificate of dissolution or revocation of the Sponsor's charter (and the expiration of 90 days after the date of notice to the Sponsor of revocation without a reinstatement of its charter) or upon the withdrawal, removal, adjudication or admission of bankruptcy or insolvency of the Sponsor, or an event of withdrawal (each of the foregoing events an "Event of Withdrawal") unless at the time there is at least one remaining Sponsor;

- the Custodian resigns or is removed without replacement; or

- if as of December 31, 2021, the Units are not quoted and trading on a secondary market in the United States (which may include the OTCQX Venture Market tier of the OTC Markets Group, Inc., any other market operated by the OTC Markets Group, Inc., or a national securities exchange), the Sponsor shall dissolve the Trust on or before January 31, 2022.

The Sponsor may, in its sole discretion, dissolve the Trust if any of the following events occur:

- the SEC determines that the Trust is an investment company required to be registered under the Investment Company Act of 1940;
- the CFTC determines that the Trust is a commodity pool under the CEA;

- the Trust becomes insolvent or bankrupt;
- all of the Trust's assets are sold;
- the determination of the Sponsor that the aggregate net assets of the Trust in relation to the operating expenses of the Trust make it unreasonable or imprudent to continue the activities of the Trust;
- the Sponsor receives notice from the IRS or from counsel for the Trust or the Sponsor that the Trust fails to qualify for treatment, or will not be treated, as a grantor trust under the Code; or
- if the Trustee notifies the Sponsor of the Trustee's election to resign and the Sponsor does not appoint a successor trustee within 60 days, the Trust will dissolve.

The death, legal disability, bankruptcy, insolvency, dissolution, or withdrawal of any Unitholder (as long as such Unitholder is not the sole Unitholder of the Trust) shall not result in the termination of the Trust, and such Unitholder, his/her estate, custodian or personal representative shall have no right to withdraw or value such Unitholder's Units. Each Unitholder (and any assignee thereof) expressly agrees that in the event of his death, he waives on behalf of himself and his estate, and he/she directs the legal representative of his estate and any person interested therein to waive the furnishing of any inventory, accounting or appraisal of the assets of the Trust and any right to an audit or examination of the books of the Trust, except for such rights as are set forth in Article VIII of the Trust Agreement relating to the books of account and reports of the Trust.

Upon dissolution of the Trust and surrender of Units by the Unitholders, Unitholders will receive a distribution in U.S. Dollars or Bitcoin, at the sole discretion of the Sponsor, after the Sponsor has sold the Trust's Bitcoin and has paid or made provision for the Trust's claims and obligations.

### ***Governing Law***

The Trust Agreement and the rights of the Sponsor, Trustee, and Unitholders under the Trust Agreement are governed by the laws of the State of Delaware.

### **Description of the Custodial Services Agreement**

The Custodial Services Agreement establishes the rights and responsibilities of the Custodian, Sponsor, and the Trust with respect to the Digital Assets (as defined therein) in the Digital Asset Custody Account and Cash Custody Account, which together with any associated subaccounts, constitute the Trust's Custody Account, which is maintained and operated by the Custodian on behalf of the Trust.

### ***Access to the Custody Account; Transfers and Storage***

The Custodian has been engaged to keep in safe custody of the Digital Assets. The Custody Account will be controlled at all times by or on behalf of the Custodian by an affiliate of the Custodian.

The Custodian will provide the Sponsor with the information that is necessary for third parties to make deposits to the Custody Account. To support the Trust's ordinary course deposits and withdrawals, the Custodian's services will allow the Sponsor to receive a recipient address for deposits by a third party, and to initiate the transfer and broadcast to the blockchain supporting the relevant asset. The Custodian will credit all Digital Assets properly authorized by the Trust or the Sponsor to the Custody Account.

The Custodian will only allow withdrawals of Digital Assets from the Custody Account by at least two authorized representatives of the Sponsor or the Trust.



### ***Standard of Care; Limitations of Liability***

The Custodian agrees to exercise the reasonable care of a professional custodian for hire, with such standard of care being deemed satisfied if the Custodian exercises such care as it exercises with respect to any custody account, and assets of a similar type, owned by the Custodian or any of its affiliates.

The Custodian shall only be responsible for the performance of those duties as are expressly set forth in the Custodial Services Agreement, including the performance of any instructions given in accordance with it. The Custodian does not have implied duties or obligations and shall not be subject to, nor required to comply with, any other agreement to which the Trust is a party.

Pursuant to the Custodial Services Agreement, the Custodian does not warrant or guarantee the form, authenticity, value or validity of any Asset received by the Custodian. The Custodian is not responsible for the services provided by the Bitcoin Network, such as verifying and confirming transactions that are submitted to the Bitcoin Network. Furthermore, the Custodian cannot cancel or reverse a transaction that has been submitted to the Bitcoin Network, except by an instruction to halt a withdrawal of Digital Asset within three hours immediately following receipt of a confirmation provided to the Trust by the Custodian of a pending withdrawal transaction. To the extent the Custodian does not cause or contribute to a loss that the Trust or Sponsor suffers in connection with any bitcoin transaction initiated pursuant to the Custodian's services, the Custodian will have no liability for such loss.

### ***Indemnity***

The Sponsor and the Trust have agreed to indemnify and hold harmless the Custodian from and against any and all damages arising out of or caused by (whether directly or indirectly) a third-party claim arising under or in connection with the Custodial Services Agreement.

### ***Insurance***

Digital Assets are not subject to the protections or insurance provided by the Federal Deposit Insurance Corporation or the Securities Investor Protection Corporation. The Custodian has insurance as a subsidiary under its parent company, FMR LLC. Such insurance is solely for the benefit of the Custodian and does not guarantee or insure the Trust in any way. There is no third-party insurance held on behalf of the Bitcoin accounts.

### ***Fees and Expenses***

Custody Fees are paid by the Trust in accordance with a Fee Schedule to the Custodial Services Agreement.

### ***Modification of Agreement***

The Custodial Services Agreement may be modified only by written agreement signed by both the Trust and the Custodian.

### ***Governing Law***

The Custodial Services Agreement is governed by the laws of the Commonwealth of Massachusetts.

## **CERTAIN U.S. FEDERAL INCOME TAX CONSEQUENCES**

The following discussion addresses the material U.S. federal income tax consequences of the ownership of Units. This discussion does not describe all of the tax consequences that may be relevant to a beneficial owner of Units in light of the beneficial owner's particular circumstances, including tax consequences applicable to beneficial owners subject to special rules, such as:

- financial institutions;
- dealers in securities or commodities;

- traders in securities or commodities that have elected to apply a mark-to-market method of tax accounting in respect thereof;
- persons holding Units as part of a hedge, “straddle,” integrated transaction or similar transaction;
- Accredited Investors;
- U.S. Holders (as defined below) whose functional currency is not the U.S. dollar;
- entities or arrangements classified as partnerships for U.S. federal income tax purposes;
- S corporations;
- persons receiving Units as compensation;
- persons that are expatriates or former citizens or long-term residents of the U.S.;
- a “controlled foreign corporation” or a person who is treated as a “United States shareholder” thereof, a “passive foreign investment company” or a shareholder thereof, or a corporation that accumulates earnings to avoid U.S. federal income tax;
- real estate investment trusts;
- regulated investment companies; and
- tax-exempt entities, including individual retirement accounts.

This discussion applies only to Units that are held as capital assets and does not address alternative minimum tax consequences or consequences of the tax on net investment income.

If an entity or arrangement that is classified as a partnership for U.S. federal income tax purposes holds Units, the U.S. federal income tax treatment of a partner will generally depend on the status of the partner and the activities of the partnership. Partnerships holding Units and partners in those partnerships are urged to consult their tax advisers about the particular U.S. federal income tax consequences of owning Units.

This discussion is based on the Code, administrative pronouncements, judicial decisions and final, temporary and proposed Treasury regulations as of the date hereof. Changes in U.S. federal income tax law, prospective or retroactive Treasury regulations and future published rulings and administrative procedures of the IRS in response to these changes in U.S. federal income tax laws, could materially affect the tax consequences of an investor’s investment in the Units, and the tax treatment of the Trust’s investments. While some of these changes may be beneficial, others could negatively affect the after-tax returns of the Trust and its investors. Accordingly, no assurance can be given that the currently anticipated tax treatment of an investment in the Trust, or of investments made by the Trust, will not be modified by legislative, judicial, or administrative changes, possibly with retroactive effect, to the detriment of the investors. For the avoidance of doubt, this summary does not discuss any tax consequences arising under the laws of any state, local or foreign taxing jurisdiction. Unitholders are urged to consult their tax advisers about the application of the U.S. federal income tax laws to their particular situations, as well as any tax consequences arising under the laws of any state, local or foreign taxing jurisdiction.

## **Tax Treatment of the Trust**

The Sponsor intends to take the position that the Trust is properly treated as a grantor trust for U.S. federal income tax purposes. The Trust has not obtained a ruling from the IRS or an opinion of counsel as to the status of the Trust, and there cannot be any assurances as to the federal income tax classification of the Trust. Assuming that the Trust is a grantor trust, the Trust will not be subject to U.S. federal income tax. Rather, if the Trust is a grantor trust,

each beneficial owner of Units will be treated as directly owning its pro rata share of the Trust's assets and a pro rata portion of the Trust's income, gain, losses and deductions will "flow through" to each beneficial owner of Units.

The Trust will take certain positions with respect to the tax consequences of Incidental Rights and its receipt of Additional Currency. The Trust does not expect to take any Additional Currency it may hold into account for purposes of determining the Trust's Bitcoin Holdings or the Bitcoin Holdings per Unit. With respect to any fork, airdrop or similar event, the Sponsor may, in its discretion, decide to cause the Trust to distribute the Additional Currency in-kind to an agent of the Unitholders for resale by such agent, or to irrevocably abandon the Additional Currency. In the case of a distribution in-kind, the Unitholders' agent would attempt to sell the Additional Currency, and if the agent is able to do so, remit the cash proceeds to Unitholders. If the IRS were to disagree with, and successfully challenge, any of these positions, the Trust might not qualify as a grantor trust. If the Trust were treated as owning any asset other than Bitcoins as of any date on which it creates Units, it would likely cease to qualify as a grantor trust for U.S. federal income tax purposes.

Because of the evolving nature of digital currencies, it is not possible to predict potential future developments that may arise with respect to digital currencies, including forks, airdrops and other similar occurrences. Assuming that the Trust is currently a grantor trust for U.S. federal income tax purposes, certain future developments could render it impossible, or impracticable, for the Trust to continue to be treated as a grantor trust for such purposes.

If the Trust is not properly classified as a grantor trust, the Trust might be classified as a partnership for U.S. federal income tax purposes. However, due to the uncertain treatment of digital currency for U.S. federal income tax purposes, there can be no assurance in this regard. If the Trust were classified as a partnership for U.S. federal income tax purposes, the tax consequences of owning Units generally would not be materially different from the tax consequences described herein, although there might be certain differences, including with respect to timing of the recognition of taxable income or loss. In addition, tax information reports provided to beneficial owners of Units would be made in a different form. If the Trust were not classified as either a grantor trust or a partnership for U.S. federal income tax purposes, it would be classified as a corporation for such purposes. In that event, the Trust would be subject to entity-level U.S. federal income tax (currently at the rate of 21%) on its net taxable income and certain distributions made by the Trust to Unitholders would be treated as taxable dividends to the extent of the Trust's current and accumulated earnings and profits. Any such dividend distributed to a beneficial owner of Units that is a non-U.S. person for U.S. federal income tax purposes would be subject to U.S. federal withholding tax at a rate of 30% (or such lower rate as provided in an applicable tax treaty).

The remainder of this discussion is based on the assumption that the Trust will be treated as a grantor trust for U.S. federal income tax purposes.

