VIA ELECTRONIC SUBMISSION

June 17, 2025

SEC Crypto Task Force
U.S. Securities and Exchange Commission
100 F Street, NE
Washington, D.C. 20549-0213

Re: Response to the Crypto Task Force's Request for Comment: Regarding Project Open

Dear Members of the SEC Crypto Task Force:

Phantom Technologies, Inc. ("Phantom") submits this letter as a supplement to its prior submission to the U.S. Securities and Exchange Commission's ("SEC") Crypto Task Force dated April 17, 2025 ("April Submission"), regarding the application of the broker-dealer regulatory framework to self-custody crypto wallets.[1] Any capitalized terms used but not otherwise defined in this letter have the meaning assigned to those terms in the April Submission. This letter also builds upon the Project Open "wireframe" submitted to the Crypto Task Force on April 28, 2025.[2]

As discussed in the April Submission, the assets traded via the Phantom Wallet's in-app swapping functionality do not currently include crypto assets that are offered and sold as securities. However, in the future, Phantom anticipates that its offering will enable users to self-custody and swap equity securities that are issued and/or traded on public blockchain networks ("Token Shares"). To that end, Phantom supports the Project Open initiative, which proposes a framework for the issuance and trading of Token Shares in a manner that is consistent with

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[1] *See* Letter from Kevin Jacobs, General Counsel, Phantom, to Commissioner Hester M. Peirce, Chair, SEC Crypto Task Force, dated April 17, 2025, *available at* https://www.sec.gov/files/ctf-memo-phantom-042925.pdf ("April Submission").

[2] *See* Solana Policy Institute, Superstate Inc., and Zagreus Services LLC (dba Orca Creative), *Project Open: Proposing the Open Platform for Equity Networks* (Apr. 28, 2025), *available at* https://www.sec.gov/files/ctf-written-project-open-wireframe-04282025.pdf.

existing securities laws.[3] This letter describes how self-custody wallets like the Phantom Wallet would fit into the Project Open framework, explains why Phantom could provide services for Token Shares without triggering the broker registration requirements in Section 15(a) of the Exchange Act, and advocates for the SEC to use its exemptive and/or no-action authority to create a regulatory framework for Token Shares that is appropriately tailored to the unique characteristics of decentralized finance ("DeFi").

I. Supporting Token Shares Wouldn't Make Phantom a Broker.

Under Project Open, the Phantom Wallet would enable eligible users to self-custody and trade Token Shares on a peer-to-peer or person-to-protocol basis. These users would be required to complete applicable know-your-customer ("KYC") requirements to be whitelisted and therefore eligible transact in Token Shares on-chain.

A person is a "broker" and, therefore, required to register with the SEC under Section 15(a) of the Exchange Act if he or she is "engaged in the business of effecting transactions in securities for the account of others."[4] This definition creates a two-pronged test where a person qualifies as a broker if he or she (1) is engaged in the business, (2) of effecting transactions in securities for the account of others. As discussed in detail in the April Submission — the Phantom Wallet does not perform broker activities — therefore, the use of Phantom's software to trade Token Shares would not require Phantom to register with the SEC as a broker.[5]

II. On-Chain Equities Trading Requires a Novel Regulatory Approach.

While the Staff need only look to prior no-action relief to conclude that the Phantom Wallet is not performing broker activities,[6] in general, the current regulatory approach is an ill fit for DeFi technology and self-directed, disintermediated transactions. The Exchange Act is designed to address risks posed by centralized intermediaries that possess the material terms of an order, make decisions about order routing, determine who has access to certain markets and the terms of that access, and custody customer assets. DeFi, on the other hand, is premised on fully disintermediated transactions that are carried out on a peer-to-peer or person-to-protocol basis in a fully transparent manner where users maintain custody of their own assets.

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3 *Id.*

4 15 U.S.C. § 78c(a)(3)(A).

5 *See* April Submission at 9-12 (describing that Phantom does not perform key trading functions, and its activity is consistent with no-action relief from broker-dealer registration the Staff previously granted to technology services providers and aligns with federal court precedent in the SEC's action alleging that the Coinbase wallet was a brokerage service).

6 *Id.*

Transactions executed on-chain are transparent, auditable, and immutable. By their nature, on-chain transactions mitigate the risks customary in the traditional centralized intermediary model.[7] As Chairman Atkins recently stated in his remarks at the Crypto Task Force Roundtable on DeFi "[m]ost current securities rules and regulations are premised upon the regulation of issuers and intermediaries, such as broker-dealers … The drafters of these rules and regulations likely did not contemplate that self-executing software code might displace such … intermediaries."[8] Rather than relying on "century-old regulatory frameworks,"[9] the SEC should consider a regulatory framework that is appropriately tailored to the unique characteristics of DeFi and designed to facilitate compliance in markets without centralized intermediaries.

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Phantom fully supports the Project Open initiative and respectfully requests that the Commission or Staff use its exemptive or no-action authority to make Project Open and the on-chain trading of Token Shares a reality. As described herein and in our April Submission, we do not believe that Phantom, and other wallet providers with similar in-app asset swapping functionality are providing brokerage services, however, we respectfully request that the Staff confirm that they agree with this view. Alternatively, if the Staff believes that exemptive and/or no action relief is necessary, Phantom would be happy to discuss further and craft a request for such relief that addresses any concerns the Staff may have.

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[7] In addition, there is precedent permitting transactions to occur peer-to-peer without the involvement of an intermediary; thus, there is no reason to require a technology company to register as a broker or dealer simply because there is no other registered party involved in a transaction. Congress has found that, in light of technological developments in "data processing and communications techniques," the SEC should ensure that users have more options to transact "without the participation of a dealer" where it would be unnecessary for the protection of investors. *See* Senate Report No. 94-75 at 8 (Apr. 14, 1975). Consistent with that congressional intent, the Staff previously granted no-action relief to bulletin board service providers, allowing them to operate platforms that two peers could use to find each other and execute transactions outside of the platform without the participation of a registered broker-dealer. *See e.g.*, *Portland Brewing Co.*, SEC No-Action Letter (Dec. 14, 1999).

[8] *See* Chairman Paul S. Atkins, *Remarks at the Crypto Task Force Roundtable on Decentralized Finance* (June 9, 2025), https://www.sec.gov/newsroom/speeches-statements/atkins-remarks-defi-roundtable-060925.

[9] *Id.*

We thank the Crypto Task Force for its engagement on these issues. We are happy to answer questions or provide further information. We look forward to further dialogue with the Staff.

Respectfully Submitted,

/s/ Kevin Jacobs
General Counsel
Phantom Technologies, Inc.

cc: Tiffany J. Smith, WilmerHale