ALERT MEMORANDUM

SEC Staff Issues Guidance on Tokenized Security Taxonomies

February 4, 2026

On January 28, 2026, the Securities and Exchange Commission's ("**SEC**") Division of Corporation Finance, Division of Investment Management, and Division of Trading and Markets (the "**Divisions**") published a joint statement providing taxonomies for tokenized securities (the "**Guidance**").[1] The Guidance is intended to assist market participants active in tokenized products to ensure compliance with federal securities laws.

The Divisions define a "**tokenized security**" as "a financial instrument enumerated in the definition of 'security' under the federal securities laws[2] that is formatted as or represented by a crypto asset, where the record of ownership is maintained in whole or in part on or through one or more crypto networks."

Although the Guidance states that the Divisions view tokenized securities as falling within two broad categories based on whether or not the token was sponsored by the issuer or a related party (namely "**issuer-sponsored tokenized securities**" and "**third party-sponsored tokenized securities**"), the substance of the Guidance seems to identify three overarching categories of tokenized securities with different substantive considerations, namely:

1. Securities for which the issuer, its transfer agent, a custodian, or some other party integrates its records with distributed ledger technology ("**DLT**") to reflect ownership ("**DLT-Integrated Recordkeeping**");

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[1] *See Statement on Tokenized Securities*, SEC (Jan. 28, 2026), https://www.sec.gov/newsroom/speeches-statements/corp-fin-statement-tokenized-securities-012826-statement-tokenized-securities.

[2] The Divisions made clear that by "federal securities laws" they meant Section 2(a)(1) of the Securities Act of 1933, Section 3(a)(10) of the Securities Exchange Act of 1934 (the "**Exchange Act**"), and Section 2(a)(36) of the Investment Company Act of 1940.

2. Securities for which the issuer, its transfer agent, a custodian, or some other party maintains an off-chain record but adjusts that record based on what happens on-chain ("**Mirror Recordkeeping**"); and
3. Tokenized instruments that provide synthetic exposure to traditional securities.

The categories described by the Divisions do not indicate that the identity of the sponsor alone (whether the issuer or an unaffiliated third party) has a material effect on the legal analysis for a particular category. Rather, it is the unique character of each particular category that determines substantive legal considerations.

I. Issuer-Sponsored Tokenized Securities

The Guidance begins with a discussion of tokenized securities that are sponsored by the issuer. The Divisions note that any type of security, including stocks, bonds, notes, investment contracts, options on securities, and security-based swaps ("**SBS**"),[3] can be subject to tokenization.[4] The Guidance primarily considers two different ways for an issuer (or its agent) to create a tokenized security. The distinction drawn by the Guidance focuses on how a tokenized security is recorded by the issuer in its "**master securityholder file**":

— **DLT-Integrated Recordkeeping**: The issuer (or its agent) integrates DLT into its master securityholder file systems such that a transfer of the tokenized security "on-chain" automatically results in a transfer of the recorded owner of the underlying security in the "on-chain" master securityholder file. The Divisions noted that an issuer (or its agent) would still use "off-chain" database records (such as a security holder's name and address) in order to associate such information alongside "on-chain" database records (such as wallet addresses, quantities of securities owned, and issue dates).

— **Mirror Recordkeeping**: The issuer (or its agent) continues to use its traditional master securityholder file systems and issues a separate tokenized security "on-chain," then uses the record of tokenized security transfers "on-chain" to record transfers of ownership in the underlying security on the "off-chain" master securityholder file. The Divisions made clear that such tokenized security "does not convey any rights, obligations, or benefits of the security," but that a transfer of the tokenized security is still a securities transaction since it "operates to notify the issuer (or its agent) to record the transfer of ownership of the security on the master securityholder file."