### **Uncertainty Regarding the U.S. Federal Income Tax Treatment of Digital Currency**

Each beneficial owner of Units will be treated for U.S. federal income tax purposes as the owner of an undivided interest in the Bitcoins (and any Additional Currency) held in the Trust. Due to the new and evolving nature of digital currencies and the absence of comprehensive guidance with respect to digital currencies, many significant aspects of the U.S. federal income tax treatment of digital currency are uncertain.

In 2014, the IRS released a Notice discussing certain aspects of "convertible virtual currency" (that is, digital currency that has an equivalent value in fiat currency or that acts as a substitute for fiat currency) for U.S. federal income tax purposes and, in particular, stating that such digital currency (i) is "property" (ii) is "not treated as currency" for purposes of the rules relating to foreign currency gain or loss and (iii) may be held as a capital asset. In 2019, the IRS released a Revenue Ruling in which the IRS concluded that a hard fork on a digital currency blockchain (i) does not create taxable income if the taxpayer does not subsequently receive new units of digital currency and (ii) creates taxable ordinary income if the taxpayer receives new units of cryptocurrency by airdrop. Simultaneously with the release of the Revenue Ruling, the IRS also published the FAQs, which address, among other issues, how to determine the fair market value of digital currencies and the proper method of determining a holder's holding period and tax basis for units of digital currency (including those acquired at different times or at varying prices). However, the Notice, Revenue Ruling and FAQs do not address other significant aspects of the U.S. federal income tax treatment of digital currencies, including: (i) whether convertible virtual currencies are properly treated as "commodities" for U.S. federal income tax purposes; (ii) whether convertible virtual currencies are properly treated as "collectibles" for

U.S. federal income tax purposes; (iii) the proper method of determining a holder's holding period and tax basis for convertible virtual currencies acquired at different times or at varying prices; and (iv) whether and how a holder of convertible virtual currencies acquired at different times or at varying prices may designate, for U.S. federal income tax purposes, which of the convertible virtual currencies is transferred in a subsequent sale, exchange or other disposition. The uncertainty surrounding the U.S. federal income tax treatment of digital currencies and other digital assets could affect the performance of the Trust. Moreover, although the Revenue Ruling and FAQs address the treatment of hard forks, there continues to be uncertainty with respect to the timing and amount of the income inclusions.

There can be no assurance that the IRS will not alter its position with respect to digital currencies in the future or that a court would uphold the treatment set forth in the Notice, Revenue Ruling and FAQs. It is also unclear what additional guidance on the treatment of digital currencies for U.S. federal income tax purposes may be issued in the future. Any such alteration of the current IRS positions or additional guidance could result in adverse tax consequences for Unitholders and could have an adverse effect on the prices of digital currencies, including the price of Bitcoin in the Bitcoin markets, and therefore could have an adverse effect on the value of Units. Future developments that may arise with respect to digital currencies may increase the uncertainty with respect to the treatment of digital currencies for U.S. federal income tax purposes.

The remainder of this discussion assumes that Bitcoin, and any Additional Currency that the Trust may hold, is properly treated for U.S. federal income tax purposes as property that may be held as a capital asset and that is not currency for purposes of the provisions of the Code relating to foreign currency gain and loss.

Unitholders are urged to consult their tax advisers regarding the tax consequences of an investment in the Trust and in digital currencies in general, including, in the case of Unitholders that are generally exempt from U.S. federal income taxation, whether such Unitholders may recognize UBTI as a consequence of a fork, airdrop or similar occurrence.

### **Additional Currency**

It is possible that, in the future, the Trust will hold Additional Currency that it receives in connection with its investment in Bitcoins. The uncertainties with respect to the treatment of digital currency for U.S. federal income tax purposes, described above, apply to Additional Currency, as well as to Bitcoins. As described above, the Notice addressed only digital currency that is "convertible virtual currency," defined as digital currency that has an equivalent value in fiat currency or that acts as a substitute for fiat currency. It is conceivable that certain Additional Currency the Trust may receive in the future would not be within the scope of the Notice.

In general, it is expected that the Trust would receive Additional Currency as a consequence of a fork, an airdrop or a similar occurrence related to its ownership of Bitcoins. As described above, the Revenue Ruling and FAQs include guidance to the effect that, under certain circumstances, forks (and, presumably, airdrops) of digital currencies are taxable events giving rise to ordinary income, but there continues to be uncertainty with respect to the timing and amount of the income inclusions. The Trust's receipt of Additional Currency may give rise to other tax issues. The possibility that the Trust will receive Additional Currency thus increases the uncertainties and risks with respect to the U.S. federal income tax consequences of an investment in Units.

The Trust may distribute Additional Currency, or cash from the sale of Additional Currency, to the Unitholders. Alternatively, the Trust may form a liquidating trust to which it contributes Additional Currency and distribute interests in the liquidating trust to the Unitholders. Any such distribution will not be a taxable event for a U.S. Holder (as defined below). A U.S. Holder's tax basis in the Additional Currency distributed, whether directly or through the medium of a liquidating trust, will be the same as the U.S. Holder's tax basis in the distributed assets immediately prior to the distribution, and the U.S. Holder's tax basis in its pro rata share of the Trust's remaining assets will not include the amount of such basis. Immediately after any such distribution, the U.S. Holder's holding period with respect to the distributed Additional Currency will be the same as the U.S. Holder's holding period with respect to the distributed assets immediately prior to the distribution. A subsequent sale of the distributed Additional Currency will generally be a taxable event for a U.S. Holder.

For simplicity of presentation, the remainder of this discussion assumes that the Trust will hold only Bitcoins. However, the principles set forth in the discussion below apply to all of the assets that the Trust may hold at any time, including Additional Currency, as well as Bitcoins. Without limiting the generality of the foregoing, each beneficial owner of Units generally will be treated for U.S. federal income tax purposes as owning an undivided interest in any Additional Currency held in the Trust, and any transfers or sales of Additional Currency by the Trust (other than distributions by the Trust, as described in the preceding paragraph) will be taxable events to Unitholders with respect to which Unitholders will generally recognize gain or loss in a manner similar to the recognition of gain or loss on a taxable disposition of Bitcoins, as described below.

### **Tax Consequences to U.S. Holders**

As used herein, the term “U.S. Holder” means a beneficial owner of a Unit for U.S. federal income tax purposes that is:

- an individual who is a citizen or resident of the United States for U.S. federal income tax purposes;
- a corporation, or other entity treated as a corporation for U.S. federal income tax purposes, created or organized in or under the laws of the United States or of any political subdivision thereof; or
- an estate the income of which is subject to U.S. federal income taxation regardless of its source; or
- a trust if (a) a court within the U.S. is able to exercise primary supervision over the administration of the trust and one (1) or more U.S. persons have the authority to control all substantial decisions of the trust, or (b) it has in effect a valid election to be treated as a U.S. person for U.S. federal income tax purposes.

Except as specifically noted, the discussion below assumes that each U.S. Holder will acquire all of its Units on the same date for the same price per Unit and either solely for cash or solely for Bitcoins that were originally acquired by the U.S. Holder for cash on the same date.

As discussed in the section entitled “Description of Issuance of Units,” a U.S. Holder may be able to acquire Units of the Trust by contributing Bitcoins in-kind to the Trust. Assuming that the Trust is properly treated as a grantor trust for U.S. federal income tax purposes, such a contribution should not be a taxable event to the U.S. Holder.

For U.S. federal income tax purposes, each U.S. Holder will be treated as owning an undivided interest in the Bitcoins held in the Trust and will be treated as directly realizing its pro rata share of the Trust’s income, gains, losses and deductions. When a U.S. Holder purchases Units solely for cash, (i) the U.S. Holder’s initial tax basis in its pro rata share of the Bitcoins held in the Trust will be equal to the amount paid for the Units and (ii) the U.S. Holder’s holding period for its pro rata share of such Bitcoins will begin on the date of such purchase. When a U.S. Holder acquires Units in exchange for Bitcoins, (i) the U.S. Holder’s initial tax basis in its pro rata share of the Bitcoins held in the Trust will be equal to the U.S. Holder’s tax basis in the Bitcoins that the U.S. Holder transferred to the Trust and (ii) the U.S. Holder’s holding period for its pro rata share of such Bitcoins generally will include the period during which the U.S. Holder held the Bitcoins that the U.S. Holder transferred to the Trust. The Revenue Ruling and FAQs confirm that if a taxpayer acquires tokens of a digital currency at different times and for different prices, the taxpayer has a separate tax basis in each lot of such tokens. Under the Revenue Ruling and FAQs, if a U.S. Holder that owns more than one lot of Bitcoins contributes a portion of its Bitcoins to the Trust in exchange for Units, the U.S. Holder may designate the lot(s) from which such contribution will be made, provided that the U.S. Holder is able to identify specifically which Bitcoins it is contributing and to substantiate its tax basis in those Bitcoins. In general, if a U.S. Holder acquires Units (i) solely for cash at different prices, (ii) partly for cash and partly in exchange for a contribution of Bitcoins or (iii) in exchange for a contribution of Bitcoins with different tax bases, the U.S. Holder’s share of the Trust’s Bitcoins will consist of separate lots with separate tax bases. In addition, in this situation, the U.S. Holder’s holding period for the separate lots may be different. In addition, the Additional Currency that the Trust acquires in a hard fork or airdrop that is treated as a taxable event will constitute a separate lot with a separate tax basis and holding period.

When the Trust transfers Bitcoins to the Sponsor as payment of the Management Fee, or sells Bitcoins to fund payment of any Extraordinary Expenses, each U.S. Holder will be treated as having sold its pro rata share of those Bitcoins for their fair market value at that time (which, in the case of Bitcoins sold by the Trust, generally will be equal to the cash proceeds received by the Trust in respect thereof). As a result, each U.S. Holder will recognize gain or loss in an amount equal to the difference between (i) the fair market value of the U.S. Holder's pro rata share of the Bitcoins transferred and (ii) the U.S. Holder's tax basis for its pro rata share of the Bitcoins transferred. Any such gain or loss will be short-term capital gain or loss if the U.S. Holder's holding period for its pro rata share of the Bitcoins is one year or less and long-term capital gain or loss if the U.S. Holder's holding period for its pro rata share of the Bitcoins is more than one year. Although unclear due to lack of guidance, a U.S. Holder's tax basis in its pro rata share of any Bitcoins transferred by the Trust generally will be determined by multiplying the tax basis of the U.S. Holder's pro rata share of all of the Bitcoins held in the Trust immediately prior to the transfer by a fraction the numerator of which is the amount of Bitcoins transferred and the denominator of which is the total amount of Bitcoins held in the Trust immediately prior to the transfer. Immediately after the transfer, the U.S. Holder's tax basis in its pro rata share of the Bitcoins remaining in the Trust will be equal to the tax basis of its pro rata share of the Bitcoins held in the Trust immediately prior to the transfer, less the portion of that tax basis allocable to its pro rata share of the Bitcoins transferred.

As noted above, the IRS has taken the position in the Revenue Ruling and FAQs that, under certain circumstances, a hard fork of a digital currency constitutes a taxable event giving rise to ordinary income, and it is clear from the reasoning of the Revenue Ruling and FAQs that the IRS generally would treat an airdrop as a taxable event giving rise to ordinary income. Under the Revenue Ruling and FAQs, a U.S. Holder will have a basis in any Additional Currency received in a fork or airdrop equal to the amount of income the U.S. Holder recognizes as a result of such fork or airdrop and the U.S. Holder's holding period for such Additional Currency will begin as of the time it recognizes such income.

U.S. Holders' pro rata shares of the expenses incurred by the Trust will be treated as "miscellaneous itemized deductions" for U.S. federal income tax purposes. As a result, for taxable years beginning before January 1, 2026, a non-corporate U.S. Holder's share of these expenses will not be deductible for U.S. federal income tax purposes. For taxable years beginning on or after January 1, 2026, a non-corporate U.S. Holder's share of these expenses will be deductible for regular U.S. federal income tax purposes only to the extent that the U.S. Holder's share of the expenses, when combined with other "miscellaneous itemized deductions," exceeds 2% of the U.S. Holder's adjusted gross income for the particular year, will not be deductible for U.S. federal alternative minimum tax purposes and will be subject to certain other limitations on deductibility.

