



# HODDER LAW FIRM

February 25, 2022

**SENT VIA EMAIL:**

Vanessa A. Countryman,  
Securities and Exchange Commission,  
100 F Street NE, Washington, DC 20549-1090  
[rule-comments@sec.gov](mailto:rule-comments@sec.gov)

**Regarding:** File No. S7-02-22 - Comments on Amendments to Regulation ATS

Dear Ms. Countryman,

Hodder Law Firm, P.A. appreciates the opportunity to present these comments to the Securities and Exchange Commission (“Commission”) regarding the proposed amendment of the Securities Exchange Act of 1934 (“Exchange Act”) Section 3b-16.

We’ve had the privilege of working with a number of market participants in the digital asset space. My experience with these people is that they are highly intelligent, sincere, thoughtful, and creative entrepreneurs seeking to protect investors, maintain fair, orderly, and efficient markets, and facilitate capital formation.

***Overly broad definition.*** While the proposed amendments are specifically directed to Alternative Trading Systems (“ATs”) that trade U.S. government securities, National Market System stocks and other securities, Regulation Systems for Compliance and Integrity, the broad definition of “Communication Protocol Systems” could inadvertently implicate decentralized digital asset exchanges.

***Infancy of digital asset market.*** The digital asset industry is experiencing unprecedented growth, but only accounts for less than half a percent of the treasuries market.<sup>1</sup> It is inappropriate to saddle this emerging technology with the same heavy regulatory regime required of the deepest and most essential bond market on the planet.<sup>2</sup>

***Unintended Consequences.*** This proposal could result in an uncertain regulatory environment fraught with enforcement actions against market participants that are not properly notified that they are conducting any regulated activities. Once on notice, many of the country’s most highly skilled entrepreneurs may be incentivized to migrate their businesses to friendlier jurisdictions like El Salvador, leaving the United States with a brain drain of competent computer engineers and developers. The global demand for blockchain developers increased by approximately 500% in 2021, with the United States leading the way.<sup>3</sup>

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<sup>1</sup> CoinMarketCap, Total DeFi market cap is 117B, a 17.29% increase over the last day (February 25, 2022)  
<https://coinmarketcap.com/view/defi/>.

<sup>2</sup> SIFMA, US Treasury Securities Statistics SIFMA (February 25, 2022)  
<https://www.sifma.org/resources/research/us-treasury-securities-statistics/>.

<sup>3</sup> The Blockchain Academy, THE GLOBAL BLOCKCHAIN EMPLOYMENT REPORT, (April 2021)  
<https://theblockchainacademy.com/wp-content/uploads/sites/6/2021/04/2021-Global-Blockchain-Employment-Report.pdf>

***Disadvantage to Americans.*** The proposed amendments may result in the targeting and geo-blocking of United States market participants, unnecessarily restraining them from an industry that has sparked tremendous excitement and created intergenerational wealth for many of its participants. At the recent conference in Eth Denver, American businessman Andrew Yang stated, “Web3 could be the biggest anti-poverty initiative in the history of the world.”<sup>4</sup>

***Chilling Innovation.*** The rapid development in the digital asset marketplace will undoubtedly lead to novel products, services, and financial instruments that could help improve our lives in ways that we have yet to even conceptualize. These innovations require significant investment of both financial and human capital, which are attracted only if the winners are able to reap rewards.<sup>5</sup> Regulating this industry through enforcement disincentivizes such innovation.

***Frustration of Purpose.*** Furthermore, an ATS is not capable of interfacing with the blockchain technology as it exists today. An ATS requires a centralized transfer agent to process each trade, where the current decentralized exchanges allow users to directly swap their digital assets through a smart contract from their local device. Decentralized exchange technology creates major market efficiencies by eliminating intermediation and increasing transparency.

***Chilling political speech.*** The proposed amendments also present an overly broad regulation of the time, place, and manner that digital asset market participants are able to communicate. Current digital asset protocols facilitate 24 hours a day, 7 days a week communications, yet the proposal restricts communications to traditional market hours of 9:30 am until 4:00 pm Eastern Standard Time. This restriction on speech is not narrowly tailored to serve a significant government interest. Especially when considering the artistic and political speech taking place in the non-fungible token market, any constraints on these expressions need to be imposed with the least restrictive means possible.

The 30-day comment period is insufficient for the digital asset community to properly analyze the potential impacts of this proposed amendment, especially considering the lack of direct notice to market participants.

We hope these comments are constructive to the Commission as it considers further changes to the regulatory framework for the digital assets industry. We would welcome the opportunity to discuss or clarify any of these points with the Commission. We thank Commissioner Peirce for her leadership.

Respectfully Submitted,

**Hodder Law Firm, P.A.**

*s/Sasha A. Hodder*

**SASHA A. HODDER, MBA, Esq.**

50 N. LAURA ST. SUITE 2500

JACKSONVILLE, FL 32202

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E: [REDACTED]

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<sup>4</sup>[https://twitter.com/strack\\_ben/status/1495152724115083264?s=20&t=iQFOYSQS7a8EvMxWv805mA](https://twitter.com/strack_ben/status/1495152724115083264?s=20&t=iQFOYSQS7a8EvMxWv805mA)

<sup>5</sup> Carl Shapiro, *AntiTrust in Network Industries*, (March 7, 1996) <https://www.justice.gov/atr/file/518696/download>.