In addition, the Divisions clarified that a single class of securities could be issued in multiple formats (*i.e.*, some "on-chain" as tokenized securities, and some "off-chain" in a traditional format), and that an "on-chain" tokenized security could be converted to an "off-chain" security, and vice versa. The Guidance notes that the application of federal securities laws would differ only if there are not "substantially similar rights and privileges"[5] between the different formats of a security.[6]

Finally, the Divisions state that if an issuer issues two different "classes" of securities, but the only practical difference is how such securities are recorded (e.g., one is an "on-chain" tokenized security and one is an "off-chain" security), the two classes could be considered the same class of security under federal securities laws.

[3] *See* Section 3(a)(68) of the Exchange Act for the definition of a "security-based swap."

[4] This assumes that the crypto asset itself is not a separate security.

[5] The Guidance does not elaborate on what is meant by "substantially similar rights and privileges," and points to Sections 12(g)(5) and 15(d)(1) of the Exchange Act.

[6] The Guidance notes, however, in footnote 7 that "[a]n issuer that is subject to the Investment Company Act and issues its securities in different formats, including in tokenized format on different crypto networks, may raise multi-class issues under Section 18 of the Investment Company Act."

II. Third Party-Sponsored Tokenized Securities

The Guidance next addresses tokens sponsored by third parties unaffiliated with the issuer of the underlying security. The Divisions note that such tokens vary and may confer rights, obligations, and benefits that differ materially from those of the underlying security. In particular, the Divisions note, the token may or may not represent an ownership interest or contractual rights in the underlying security and may or may not be exposed to bankruptcy or other risks of the third party.

The Divisions identified two types of models for third party securities tokenization: (1) "**Custodial Tokenized Securities**"; and (2) "**Synthetic Tokenized Securities**."

(i) Custodial Tokenized Securities

The Guidance describes Custodial Tokenized Securities as a crypto asset issued by a third party representing the underlying security of a third party, such as a tokenized security entitlement. Under this model, the underlying security is held in custody and the crypto asset evidences ownership of such underlying security.

The Divisions make a couple of curious statements related to custodial tokenized securities. First, they state that the ownership interest of a custodial tokenized security may be "direct or indirect." However, if an asset is held with a custodian, it is generally viewed as being indirectly held. It is not entirely clear what kind of directly held ownership the Divisions have in mind.

Second, the Divisions state that, while they are aware of a tokenization model known as a "digital custodial receipt," they do not view this as different from a tokenized security entitlement. However, while under Article 8 of the UCC a tokenized security entitlement is simply a security entitlement recorded using DLT, a custodial receipt is generally viewed as an independent instrument akin to a warehouse receipt for securities since it can be transferred to market participants that have no relationship to the third party issuer. Some market participants have expressed the view that such independent instruments, as receipts, may be separate securities under federal securities laws. A tokenized security entitlement, by contrast, is generally thought of as akin to the structure described in the DLT-Integrated Recordkeeping or Mirror Recordkeeping models, whether created the issuer itself or by a third party. Under such a structure, the "token" is nothing more than a new method of recordation, which contrasts sharply with what is traditionally considered a "custodial receipt," and carries different risk, legal, and commercial law considerations. Notably a tokenized security entitlement can only be transferred to other entities that have a relationship with the securities intermediary; this restriction would not apply in the "digital custodial receipt" model.

The Divisions outline two potential approaches for Custodial Tokenized Securities:

- **DLT-Integrated Recordkeeping**: The third party integrates DLT into its entitlement holder recordkeeping system such that a transfer of the token automatically results in a transfer of security entitlement on the third party's official books and records;[7] or
- **Mirror Recordkeeping**: A third party uses an "on-chain" record that tracks transfers of tokens to record transfers of security entitlements on its "off-chain" official recordkeeping system.

