

FEDERAL DEPOSIT INSURANCE CORPORATION

RIN 3064-ZA25

Request for Information and Comment on Digital Assets

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Request for information and comment.

SUMMARY: The Federal Deposit Insurance Corporation (FDIC) is gathering information and soliciting comments from interested parties regarding insured depository institutions' (IDIs') current and potential activities related to digital assets. The FDIC is interested in receiving input on current and potential digital asset use cases involving IDIs and their affiliates.

DATES: Comments must be received by July 16, 2021.

ADDRESSES: Commenters are encouraged to use the title "*Request for Information and Comment on Digital Assets (RIN 3064-ZA25)*" and to identify the number of the specific question(s) for comment to which they are responding. Please send comments by one method only directed to:

- *Agency Website:* <https://www.fdic.gov/regulations/laws/federal/>. Follow the instructions for submitting comments on the agency's website.
- *Email:* Comments@fdic.gov. Include RIN 3064-ZA25 in the subject line of the message.
- *Mail:* James P. Sheesley, Assistant Executive Secretary, Attention: Comments-RIN 3064-ZA25, Federal Deposit Insurance Corporation, 550 17th Street N.W., Washington, D.C. 20429.

- *Hand Delivery/Courier:* Comments may be hand-delivered to the guard station at the rear of the 550 17th Street N.W. building (located on F Street) on business days between 7:00 a.m. and 5:00 p.m., ET.

Public Inspection: All comments received will be posted without change to

<https://www.fdic.gov/regulations/laws/federal/>—including any personal information provided—for public inspection. Paper copies of public comments may be ordered from the FDIC Public Information Center, 3501 North Fairfax Drive, Room E-1002, Arlington, VA 22226 or by telephone at (877) 275-3342 or (703) 562-2200.

FOR FURTHER INFORMATION CONTACT:

Rae-Ann Miller, Senior Deputy Director, Supervisory Examinations and Policy, Division of Risk Management Supervision, (202) 898–3898, rmiller@fdic.gov; Jonathan Miller, Deputy Director, Division of Depositor and Consumer Protection, 202-898-3587, jonmiller@fdic.gov; or C. Chris Ledoux, Corporate Expert, Financial Innovation and Technology Group, Legal Division, 202-898-3535, clledoux@fdic.gov.

SUPPLEMENTARY INFORMATION

Background Information

FDIC Overview

The FDIC is an independent agency created by the Congress to maintain stability and public confidence in the nation’s financial system. The FDIC works to maintain the strength of the U.S. financial sector through effective supervision of regulated financial institutions, consumer

protection, the resolution of failed financial institutions, and the provision of deposit insurance.¹ In its capacity as a federal banking regulator and deposit insurer, among other functions, the FDIC examines and supervises institutions' safe and sound operations and compliance with laws and regulations, evaluates resolution plans of large financial institutions, maintains the Deposit Insurance Fund (DIF), and resolves failed IDIs.² Collectively, the FDIC's activities support a safe-and-sound banking sector and contribute to the stability of and public confidence in the U.S. financial system as a whole.

In addition to its individual responsibilities, the FDIC works cooperatively with its fellow state and federal banking regulators to strengthen the banking sector and the U.S. financial system, including through a number of interagency formal structures, joint rule making and examinations.

Current and Potential Digital Assets Use Cases

One area of new technology and innovation surrounds the use of digital assets in financial markets and intermediation, as well as with settlement and payment systems. Banks are increasingly exploring several roles in the emerging digital asset ecosystem, such as being custodians, reserve holders, issuers, and exchange or redemption agents; performing node functions; and holding digital asset issuers' money deposits.

Digital asset use cases and related activities may fall into one or more broad categories:

¹ As of December 31, 2020, the FDIC insured 5,001 insured commercial banks and savings institutions. The FDIC is the primary federal regulator of state-chartered banks and savings associations that are not members of the Federal Reserve System. As of December 31, 2020, the FDIC supervised approximately 3,221 banks and savings associations. The FDIC also has a back-up supervision and examination role with respect to insured depository institutions for which the Office of the Comptroller of the Currency and the Board of Governors of the Federal Reserve System are the primary federal regulators. See <https://www.fdic.gov/analysis/quarterly-banking-profile/qbp/2020dec/>.

² "Insured depository institution" means any bank or savings association the deposits of which are insured by the FDIC pursuant to the Federal Deposit Insurance Act (FDI Act). See 12 U.S.C. 1813(c).

