State Street Corporation

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Mr. James P. Sheesley
Assistant Executive Secretary
Attention: Comments-RIN 3064-ZA25
Federal Deposit Insurance Corporation
550 17th Street N.W.
Washington, D.C. 20429

Via electronic submission: *Comments@fdic.gov*

Re: Request for Information and Comment on Digital Assets (RIN 3064–ZA25)

Dear Mr. Sheesley:

State Street Corporation ("State Street") appreciates the opportunity to respond to the Federal Deposit Insurance Corporation's ("FDIC") request for information related to banks' current and potential digital assets activities.[1] The request for information seeks input on use cases for digital assets and unique considerations related to conducting such activities.

Headquartered in Boston, Massachusetts, State Street is a global custodian bank which specializes in the provision of financial services to institutional investor clients. This includes the provision of investment servicing, investment management, data and analytics, and investment research and trading. With $42.597 trillion in assets under custody and administration and $3.897 trillion in assets under management, State Street operates in more than 100 geographic markets globally.[2] State Street is organized as a United States ("US") bank holding company ("BHC"), with operations conducted through several entities, primarily its wholly-owned depository institution subsidiary, State Street Bank and Trust Company.

Custody banks, such as State Street, employ a highly specialized business model focused on the provision of financial services to institutional investor clients. These clients, which include asset owners, asset managers, official institutions and insurance companies, contract with custody banks to ensure the proper safekeeping of their investment assets, as well as the provision of a broad range of related services. These

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[1] Available at *https://www.govinfo.gov/content/pkg/FR-2021-05-21/pdf/2021-10772.pdf.*
[2] As of June 30, 2021.

services include: access to the global settlement infrastructure in order to complete the purchase or sale of investment securities; various asset administration functions, such as the processing of income and other interest payments; corporate action events; tax withholding and reclamations; and the provision of banking services, notably access to deposit accounts used to facilitate day-to-day transactional activities.

Digital assets and the tokenization of assets is a significant trend which will necessitate the evolution of business models and services. Acknowledging these dynamic changes, State Street has established its own State Street Digital division whose remit over time will focus on digital assets and technologies including crypto-assets, central bank digital currency, blockchain, and tokenization. Moreover, consistent with our role as one of the world's largest global custodian banks, State Street is actively exploring various potential uses of digital assets including the custody of digital assets. For example, we have received inquiries from clients to hold cryptocurrencies (*e.g.* Bitcoin) and to provide related trading services. However, uncertainty exists across jurisdictions as to how regulated entities, such as State Street, could provide such services. Specifically, technology requirements for managing crypto-assets have started to gravitate towards a set of best practices. However, there is still no clarity on the requirements for acting as a custodian for such assets. Moreover, the technology and business requirements for security tokens management for such assets are still uncertain in terms of privacy issues, regulatory status and business continuity. Additionally, unique cybersecurity and anti-money laundering risks exists for the custody of crypto-assets given the permission-less nature in which they operate.

We highlight below key considerations that we believe the FDIC should take into account when considering digital asset use cases. This includes:

- A clear distinction between the types of digital assets and the adoption of a global taxonomy for digital assets;
- Clarifications around the regulatory regime for the custody of digital assets; and
- Investor protection through equitable treatment of digital asset service providers.

<u>Distinction Between the Types of Digital Assets</u>

As an initial matter, it is important to make a clear distinction between different types of digital assets. This includes careful consideration of the intended function and characteristics of the asset. For example, Fnality International, a global consortium of banks and exchanges, has proposed a utility settlement coin construct which is designed to facilitate payment flows in the post-trade environment using digital cash that guarantees convertibility into fiat currency at all times (*i.e.* each utility settlement coin is backed one-for-one by a fiat currency). This may be achieved by seeking regulatory status as a financial market infrastructure. In comparison, the legal arrangements by which stablecoin constructs operate, including the mechanism for ensuring the maintenance of its underlying value, may differ widely. Therefore, the risk of whether a stablecoin can be redeemed against the underlying asset differs significantly from that of the utility settlement coin structure proposed by Fnality International.

In order to convey these important distinctions, we believe a common taxonomy adopted by regulators globally would be helpful. Such a taxonomy should take into account factors such as the economic function of the digital asset, specific traits of the digital asset and key structural features. Existing global initiatives such as the G7/G20, Financial Stability Board (FSB), Bank for International Settlements (BIS), International Organization of Securities Commissions (IOSCO) may be a desirable starting point on which to build upon for such a taxonomy.

Distinction Between Traditional Custody and the Custody of Digital Assets

As noted previously, State Street is one of the largest global custodians. As such, our client base is diverse and includes regulated investment funds, such as US mutual funds ("40 Act Funds"), European Union ("EU") Undertakings for Collective Investments in Transferable Securities ("UCITS") and other similar national equivalents; alternative investment funds; corporate and public retirement plans; sovereign wealth funds; insurance company accounts; charitable foundations; and endowments. At its core, the role of the custody bank is to safekeep assets in order to protect investors from the potential misappropriation of their assets. In many cases, the use of a custody bank is mandated by law or regulation. This includes the requirements which apply to '40 Act Funds under the Investment Company Act of 1940, to EU UCITS under the UCITS Directive, and to EU alternative investment funds under the Alternative Investment Fund Managers Directive. In other cases, the use of a bank custodian reflects well-established client preference to hold investment portfolios with banking entities which are subject to stringent prudential requirements and regulatory oversight.

We believe a separate regulatory regime for the custody of digital assets is unnecessary because the core principles to ensure the safety of clients assets, separating the assets from the estate of the custodian and providing a set of control functions in relation to the applicable regulatory regime, remain the same. Even so, clarification may be needed around certain matters. For example, the safeguarding of crypto-assets could potentially include third-party control of the underlying keys or third-party involvement for shared keys either for the asset or the smart contract used to create the digital asset (tokenization) which fundamentally differs from the current market structure. The legal regime has evolved around the current market structure which supports securities issued into the central market infrastructure.

Additionally, State Street strongly supports the core principle of "same risk, same activity, same treatment." We believe that the regulatory regime should not disadvantage the use of digital assets that are the functional equivalent of traditional assets solely because of the underlying technology. While we recognize that the application of distributed ledger technology is evolving and will result in important questions about the appropriate legal and regulatory treatment of various asset types, these questions must be resolved in a manner that preserves the application of the "same risk, same activity, same treatment" principle. This approach will enable markets, over time, to benefit from the efficiencies inherent in digital asset activity.

Investor Protection

Finally, State Street believes it is paramount to maintain equitable treatment across both existing and future service providers for digital assets in order to avoid the potential erosion of existing mechanisms for investor protection. Prudentially regulated banks, such as State Street, are already subject to a robust regulatory and supervisory framework. This includes best practice risk management and capital requirements. We believe that those institutions seeking to provide custody to digital assets should offer similar measures for investor protection and thereby the protection of the overall financial system. We believe the FDIC and other regulators should affirm the importance of prudentially regulated banks, who are subject to a robust regulatory framework with a focus on safety and soundness, in the digital asset space, as this would encourage banks to continue expanding their digital products and services.

Conclusion

Thank you once again for the opportunity to respond to the request for information. We appreciate the FDIC's engagement on this matter and look forward to serving as a trusted resource for digital assets as the market evolves over time. Please feel free to contact me at nchakar@StateStreet.com should you wish to discuss State Street's submission in further detail.

Sincerely,

[redacted]

Nadine Chakar
Executive Vice President- Head of State Street Digital