On a sale or other disposition of Units and although unclear due to lack of guidance, a U.S. Holder will be treated as having sold the Bitcoins underlying such Units. Accordingly, the U.S. Holder generally will recognize gain or loss in an amount equal to the difference between (i) the amount realized on the sale of the Units and (ii) the portion of the U.S. Holder's tax basis in its pro rata share of the Bitcoins held in the Trust that is attributable to the Units that were sold or otherwise subject to a disposition. Such tax basis generally will be determined by multiplying the tax basis of the U.S. Holder's pro rata share of all of the Bitcoins held in the Trust immediately prior to such sale or other disposition by a fraction the numerator of which is the number of Units disposed of and the denominator of which is the total number of Units held by such U.S. Holder immediately prior to such sale or other disposition (such fraction, expressed as a percentage, the "Unit Percentage"). If the U.S. Holder's share of the Trust's Bitcoins consists of separate lots with separate tax bases and/or holding periods, the U.S. Holder should be treated as having sold the Unit Percentage of each such lot. Gain or loss recognized by a U.S. Holder on a sale or other disposition of Units will generally be short-term capital gain or loss if the U.S. Holder's holding period for the Bitcoins underlying such Units is one year or less and long-term capital gain or loss if the U.S. Holder's holding period for the Bitcoins underlying such Units is more than one year. The deductibility of capital losses is subject to significant limitations.

After any sale or other disposition of fewer than all of a U.S. Holder's Units, the U.S. Holder's tax basis in its pro rata share of the Bitcoins held in the Trust immediately after the disposition will equal the tax basis in its pro rata share of the total amount of the Bitcoins held in the Trust immediately prior to the disposition, less the portion of that tax basis that is taken into account in determining the amount of gain or loss recognized by the U.S. Holder on the disposition.



Any brokerage or other transaction fee incurred by a U.S. Holder in purchasing Units generally will be added to the U.S. Holder's tax basis in the underlying assets of the Trust. Similarly, any brokerage fee or other transaction fee incurred by a U.S. Holder in selling Units generally will reduce the amount realized by the U.S. Holder with respect to the sale.

In the absence of guidance to the contrary, it is possible that any income recognized by a U.S. tax-exempt Unitholder as a consequence of a hard fork, airdrop or similar occurrence would constitute UBTI. A tax-exempt Unitholder should consult its tax advisor regarding whether such Unitholder may recognize some UBTI as a consequence of an investment in Units.

### **Tax Consequences to Non-U.S. Holders**

As used herein, the term "non-U.S. Holder" means a beneficial owner of a Unit for U.S. federal income tax purposes that is not a U.S. Holder. The term "non-U.S. Holder" does not include (i) a nonresident alien individual who is present in the United States for 183 days or more in a taxable year, (ii) a former U.S. citizen or U.S. resident or an entity that has expatriated from the United States; (iii) a person whose income in respect of Units is effectively connected with the conduct of a trade or business in the United States; or (iv) an entity that is treated as a partnership for U.S. federal income tax purposes. Unitholders described in the preceding sentence should consult their tax advisers regarding the U.S. federal income tax consequences of owning Units.

A non-U.S. Holder generally will not be subject to U.S. federal income or withholding tax with respect to its share of any gain recognized on the Trust's transfer of Bitcoins in payment of the Management Fee or any Additional Trust Expense or on the Trust's sale or other disposition of Bitcoins, subject to compliance with certification as a non-U.S. Holder. In addition, assuming that the Trust holds no asset other than Bitcoins, a non-U.S. Holder generally will not be subject to U.S. federal income or withholding tax with respect to any gain it recognizes on a sale or other disposition of Units. A non-U.S. Holder also will generally not be subject to U.S. federal income or withholding tax with respect to any distribution received from the Trust, whether in cash or in-kind.

Provided that it does not constitute income that is treated as "effectively connected" with the conduct of a trade or business in the United States, U.S.-source "fixed or determinable annual or periodical" ("FDAP") income received, or treated as received, by a non-U.S. Holder will generally be subject to U.S. withholding tax at the rate of 30% (subject to possible reduction or elimination pursuant to an applicable tax treaty and to statutory exemptions such as the portfolio interest exemption). Although there is no guidance on point, it is likely that any ordinary income recognized by a non-U.S. Holder as a result of a fork, airdrop or similar occurrence may constitute FDAP income. It is unclear, however, whether any such FDAP income would be properly treated as U.S.-source or foreign-source FDAP income. Non-U.S. Holders in the Trust should assume that, in the absence of guidance, a withholding agent (including the Sponsor) is likely to withhold 30% from a non-U.S. Holder's pro rata share of any such income, including by deducting such withheld amounts from proceeds that such non-U.S. Holder would otherwise be entitled to receive in connection with a distribution of Additional Currency or proceeds from the disposition of Additional Currency. A non-U.S. Holder that is a resident of a country that maintains an income tax treaty with the United States may be eligible to claim the benefits of that treaty to reduce or eliminate, or to obtain a partial or full refund of, the 30% U.S. withholding tax on its share of any such income, but only if the non-U.S. Holder's home country treats the Trust as "fiscally transparent," as defined in applicable Treasury regulations.

Although the nature of the Additional Currency that the Trust may hold in the future is uncertain, it is unlikely that any such asset would give rise to income that is treated as "effectively connected" with the conduct of a trade or business in the United States or that any income derived by a non-U.S. Holder from any such asset would otherwise be subject to U.S. income or withholding tax, except as discussed above in connection with the fork, airdrop or similar occurrence giving rise to Additional Currency. There can, however, be no complete assurance in this regard.

In order to prevent the possible imposition of U.S. "backup" withholding and (if applicable) to qualify for a reduced rate of withholding tax at source under a treaty, a non-U.S. Holder must comply with certain certification requirements (generally, by delivering a properly executed IRS Form W-8BEN or W-8BEN-E to the relevant withholding agent).



## **U.S. Information Reporting and Backup Withholding**

The Trust or the appropriate broker will file certain information returns with the IRS and provide Unitholders with information regarding their annual income (if any) and expenses with respect to the Trust in accordance with applicable Treasury regulations.

A U.S. Holder will generally be subject to information reporting requirements and backup withholding unless (i) the U.S. Holder is a corporation or other exempt recipient or (ii) in the case of backup withholding, the U.S. Holder provides a correct taxpayer identification number and certifies that it is not subject to backup withholding. In order to avoid the information reporting and backup withholding requirements, a non-U.S. Holder may have to comply with certification procedures to establish that it is not a U.S. person. The amount of any backup withholding will be allowed as a credit against the Unitholder's U.S. federal income tax liability and may entitle the holder to a refund, provided that the required information is furnished to the IRS.

## **ERISA AND RELATED CONSIDERATIONS**

### **General**

The following section sets forth certain consequences under ERISA and the Code which a fiduciary of an "employee benefit plan" as defined in and subject to the fiduciary responsibility provisions of ERISA, or of a "plan" as defined in and subject to Section 4975 of the Code, who has investment discretion should consider before deciding to acquire Units with plan assets (such "employee benefit plans" and "plans" being referred to herein as "Plans," and such fiduciaries with investment discretion being referred to herein as "Plan Fiduciaries"). The following summary is not intended to be complete, but only to address certain questions under ERISA and the Code that are likely to be raised by the Plan Fiduciary's own counsel.

\* \* \*

In general, the terms "employee benefit plan" as defined in ERISA and "plan" as defined in Section 4975 of the Code together refer to any plan or account of various types which provides retirement benefits or welfare benefits to an individual or to an employer's employees and their beneficiaries. Such plans and accounts include, but are not limited to, corporate pension and profit sharing plans, "simplified employee pension plans," Keogh plans for self-employed individuals (including partners), individual retirement accounts described in Section 408 of the Code and medical benefit plans.

Each Plan Fiduciary must give appropriate consideration to the facts and circumstances that are relevant to an investment in the Trust, including the role an investment in the Trust plays in the Plan's investment portfolio. To the extent required by applicable law, each Plan Fiduciary must be satisfied that investment in the Trust is a prudent investment for the Plan, that the investments of the Plan, including the investment in the Trust, are diversified so as to minimize the risks of large losses, that an investment in the Trust complies with the documents and instruments of the Plan and related trust and that an investment in the Trust does not give rise to a transaction prohibited by Section 406 of ERISA or Section 4975 of the Code for which no exemption is available.

EACH PLAN FIDUCIARY CONSIDERING ACQUIRING UNITS SHOULD CONSULT ITS OWN LEGAL AND TAX ADVISERS BEFORE DOING SO.

### **Restrictions on Investments by Benefit Plan Investors**

ERISA and a regulation issued thereunder contain rules for determining when an investment by a Plan in an entity will result in the underlying assets of the entity being deemed assets of the Plan for purposes of ERISA and Section 4975 of the Code (i.e., "plan assets"). Those rules provide that assets of an entity will not be plan assets of a Plan that purchases an interest therein if the investment in the entity by all "benefit plan investors" is not "significant" or certain other exceptions apply. The term "benefit plan investors" includes all Plans (i.e., all "employee benefit plans" as defined in and subject to the fiduciary responsibility provisions of ERISA and all "plans" as defined in and subject to Section 4975 of the Code) and all entities that hold "plan assets" (each, a "Plan Assets Entity") due to

investments made in such entities by already described benefit plan investors. ERISA provides that a Plan Assets Entity is considered to hold plan assets only to the extent of the percentage of the Plan Assets Entity's equity interests held by benefit plan investors. In addition, all or part of an investment made by an insurance company using assets from its general account may be treated as a benefit plan investor. Investments by benefit plan investors will be deemed not significant if benefit plan investors own, in the aggregate, less than 25% of the total value of each class of equity interests of the entity (determined by not including the investments of persons with discretionary authority or control over the assets of such entity, of any person who provides investment advice for a fee (direct or indirect) with respect to such assets, and "affiliates" (as defined in the regulations issued under ERISA) of such persons; provided, however, that under no circumstances are investments by benefit plan investors excluded from such calculation).

In order to avoid causing assets of the Trust to be "plan assets," the Sponsor intends to restrict the aggregate investment by "benefit plan investors" to under 25% of the total value of the Units of the Trust (not including the investments of the Trustee, the Sponsor, any other person who provides investment advice for a fee (direct or indirect) with respect to the assets of the Trust, any other person who has discretionary authority or control over the assets of the Trust, and any entity (other than a benefit plan investor) that is directly or indirectly through one or more intermediaries controlling, controlled by or under common control with any of such entities (including a partnership or other entity for which the Sponsor is the general partner, managing member, investment adviser or provides investment advice), and each of the principals, officers, and employees of any of the foregoing entities who has the power to exercise a controlling influence over the management or policies of such entity or the Trust). Furthermore, because the 25% test is ongoing, it not only restricts additional investments by benefit plan investors, but also can cause the Sponsor to require that existing benefit plan investors redeem from the Trust in the event that other investors redeem their Units. If rejection of subscriptions or such compulsory redemptions are necessary, as determined by the Sponsor, to avoid causing the assets of the Trust to be "plan assets," the Sponsor will effect such rejections or redemptions in such manner as the Sponsor, in its sole discretion, determines.

However, there is no assurance that the Sponsor will succeed in avoiding the assets of the Trust being treated as "plan assets." If the assets of the Trust were to constitute "plan assets" for purposes of ERISA and/or Section 4975 of the Code, the fiduciary responsibility rules of ERISA and the prohibited transaction rules of ERISA and Section 4975 of the Code, as applicable, could potentially limit the investments and operations of the Trust, which could result in a lower return than might otherwise be the case. In addition, if ERISA were to apply, the fiduciary who made the decision to invest a Plan Asset Entity's assets in the Trust could, under certain circumstances, be liable under ERISA as a co-fiduciary for actions taken by the Trustee or Sponsor on behalf of the Trust.

