



13th April 2021

Vanessa Countryman, Secretary  
Securities and Exchange Commission  
100 F Street, NE  
Washington, DC 20549-0609

VIA EMAIL: [rule-comments@sec.gov](mailto:rule-comments@sec.gov)

**Response to Request for Comments on SEC Policy Statement:  
Custody of Digital Asset Securities by Special Purpose Broker-Dealers**

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To whom it may concern,

This letter is submitted on behalf of Global Digital Finance (“**GDF**”) in response to the request for comment to the SEC Policy Statement on the custody of digital asset securities by special purpose broker-dealers.

GDF strongly supports efforts by global standard setters, national authorities and regulators to consult and work with the global digital asset industry. While we fully support the goals of the SEC’s Policy Statement, we are writing to suggest certain modifications to the Commission Policy Statement in furtherance of such goals.

**About GDF**

GDF is a not-for-profit industry group that promotes the adoption of best practices for crypto and digital assets, and digital finance technologies through the development of conduct standards, in a shared engagement forum with market participants, policymakers and regulators.

Established in 2018, GDF consists of a broad range of industry participants, with 300+ global community members—including some of the most influential digital asset and token companies, academics and professional services firms supporting the industry. GDF is proud to include 100x Group, Coinbase, Diginex, DLA Piper, Ernst & Young, Hogan Lovells, Huobi, R3 and SIX Digital Exchange as patron members.



## About the GDF Private Markets Digitization Steering Group

This comment letter has been prepared by the GDF Private Markets Digitization Steering Group (“**PMDSG**”). The PMDSG comprises dozens of leading institutions including major banks, asset managers, custodians, exchanges, legal firms, technology providers and high-growth FinTech companies, who believe digital asset securities are a fundamental and crucial component of the future of the financial markets.

The PMDSG was established in response to the COVID-19 crisis, and has engaged since April 2020 in discussions, activities, and active joint development of protocols and best practices designed to make digital securities a reality. The group focuses on helping capital formation in the private markets, the backbone of the economy, where traditionally securities processes are manual and inefficient. The focus of the group is to work together to establish a safe and efficient use of digital asset technology by institutions in the securities industry.

While some of the early work in digital asset securities was done by startups and special purpose entities, we want the Commission to be fully aware that established financial institutions across the industry are actively engaged in building digital asset securities offerings, with strategic support from the highest levels at these financial organizations. We are therefore providing these comments to present the shared point of view of financial industry players and related technology companies who are working together to develop the digital asset securities market.

Should you have any questions with regards to this submission, GDF remains at the disposal of the SEC to respond as required and can be reached at: [lavan@gdf.io](mailto:lavan@gdf.io).

Yours faithfully,

The GDF Board



## Response to the Request for Comments on the SEC statement

GDF contends that digitization of securities furthers each of the SEC’s guiding principles: supporting capital formation, ensuring investor protection and supporting market integrity.

GDF is of the position that it is reasonable to include meaningful guardrails for this preliminary authorization of custodial authority as a part of a measured approach to facilitating adoption of digital securities into the marketplace. However, GDF considers that the Commission has significantly underestimated the impact that the limitation to special purpose broker-dealers will have, with the exclusion of all traditional broker dealers (including many GDF members) from the benefits of this Policy Statement. GDF also deems this exclusion damaging to US broker dealers as they seek to embrace crucial digital innovation in a competitive global landscape. This restriction may put US broker-dealers, as well as their US client issuers and investors, at a disadvantage compared to non-US market players.

GDF highlights that the limitation to special purpose broker dealers will be counterproductive because the conditions to support widespread use of blockchain technology in capital markets require the participation of institutional and professional investors. The participation of those groups provides the market with confidence, brings an enhanced level of professionalism, and drives the development of enterprise-grade solutions, disclosure standards, institutional-grade security and regulation compliance. These conditions will also attract high quality assets to engage with this new technology.

GDF notes that many, if not most, institutional and sophisticated investors that are not already comfortable with blockchain technology and digital assets may not feel comfortable dealing exclusively with new entrants or special purpose startups for custody of their digital securities, as witnessed in recent years. At the same time, holders of high quality assets may also be less willing to engage. Therefore, the requirement for a broker dealer to deal exclusively in digital assets effectively creates a backwater for these securities that stigmatizes them in a way that is not helpful to the Commission’s stated goal to “encourage innovation around the application of the Customer Protection Rule to digital asset securities”.

This is a scenario where a good intention, limiting market exposure to a small number of new players, can be expected to lead to the opposite outcome. GDF considers that this limit could result in special-purpose custodial broker dealers



struggling because they cannot reach the assets and investors they need (potentially putting investors in more risk). The limitation also forces existing broker dealers into deploying suboptimal solutions and various workarounds. Even the few major banks who could theoretically create new special-purpose entities, may be very unlikely to start the lengthy, complicated, and costly creation of such new broker dealer entities before the market has scaled. GDF notes the market needs both startups and established players pulling together and innovating in a clear, simple and fair regulatory environment, while protecting investors and market integrity – as the GDF Private Markets Digitization Steering Group is proving possible and successful when various parts of the financial industry value chain work together, and with regulators.

GDF considers that there is a better way to enable gradual, safe and successful deployment, which will allow the Staff of the Commission to gather data about the ways that the market is utilizing the new technology. At the same time, it will enable established broker dealers to innovate safely alongside new entrants.

Accordingly, the GDF Private Markets Digitization Steering Group, given its focus on private markets, endorses an expansion of the availability of this preliminary authorization in a way that will allow existing broker-dealers to custody digital assets for their clients, while limiting the risks to investors and to market stability in a more effective way than relying exclusively on special-purpose broker dealers. GDF therefore proposes the following addition to the preliminary authorization:

- non-special-purpose broker dealers will be covered under the preliminary authorization provided that the custodied digital security has been issued pursuant to an exemption promulgated under Reg. D of the Securities Act (i.e., private company securities), and in this context, the broker-dealers will only custody on behalf of “accredited investors” as defined in Rule 501(a) of the Securities Act or “qualified institutional buyers” as defined in Rule 144A;
- the broker-dealer shall meet all the other 8 terms described in section “IV - Commission Position” of the proposal, and any other safeguards required.

This addition of private assets under Reg D for non-special-purpose broker dealers, is more inclusive for existing broker dealers (such as GDF members) while adding only a smaller segment of the investor market (accredited and qualified institutional buyers) which has the ability and tools to judge and manage related risks, within the investor protection regime described in section IV of the Commission’s proposal.



As this proposed enhancement is limited to private markets under Reg D, it also has substantially reduced risk of contagion or effect on any non-accredited investors in any way.

Also, in the context of private securities under Reg D, digital securities will replace what are today manually managed private securities (often kept on spreadsheets), so digital securities would be a significant improvement over current market manual processes and serve to reduce multiple risks compared to the pre-digital state. At the same time, the institutional investor segment served by the proposed enhancement is the most attractive investor base for quality assets, thereby contributing also to the quality of the assets that will become available to investors through digital asset securities, further reducing risks.

GDF highlights again that it sees digitization of securities, and especially those classes of private securities which are today managed manually, to be an extremely important field of innovation for financial markets – which will become crucial for financial institutions. This innovation has the potential to bring significant benefits to issuers, to investors, and to regulators. Therefore, the existing broker-dealers and other ecosystem market players in the GDF Private Markets Digitization Steering Group, strongly submit that it would be in line with the Commission’s intentions and objectives in drafting the proposal, to allow them to carefully innovate in the space alongside startups, while taking all the necessary steps to protect investors.