proposed take as a percentage of stock abundance that are high compared to actual take that will occur. This is the case with the resident stocks of killer whale and harbor seal (Lynn Canal/Stephens Passage stock).

As reported, a small number of harbor seals, most of which reside in Taiya Inlet year-round, will be exposed to construction activities for three months. The total population estimate in the Lynn Canal/Stephens Passage stock is 9,478 animals over 1.37 million acres (5,500 km^2) of area in their range, which results in an estimated density of 36 animals within Taiya Inlet. The largest Level B harassment zone within the inlet occupies 17.9 km^2, which represents less than 0.4 percent of the total geographical area occupied by the stock. The great majority of these exposures will be to the same animals given their residency patterns.

Based on the analysis contained herein of the proposed activity (including the proposed mitigation and monitoring measures) and the anticipated take of marine mammals, NMFS preliminarily finds that small numbers of marine mammals will be taken relative to the population size of the affected species or stocks.

Unmitigable Adverse Impact Analysis and Determination

There are no relevant subsistence uses of the affected marine mammal stocks or species implicated by this action. The proposed project will occur near but not overlap with the subsistence area used by the villages of Hoonah and Angoon (Wolfe *et al.* 2013; N. Kovaces, Skagway Traditional Council, personal communication). Harbor seals and Steller sea lions are available for subsistence harvest in this area (Wolfe *et al.* 2013). Therefore, NMFS has preliminarily determined that the total taking of affected species or stocks would not have an unmitigable adverse impact on the availability of such species or stocks for taking for subsistence purposes.

Endangered Species Act

Section 7(a)(2) of the Endangered Species Act of 1973 (ESA: 16 U.S.C. 1531 *et seq.*) requires that each Federal agency insure that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat. To ensure ESA compliance for the issuance of IHAs, NMFS consults internally, in this case with the Alaska Regional Office, whenever we propose to authorize take for endangered or threatened species.

NMFS is proposing to authorize take of the Steller sea lion western DPS and humpback whale Mexico DPS, which are listed under the ESA. On November 29, 2018, the NMFS Office of Protected Resources has requested initiation of section 7 consultation with the Alaska Regional Office for the issuance of this IHA. NMFS will conclude the ESA consultation prior to reaching a determination regarding the proposed issuance of the authorization.

Proposed Authorization

As a result of these preliminary determinations, NMFS proposes to issue an IHA to WP&YR for conducting the Railroad Dock dolphin installation project in Skagway, Alaska from February 1, 2019 through April 30, 2019, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated. A draft of the IHA itself is available for review in conjunction with this notice at *https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-construction-activities*

Request for Public Comments

We request comment on our analyses, the proposed authorization, and any other aspect of this Notice of Proposed IHA for the proposed action. We also request comment on the potential for renewal of this proposed IHA as described in the paragraph below. Please include with your comments any supporting data or literature citations to help inform our final decision on the request for MMPA authorization.

On a case-by-case basis, NMFS may issue a second one-year IHA without additional notice when (1) another year of identical or nearly identical activities as described in the Specified Activities section is planned or (2) the activities would not be completed by the time the IHA expires and a second IHA would allow for completion of the activities beyond that described in the Dates and Duration section, provided all of the following conditions are met:

- A request for renewal is received no later than 60 days prior to expiration of the current IHA.
- The request for renewal must include the following:

(1) An explanation that the activities to be conducted beyond the initial dates either are identical to the previously analyzed activities or include changes so minor (*e.g.,* reduction in pile size) that the changes do not affect the previous analyses, take estimates, or mitigation and monitoring requirements.

(2) A preliminary monitoring report showing the results of the required monitoring to date and an explanation showing that the monitoring results do not indicate impacts of a scale or nature not previously analyzed or authorized.

- Upon review of the request for renewal, the status of the affected species or stocks, and any other pertinent information, NMFS determines that there are no more than minor changes in the activities, the mitigation and monitoring measures remain the same and appropriate, and the original findings remain valid.

Dated: December 12, 2018.

Donna S. Weiting,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2018–27258 Filed 12–14–18; 8:45 am]

BILLING CODE 3510–22–P

COMMODITY FUTURES TRADING COMMISSION

Request for Input on Crypto-Asset Mechanics and Markets

AGENCY: Commodity Futures Trading Commission.

ACTION: Request for input.

