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March 10, 2022

Submitted via email to: [rule-comments@sec.gov](mailto:rule-comments@sec.gov)

Vanessa Countryman, Secretary  
Securities and Exchange Commission  
100 F Street, NE  
Washington, DC 20549-1090

**Re: Amendments to Exchange Act Rule 3b-16 Regarding the Definition of “Exchange”;  
Regulation ATS for ATSS That Trade U.S. Government Securities, NMS Stocks,  
and Other Securities; Regulation SCI for ATSS That Trade U.S. Treasury Securities  
and Agency Securities (Release No. 34-94062; File No. S7-02-22)**

Dear Ms. Countryman:

This letter is submitted on behalf of the Blockchain Association, a member led, member driven organization dedicated to improving the public policy environment for crypto networks through innovation, collaboration, leadership, networking, diversity and representation. The Blockchain Association writes in response to the notice of proposed rule of the Securities and Exchange Commission (the “SEC”) to amend the interpretation of the definition of “exchange” in Rule 3b-16 of the Securities Exchange Act of 1934 (the “Exchange Act”) and to make certain other amendments to Regulation ATS and Regulation SCI under the Exchange Act.<sup>1</sup>

The Release states that the comment period will last for thirty days after publication of the proposed rulemaking in the Federal Register. As noted by the Office of the Federal Register, comment periods for proposed rules by federal agencies typically range from thirty to sixty days. For complex rulemakings, however, agencies can provide for comment periods up to 180 days.<sup>2</sup> The average comment periods for rulemakings by federal agencies between January 2015 and February 2016, for example, was forty-nine days.<sup>3</sup>

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<sup>1</sup> See SEC Release No. 34-94062 (Jan. 26, 2022) (the “Release”).

<sup>2</sup> Office of the Federal Register, *A Guide to the Rulemaking Process* (available at [https://www.federalregister.gov/uploads/2011/01/the\\_rulemaking\\_process.pdf](https://www.federalregister.gov/uploads/2011/01/the_rulemaking_process.pdf)).

<sup>3</sup> Organisation for Economic Co-operation and Development, *Public notice and comment rulemaking (United States)* (available at <https://www.oecd.org/gov/regulatory-policy/USA-Public-Notice-and-Comment.pdf>).

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We believe that the scope of the Release, and the wide-ranging impact of the proposed rulemakings contemplated therein, merit more consideration than can be provided in a thirty-day period. For example, while the Release does not mention crypto or digital assets at any point, the replacement of the term “uses” with “makes available” in Rule 3b-16(a)(2) could be interpreted to impact certain digital asset platforms and protocols and persons that provide access to them. We believe that potential consequences such as these present complex issues that merit thoughtful consideration and discussion with the participation of industry stakeholders. We believe that the proposed 30-day period is manifestly insufficient to respond thoughtfully to issues such as these, as well as to identify and respond to other potential issues that may be contained in this significant Release. For example, a 30-day comment period may make it infeasible for industry participants or commentators to engage experts to analyze the potential costs of applying these rules to the crypto industry.

Given the length of the Release, and the wide-ranging potential implications of the proposed rulemaking, the Blockchain Association requests, on behalf of its members, that the SEC extend the comment period to a minimum of ninety days from the date of publication in the Federal Register so that stakeholders can fully analyze the Release and provide thoughtful commentary in response to the proposed rulemaking.

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We greatly appreciate the opportunity to provide comments with respect to this important rule-making effort and thank the SEC staff for its consideration in extending the comment period so that we may offer comments that allow the SEC to give its proposed rulemaking the consideration it deserves and requires. Latham & Watkins LLP and the staff of the Blockchain Association are available to meet and discuss these matters with the SEC and to respond to any questions.

Respectfully Submitted,



Stephen P. Wink  
of LATHAM & WATKINS LLP