### **Ineligible Purchasers**

In general, Units may not be purchased with the assets of a Plan if the Trustee, the Sponsor, any of their respective affiliates or any of their respective employees either: (i) has investment discretion with respect to the investment of such Plan assets; (ii) has authority or responsibility to give or regularly gives investment advice with respect to such Plan assets, for a fee, and pursuant to an agreement or understanding that such advice will serve as a primary basis for investment decisions with respect to such Plan assets and that such advice will be based on the particular investment needs of the Plan; or (iii) is an employer maintaining or contributing to such Plan. A party that is described in clause (i) or (ii) of the preceding sentence is a fiduciary under ERISA and the Code with respect to the Plan, and any such purchase might result in a "prohibited transaction" under ERISA and the Code, resulting in possible liabilities and penalties for the responsible Plan fiduciaries and the parties engaging in the transaction with the Plan. A prohibited transaction involving an individual retirement account ("IRA") and the individual who established the IRA, or his or her beneficiaries, could result in loss of the IRA's tax-exempt status and assessment of taxes and penalties.

### **Reporting Requirements**

Plans are required to determine the fair market value of their assets as of the close of each Plan's fiscal year. ERISA Plans and IRAs are also required to file annual reports (Form 5500 series and Form 5498) with the U.S. Department of Labor or the Internal Revenue Service. To facilitate fair market value determinations, and to enable fiduciaries of Plans to satisfy their annual reporting requirements as they relate to an investment in the Trust, Unitholders will be furnished annually with audited financial statements as described in this Information Statement. There can be no assurance (i) that any value established on the basis of such statements could or will actually be

realized by investors upon the liquidation of Units, (ii) that investors could realize such value if they were able to, and were to sell their Units, or (iii) that such value will in all circumstances satisfy the applicable ERISA or Code reporting requirements.

In addition, the fiduciaries of an ERISA Plan investing in the Trust are notified that the information in this Information Statement in relation to (i) the compensation or other amounts received by the Trustee, the Sponsor, and other parties in connection with their services rendered to the Trust or their position with the Trust; (ii) the services provided by them to the Trust for such compensation or in connection with such other amounts received, and the purpose therefor; (iii) a description of the formula or other bases used to calculate the compensation or other amounts received; and (iv) the identity of the parties paying and receiving the compensation or other amounts, is intended to satisfy the alternative reporting option with respect to payments to such parties that are reportable on Schedule C of the Plan's Form 5500.

### **Non-ERISA Plans**

Governmental plans, certain church plans (those that have not elected to become subject to ERISA), and non-U.S. plans, while not subject to the fiduciary responsibility provisions of ERISA or the prohibited transaction rules of Section 4975 of the Code, may nevertheless be subject to state, local, or other federal laws, or foreign laws, that are substantially similar to some or all of the foregoing provisions of ERISA and the Code. Thus, while the above-described prohibited transaction provisions of ERISA and the Code may not apply to such plans, those responsible for the investment of the assets of such plans should consider other potentially applicable similar restrictions under other laws. Such potential restrictions may include prohibitions against certain related-party transactions under Section 503 of the Code, applicable state, local, federal, or non-U.S. laws, and the restrictions and duties of common law.

Except as otherwise set forth, the foregoing statements regarding the consequences under ERISA and the Code of an investment in the Trust are based on the provisions of the Code and ERISA as currently in effect, and the existing administrative and judicial interpretations thereunder. No assurance can be given that administrative, judicial or legislative changes will not occur that may make the foregoing statements incorrect or incomplete.

ACCEPTANCE OF SUBSCRIPTIONS ON BEHALF OF PLANS IS IN NO RESPECT A REPRESENTATION BY THE SPONSOR OR ANY OTHER PARTY RELATED TO THE TRUST THAT THIS INVESTMENT MEETS THE RELEVANT LEGAL REQUIREMENTS WITH RESPECT TO INVESTMENTS BY ANY PARTICULAR PLAN OR THAT THIS INVESTMENT IS APPROPRIATE FOR ANY PARTICULAR PLAN. THE PERSON WITH INVESTMENT DISCRETION SHOULD CONSULT WITH HIS OR HER ATTORNEY AND FINANCIAL ADVISERS AS TO THE PROPRIETY OF AN INVESTMENT IN THE TRUST, IN LIGHT OF THE CIRCUMSTANCES OF THE PARTICULAR PLAN.

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## REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the Investors and Sponsor of  
Osprey Bitcoin Trust

### Opinion on the financial statements

We have audited the accompanying statements of assets and liabilities, including the schedules of investment, of Osprey Bitcoin Trust (a Delaware Statutory Trust) (the "Trust") as of December 31, 2020 and 2019, and the related statements of operations and changes in net assets for the year ended December 31, 2020 and for the period from January 22, 2019 (commencement of operations) to December 31, 2019, and the related notes (collectively referred to as the "financial statements"). In our opinion, the financial statements present fairly, in all material respects, the financial position of the Trust as of December 31, 2020 and 2019, and the results of its operations for the year ended December 31, 2020 and for the period from January 22, 2019 (commencement of operations) to December 31, 2019, in conformity with accounting principles generally accepted in the United States of America.

### Basis for opinion

These financial statements are the responsibility of the Trust's management. Our responsibility is to express an opinion on the Trust's financial statements based on our audits. We are a public accounting firm registered with the Public Company Accounting Oversight Board (United States) ("PCAOB") and are required to be independent with respect to the Trust in accordance with U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audits in accordance with the standards of the PCAOB and in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement, whether due to error or fraud. The Trust is not required to have, nor were we engaged to perform, an audit of its internal control over financial reporting. As part of our audits we are required to obtain an understanding of internal control over financial reporting but not for the purpose of expressing an opinion on the effectiveness of the Trust's internal control over financial reporting. Accordingly, we express no such opinion.

Our audits included performing procedures to assess the risks of material misstatement of the financial statements, whether due to error or fraud, and performing procedures that respond to those risks. Such procedures include examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements. Our audits also included evaluating the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the financial statements. We believe that our audits provide a reasonable basis for our opinion.

/s/ GRANT THORNTON LLP

We have served as the Trust's auditor since 2019.

New York, New York  
July 8, 2021

# Osprey Bitcoin Trust

## Statements of Assets and Liabilities

### December 31, 2020 and December 31, 2019

(Amounts in U.S. dollars, except units issued and outstanding)

	December 31, 2020	December 31, 2019
<b>Assets</b>		
Investment in Bitcoin, at fair value (cost \$7,980,103 and \$4,933,869, respectively)	\$ 44,946,574	\$ 9,846,468
Cash	25,235	-
<b>Total Assets</b>	<u>\$ 44,971,809</u>	<u>\$ 9,846,468</u>
<b>Liabilities</b>		
Subscriptions received in advance	\$ 25,000	\$ -
Sponsor's Fee payable	18,459	9,333
Other payable	21,668	-
<b>Total Liabilities</b>	<u>65,127</u>	<u>9,333</u>
<b>Net assets</b>	<u>\$ 44,906,682</u>	<u>\$ 9,837,135</u>
<b>Net assets</b>		
Paid-in Capital	\$ 9,837,135	\$ 4,975,161
Subscriptions	3,175,825	-
Net investment loss	(169,129)	(97,387)
Net realized gain on investment in Bitcoin	18,466	46,753
Net change in unrealized appreciation on investment in Bitcoin	32,044,385	4,912,608
	<u>\$ 44,906,682</u>	<u>\$ 9,837,135</u>
Units issued and outstanding, no par value (unlimited Units authorized)	4,529,312 *	3,980,128 *
Net asset value per Unit	<u>\$ 9.91 *</u>	<u>\$ 2.47 *</u>

\* Units have been adjusted retroactively to reflect the 4:1 stock split effective January 5, 2021.

The accompanying notes are an integral part of these financial statements.

**Osprey Bitcoin Trust**  
**Schedules of Investment**  
**December 31, 2020 and December 31, 2019**

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**December 31, 2020**

	<b>Units</b>	<b>Fair Value</b>	<b>Percentage of Net Assets</b>
<b>Investment in Bitcoin</b> , at fair value (cost \$7,980,103)	<u>1,548.46</u>	<u>\$ 44,946,574</u>	<u>100%</u>

**December 31, 2019**

	<b>Units</b>	<b>Fair Value</b>	<b>Percentage of Net Assets</b>
<b>Investment in Bitcoin</b> , at fair value (cost \$4,933,869)	<u>1,376.48</u>	<u>\$ 9,846,468</u>	<u>100%</u>

The accompanying notes are an integral part of these financial statements.



**Osprey Bitcoin Trust**  
**Statements of Operations**  
**For the period from January 22, 2019 (commencement of operations) to December 31, 2019 and for the year ended December 31, 2020**

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(Amounts in U.S. dollars)

	For the year ended December 31, 2020	For the period from January 22, 2019 (commencement of operations) to December 31, 2019
<b>Expenses</b>		
Sponsor's Fee	\$ 132,210	\$ 97,387
Other	36,919	-
<b>Net investment loss</b>	<u>(169,129)</u>	<u>(97,387)</u>
<b>Net realized gain and net change in unrealized appreciation on investment in Bitcoin</b>		
Net realized gain on investment in Bitcoin	18,466	46,753
Net change in unrealized appreciation on investment in Bitcoin	32,044,385	4,912,608
<b>Net increase in net assets resulting from operations</b>	<u>\$ 31,893,722</u>	<u>\$ 4,861,974</u>

The accompanying notes are an integral part of these financial statements.

**Osprey Bitcoin Trust**  
**Statements of Changes in Net Assets**  
**For the period from January 22, 2019 (commencement of**  
**operations) to December 31, 2019 and for the year ended**  
**December 31, 2020**

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(Amounts in U.S. dollars, except units issued and outstanding)

	For the year ended December 31, 2020	For the period from January 22, 2019 (commencement of operations) to December 31, 2019
<b>Increase in net assets from operations</b>		
Net investment loss	\$ (169,129)	\$ (97,387)
Net realized gain on investment in Bitcoin	18,466	46,753
Net change in unrealized appreciation on investment in Bitcoin	32,044,385	4,912,608
Net increase in net assets resulting from operations	<u>31,893,722</u>	<u>4,861,974</u>
Net assets at the beginning of the period	9,837,135	-
Subscriptions	<u>3,175,825</u>	<u>4,975,161</u>
Net assets at the end of the period	<u>\$ 44,906,682</u>	<u>\$ 9,837,135</u>
<b>Change in Units Outstanding</b>		
Units outstanding at the beginning of the period	3,980,128 *	-
Subscriptions	<u>549,184 *</u>	<u>3,980,128 *</u>
Units outstanding at the end of the period	<u>4,529,312 *</u>	<u>3,980,128 *</u>

\* Units have been adjusted retroactively to reflect the 4:1 stock split effective January 5, 2021.

The accompanying notes are an integral part of these financial statements.

# Osprey Bitcoin Trust

## Notes to the Financial Statements

### As of December 31, 2020

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#### 1. Organization

Osprey Bitcoin Trust (the “Trust” or “Fund”) is a Delaware Statutory Trust that was formed on January 3, 2019 and commenced operations on January 22, 2019 and is governed by the Second Amended and Restated Declaration of Trust and Trust Agreement (the “Trust Agreement”) dated November 1, 2020. In general, the Trust holds Bitcoin and, from time to time, issues common units of fractional undivided beneficial interest (“Units”) in exchange for Bitcoin. The investment objective of the Trust is for the Units to track the price of Bitcoin, as measured at 4:00 p.m. Eastern Time using the CMBI Index Bitcoin rate shown under the Coin Metrics Bletchley Indexes and administrated by Coin Metrics (“CMBI Price”), less liabilities and expenses of the Trust. The Units are designed as a convenient and cost-effective method for investors to gain investment exposure to Bitcoin similar to a direct investment in Bitcoin.