(ii) Synthetic Tokenized Securities

The Guidance describes a Synthetic Tokenized Security as a token issued by a third party that may represent a party's interest in a security issued by an unrelated

[7] The SEC noted that such a record would represent an entitlement holder's indirect interest in the security, and that federal securities laws are not dependent on how such security entitlement is recorded.

issuer and providing synthetic exposure to that issued security. The Divisions considered two primary categories of Synthetic Tokenized Securities: (A) "**linked securities**"; and (B) "**tokenized SBS**."

A. Linked Securities

"A 'linked security' is a security issued by the third party itself that provides synthetic exposure to a referenced security, but it is not an obligation of the issuer of the referenced security and confers no rights or benefits from the issuer of the referenced security. The return on a linked security is linked to the value of the security it references or events relating to the referenced security."

Consistent with what is well established outside the tokenization space, a linked security may be a debt security (such as a structured note) or an equity security (such as exchangeable stock) or a security that is a security based swap.

B. Tokenized SBS

The Guidance describes a "tokenized SBS" as a security-based swap[8] formatted as a crypto asset. The Divisions provided two examples of tokenized SBS:

— "For example, if the crypto asset provides on an executory basis for the exchange, on a fixed or contingent basis, of one or more payments based on the value of a security, but does not also convey a current or future direct or indirect ownership interest in an asset or liability that incorporates the financial risk transferred, that crypto asset may represent a security-based swap."

— "Similarly, if the crypto asset provides for payments that are dependent on the occurrence, non-occurrence or extent of occurrence of an event or contingency that is associated with a potential financial, economic, or commercial consequence, does not fall within one of the specified exclusions, and meets [the definition of a security-based swap], that crypto asset may represent a security-based swap."

While linked securities and SBS are economically similar, there are a number of different legal and regulatory requirements required for the offer or sale of an SBS. As one example, the Guidance reminds market participants that in order to offer or sell a tokenized SBS to a third party that is not an eligible contract participant, the tokenized SBS must have a registration statement in effect and transactions in the tokenized SBS must be effected on a national securities exchange.

III. Conclusion

The Guidance, while brief, provides market participants with clarity on the Divisions' thinking when assessing how to treat tokenized products. It should be viewed as one component of a broader, evolving regulatory framework for tokenized assets. Certain concepts are being developed or will need to be considered by both the SEC and Commodity Futures Trading Commission ("**CFTC**") in parallel in the context of other initiatives, including the proposed digital asset market infrastructure legislation, and initiatives for the broader deployment of tokenized assets in the context of uncleared and cleared derivatives.[9] Several statements in the Guidance touch on long-standing jurisdictional boundaries between the SEC and CFTC and associated product characterization issues. These areas have taken on renewed significance in related contexts such as prediction markets, underscoring the importance of cross-agency harmonization. The SEC and CFTC have already indicated that efforts are underway between the agencies to harmonize and codify "a clear crypto asset taxonomy."[10]

[8] The Divisions cross-reference Section 3(a)(68) of the Exchange Act for the definition of security-based swap, as well as Section 1a of the Commodity Exchange Act for the definition of a swap.

[9] *See, e.g.*, Recommendations To The CFTC Global Markets Advisory Committee, Digital Assets Classification Approach And Taxonomy (Mar. 6, 2024), https://www.cftc.gov/media/10321/CFTC_GMAC_DAM_Classification_Approach_and_Taxonomy_for_Digital_Assets_030624/download; CFTC Letter No. 25-39 (Dec. 8, 2025); CFTC Letter No. 25-40 (Dec. 8, 2025); CFTC Letter No. 25-41 (Dec. 8, 2025).

[10] *See, e.g.*, Remarks of Chairman Michael S. Selig at CFTC-SEC Event on Harmonization, CFTC (Jan. 29, 2026),

As market participants await final federal digital asset market infrastructure legislation and rulemaking, the broad categories outlined by the Divisions will allow market participants to more clearly label their tokenized product offerings and consider the array of regulatory issues that could arise in connection with tokenized securities. We note however that the Guidance should be reviewed in the context of other legislative and regulatory initiatives.

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