SUMMARY: The Commodity Futures Trading Commission (''Commission'' or ''CFTC'') in furtherance of the LabCFTC initiative is seeking public comment and feedback on this Request for Input (''RFI'') in order to better inform the Commission's understanding of the technology, mechanics, and markets for virtual currencies beyond Bitcoin, namely here Ether and its use on the Ethereum Network. The Commodity Exchange Act (''CEA'') grants the Commission regulatory authority over the commodity futures markets. The Commission is seeking public feedback in furtherance of oversight of these markets and regulatory policy development. The input from this request will advance the CFTC's mission of ensuring the integrity of the derivatives markets as well as monitoring and reducing systemic risk by enhancing legal certainty in the markets. The RFI seeks to understand similarities and distinctions between certain virtual currencies, including here Ether and Bitcoin, as well as Ether-specific opportunities, challenges, and risks. The Commission welcomes all public comments on these and related issues.

DATES: Comments must be received on or before February 15, 2019.

ADDRESSES: You may submit comments, identified by the title, ''Virtual Currency RFI,'' by any of the following methods:

- *CFTC website: https://comments.cftc.gov.* Follow the instructions to Submit Comments through the website.
- *Mail:* Send to Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.
- *Hand Delivery/Courier:* Same as Mail, above.

Please submit comments by only one of these methods.

All comments should be submitted in English or accompanied by an English translation. Comments will be posted as received to *https://www.cftc.gov.* You should submit only information that you wish to make available publicly. If you wish the Commission to consider information that may be exempt from disclosure under the Freedom of Information Act (''FOIA''), a petition for confidential treatment of the exempt information may be submitted according to the procedures established in the Commission's regulations at 17 CFR 145.9.[1] The Commission reserves the right, but shall have no obligation, to review, prescreen, filter, redact, refuse, or remove any or all of your submission from *https://www.cftc.gov* that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the RFI will be retained in the public comment file and will be considered as required under the Administrative Procedure Act and other applicable laws, and may be accessible under the FOIA.

FOR FURTHER INFORMATION CONTACT: Daniel Gorfine, Director of LabCFTC and Chief Innovation Officer, (202) 418–5625; Bianca M. Gomez, Counsel on FinTech and Innovation, Office of General Counsel, (202) 418–5627; or *LabCFTC@cftc.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

A. Introduction

The CEA grants the Commission regulatory authority over the commodity futures markets.[2] LabCFTC was launched by the Commission in order to further the CFTC's goal of evolving as a 21st century regulator and keeping pace with technological innovation. LabCFTC is dedicated to facilitating market-enhancing financial technology (''FinTech'') innovation, informing policy, and ensuring that we have the regulatory and technological tools and understanding to keep pace with changing markets. LabCFTC is designed to make the CFTC more accessible to all innovators and to inform the Commission's understanding of emerging technologies and their regulatory implications. One such area of emerging innovation involves virtual currencies.

In further advancing its mission, LabCFTC published a primer on the topic of virtual currencies in October 2017 (the ''Primer'') in order to help educate the public on potential applications and use-cases, the CFTC's role and jurisdictional oversight, and potential risks and challenges that investors and users may face involving virtual currencies.[3]

In December 2017, the Chicago Mercantile Exchange Inc. (''CME'') and the CBOE Futures Exchange (''CFE'') self-certified and began offering new contracts for bitcoin futures products following discussions with Commission staff regarding compliance with the CEA and Commission rules and regulations. In line with Chairman Giancarlo's repeated statements[4] regarding the unique nature and risks of virtual currency-related products, the CFTC's Division of Market Oversight (''DMO'') and Division of Clearing and Risk (''DCR'') issued on May 21, 2018 a joint staff advisory[5] that gives exchanges and clearinghouses registered with the CFTC guidance on certain enhancements when listing a derivative contract based on virtual currency pursuant to Commission regulations. The input being sought here will better inform the Commission and its operating divisions as the market evolves and potentially seeks to list new virtual currency based futures and derivatives products.

B. Bitcoin as a Virtual Currency

In its October 2017 Primer, LabCFTC cited the IRS to define a virtual currency as ''a digital representation of value that functions as a medium of exchange, a unit of account, and/or a store of value . . . [but that] does not have legal tender status.''[6] The Primer further noted key characteristics of Bitcoin, including that it:

- Is ''pseudonymous'' (or partially anonymous) in that an individual is identified by an alpha-numeric public key/address;
- Relies on cryptography (and unique digital signatures) for security based on public and private keys and complex mathematical algorithms;
- Runs on a decentralized peer-to-peer network of computers and ''miners'' that operate on open-source software and do ''work'' to validate and irrevocably log transactions on a permanent public distributed ledger visible to the entire network;
- Solves the lack of trust between participants who may be strangers to each other on a public ledger through the transaction validation work noted in the bullet above; and
- Enables the transfer of ownership without the need for a trusted, central intermediary.