- Technology solutions, such as those involving closed and open payment systems, other token-based systems for banking activities other than payments (e.g., lending), and acting as nodes in networks (e.g., distributed ledgers).
- Asset-based activities, such as investments, collateral, margin lending and liquidity facilities.
- Liability-based activities, such as deposit services and where deposits serve as digital asset reserves.
- Custodial activities, such as providing digital asset safekeeping and related services, such as secondary lending, as well as acting as a qualified custodian on behalf of investment advisors.
- Other activity that does not align with the others above. Examples could include market-making and decentralized financing.

Request for Comment

The FDIC recognizes that there are novel and unique considerations related to digital assets, and this RFI is intended to help inform the FDIC's understanding in this area. The FDIC is seeking input on current and potential use cases involving IDIs and their affiliates and risk and compliance management in conducting such activities.

Questions Regarding Current and Potential Use Cases

1. In addition to the broad categories of digital assets and related activities described above, are there any additional or alternative categories or subcategories that IDIs are engaged in or exploring?

2. What, if any, activities or use cases related to digital assets are IDIs currently engaging in or considering? Please explain, including the nature and scope of the activity. More specifically:
 - a. What, if any, types of specific products or services related to digital assets are IDIs currently offering or considering offering to consumers?
 - b. To what extent are IDIs engaging in or considering engaging in activities or providing services related to digital assets that are custodial in nature, and what are the scope of those activities? To what extent are such IDIs engaging in or considering secondary lending?
 - c. To what extent are IDIs engaging in or considering activities or providing services related to digital assets that have direct balance sheet impacts?
 - d. To what extent are IDIs engaging in or considering activities related to digital assets for other purposes, such as to facilitate internal operations?
3. In terms of the marketplace, where do IDIs see the greatest demand for digital asset-related services, and who are the largest drivers for such services?

Questions Regarding Risk and Compliance Management

4. To what extent are IDIs' existing risk and compliance management frameworks designed to identify, measure, monitor, and control risks associated with the various digital asset use cases? Do some use cases more easily align with existing risk and compliance management frameworks compared to others? Do, or would, some use cases result in IDIs' developing entirely new or materially different risk and compliance management frameworks?

5. What unique or particular risks are challenging to measure, monitor, and control for the various digital asset use cases? What unique controls or processes are or could be implemented to address such risks?
6. What unique benefits to operations do IDIs consider as they analyze various digital asset use cases?
7. How are IDIs integrating, or how would IDIs integrate, operations related to digital assets with legacy banking systems?
8. Please identify any potential benefits, and any unique risks, of particular digital asset product offerings or services to IDI customers.
9. How are IDIs integrating these new technologies into their existing cybersecurity functions?

Questions Regarding Supervision and Activities

10. Are there any unique aspects of digital asset activities that the FDIC should take into account from a supervisory perspective?
11. Are there any areas in which the FDIC should clarify or expand existing supervisory guidance to address digital asset activities?
12. In what ways, if any, does custody of digital assets differ from custody of traditional assets?
13. FDIC's Part 362 application procedures may apply to certain digital asset activities or investments.³ Is additional clarity needed? Would any changes to FDIC's regulations or the related application filing procedures be helpful in addressing

³ See 12 C.F.R. Part 362, subpart A.

uncertainty surrounding the permissibility of particular types of digital asset-related activity, in order to support IDIs considering or engaging in such activities?

Questions Regarding Deposit Insurance and Resolution

14. Are there any steps the FDIC should consider to ensure customers can distinguish between uninsured digital asset products on the one hand, and insured deposits on the other?
15. Are there distinctions or similarities between fiat-backed stablecoins and stored value products where the underlying funds are held at IDIs and for which pass-through deposit insurance may be available?
16. If the FDIC were to encounter any of the digital assets use cases in the resolution process or in a receivership capacity, what complexities might be encountered in valuing, marketing, transferring, operating, or resolving the digital asset activity? What actions should be considered to overcome the complexities?

Additional Considerations

17. Comments are invited to address any other digital asset-related information stakeholders seek to bring to the FDIC's attention. Comments are also welcome about the digital asset-related activities of uninsured banks and nonbanks.

Federal Deposit Insurance Corporation.

Dated at Washington, D.C., on or about May 17, 2021

James P. Sheesley,

Assistant Executive Secretary.

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