

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDING

File No. 3-20650

<p>In the Matter of</p> <p>American CryptoFed DAO LLC,</p> <p>Respondent.</p>
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**DIVISION OF ENFORCEMENT’S RESPONSE TO RESPONDENT’S
MOTION FOR A PROCEDURE TO DETERMINE THE DATE AND TIME
FOR THE PREHEARING CONFERENCE**

The Division of Enforcement (“Division”) of the U.S. Securities and Exchange Commission (“Commission”) respectfully submits this response to American CryptoFed DAO LLC’s (“Respondent” or “American CryptoFed”) Motion for a Procedure to Determine the Date and Time for the Prehearing Conference (“Respondent’s Motion”).

In the Order Instituting Proceedings (“OIP”), the Commission ordered that the parties should conduct a prehearing conference “within fourteen (14) days of service of the Answer.”¹ American CryptoFed served its Answer on the Division after the conclusion of the Commission’s business hours on Friday, December 3, 2021 and filed it at roughly the same time in the Commission’s eFAP system. The eFAP system therefore reflects a filing date of Monday, December 6, 2021.

¹ OIP, Section IV.

Accordingly, the Division believes that the prehearing conference should be conducted by December 20, 2021.

The Division communicated with American CryptoFed and attempted to arrange a prehearing conference before this deadline.² The Division offered that it was available during the following broad range of dates and times:

- Monday, December 13 between Noon and 3pm ET;
- Tuesday, December 14 between noon and 3pm ET;
- Wednesday, December 15 between 11am and 4pm ET;
- Thursday, December 16 between 10am and 1pm ET; or
- Friday, December 17 between 1pm and 4pm ET³

The Division now has a conflict between 1:00 p.m. and 2:00 p.m. ET on Monday, December 13 and between 2:00 p.m. and 3:00 p.m. ET on Tuesday, December 14, 2021, but otherwise remains available to conduct the prehearing conference at any of the times listed above.

American CryptoFed does not need an Administrative Law Judge,⁴ or the Commission, to tell it the specific date and time at which to conduct the prehearing conference. The Commission has already designated the date and time by stating that the prehearing conference shall take place “within fourteen (14) days of service of the Answer.” It is plain from this order that the Commission means for the

² See Exhibit 2 to Respondent’s Motion.

³ *Id.*

⁴ The Division takes no position on whether the Commission should appoint a hearing officer at this time. Under Rule 110, the Commission has discretion to either appoint a hearing officer or preside over this proceeding itself.

parties to make reasonable efforts to coordinate schedules to agree on a specific time within that window. If, for some reason, American CryptoFed is not available during any of the times the Division listed above, but is available at other times before December 20, 2021 the Division has invited American CryptoFed to suggest alternative times and the Division will make reasonable efforts to be available at those times.

American CryptoFed has not proposed any alternative times. This is because American CryptoFed is seeking to delay the prehearing conference (and this proceeding generally) through their seven duplicative and meritless motions for more definite statement.⁵ American CryptoFed has made clear that their goal is to delay the prehearing conference, having informed the Division that American CryptoFed “do[es] not think it is appropriate to have the prehearing conference before our seven Motions of [sic] More Definite Statement are considered.”⁶ There is no reason to delay the initial prehearing conference, especially as the Division has expressed its willingness to conduct additional prehearing conferences, if needed, after the Commission rules on the motions for more definite statement.

Moreover, the Division has informed American CryptoFed that it likely intends to move for summary disposition of this matter pursuant to Rule 250, and if the prehearing conference is not conducted by December 20, 2021, the Division reserves its right under Rule 250(b) to file a motion for summary disposition, even if

⁵ The Division will file a separate response to these motions.

⁶ Exhibit 2 to Respondent’s Motion at 2.

the prehearing conference has not yet been held.⁷ The Division anticipates being able to file this motion before the end of the year.

Thus, if American CryptoFed is willing to conduct the prehearing conference before December 20, 2021 its motion should be denied as moot—American CryptoFed provides no reason why the parties cannot arrange the date and time of the prehearing conference among themselves. If Respondent’s Motion is a disguised attempt to delay the prehearing conference beyond December 20, 2021, the motion should be denied as American CryptoFed has provided no valid reason for such a delay.

Dated: December 10, 2021

Respectfully submitted,

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⁷ Rule 250(b) says in relevant part: “In any proceeding under the 30- or 75-day timeframe designated pursuant to § 201.360(a)(2), after a respondent's answer has been filed and documents have been made available to that respondent for inspection and copying pursuant to § 201.230, any party may make a motion for summary disposition on one or more claims or defenses . . .”

CERTIFICATE OF SERVICE

I hereby certify that I caused true copies of the Division of Enforcement's Response to Respondent's Motion for a Procedure to Determine the Date and Time for the Prehearing Conference to be served on the following on December 10, 2021, in the manner indicated below:

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