Osprey Funds LLC (the “Sponsor”) acts as the sponsor of the Trust. The Sponsor is responsible for the day-to-day administration of the Trust pursuant to the provisions of the Trust Agreement. The Sponsor is responsible for preparing and providing annual reports on behalf of the Trust to investors and is also responsible for selecting and monitoring the Trust’s service providers. As partial consideration for the Sponsor’s services, the Trust pays the Sponsor a Management Fee as discussed in Notes 2 and 5.

The custodian of the Trust (the “Custodian”) is responsible for safeguarding the Bitcoin, Incidental Rights, and IR Virtual Currency held by the Trust. The Trust’s original Custodian was Xapo, Inc. (“Xapo”), a third-party provider (Xapo was acquired by Coinbase Custody Trust Company, LLC during 2019). During March 2020, the Trust changed custodians from Xapo to Unchained Capital. During June 2020, the Trust changed custodians to Fidelity Digital Assets.

The transfer agent for the Trust (the “Transfer Agent”) is Continental Stock Transfer & Trust Company. The responsibilities of the transfer agent are to the issuance and redemption of Units, the payment, if any, of distributions with respect to the Units, the recording of the issuance of the Units and the maintaining of certain records therewith.

The Trust generally records receipt of a new digital asset created due to a hard fork at the time the hard fork is effective. The Trust’s methodology for determining effectiveness of the fork is when two or more recognized exchanges quote prices for the forked coin. The Trust may receive “airdrops” of new digital assets. The use of airdrops is generally to promote the launch and use of new digital assets by providing a small amount of such new digital assets to the private wallets or exchange accounts that support the new digital asset and that hold existing related digital assets. Unlike hard forks, airdropped digital assets can have substantially different blockchain technology that has no relation to any existing digital asset, and many airdrops may be without value. The Trust records receipt of airdropped digital assets when received if there is value to the Trust in doing so. Digital assets received from airdrops have no cost basis and the Trust recognizes unrealized gains equal to the fair value of the new digital asset received.

# Osprey Bitcoin Trust

## Notes to the Financial Statements

### As of December 31, 2020

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## 2. Summary of Significant Accounting Policies

### Basis of Presentation

The financial statements have been prepared in accordance with generally accepted accounting principles in the United States ("GAAP"). The Trust qualifies as an investment company for accounting purposes pursuant to the accounting and reporting guidance under Financial Accounting Standards Board ("FASB") Accounting Standards Codification ("ASC") Topic 946, Financial Services – Investment Companies. The Trust uses fair value as its method of accounting for Bitcoin in accordance with its classification as an investment company for accounting purposes. The Trust is not registered under the Investment Company Act of 1940.

### Use of Estimates

GAAP requires management to make estimates and assumptions that affect the reported amounts in the financial statements and accompanying notes. The most significant estimate in the financial statements is the fair value of investments. Actual results could differ from those estimates and these differences could be material.

### Cash

Cash is received by the Trust and held for investment in bitcoin. Cash held by the Trust represents deposits maintained with Signature Bank (New York), in amounts that did not exceed the FDIC insured limits.

### Subscriptions and Redemptions of Units

Proceeds received by the Trust from the issuance and sale of Units consist of bitcoin deposits and forked or airdropped cryptocurrency coins from the Bitcoin Network, or their respective U.S. dollar cash equivalents. Such Bitcoins (or cash equivalent) will only be (1) owned by the Trust and held by the Custodian (or, if cash, used by the Sponsor to purchase Bitcoins to be held by the Custodian), (2) disbursed (or converted to U.S. dollars, if necessary) to pay the Trust's expenses, (3) distributed to Accredited Investors (subject to obtaining regulatory approval from the Securities and Exchange Commission ("SEC") described below) in connection with the redemption of Units, (4) distributed (or converted to U.S. dollars, prior to distribution, to Unitholders as dividends, and (5) liquidated in the event that the Trust terminates or as otherwise required by law or regulation.

The Trust conducts its transactions in Bitcoin, including receiving Bitcoin for the creation of Units and delivering Bitcoin for the redemption of Units (if a redemption program were to be established) and for the payment of the Sponsor's Fee.

# Osprey Bitcoin Trust

## Notes to the Financial Statements

### As of December 31, 2020

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During June 2020 the Trust began a continuous offering of up to \$5,000,000 of Units with no par value, each Unit representing a fractional undivided beneficial interest in the Trust. 154,183 Units were sold to both accredited and non-accredited investors in an offering of to \$5,000,000 of Units, dated June 1, 2020, registered in Connecticut and qualified in New York, pursuant to Rule 504 of Regulation D under the Securities Act (“Rule 504 Offering”). The Rule 504 Offering closed on August 12, 2020. These Units have been adjusted retroactively to reflect the 4:1 stock split effective January 5, 2021.

On November 12, 2020, the Trust began an offering of an unlimited number of Units pursuant to Rule 506(c) under the Securities Act (“November 2020 Offering”). 395,000 Units were sold pursuant to the November 2020 Offering. These Units have been adjusted retroactively to reflect the 4:1 stock split effective January 5, 2021.

On December 30, 2020, the Sponsor of the Trust announced that it had declared a four to one split of the Trust’s issued and outstanding Units of fractional undivided beneficial interest. With the Unit split, Unitholders of record on December 31, 2020 received four additional Units of the Trust for each Unit held. The effective date of the split was January 5, 2021.

As of December 31, 2020, there were 4,529,312 Units issued and outstanding. 4,529,312 of the Units are restricted and may not be resold absent registration or an applicable exemption from registration under the Securities Act. These Units have been adjusted retroactively to reflect the 4:1 stock split effective January 5, 2021.

The Trust is currently unable to redeem Units. At some date in the future, the Trust may seek approval from the SEC to operate an ongoing redemption program.

#### Investment Transactions and Revenue Recognition

The Trust records its investment transactions on a trade date basis and changes in fair value are reflected as the net change in unrealized appreciation or depreciation on investments. Realized gains and losses are calculated using a specific identification method. Realized gains and losses are recognized in connection with transactions including settling obligations for the Sponsor’s Fee in Bitcoin.

#### Management Fees and Trust Expenses

The Trust is expected to pay the remuneration due to the Sponsor (the “Management Fee” or “Sponsor Fee”). Effective November 1, 2020, the Management fee changed to an annual rate of 0.49% of the daily Net Asset Value of the Trust and accrues daily in Bitcoin. Prior to November 1, 2020, the Management Fee equaled an annual rate of 0.99% of the daily Net Asset Value of the Trust and accrued daily in Bitcoin. The Management Fee is payable at the Sponsor’s sole discretion, in Bitcoin or in U.S. Dollars for the Bitcoin market price in effect for such Bitcoin at the time of payment.

# Osprey Bitcoin Trust

## Notes to the Financial Statements

### As of December 31, 2020

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In accordance with its Trust Agreement, the Sponsor bears the routine operational, administrative and other ordinary administrative operating expenses of the Trust as “Assumed Expenses” other than audit fees, index license fees, aggregate legal fees in excess of \$50,000 and the fees of the Custodian (revised “Excluded Expenses”) and certain extraordinary expenses of the Trust, including but not limited to taxes and governmental charges, expenses and costs, expenses and indemnities related to any extraordinary services performed by the Sponsor (or any other Service Provider, including the Delaware Trust Company (the “Trustee “)) on behalf of the Trust to protect the Trust or the interest of Unitholders, indemnification expenses, fees and expenses related to public trading on OTCQX (“Extraordinary Expenses”).

#### Fair Value Measurements

Fair value is defined as the price that would be received to sell an asset or paid to transfer a liability (i.e., the ‘exit price’) in an orderly transaction between market participants at the measurement date.

GAAP utilizes a fair value hierarchy for inputs used in measuring fair value that maximizes the use of observable inputs and minimizes the use of unobservable inputs by requiring that the most observable inputs be used when available. Observable inputs are those that market participants would use in pricing the asset or liability based on market data obtained from sources independent of the Trust. Unobservable inputs reflect the Trust’s assumptions about the inputs market participants would use in pricing the asset or liability developed based on the best information available in the circumstances.

The fair value hierarchy is categorized into three levels based on the inputs as follows:

- Level 1 – Valuations based on unadjusted quoted prices in active markets for identical assets or liabilities that the Trust has the ability to access. Since valuations are based on quoted prices that are readily and regularly available in an active market, these valuations do not entail a significant degree of judgment.
- Level 2 – Valuations based on quoted prices in markets that are not active or for which significant inputs are observable, either directly or indirectly.
- Level 3 – Valuations based on inputs that are unobservable and significant to the overall fair value measurement.

The availability of valuation techniques and observable inputs can vary by investment. To the extent that valuations are based on sources that are less observable or unobservable in the market, the determination of fair value requires more judgment. Fair value estimates do not necessarily represent the amounts that may be ultimately realized by the Trust.

# Osprey Bitcoin Trust

## Notes to the Financial Statements

### As of December 31, 2020

#### Valuation of Bitcoins and definition of Net Asset Value

The net asset value (“NAV”) of the Trust is used by the Trust in its day-to-day operations to measure the net value of the Trust’s assets. The NAV is calculated on each business day and is equal to the aggregate value of the Trust’s assets less its liabilities (which include accrued but unpaid fees and expenses, both estimated and finally determined), based on the Bitcoin market price. The Trust utilizes CMBI Price as the Bitcoin market price to determine fair value and its principal market. When determining the Trust’s principal market, the Trust utilizes select OTC counterparties to determine, at their own discretion and based on market fluctuation, suitable Bitcoin markets. In order to transact with the Trust, OTC counterparties agree to trade Bitcoin based on the Coin Metrics CMBI Bitcoin Index closing price (CMBI Bitcoin Index) at 4:00pm EST. In determining the NAV of the Trust on any business day, the Trust will calculate the price of the Bitcoins held by the Trust as of 4:00 P.M. New York time on such day. The Trust will also calculate the NAV per Unit of the Trust, which equals the NAV of the Trust divided by the number of outstanding Units (the “NAV per Unit”). The Trust will calculate the NAV and NAV per Unit on each business day and these amounts will be published as soon thereafter as practicable on the Trust’s website, at [www.ospreyfund.io](http://www.ospreyfund.io). The Trust will use the CMBI Price as the Bitcoin market Price to be used when determining NAV. If no determination of the NAV of the Trust and the NAV per Unit can be made based on the CMBI Price, the Trust will consult publicly available BTC pricing sources, such as exchanges and indexes, to determine such price.

### 3. Fair Value of Bitcoin

The investment measured at fair value on a recurring basis and categorized using the three levels of fair value hierarchy consisted of the following as of December 31, 2020 and December 31, 2019:

December 31, 2020	Number of Bitcoin	Per Bitcoin Fair Value	Amount at Fair Value	Fair Value Measurement Category		
				Level 1	Level 2	Level 3
Investment in Bitcoin	1,548.46	\$29,026.66	\$44,946,574	\$ -	\$44,946,574	\$ -

December 31, 2019	Number of Bitcoin	Per Bitcoin Fair Value	Amount at Fair Value	Fair Value Measurement Category		
				Level 1	Level 2	Level 3
Investment in Bitcoin	1,376.48	\$ 7,153.38	\$ 9,846,468	\$ -	\$ 9,846,468	\$ -

The following represents the changes in quantity and the respective fair value of Bitcoin for the year ended December 31, 2020:

	Bitcoin	Fair Value
<b>Balance at January 1, 2020</b>	1,376.48	\$ 9,846,468
Bitcoin distributed for Management Fee, related party	(13.41)	(107,310)
Bitcoin distributed for custody fees	(2.45)	(31,260)
Subscriptions	187.84	3,175,825
Net realized gain on investment in Bitcoin	-	18,466
Net change in unrealized appreciation on investment in Bitcoin	-	32,044,385
<b>Balance at December 31, 2020</b>	1,548.46	\$ 44,946,574



# Osprey Bitcoin Trust

## Notes to the Financial Statements

### As of December 31, 2020

The following represents the changes in quantity and the respective fair value of Bitcoin for the period from January 22, 2019 (commencement of operations) to December 31, 2019:

	Bitcoin	Fair Value
<b>Balance at January 22, 2019 (commencement of operations)</b>	-	\$ -
Bitcoin distributed for Management Fee, related party	(11.52)	(88,054)
Subscriptions	1,388.00	4,975,161
Net realized gain on investment in Bitcoin	-	46,753
Net change in unrealized appreciation on investment in Bitcoin	-	4,912,608
<b>Balance at December 31, 2019</b>	<b>1,376.48</b>	<b>\$ 9,846,468</b>

#### 4. Income Taxes

The Sponsor believes the Trust qualifies as a grantor trust for U.S. federal income tax purposes. Assuming the Trust is a grantor trust, the Trust is not subject to U.S. federal income tax. Rather, a pro rata portion of the Trust's income, gains, losses and deductions will "flow through" to each beneficial owner of Units.

