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Crypto Task Force
U.S. Securities and Exchange Commission
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I. Introduction

The FIA Principal Traders Group (“FIA PTG”)¹ commends the U.S. Securities and Exchange Commission (“SEC” or the “Commission”) for forming the Crypto Task Force, soliciting input from market participants and providing a web portal to facilitate the receipt and display of content. FIA PTG members are among the most active providers of liquidity to derivatives markets, including crypto.

II. Security Status Issues

The question of “security” status is a threshold issue for the digital asset industry. FIA PTG agrees with the many other market participants who have noted that conducting a *Howey*² analysis with respect to cryptoasset transactions is extremely difficult and can often result in inconsistent outcomes given persistent disagreements, even among federal courts, about how to apply the test.³ Regarding specific difficulties, we specifically endorse the views that (i) the SEC should formally acknowledge that federal case law requires a transaction-by-transaction *Howey* analysis; (ii) under this transaction-specific analysis, secondary-market transactions generally do not involve investment contracts, absent exceptional circumstances; and (iii) transactions in the native token of a network that has become decentralized should not be viewed as securities transactions.

¹ FIA PTG is an association of firms, many of whom are broker-dealers, who trade their own capital on exchanges in futures, options and equities markets worldwide. FIA PTG members engage in manual, automated and hybrid methods of trading, and they are active in a wide variety of asset classes, including equities, fixed income, foreign exchange and commodities. FIA PTG member firms serve as a critical source of liquidity, allowing those who use the markets, including individual investors, to manage their risks and invest effectively. The presence of competitive professional traders contributing to price discovery and the provision of liquidity is a hallmark of well-functioning markets. FIA PTG advocates for open access to markets, transparency and data-driven policy.

² SEC v. W.J. Howey Co., 328 U.S. 293 (1946).

³ See, e.g., SEC v. Coinbase, No. 1:23-cv-04738-KPF, ECF No. 175, at *20-29 (S.D.N.Y. Jan. 7, 2025) (order certifying prior order for interlocutory appeal) (finding “substantial ground for difference of opinion” supporting exceptional remedy of interlocutory appeal given conflicting rulings in the application of the *Howey* test to cryptoassets).

As to initial distributions of cryptoassets (and any secondary-market transactions that do constitute securities transactions), FIA PTG agrees with the preliminary notes to Commissioner Peirce's proposed Rule 195 that difficulties in registering tokens under the Securities Act of 1933 ("Securities Act") create a Catch-22. Limiting token offers and sales to private or other exempt offerings prevents the widespread distribution of the tokens that is required for the related network to grow and develop to the point that it has become fully functional and decentralized (and thus no longer implicates the securities laws).⁴ To this point, FIA PTG supports the development of a safe harbor as suggested by Commissioner Peirce. Within a safe harbor, maturity should be determined through an evaluation of control, rather than other more arbitrary tests such as ownership thresholds. This approach focuses on a lack of unilateral control that most effectively measures when a project and its corresponding network token reach sufficient decentralization. While in this safe harbor, disclosures such as those proposed by Commissioner Peirce can provide meaningful information to potential retail investors while informational asymmetries may still exist. This approach would provide much needed legal certainty and time to allow for projects to innovate and grow in the United States.

FIA PTG believes it is important that any safe harbor be issued in the form of exemptive relief, e.g., under Section 28 of the Securities Act.⁵ A multiplicity of private plaintiffs have brought suits claiming that a wide variety of primary- and secondary-market sales of cryptoassets violated the federal securities laws, and such litigation is only expected to increase in the foreseeable future.⁶ The existing conflicts and confusion regarding application of the *Howey* test to cryptoassets can only be exacerbated with private plaintiffs as additional "cooks in the kitchen." A tailored Commission exemption such as Commissioner Peirce's proposed safe harbor is needed to promote certainty and uniformity in application of the securities laws to cryptoassets.

III. Regulation of Tokenized U.S. Equity Securities

Initiatives to "tokenize" the U.S. equity market (through the issuance of new securities products that may provide an alternative to traditional listed equities) raise weighty questions. As the Commission considers whether changes to the existing trading and regulatory framework applicable to equity securities are necessary to facilitate tokenization, it should continue to do so transparently, deliberately, and through robust public engagement. FIA PTG supports innovation and is committed to working with the Commission on these issues. Moving forward, if actions are taken that would alter the existing regulatory framework, the Commission should continue to promote innovation without arbitrage.

⁴ Commissioner Hester M. Peirce, SEC, Token Safe Harbor Proposal 2.0 (Apr. 13, 2021), <https://www.sec.gov/newsroom/speeches-statements/peirce-statement-token-safe-harbor-proposal-20>.