The Primer noted potential applications or use cases of a virtual currency like Bitcoin, including that it may serve as a store of value, be used for trading, enable payments and value transfers, power applications built upon the virtual currency network, and facilitate money transfers or international remittances. The Primer further highlighted a range of potential risks around virtual currencies, including technology, operational, cybersecurity, speculative, and fraud and manipulation risks.

C. Ether as a Virtual Currency

In June 2018, the Director of the Securities and Exchange Commission's (''SEC'') Division of Corporation Finance, Bill Hinman, delivered a speech which conveyed Mr. Hinman's personal views. In the speech, he addressed the question of whether ''a digital asset that was originally offered in a securities offering [could] ever be later sold in a manner that does not constitute an offering of a security.'' He explained among other factors that since the network on which Bitcoin operates appears to be decentralized and there is no central third party whose efforts are

[1] 17 CFR 145.9. All Commission regulations cited herein are set forth in chapter I of Title 17 of the Code of Federal Regulations.

[2] *See, e.g.,* 7 U.S.C. 5(b).

[3] ''A CFTC Primer on Virtual Currencies,'' (Oct. 17, 2017), *https://www.cftc.gov/sites/default/files/idc/groups/public/documents/file/labcftc_primercurrencies100417.pdf.*

[4] *See, e.g.,* Testimony of Chairman J. Christopher Giancarlo before the Senate Committee On Appropriations Subcommittee on Financial Services and General Government (June 5, 2018), *https://www.cftc.gov/PressRoom/SpeechesTestimony/opagiancarlo47.*

[5] CFTC Staff Advisory No. 18–14 (May 21, 2018), *https://www.cftc.gov/sites/default/files/idc/groups/public/%40lrlettergeneral/documents/letter/2018-05/18-14_0.pdf.*

[6] *See* Primer, *supra* note 3, at 4 (citing IRS Notice 2014–21, available at *https://www.irs.gov/businesses/small-businesses-self-employed/virtual-currencies*). *See also* Proposed Interpretation on Virtual Currency ''Actual Delivery'' in Retail Transactions (Dec. 15, 2017), 82 FR 60335 (Dec. 20, 2017), *https://www.cftc.gov/sites/default/files/idc/groups/public/@lrfederalregister/documents/file/2017-27421a.pdf.*

a key determining factor in the success of Bitcoin, ''[a]pplying the disclosure regime of the federal securities laws to the offer and resale of Bitcoin would seem to add little value.'' He further stated that, in addition to Bitcoin, ''based on my understanding of the present state of Ether, the Ethereum network and its decentralized structure, current offers and sales of Ether are not securities transactions.'' Finally, he stated that ''[o]ver time, there may be other sufficiently decentralized networks and systems where regulating the tokens or coins that function on them as securities may not be required.'' [7]

Ether is a virtual currency that was launched on the Ethereum Network in 2015. It is an open network that currently relies on a proof of work consensus mechanism, but developers, including through the Ethereum Foundation, have plans to shift the protocol to a proof of stake consensus model in order, at least in part, to reduce energy consumption required to validate the ledger.[8] The Ethereum Network is often viewed as a platform that permits ready creation and use of smart contracts that can power decentralized applications or organizations. In this way, Ether is used as ''fuel'' to compensate miners for maintaining a public ledger for such networks.[9] To date, Ether has typically been one of the top three virtual currencies by market capitalization.

II. Request for Input

The Commission is seeking public feedback namely on Ether and the Ethereum Network in order to better understand these technologies given Ether's size in the market and potentially unique attributes relative to Bitcoin. The Commission is issuing this RFI in order to gather public feedback on a range of questions related to the underlying technology, opportunities, risks, mechanics, use cases, and markets, related to Ether and the Ethereum Network. The requested information will inform the work of LabCFTC and the Commission as a whole. The Commission welcomes any relevant comments, including related topics that may not be specifically mentioned but which a commenter believes should be considered.