If the Trust were not properly classified as a grantor trust, the Trust might be classified as a partnership for U.S. federal income tax purposes. However, due to the uncertain treatment of digital currency, including forks, airdrops and similar occurrences for U.S. federal income tax purposes, there can be no assurance in this regard. If the Trust were classified as a partnership for U.S. federal income tax purposes, the tax consequences of owning Units generally would not be materially different from the tax consequences described herein, although there might be certain differences, including with respect to timing. In addition, tax information reports provided to beneficial owners of Units would be made in a different form. If the Trust were not classified as either a grantor trust or a partnership for U.S. federal income tax purposes, it would be classified as a corporation for such purposes. In that event, the Trust would be subject to entity-level U.S. federal income tax (currently at a maximum rate of 21%) on its net taxable income and certain distributions made by the Trust to Unitholders would be treated as taxable dividends to the extent of the Trust's current and accumulated earnings and profits.

In accordance with GAAP, the Trust has defined the threshold for recognizing the benefits of uncertain tax positions in the financial statements as "more-likely-than-not" to be sustained by the applicable taxing authority and requires measurement of an uncertain tax position meeting the "more-likely-than-not" threshold, based on the largest benefit that is more than 50% likely to be realized. Tax positions not deemed to meet the "more-likely-than-not" threshold are not recorded as a tax benefit or expense in the current period.

The Sponsor of the Trust has evaluated whether or not there are uncertain tax positions that require financial statement recognition and has determined that no reserves for uncertain tax positions related to federal, state and local income taxes existed as of December 31, 2020 or December 31, 2019. The

# Osprey Bitcoin Trust

## Notes to the Financial Statements

### As of December 31, 2020

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Trust's 2019 and 2020 tax returns are subject to audit by federal, state and local tax authorities.

#### 5. Related Parties

The Trust considers the following entities to be related parties of the Trust: Osprey Funds, LLC and REX Shares, LLC which is under common control with the Sponsor.

For the year ended December 31, 2020, the Trust incurred Management Fees of \$132,210 recorded in the accompanying statements of operations. As of December 31, 2020, there were unpaid Management Fees of \$18,459 which is recorded in the accompanying statements of assets and liabilities. For the period from January 22, 2019 (commencement of operations) to December 31, 2019, the Trust incurred Management Fees of \$97,387 recorded in the accompanying statements of operations. As of December 31, 2019, there were unpaid Management Fees of \$9,333 which is recorded in the accompanying statements of assets and liabilities.

The Trust management fee is accrued daily in Bitcoins and will be payable, at the Sponsor's sole discretion, in Bitcoins or in U.S. dollars at the Bitcoin market price in effect at the time of such payment. From inception through the year ended December 31, 2020, all management fees have been made in Bitcoin to the Sponsor.

#### 6. Risks and Uncertainties

##### *Investment in Bitcoin*

The Trust is subject to various risks including market risk, liquidity risk, and other risks related to its concentration in a single asset, Bitcoin. Investing in Bitcoin is currently unregulated, highly speculative, and volatile.

The net asset value of the Trust relates primarily to the value of Bitcoin held by the Trust, and fluctuations in the price of Bitcoin could materially and adversely affect an investment in the Units of the Trust. The price of Bitcoin has a limited history. During such history, Bitcoin prices have been volatile and subject to influence by many factors including the levels of liquidity.

If Bitcoin exchanges continue to experience significant price fluctuations, the Trust may experience losses. Several factors may affect the price of Bitcoin, including, but not limited to, global Bitcoin supply and demand, theft of Bitcoin from global exchanges or vaults, and competition from other forms of digital currency or payment services.

The Bitcoin held by the Trust are commingled and the Trust's Unitholders have no specific rights to any specific Bitcoin. In the event of the insolvency of the Trust, its assets may be inadequate to satisfy a claim by its Unitholders.

# **Osprey Bitcoin Trust**

## **Notes to the Financial Statements**

### **As of December 31, 2020**

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There is currently no clearing house for Bitcoin, nor is there a central or major depository for the custody of Bitcoin. There is a risk that some or all of the Trust's Bitcoin could be lost or stolen. The Trust does not have insurance protection on its Bitcoin which exposes the Trust and its Unitholders to the risk of loss of the Trust's Bitcoin. Further, Bitcoin transactions are irrevocable.

Stolen or incorrectly transferred Bitcoin may be irretrievable. As a result, any incorrectly executed Bitcoin transactions could adversely affect an investment in the Trust.

To the extent private keys for Bitcoin addresses are lost, destroyed or otherwise compromised and no backup of the private keys are accessible, the Trust may be unable to access the Bitcoin held in the associated addresses and the private keys will not be capable of being restored. The processes by which Bitcoin transactions are settled are dependent on the Bitcoin peer-to-peer network, and as such, the Trust is subject to operational risk. A risk also exists with respect to previously unknown technical vulnerabilities, which may adversely affect the value of Bitcoin.

On March 11, 2020, the World Health Organization officially declared COVID-19, the disease caused by the novel coronavirus, a pandemic. Management is closely monitoring the evolution of the pandemic, including how it may affect the economy and general population.

#### **7. Contingencies**

In the normal course of business, the Trust enters into contracts with service providers that contain a variety of representations and warranties and which provide general indemnifications. It is not possible to determine the maximum potential exposure or amount under these agreements due to the Trust having no prior claims.

Based on experience, the Trust would expect the risk of loss to be remote.

# Osprey Bitcoin Trust

## Notes to the Financial Statements

### As of December 31, 2020

#### 8. Financial Highlights Per Unit Performance

Per Unit Performance	For the year ended December 31, 2020	For the period from January 22, 2019 (commencement of operations) to December 31, 2019
(for a unit outstanding throughout the period)		
Net asset value per unit at beginning of period	\$ 2.47 *	\$ -
Contribution of Bitcoin	-	1.25 *
<i>Net increase in net assets resulting from operations</i>		
Net realized gain and net change in unrealized appreciation on investment	7.48	1.25
Net investment loss	(0.04)	(0.03)
Net increase in net assets resulting from operations	7.44	1.22
Net asset value per unit at end of period	\$ 9.91 *	\$ 2.47 *
Total return	301.01%	97.72%
<b>Supplemental Data</b>		
Ratios to average net asset value		
Expenses	(1.05)%	(0.93)%
Net investment loss	(1.05)%	(0.93)%

\* Units have been adjusted retroactively to reflect the 4:1 stock split effective January 5, 2021.

An individual Unitholder's return, ratios, and per Unit performance may vary from those presented above based on the timing of Unit transactions.

Total return is calculated assuming an initial investment made at the net asset value at the beginning of the year and assuming redemption on the last day of the year. The net asset value per unit at the beginning of the periods has been adjusted to reflect the stock split that occurred effective January 5, 2021.

#### 9. Subsequent Events

On January 14, 2021, the Financial Industry Regulatory Authority ("FINRA") determined that the Trust's Units met the criteria for trading on the over-the-counter market ("OTC Market"). On February 16, 2021, the Trust's Units began trading in the OTC Market, operated by OTC Markets Group, Inc., under the ticker symbol "OBTC". On March 3, 2021, the Trust's Units began trading in the OTCQX tier of the OTC Market, under the ticker symbol "OBTC."

**Osprey Bitcoin Trust**  
**Notes to the Financial Statements**  
**As of December 31, 2020**

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On May 10, 2021 Osprey Funds, LLC announced on May 18, 2021 Osprey Bitcoin Trust will begin calculating its daily NAV using the fair value of Bitcoin based on the price provided by Coinbase Pro, it's principal market, as of 4:00 p.m., Eastern Standard Time, on the valuation date.

There are no other events that have occurred through July 8, 2021 the date the financial statements were available to be issued that require disclosure other than that which has already been disclosed in these notes to the financial statements.

# Osprey Bitcoin Trust

## Statements of Assets and Liabilities

### March 31, 2021 and December 31, 2020

(Amounts in U.S. dollars, except units issued and outstanding)

	March 31, 2021 (Unaudited)	December 31, 2020
<b>Assets</b>		
Investment in Bitcoin, at fair value (cost \$75,042,751 and \$7,980,103, respectively)	\$ 166,231,142	\$ 44,946,574
Cash	310	25,235
<b>Total Assets</b>	<b>\$ 166,231,452</b>	<b>\$ 44,971,809</b>
<b>Liabilities</b>		
Subscriptions received in advance	\$ -	\$ 25,000
Sponsor's Fee payable	77,369	18,459
Other payable	78,971	21,668
<b>Total Liabilities</b>	<b>156,340</b>	<b>65,127</b>
<b>Net assets</b>	<b>\$ 166,075,112</b>	<b>\$ 44,906,682</b>
<b>Net assets</b>		
Paid-in Capital	\$ 44,906,682	\$ 9,837,135
Subscriptions	67,135,323	3,175,825
Net investment loss	(154,387)	(169,129)
Net realized gain (loss) on investment in Bitcoin	(13,890)	18,466
Net change in unrealized appreciation on investment in Bitcoin	54,201,384	32,044,385
	<b>\$ 166,075,112</b>	<b>\$ 44,906,682</b>
Units issued and outstanding, no par value (unlimited Units authorized)	8,237,837	4,529,312 *
Net asset value per Unit	<b>\$ 20.16</b>	<b>\$ 9.91 *</b>

\* Units have been adjusted retroactively to reflect the 4:1 stock split effective January 5, 2021.

The accompanying notes are an integral part of these financial statements.

**Osprey Bitcoin Trust**  
**Schedules of Investment**  
**March 31, 2021 and December 31, 2020**

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<b>March 31, 2021 (Unaudited)</b>	<b>Units</b>	<b>Fair Value</b>	<b>Percentage of Net Assets</b>
<b>Investment in Bitcoin</b> , at fair value (cost \$75,042,751)	<u>2,811.01</u>	<u>\$ 166,231,142</u>	<u>100%</u>
<b>December 31, 2020</b>	<b>Units</b>	<b>Fair Value</b>	<b>Percentage of Net Assets</b>
<b>Investment in Bitcoin</b> , at fair value (cost \$7,980,103)	<u>1,548.46</u>	<u>\$ 44,946,574</u>	<u>100%</u>

The accompanying notes are an integral part of these financial statements.



**Osprey Bitcoin Trust**  
**Statements of Operations**  
**For the three months ended March 31, 2021 and 2020**

(Amounts in U.S. dollars)

	<b>Three months ended March 31, 2021 (Unaudited)</b>	<b>Three months ended March 31, 2020 (Unaudited)</b>
<b>Expenses</b>		
Sponsor's Fee	\$ 103,240	\$ 28,174
Other	51,147	-
<b>Net investment loss</b>	<u>(154,387)</u>	<u>(28,174)</u>
<b>Net realized gain (loss) and net change in unrealized appreciation (depreciation) on investment in Bitcoin</b>		
Net realized gain (loss) on investment in Bitcoin	(13,890)	15,630
Net change in unrealized appreciation (depreciation) on investment in Bitcoin	54,201,384	(920,971)
<b>Net increase (decrease) in net assets resulting from operations</b>	<u>\$ 54,033,107</u>	<u>\$ (933,515)</u>

The accompanying notes are an integral part of these financial statements.

