STATEMENT

Statement on the Custody of Crypto Asset Securities by Broker-Dealers

Division of Trading and Markets

Dec. 17, 2025

Introduction

The staff of the Division of Trading and Markets is issuing this statement to provide its views[1] on the application of paragraph (b)(1) of Rule 15c3-3 to crypto assets that are securities ("crypto asset securities").[2] This statement addresses any broker-dealer that carries crypto asset securities for customers, including broker-dealers that conduct a traditional securities business.[3]

This statement is part of an effort to provide greater clarity on the application of the federal securities laws to crypto asset securities.[4] The Division is providing its views in response to requests from market participants as an interim step while the Commission continues to consider issues relating to a broker-dealer's custody of crypto asset securities and the feedback it has received.[5]

Discussion

Paragraph (b)(1) of Rule 15c3-3 under the Securities Exchange Act of 1934 ("Rule 15c3-3") requires a broker-dealer to promptly obtain and thereafter maintain physical possession or control of all fully paid and excess margin securities it carries for the account of customers.[6]

The Division's view is expressly limited to paragraph (b)(1) of Rule 15c3-3. Furthermore, the Division's view does not address any other obligations a broker-dealer, or other party, may have to comply with the federal securities laws, including the broker-dealer financial responsibility rules. All terms used in this statement have the definitions set forth in Rule 15c3-3.

In circumstances where a broker-dealer takes the measures discussed below, the Division will not object to a broker-dealer deeming itself to have "physical possession" of the crypto asset security carried for the account of customers as set forth in paragraph (b)(1) of Rule 15c3-3.[7]

1. *Access to Crypto Asset Securities and Transfer Capability*

A broker-dealer that intends to obtain and maintain possession of a customer's fully paid and excess margin crypto asset security directly has access to the crypto asset security and the capability to transfer it on the associated distributed ledger technology.

2. *Assessment of Characteristics of a Crypto Asset Security's Distributed Ledger Technology*

A broker-dealer establishes, maintains, and enforces reasonably designed written policies and procedures to conduct and document an assessment of the distributed ledger technology and the associated network where transfers of ownership of a crypto asset security are recorded prior to undertaking to maintain possession of the crypto asset security, and at reasonable intervals thereafter. [8] The assessment would examine different aspects of the distributed ledger technology[9] and its associated network as well as its governance, including how protocol updates and changes are determined and implemented.[10] This circumstance is designed to enable the identification of significant weaknesses or other operational issues with the distributed ledger technology and associated network that could affect the broker-dealer's

possession, which would allow a broker-dealer to take appropriate action to reduce its exposure to such risks.[11]

3. *Not Undertaking to Maintain Custody of a Crypto Asset Security Due to Security or Operational Problems*

A broker-dealer does not deem itself to possess a crypto asset security if the broker-dealer is aware of any material security or operational problems or weaknesses with the distributed ledger technology and associated network used to access and transfer the crypto asset security or is aware of other material risks posed to the broker-dealer's business by custodying the crypto asset security. Under this circumstance, broker-dealers would be focused on material risks arising from the possession of the relevant crypto asset security, and not other potential risks such as market or reputational risk. This circumstance provides reasonable assurance that the broker-dealer will not deem itself to be in possession of a crypto asset security if it would expose the broker-dealer to these problems, weaknesses, or risks.

4. *Protection of Private Keys*

A broker-dealer establishes, maintains, and enforces reasonably designed written policies, procedures, and controls that are consistent with industry best practices to protect against the theft, loss, or unauthorized or accidental use of the private keys necessary used to access and transfer the crypto asset security.

This circumstance emphasizes that a broker-dealer has policies, procedures, and controls reasonably designed to help ensure that no other person, including the broker-dealer's customer or a third-party (including the broker-dealer's affiliate), has access to the relevant private keys and the ability to transfer the asset without the authorization of the broker-dealer.

5. *Measures for Ensuring the Continued Safekeeping and Accessibility of the Crypto Asset Securities in the Event of Disruption*

A broker-dealer establishes, maintains, and enforces reasonably designed written policies, procedures, and arrangements to: (i) specifically identify, in advance, the steps it will take in the wake of certain events that could affect the firm's possession of crypto asset securities, including blockchain malfunctions, 51% attacks, hard forks, or airdrops; (ii) allow for the broker-dealer to comply

with a lawful order as to seizing, freezing, burning or prevention of transfer of the crypto asset securities; and (iii) allow for the transfer of the crypto asset securities held by the broker-dealer to a broker-dealer, trustee, receiver, liquidator, or person performing a similar function, or to another appropriate person, in the event the broker-dealer can no longer continue as a going concern and self-liquidates or is subject to a formal bankruptcy, receivership, liquidation, or similar proceeding.