⁵ 15 USC 77z-3.

⁶ See, e.g., *Underwood v. Coinbase Global Inc.*, 1:21-cv-08353-PAE, ECF No. 94 (S.D.N.Y. Feb. 7, 2025) (order denying motion for judgment on the pleadings on remand from Second Circuit); *Carnahan v. PUMP.FUN*, 25-cv-490 (S.D.N.Y. Jan. 16, 2025) (Compl.); Sydney Johnson & Calvin Koo, CoinDesk, [The SEC's Retreat From Crypto Enforcement May Invite More Private Lawsuits](#).

IV. Potential Collateral Efficiencies

FIA PTG supports innovation and believes that tokenization of collateral (as distinguished from the issuance of new securities products) may present opportunities to increase the speed, efficiency and automation of collateral management and settlement for a wide variety of transactions. Exploring more efficient collateral movement processes, including processes that incorporate the tokenization of collateral, may prove useful in the context of recent proposals to extend trading hours in traditional markets, as seen in efforts involving some of the world's largest exchanges, market utilities, and market participants.⁷ Application of blockchain technology via tokenization can help ensure that collateral mobility hours match trading hours, which is critical to avoid buildup of uncollateralized exposures.

To this end, the Commission should confirm that tokenized assets are eligible for use to satisfy regulatory margin and capital requirements if the underlying non-tokenized asset is thus eligible, given the lack of any prohibition in SEC rules on use of tokenized forms of assets. Such confirmation could be expressly conditioned on adherence to policies and procedures to address any legal enforceability, custodial, cybersecurity, operational, or other risks or issues unique to tokenized forms of eligible collateral.⁸

The market would also benefit from being able to use dollar-pegged stablecoins backed by high-quality, highly liquid assets for margin and other collateral purposes, as well as for transaction settlements, as this would allow for movement of cash-like instruments for these purposes at times when the Fedwire service is not available. Unlike tokenized versions of assets that currently are eligible collateral, it is not clear that stablecoins would qualify as eligible collateral absent SEC approval or enactment of legislation with provisions to that effect. Further, the SEC should update Rule 15c3-1 (regarding broker-dealer capitalization and haircuts) as appropriate, for broker-dealers who hold crypto assets. FIA PTG notes that market utilities have already begun pilot programs involving tokenized assets.

⁷ See, e.g., CME Group, Press Release: [CME Group Will Introduce Tokenization Technology to Enhance Capital Market Efficiency Using Google Cloud's New Universal Ledger](#) (Mar. 25, 2025) (noting work on tokenization to “deliver significant efficiencies for collateral, margin, settlement and fee payments as the world moves toward 24/7 trading”); Nasdaq, [24-hour Trading Hub: The Markets Never Sleep, Should Trading?](#); Commodity Futures Trading Commission (“CFTC”), Request for Comment on Trading and Clearing Derivatives on a 24/7 Basis (Apr. 21, 2025), https://www.cftc.gov/media/12036/24_7_RFC042125/download.

⁸ See, e.g., Digital Asset Markets Subcommittee of the CFTC Global Markets Advisory Committee, Recommendations to Expand Use of Non-Cash Collateral Through Use of Distributed Ledger Technology (Nov. 21, 2024) (“CME Release”) (explaining that CFTC registrants seeking to use tokenized assets as collateral “can follow their existing policies, procedures, and practices in order to assess and address the relevant risks in the following key areas: (a) legal enforceability; (b) segregation and custody arrangements; (c) credit and custodial risks; and (d) information security and other operational risks”).

V. Accounting Considerations

In her February 21 Statement,⁹ Commissioner Pierce asks several questions regarding the accounting treatment for digital assets and whether the task force should propose different requirements for crypto assets. These questions are relevant to a broad set of commercial issues. The current task force has an opportunity to address the legacy ambiguities that hinder the commercial viability of the asset class. Because the ambiguities cut across many different elements of the industry, there is no simple fix, and multiple questions must be addressed. Some of the issues where clarity is required include questions around classification and valuation, harmonization across jurisdictions, and clarification around disclosure. Improved clarity around how assets are accounted for will help the industry thrive and allow for broader adoption.

If you have any questions or need more information, please contact Joanna Mallers (jmallers@fia.org).

Respectfully,

FIA Principal Traders Group



Joanna Mallers
Secretary

cc: Paul S. Atkins, Chairman
Hester M. Peirce, Commissioner
Caroline A. Crenshaw, Commissioner
Mark T. Uyeda, Commissioner

⁹ See Statement of Commissioner Hester Peirce, (February 21, 2025), [There Must Be Some Way Out of Here](#).