**Osprey Bitcoin Trust**  
**Statements of Changes in Net Assets**  
**For the three months ended March 31, 2021 and 2020**

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(Amounts in U.S. dollars, except units issued and outstanding)

	<b>Three months ended March 31, 2021 (Unaudited)</b>	<b>Three months ended March 31, 2020 (Unaudited)</b>
<b>(Decrease) increase in net assets from operations</b>		
Net investment loss	\$ (154,387)	\$ (28,174)
Net realized gain (loss) on investment in Bitcoin	(13,890)	15,630
Net change in unrealized appreciation (depreciation) on investment in Bitcoin	54,201,384	(920,971)
Net increase (decrease) in net assets resulting from operations	<u>54,033,107</u>	<u>(933,515)</u>
Net assets at the beginning of the period	44,906,682	9,837,135
Subscriptions	67,135,323	-
Net assets at the end of the period	<u>\$ 166,075,112</u>	<u>\$ 8,903,620</u>
<b>Change in Units Outstanding</b>		
Units outstanding at the beginning of the period	4,529,312 *	3,980,128 *
Subscriptions	<u>3,708,525</u>	<u>-</u>
Units outstanding at the end of the period	<u>8,237,837</u>	<u>3,980,128 *</u>

\* Units have been adjusted retroactively to reflect the 4:1 stock split effective January 5, 2021.

The accompanying notes are an integral part of these financial statements.

# Osprey Bitcoin Trust

## Notes to the Financial Statements (unaudited)

### As of March 31, 2021

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#### 1. Organization

Osprey Bitcoin Trust (the “Trust” or “Fund”) is a Delaware Statutory Trust that was formed on January 3, 2019 and commenced operations on January 22, 2019 and is governed by the Second Amended and Restated Declaration of Trust and Trust Agreement (the “Trust Agreement”) dated November 1, 2020. In general, the Trust holds Bitcoin and, from time to time, issues common units of fractional undivided beneficial interest (“Units”) in exchange for Bitcoin. The investment objective of the Trust is for the Units to track the price of Bitcoin, as measured at 4:00 p.m. Eastern Time using the CMBI Index Bitcoin rate shown under the Coin Metrics Bletchley Indexes and administered by Coin Metrics (“CMBI Price”), less liabilities and expenses of the Trust. The Units are designed as a convenient and cost-effective method for investors to gain investment exposure to Bitcoin similar to a direct investment in Bitcoin.

Osprey Funds LLC (the “Sponsor”) acts as the sponsor of the Trust. The Sponsor is responsible for the day-to-day administration of the Trust pursuant to the provisions of the Trust Agreement. The Sponsor is responsible for preparing and providing annual reports on behalf of the Trust to investors and is also responsible for selecting and monitoring the Trust’s service providers. As partial consideration for the Sponsor’s services, the Trust pays the Sponsor a Management Fee as discussed in Notes 2 and 5.

The custodian of the Trust (the “Custodian”) is responsible for safeguarding the Bitcoin, Incidental Rights, and IR Virtual Currency held by the Trust. The Trust’s original Custodian was Xapo, Inc. (“Xapo”), a third- party provider (Xapo was acquired by Coinbase Custody Trust Company, LLC during 2019). During March 2020, the Trust changed custodians from Xapo to Unchained Capital. During June 2020, the Trust changed custodians to Fidelity Digital Assets.

The transfer agent for the Trust (the “Transfer Agent”) is Continental Stock Transfer & Trust Company. The responsibilities of the transfer agent are to the issuance and redemption of Units, the payment, if any, of distributions with respect to the Units, the recording of the issuance of the Units and the maintaining of certain records therewith.

The Trust generally records receipt of a new digital asset created due to a hard fork at the time the hard fork is effective. The Trust’s methodology for determining effectiveness of the fork is when two or more recognized exchanges quote prices for the forked coin. The Trust may receive “airdrops” of new digital assets. The use of airdrops is generally to promote the launch and use of new digital assets by providing a small amount of such new digital assets to the private wallets or exchange accounts that support the new digital asset and that hold existing related digital assets. Unlike hard forks, airdropped digital assets can have substantially different blockchain technology that has no relation to any existing digital asset, and many airdrops may be without value. The Trust records receipt of airdropped digital assets when received if there is value to the Trust in doing so. Digital assets received from airdrops have no cost basis and the Trust recognizes unrealized gains equal to the fair value of the new digital asset received.

# Osprey Bitcoin Trust

## Notes to the Financial Statements (unaudited)

### As of March 31, 2021

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## 2. Summary of Significant Accounting Policies

### Basis of Presentation

The financial statements have been prepared in accordance with generally accepted accounting principles in the United States ("GAAP"). The Trust qualifies as an investment company for accounting purposes pursuant to the accounting and reporting guidance under Financial Accounting Standards Board ("FASB") Accounting Standards Codification ("ASC") Topic 946, Financial Services – Investment Companies. The Trust uses fair value as its method of accounting for Bitcoin in accordance with its classification as an investment company for accounting purposes. The Trust is not registered under the Investment Company Act of 1940.

### Use of Estimates

GAAP requires management to make estimates and assumptions that affect the reported amounts in the financial statements and accompanying notes. The most significant estimate in the financial statements is the fair value of investments. Actual results could differ from those estimates and these differences could be material.

### Cash

Cash is received by the Trust and held for investment in bitcoin. Cash held by the Trust represents deposits maintained with Signature Bank (New York), in amounts that did not exceed the FDIC insured limits.

### Subscriptions and Redemptions of Units

Proceeds received by the Trust from the issuance and sale of Units consist of bitcoin deposits and forked or airdropped cryptocurrency coins from the Bitcoin Network, or their respective U.S. dollar cash equivalents. Such Bitcoins (or cash equivalent) will only be (1) owned by the Trust and held by the Custodian (or, if cash, used by the Sponsor to purchase Bitcoins to be held by the Custodian), (2) disbursed (or converted to U.S. dollars, if necessary) to pay the Trust's expenses, (3) distributed to Accredited Investors (subject to obtaining regulatory approval from the Securities and Exchange Commission ("SEC") described below) in connection with the redemption of Units, (4) distributed (or converted to U.S. dollars, prior to distribution, to Unitholders as dividends, and (5) liquidated in the event that the Trust terminates or as otherwise required by law or regulation.

The Trust conducts its transactions in Bitcoin, including receiving Bitcoin for the creation of Units and delivering Bitcoin for the redemption of Units (if a redemption program were to be established) and for the payment of the Sponsor's Fee.

# **Osprey Bitcoin Trust**

## **Notes to the Financial Statements (unaudited)**

### **As of March 31, 2021**

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During June 2020 the Trust began a continuous offering of up to \$5,000,000 of Units with no par value, each Unit representing a fractional undivided beneficial interest in the Trust. 154,183 Units were sold to both accredited and non-accredited investors in an offering of to \$5,000,000 of Units, dated June 1, 2020, registered in Connecticut and qualified in New York, pursuant to Rule 504 of Regulation D under the Securities Act ("Rule 504 Offering"). The Rule 504 Offering closed on August 12, 2020. These Units have been adjusted retroactively to reflect the 4:1 stock split effective January 5, 2021.

On November 12, 2020, the Trust began an offering of an unlimited number of Units pursuant to Rule 506(c) under the Securities Act ("November 2020 Offering"). 395,000 Units were sold pursuant to the November 2020 Offering. These Units have been adjusted retroactively to reflect the 4:1 stock split effective January 5, 2021.

On December 30, 2020, the Sponsor of the Trust announced that it has declared a four to one split of the Trust's issued and outstanding Units of fractional undivided beneficial interest. With the Unit split, Unitholders of record on December 31, 2020 received four additional Units of the Trust for each Unit held. The effective date of the split was January 5, 2021.

On January 14, 2021, The Financial Industry Regulatory Authority ("FINRA") determined that the Trust's Units met the criteria for trading on the over-the-counter market ("OTC Market"). On February 16, 2021, the Trust's Units began trading in the OTC Market, operated by OTC Markets Group, Inc., under the ticker symbol "OBTC". On March 3, 2021, the Trust's Units began trading in the OTCQX tier of the OTC Market, under the ticker symbol "OBTC."

As of March 31, 2021, there were 8,237,836 Units issued and outstanding. 4,103,524 of the Units are restricted securities that may not be resold absent registration or an exemption from registration under the Securities Act, and 4,134,312 of the Units are unrestricted securities.

The Trust is currently unable to redeem Units. At some date in the future, the Trust may seek approval from the SEC to operate an ongoing redemption program.

#### Investment Transactions and Revenue Recognition

The Trust records its investment transactions on a trade date basis and changes in fair value are reflected as the net change in unrealized appreciation or depreciation on investments. Realized gains and losses are calculated using a specific identification method. Realized gains and losses are recognized in connection with transactions including settling obligations for the Sponsor's Fee in Bitcoin.

# Osprey Bitcoin Trust

## Notes to the Financial Statements (unaudited)

### As of March 31, 2021

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#### Management Fees and Trust Expenses

The Trust is expected to pay the remuneration due to the Sponsor (the “Management Fee” or “Sponsor Fee”). Effective November 1, 2020, the Management fee changed to an annual rate of 0.49% of the daily Net Asset Value of the Trust and accrues daily in Bitcoin. Prior to November 1, 2020, the Management Fee equaled an annual rate of 0.99% of the daily Net Asset Value of the Trust and accrued daily in Bitcoin. The Management Fee is payable at the Sponsor’s sole discretion, in Bitcoin or in U.S. Dollars for the Bitcoin market price in effect for such Bitcoin at the time of payment.

In accordance with its Trust Agreement, the Sponsor bears the routine operational, administrative and other ordinary administrative operating expenses of the Trust as “Assumed Expenses” other than audit fees, index license fees, aggregate legal fees in excess of \$50,000 and the fees of the Custodian (revised “Excluded Expenses”) and certain extraordinary expenses of the Trust, including but not limited to taxes and governmental charges, expenses and costs, expenses and indemnities related to any extraordinary services performed by the Sponsor (or any other Service Provider, including the Delaware Trust Company (the “Trustee “)) on behalf of the Trust to protect the Trust or the interest of Unitholders, indemnification expenses, fees and expenses related to public trading on OTCQX (“Extraordinary Expenses”).

#### Fair Value Measurements

Fair value is defined as the price that would be received to sell an asset or paid to transfer a liability (i.e., the ‘exit price’) in an orderly transaction between market participants at the measurement date.

GAAP utilizes a fair value hierarchy for inputs used in measuring fair value that maximizes the use of observable inputs and minimizes the use of unobservable inputs by requiring that the most observable inputs be used when available. Observable inputs are those that market participants would use in pricing the asset or liability based on market data obtained from sources independent of the Trust. Unobservable inputs reflect the Trust’s assumptions about the inputs market participants would use in pricing the asset or liability developed based on the best information available in the circumstances.

The fair value hierarchy is categorized into three levels based on the inputs as follows:

- Level 1 – Valuations based on unadjusted quoted prices in active markets for identical assets or liabilities that the Trust has the ability to access. Since valuations are based on quoted prices that are readily and regularly available in an active market, these valuations do not entail a significant degree of judgment.
- Level 2 – Valuations based on quoted prices in markets that are not active or for which significant inputs are observable, either directly or indirectly.
- Level 3 – Valuations based on inputs that are unobservable and significant to the overall fair value measurement.

**Osprey Bitcoin Trust**  
**Notes to the Financial Statements (unaudited)**  
**As of March 31, 2021**

The availability of valuation techniques and observable inputs can vary by investment. To the extent that valuations are based on sources that are less observable or unobservable in the market, the determination of fair value requires more judgment. Fair value estimates do not necessarily represent the amounts that may be ultimately realized by the Trust.