Specific Questions for Input

In addition to any general input, the Commission is interested in responses to the following questions:

Purpose and Functionality

1. What was the impetus for developing Ether and the Ethereum Network, especially relative to Bitcoin?
2. What are the current functionalities and capabilities of Ether and the Ethereum Network as compared to the functionalities and capabilities of Bitcoin?
3. How is the developer community currently utilizing the Ethereum Network? More specifically, what are prominent use cases or examples that demonstrate the functionalities and capabilities of the Ethereum Network?
4. Are there any existing or developing commercial enterprises that are using Ether to power economic transactions? If so, how is Ether recorded for accounting purposes in a comprehensive set of financial statements?
5. What data sources, analyses, calculations, variables, or other factors could be used to determine Ether's market size, liquidity, trade volume, types of traders, ownership concentration, and/or principal ways in which the Ethereum Network is currently being used by market participants?
6. How many confirmations on the Ethereum blockchain are sufficient to wait to ensure that the transaction will not end up on an invalid block?

Technology

7. How is the technology underlying Ethereum similar to and different from the technology underlying Bitcoin?
8. Does the Ethereum Network face scalability challenges? If so, please describe such challenges and any potential solutions. What analyses or data sources could be used to assess concerns regarding the scalability of the underlying Ethereum Network, and in particular, concerns about the network's ability to support the growth and adoption of additional smart contracts?
9. Has a proof of stake consensus mechanism been tested or validated at scale? If so, what lessons or insights can be learned from the experience?
10. Relative to a proof of work consensus mechanism does proof of stake have particular vulnerabilities, challenges, or features that make it prone to manipulation? In responding consider, for example, that under a proof of stake consensus mechanism, the chance of validating a block may be proportional to staked wealth.
11. There are reports of disagreements within the Ether community over the proposed transition to a proof of stake consensus model. Could this transition from a proof of work to a proof of stake verification process result in a fragmented or diminished Ether market if the disagreements are not resolved?
12. What capability does the Ethereum Network have to support the continued development and increasing use of smart contracts?

Governance

13. How is the governance of the Ethereum Network similar to and different from the governance of the Bitcoin network?
14. In light of Ether's origins as an outgrowth from the Ethereum Classic blockchain, are there potential issues that could make Ether's underlying blockchain vulnerable to future hard forks or splintering?

Markets, Oversight and Regulation

15. Are there protections or impediments that would prevent market participants or other actors from intentionally disrupting the normal function of the Ethereum Network in an attempt to distort or disrupt the Ether market?
16. What impediments or risks exist to the reliable conversion of Ether to legal tender? How do these impediments or risks impact regulatory considerations for Commission registrants with respect to participating in any transactions in Ether, including the ability to obtain or demonstrate possession or control or otherwise hold Ether as collateral or on behalf of customers?
17. How would the introduction of derivative contracts on Ether potentially change or modify the incentive structures that underlie a proof of stake consensus model?
18. Given the evolving nature of the Ether cash markets underlying potential Ether derivative contracts, what are the commercial risk management needs for a derivative contract on Ether?
19. Please list any potential impacts on Ether and the Ethereum Network that may arise from the listing or trading of derivative contracts on Ether.
20. Are there any types of trader or intermediary conduct that has occurred in the international Ether derivative markets that raise market risks or challenges and should be monitored closely by trading venues or regulators?
21. What other factors could impact the Commission's ability to properly oversee or monitor trading in derivative

[7] ''Digital Asset Transactions: When Howey Met Gary (Plastic),'' Remarks of William Hinman, Director, Division of Corporation Finance, SEC at the Yahoo Finance All Markets Summit: Crypto (June 14, 2018), *https://www.sec.gov/news/speech/speech-hinman-061418.*

[8] *See* Ethereum Foundation, Frequently Asked Questions, available at *https://www.ethereum.org/ether* (last visited Aug. 22, 2018).

[9] *See id.*

contracts on Ether as well as the underlying Ether cash markets?

22. Are there any emerging best practices for monitoring the Ethereum Network and public blockchains more broadly?

Cyber Security and Custody

23. Are there security issues peculiar to the Ethereum Network or Ethereum-supported smart contracts that need to be addressed?

24. Are there any best practices for the construction and security of Ethereum wallets, including, but not limited to, the number of keys required to sign a transaction and how access to the keys should be segregated?

