

MEMORANDUM

To: Crypto Task Force Meeting Log
From: Crypto Task Force Staff
Re: Meeting with Representatives of Nasdaq, Inc.

On February 6, 2025, Crypto Task Force Staff met with representatives from Nasdaq, Inc.

The topic discussed was approaches to addressing issues related to regulation of crypto assets. Nasdaq, Inc. representatives provided the attached document dated February 12, 2025, describing the issues discussed at the meeting.



JOHN A. ZECCA
EXECUTIVE VICE PRESIDENT,
GLOBAL CHIEF LEGAL, RISK
& REGULATORY OFFICER
1100 NEW YORK AVE., NW
WASHINGTON, D.C. 20005

February 12, 2025

To: SEC Crypto Task Force
From: Nasdaq, Inc.
Re: Digital Assets Regulation

Dear Task Force Members,

Nasdaq appreciates the opportunity to engage with the Securities and Exchange Commission's Crypto Task Force ("Task Force") under the leadership of Commissioner Peirce on this timely dialogue toward regulatory clarity for digital assets. Nasdaq is uniquely positioned to support the Commission's effort in this area, and we are eager to provide constructive input to the Task Force to inform the Commission, providing market insight and serving on any roundtables with other constituents.

We appreciate the Task Force's proactive approach in seeking external input because the issues at stake are complex, and the enduring success of the Task Force depends upon it receiving a full panoply of viewpoints, including those of the industry, investors, the CFTC, Congress, and other stakeholders. We also agree with Commissioner Peirce's February 4, 2025 statement of priorities for the Task Force, including the need for a deliberate and transparent process.

That said, Nasdaq believes it is necessary to further discuss the following items: (1) the nature of the regulatory framework for digital assets; (2) venues for digital assets listing and trading; and (3) reviews and approvals of digital assets-based exchange traded products ("ETPs") and index options.

1. Nature of Regulatory Framework

Nasdaq supports the Task Force's effort to bring regulatory clarity to digital assets. The Commission should establish a clear, responsible, and pragmatic regulatory framework for the listing and trading of digital asset securities. This regime should be firmly rooted in existing federal securities laws, which have served investors well for almost 100 years. However, the regime should provide appropriate tailoring of these laws to account for certain unique characteristics of digital assets securities. For example, registration and periodic disclosure requirements should reflect the unique way digital assets are issued and the risks they entail to investors. Similarly, gatekeeper entities involved in quoting, trading, clearance and settlement should be appropriately and consistently regulated to protect investors and competition.

Fundamental to the new framework will be the establishment of a clear and practical distinction between digital asset securities and commodities. Definitional clarity is necessary to determine whether an asset falls within the jurisdiction of the SEC or the CFTC or, conceivably

both. Where no clear way exists to classify a digital asset as either a security or a commodity, the framework should provide for a common regime that is jointly acceptable to the SEC and CFTC and administered by both regulators. The common regime should incorporate core regulatory features of each agency, such as investor protection.

The definition and regulatory regime of a digital asset security should be consistent with that of other types of securities. The nature of securities regulation should not vary based upon the form that security takes. Indeed, the Commission must ensure that the mere act of tokenizing a security does not subject that security to lesser regulation, lest the new digital assets regime will inadvertently swallow the existing regime for regulating analog securities.

Lastly, we support Commissioner Peirce's idea of providing interim relief to existing digital asset issuers and trading venues pending the outcome of the work of the Task Force and the establishment of a permanent regulatory regime. However, we wish to note the tendency of some interim solutions to become permanent, especially if they persist for a prolonged period of time. We believe the Commission should make clear at the outset that it intends for any such relief it provides to be temporary with a defined expiration, and that there should be no expectation based upon interim treatment that an asset is not a security or that the baseline disclosure requirements for an asset are sufficient going forward.

2. Venues

Nasdaq appreciates the Task Force's consideration of the intermediaries that will support the digital assets ecosystem including trading and listing venues. It will be important that the Commission work to maintain fair, orderly, and efficient markets between exchanges, broker dealers, and ATs engaged in digital assets trading. The regime for digital assets should be set on a level playing field and avoid disparate regulatory structures across similar venues, which will promote competition irrespective of venue. For example, if any venue is to trade both digital assets securities and non-securities digital assets, all venues should be permitted to do so, including national securities exchanges. It is appropriate to allow non-securities digital assets to be traded alongside securities in the same venues to allow for consistent rule sets. Moreover, national securities exchanges should be allowed to own and operate ATs to trade digital assets without the SEC insisting upon regulating those ATs as exchanges.

3. ETPs and Options

Nasdaq applauds the Task Force's focus on examining the appropriate registration and listings path for new types of crypto exchange-traded products. We believe the Commission can encourage innovation in digital assets by clarifying the regulatory requirements for registration and listing of such products, including a public comment process where appropriate.

Nasdaq looks forward to a continued dialogue on these issues.