Valuation of Bitcoins and definition of Net Asset Value

The net asset value (“NAV”) of the Trust is used by the Trust in its day-to-day operations to measure the net value of the Trust’s assets. The NAV is calculated on each business day and is equal to the aggregate value of the Trust’s assets less its liabilities (which include accrued but unpaid fees and expenses, both estimated and finally determined), based on the Bitcoin market price. The Trust utilizes CMBI Price as the Bitcoin market price to determine fair value and its principal market. When determining the Trust’s principal market, the Trust utilizes select OTC counterparties to determine, at their own discretion and based on market fluctuation, suitable Bitcoin markets. In order to transact with the Trust, OTC counterparties agree to trade Bitcoin based on the Coin Metrics CMBI Bitcoin Index closing price (CMBI Bitcoin Index) at 4:00pm EST. In determining the NAV of the Trust on any business day, the Trust will calculate the price of the Bitcoins held by the Trust as of 4:00 P.M. New York time on such day. The Trust will also calculate the NAV per Unit of the Trust, which equals the NAV of the Trust divided by the number of outstanding Units (the “NAV per Unit”). The Trust will calculate the NAV and NAV per Unit on each business day and these amounts will be published as soon thereafter as practicable on the Trust’s website, at [www.ospreyfund.io](http://www.ospreyfund.io). The Trust will use the CMBI Price as the Bitcoin market price to be used when determining NAV. If no determination of the NAV of the Trust and the NAV per Unit can be made based on the CMBI Price, the Trust will consult publicly available BTC pricing sources, such as exchanges and indexes, to determine such price.

**3. Fair Value of Bitcoin**

The investment measured at fair value on a recurring basis and categorized using the three levels of fair value hierarchy consisted of the following as of March 31, 2021 and December 31, 2020:

<u>March 31, 2021</u>	<u>Number of Bitcoin</u>	<u>Per Bitcoin Fair Value</u>	<u>Amount at Fair Value</u>	<u>Fair Value Measurement Category</u>		
				<u>Level 1</u>	<u>Level 2</u>	<u>Level 3</u>
Investment in Bitcoin	<u>2,811.01</u>	<u>\$59,135.73</u>	<u>\$166,231,142</u>	<u>\$ -</u>	<u>\$166,231,142</u>	<u>\$ -</u>
<u>December 31, 2020</u>	<u>Number of Bitcoin</u>	<u>Per Bitcoin Fair Value</u>	<u>Amount at Fair Value</u>	<u>Fair Value Measurement Category</u>		
Investment in Bitcoin	<u>1,548.46</u>	<u>\$29,026.66</u>	<u>\$ 44,946,574</u>	<u>\$ -</u>	<u>\$ 44,946,574</u>	<u>\$ -</u>



**Osprey Bitcoin Trust**  
**Notes to the Financial Statements (unaudited)**  
**As of March 31, 2021**

The following represents the changes in quantity and the respective fair value of Bitcoin for the year ended December 31, 2020:

	<b>Bitcoin</b>	<b>Fair Value</b>
<b>Balance at January 1, 2020</b>	1,376.48	\$ 9,846,468
Bitcoin distributed for Management Fee, related party	(13.41)	(107,310)
Bitcoin distributed for custody fees	(2.45)	(31,260)
Subscriptions	187.84	3,175,825
Net realized gain on investment in Bitcoin	-	18,466
Net change in unrealized appreciation on investment in Bitcoin	-	32,044,385
<b>Balance at December 31, 2020</b>	<b>1,548.46</b>	<b>\$ 44,946,574</b>

The following represents the changes in quantity and the respective fair value of Bitcoin for the period ended March 31, 2021:

	<b>Bitcoin</b>	<b>Fair Value</b>
<b>Balance at January 1, 2021</b>	1,548.46	\$ 44,946,574
Bitcoin distributed for Management Fee, related party	(1.34)	(28,556)
Bitcoin distributed for custody fees	(0.64)	(9,693)
Subscriptions	1,264.53	67,135,323
Net realized loss on investment in Bitcoin	-	(13,890)
Net change in unrealized appreciation on investment in Bitcoin	-	54,201,384
<b>Balance at March 31, 2021</b>	<b>2,811.01</b>	<b>\$ 166,231,142</b>

**4. Income Taxes**

The Sponsor believes the Trust qualifies as a grantor trust for U.S. federal income tax purposes. Assuming the Trust is a grantor trust, the Trust is not subject to U.S. federal income tax. Rather, a pro rata portion of the Trust's income, gains, losses and deductions will "flow through" to each beneficial owner of Units.

If the Trust were not properly classified as a grantor trust, the Trust might be classified as a partnership for U.S. federal income tax purposes. However, due to the uncertain treatment of digital currency, including forks, airdrops and similar occurrences for U.S. federal income tax purposes, there can be no assurance in this regard. If the Trust were classified as a partnership for U.S. federal income tax purposes, the tax consequences of owning Units generally would not be materially different from the tax consequences described herein, although there might be certain differences, including with respect to timing. In addition, tax information reports provided to beneficial owners of Units would be made in a different form. If the Trust were not classified as either a grantor trust or a partnership for U.S. federal income tax purposes, it would be classified as a corporation for such purposes. In that event, the Trust would be subject to entity-level U.S. federal income tax (currently at a maximum rate of 21%) on its net taxable income and certain distributions made by the Trust to Unitholders would be treated as taxable dividends to the extent of the Trust's current and accumulated earnings and profits.

# Osprey Bitcoin Trust

## Notes to the Financial Statements (unaudited)

### As of March 31, 2021

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In accordance with GAAP, the Trust has defined the threshold for recognizing the benefits of uncertain tax positions in the financial statements as “more-likely-than-not” to be sustained by the applicable taxing authority and requires measurement of an uncertain tax position meeting the “more-likely-than-not” threshold, based on the largest benefit that is more than 50% likely to be realized. Tax positions not deemed to meet the “more-likely-than-not” threshold are not recorded as a tax benefit or expense in the current period.

The Sponsor of the Trust has evaluated whether or not there are uncertain tax positions that require financial statement recognition and has determined that no reserves for uncertain tax positions related to federal, state and local income taxes existed as of March 31, 2021 or December 31, 2020. The Trust’s 2019 and 2020 tax returns are subject to audit by federal, state and local tax authorities.

#### 5. Related Parties

The Trust considers the following entities to be related parties of the Trust: Osprey Funds, LLC and REX Shares, LLC which is under common control with the Sponsor.

For the year ended December 31, 2020, the Trust incurred Management Fees of \$132,210 recorded in the accompanying statements of operations. As of December 31, 2020, there were unpaid Management Fees of \$18,459 which is recorded in the accompanying statements of assets and liabilities. For the period ended March 31, 2021, the Trust incurred Management Fees of \$103,240 recorded in the accompanying statements of operations. As of March 31, 2021, there were unpaid Management Fees of \$77,369 which is recorded in the accompanying statements of assets and liabilities.

The Trust management fee is accrued daily in Bitcoins and will be payable, at the Sponsor’s sole discretion, in Bitcoins or in U.S. dollars at the Bitcoin market price in effect at the time of such payment. From inception through the period ended March 31, 2021, all management fees have been made in Bitcoin to the Sponsor.

#### 6. Risks and Uncertainties

##### *Investment in Bitcoin*

The Trust is subject to various risks including market risk, liquidity risk, and other risks related to its concentration in a single asset, Bitcoin. Investing in Bitcoin is currently unregulated, highly speculative, and volatile.

The net asset value of the Trust relates primarily to the value of Bitcoin held by the Trust, and fluctuations in the price of Bitcoin could materially and adversely affect an investment in the Units of the Trust. The price of Bitcoin has a limited history. During such history, Bitcoin prices have been volatile and subject to influence by many factors including the levels of liquidity.

# **Osprey Bitcoin Trust**

## **Notes to the Financial Statements (unaudited)**

### **As of March 31, 2021**

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If Bitcoin exchanges continue to experience significant price fluctuations, the Trust may experience losses. Several factors may affect the price of Bitcoin, including, but not limited to, global Bitcoin supply and demand, theft of Bitcoin from global exchanges or vaults, and competition from other forms of digital currency or payment services.

The Bitcoin held by the Trust are commingled and the Trust's Unitholders have no specific rights to any specific Bitcoin. In the event of the insolvency of the Trust, its assets may be inadequate to satisfy a claim by its Unitholders.

There is currently no clearing house for Bitcoin, nor is there a central or major depository for the custody of Bitcoin. There is a risk that some or all of the Trust's Bitcoin could be lost or stolen. The Trust does not have insurance protection on its Bitcoin which exposes the Trust and its Unitholders to the risk of loss of the Trust's Bitcoin. Further, Bitcoin transactions are irrevocable.

Stolen or incorrectly transferred Bitcoin may be irretrievable. As a result, any incorrectly executed Bitcoin transactions could adversely affect an investment in the Trust.

To the extent private keys for Bitcoin addresses are lost, destroyed or otherwise compromised and no backup of the private keys are accessible, the Trust may be unable to access the Bitcoin held in the associated addresses and the private keys will not be capable of being restored. The processes by which Bitcoin transactions are settled are dependent on the Bitcoin peer-to-peer network, and as such, the Trust is subject to operational risk. A risk also exists with respect to previously unknown technical vulnerabilities, which may adversely affect the value of Bitcoin.

On March 11, 2020, the World Health Organization officially declared COVID-19, the disease caused by the novel coronavirus, a pandemic. Management is closely monitoring the evolution of the pandemic, including how it may affect the economy and general population.

#### **7. Contingencies**

In the normal course of business, the Trust enters into contracts with service providers that contain a variety of representations and warranties and which provide general indemnifications. It is not possible to determine the maximum potential exposure or amount under these agreements due to the Trust having no prior claims.

Based on experience, the Trust would expect the risk of loss to be remote.

**Osprey Bitcoin Trust**  
**Notes to the Financial Statements (unaudited)**  
**As of March 31, 2021**

**8. Financial Highlights Per Unit Performance**

Per Unit Performance	Three months ended March 31, 2021 (Unaudited)	Three months ended March 31, 2020 (Unaudited)
(for a unit outstanding throughout the period)		
Net asset value per unit at beginning of period	\$ 9.91 *	\$ 2.47 *
<i>Net increase (decrease) in net assets resulting from operations</i>		
Net realized gain (loss) and change in unrealized appreciation (depreciation) on investment	10.28	(0.22)
Net investment loss	(0.03)	(0.01)
Net increase (decrease) in net assets resulting from operations	10.25	(0.23)
Net asset value per unit at end of period	\$ 20.16	\$ 2.24 *
Total return	103.43%	(9.31)%
<b>Supplemental Data</b>		
Ratios to average net asset value		
Expenses	0.71%	0.99%
Net investment loss	(0.71)%	(0.99)%

\* Units have been adjusted retroactively to reflect the 4:1 stock split effective January 5, 2021.

An individual Unitholder's return, ratios, and per Unit performance may vary from those presented above based on the timing of Unit transactions.

Total return is calculated assuming an initial investment made at the net asset value at the beginning of the year and assuming redemption on the last day of the year. Ratios have been annualized for the partial periods ended March 31, 2021 and March 31, 2020. The net asset value per unit at the beginning of the periods have been adjusted to reflect the stock split that occurred effective January 5, 2021.

**9. Subsequent Events**

On May 10, 2021 Osprey Funds, LLC announced on May 18, 2021 Osprey Bitcoin Trust will begin calculating its daily NAV using the fair value of Bitcoin based on the price provided by Coinbase Pro, it's principal market, as of 4:00 p.m., New York time, on the valuation date.

There are no other events that have occurred through July 8, 2021 the date the financial statements were available to be issued that require disclosure other than that which has already been disclosed in these notes to the financial statements.