25. Are there any best practices for conducting an independent audit of Ether deposits?

In providing your responses, please be as specific as possible, and offer concrete examples where appropriate. Please provide any relevant data to support your answers where appropriate. The Commission encourages all relevant comments on related items or issues; commenters need not address every question.

III. Conclusion

The Commission appreciates your time and effort responding to this RFI on Crypto-asset Mechanics and Markets. The information provided by stakeholders will help us refine our understanding of this area of innovation and better inform the work of the Commission, including the evaluation of potential derivatives contracts. More broadly, the input from this request will further aid the Commission in identifying FinTech trends and related opportunities, challenges, and risks. In that respect, we look forward to continuing to engage proactively with the innovator community and market participants in order to help facilitate market-enhancing innovation and ensure market integrity.

Issued in Washington, DC, on December 11, 2018, by the Commission.

Christopher Kirkpatrick,

Secretary of the Commission.

Appendix to Request for Input on Crypto-asset Mechanics and Markets—Commission Voting Summary

On this matter, Chairman Giancarlo and Commissioners Quintenz, Behnam, Stump, and Berkovitz voted in the affirmative. No Commissioner voted in the negative.

[FR Doc. 2018–27167 Filed 12–14–18; 8:45 am]

BILLING CODE 6351–01–P

BUREAU OF CONSUMER FINANCIAL PROTECTION

[Docket No. CFPB–2018–0041]

Agency Information Collection Activities: Comment Request

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Notice and request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (PRA), the Bureau of Consumer Financial Protection (Bureau) is requesting to renew the Office of Management and Budget (OMB) approval for an existing information collection, titled Interstate Land Sales Full Disclosure Act (Regulations J, K & L) 12 CFR 1010, 1011, 1012.

DATES: Written comments are encouraged and must be received on or before February 15, 2019 to be assured of consideration.

ADDRESSES: You may submit comments, identified by the title of the information collection, OMB Control Number (see below), and docket number (see above), by any of the following methods:

- *Electronic:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: FederalRegisterComments@cfpb.gov.* Include Docket No. CFPB–2018–0041 in the subject line of the message.
- *Mail:* Comment Intake, Bureau of Consumer Financial Protection (Attention: PRA Office), 1700 G Street NW, Washington, DC 20552.
- *Hand Delivery/Courier:* Comment Intake, Bureau of Consumer Financial Protection (Attention: PRA Office), 1700 G Street NW, Washington, DC 20552.

Please note that comments submitted after the comment period will not be accepted. In general, all comments received will become public records, including any personal information provided. Sensitive personal information, such as account numbers or Social Security numbers, should not be included.

FOR FURTHER INFORMATION CONTACT: Documentation prepared in support of this information collection request is available at *www.regulations.gov.* Requests for additional information should be directed to Darrin King, PRA Officer, at (202) 435–9575, or email: *CFPB_PRA@cfpb.gov.* If you require this document in an alternative electronic format, please contact *CFPB_Accessibility@cfpb.gov.* Please do not submit comments to these email boxes.

SUPPLEMENTARY INFORMATION:

Title of Collection: Interstate Land Sales Full Disclosure Act (Regulations J, K & L) 12 CFR 1010, 1011, 1012.

OMB Control Number: 3170–0012.

Type of Review: Renewal without change of an existing information collection.

Affected Public: Businesses and other for-profit entities.

Estimated Number of Respondents: 197.

Estimated Total Annual Burden Hours: 3,411.

Abstract: The Interstate Land Sales Full Disclosure Act (ILSA) requires land developers to register subdivisions of 100 or more non-exempt lots or units and to provide each purchaser with a disclosure document designated as a property report, 15 U.S.C. 1703–1704. ILSA was enacted in response to a nation-wide proliferation of developers of unimproved subdivisions who made elaborate and often fraudulent, claims about their land to unsuspecting lot purchasers. Information is submitted to the Bureau of Consumer Financial Protection (Bureau) to assure compliance with ILSA and the implementing regulations. The Bureau also investigates developers who are not in compliance with the regulations.

Request for Comments: Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the Bureau, including whether the information will have practical utility; (b) The accuracy of the Bureau's estimate of the burden of the collection of information, including the validity of the methods and the assumptions used; (c) Ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Dated: December 11, 2018.

Darrin A. King,

Paperwork Reduction Act Officer, Bureau of Consumer Financial Protection.

[FR Doc. 2018–27262 Filed 12–14–18; 8:45 am]

BILLING CODE 4810–AM–P