This circumstance provides measures for ensuring continued safekeeping and accessibility of the crypto asset securities even if the broker-dealer is wound down or liquidated. This circumstance is also designed to provide a reasonable level of assurance that a broker-dealer has developed plans to address unexpected disruptions to its possession of crypto asset securities.

For further information please contact the Division's Office of Broker-Dealer Finances, at (202) 551-5777.

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[1] This statement represents the views of the staff of the Division of Trading and Markets ("Division"). It is not a rule, regulation, guidance, or statement of the U.S. Securities and Exchange Commission ("Commission"), and the Commission has neither approved nor disapproved its content. This statement, like all staff statements, has no legal force or effect: it does not alter or amend applicable law, and it creates no new or additional obligations for any person.

[2] "Crypto asset securities" include tokenized versions of an equity or debt security.

[3] In December 2020, the Commission issued a statement regarding the custody of crypto assets. *See Custody of Digital Asset Securities by Special Purpose Broker-Dealers*, Exchange Act Release No. 90788 (Dec. 23, 2020), 86 FR 11627 (Feb. 26, 2021) ("2020 statement"). Because the circumstances described in this statement generally are a subset of the circumstances described in the 2020

statement, in the Division's view, broker-dealers operating pursuant to the 2020 statement today would be operating within the circumstances of this statement. Nothing in this statement alters or amends the broker-dealer's obligation to follow the rules of its designated examining authority. *See, e.g.*, FINRA Rule 1017 (Application for Approval of Change in Ownership, Control, or Business Operations).

[4] *See* Division, *Frequently Asked Questions Relating to Crypto Asset Activities and Distributed Ledger Technology*, available at https://www.sec.gov/rules-regulations/staff-guidance/trading-markets-frequently-asked-questions/frequently-asked-questions-relating-crypto-asset-activities-distributed-ledger-technology (https://www.sec.gov/rules-regulations/staff-guidance/trading-markets-frequently-asked-questions/frequently-asked-questions-relating-crypto-asset-activities-distributed-ledger-technology).

[5] For additional information on the Commission's efforts addressing crypto assets and markets, *see* the Commission's Crypto Task Force website at https://www.sec.gov/about/crypto-task-force (https://www.sec.gov/about/crypto-task-force).

[6] *See* 17 CFR 240.15c3-3(b)(1).

[7] For the purposes of this statement, when referring to crypto asset securities held under the "physical possession" clause of paragraph (b)(1) of Rule 15c3-3, the Division will refer to "possession." This statement does not address the "control" prong of paragraph (b)(1) of Rule 15c3-3.

[8] For the purposes of this statement, a digital asset security's distributed ledger technology and associated network includes the protocols and any smart contracts or applications integral to the operation of the digital asset security.

[9] Aspects of the distributed ledger technology and its associated network to consider in the assessment include, among others: (1) performance (i.e., does it work and will it continue to work as intended); (2) transaction speed and throughput (i.e., can it process transactions quickly enough for the intended application(s)); (3) scalability (i.e., can it handle a potential increase in network activity); (4) resiliency (i.e., can it absorb the impact of a problem in one or more parts of its system and continue processing transactions without data loss or corruption); (5) security and the relevant consensus mechanism (i.e., can it detect and defend against malicious attacks, such as 51% attacks or Denial-of-Service

attacks, without data loss or corruption); (6) complexity (i.e., can it be understood, maintained, and improved); (7) extensibility (i.e., can it have new functionality added, and continue processing transactions without data loss or corruption); and (8) visibility (i.e., are its associated code, standards, applications, and data publicly available and well documented).

[10] This should include an assessment of impacts to the crypto asset security of events such as protocol upgrades, hard forks, airdrops, exchanges of one crypto asset security for another, or staking.

[11] The Division emphasizes that this assessment, in and of itself, does not alter or amend applicable law, and it creates no new or additional obligations, nor does it satisfy a broker-dealer's obligations, with respect to the recommendation of a securities transaction or an investment strategy involving securities under Regulation Best Interest or suitability. See, e.g., 17 CFR 240.15l-1; FINRA Rule 2111.

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