MEMORANDUM

To: Crypto Task Force Meeting Log
From: Crypto Task Force Staff

Re: Meeting with CoinFund Management LLC

On March 4, 2025, Crypto Task Force Staff met with representatives of CoinFund Management LLC.

The topics discussed was approaches to addressing issues related to regulation of crypto assets. CoinFund Management LLC representatives provided the attached document, which was discussed during the meeting.

CoinFund

5 Bryant Park
New York, NY 10018

February 25, 2025

Via Email
Richard B. Gabbert
Chief of Staff, Crypto Task Force
Senior Advisor to the Acting Chairman
U.S. Securities and Exchange Commission
100 F Street, N.E.
Washington, DC 20549-0213

Re: Crypto Task Force Meeting

Dear Mr. Gabbert:

CoinFund Management LLC ("CoinFund"), is pleased to have the opportunity to engage with the U.S. Securities and Exchange Commission's Crypto Task Force on one of the Trump Administration's key initiatives, supporting the growth of the digital asset ecosystem in the United States.

Since our founding in 2015, CoinFund has been dedicated to investing in digital assets in both the liquid markets as well as in early-stage private investments. We think our experience as one of the oldest crypto-focused investment managers provides us with a unique perspective across the entire digital asset ecosystem, as investors, liquid market participants, advisors to crypto startups and the champions of the leaders of the new internet.

The opportunity for our President (Chris Perkins) and our General Counsel & CCO (Stewart Eichner), to engage with senior advisors on these important topics comes at a critical inflection point, with much of the innovation in this sector having been forced off-shore by the prior leadership's less transparent and understanding regulatory approach to this nascent asset class. It is our hope that with the Commission's support, distributed ledger technology can meet its potential as the positive and disruptive force across market segments by disintermediating the markets and providing access to bank-like services for the underserved and unbanked here and abroad.

We are supportive of Commissioner Pierce's statement of priorities for digital asset regulation and the transparent approach she has advocated. While this letter is not intended to be comprehensive, it does provide an overview of the topics we would like to discuss.

1. **The Custody Rule (Rule 206(4)-2)**

   One of the clearest disconnects between current regulatory obligations and technical limitations of digital assets is the application of the Custody Rule to digital assets deemed to be securities which are held by clients of registered investment advisers. While the obligation to use Qualified Custodians to hold such "securities" is clear from the text of the Rule, its application can be unrealistic and ignores some of the inherent advantages of blockchain technology, namely its transparent and immutable capture of all transactions.

   From a historical perspective, the proliferation of different digital assets on new and emerging protocols has always outpaced institutional custodial solutions for such assets. This is further complicated by the limited number of Qualified Custodians who are committed to safekeeping digital assets for their customers, which require completely different technology infrastructure, tools and policies to accommodate as compared to the technology infrastructure, tools and policies that are needed for assets that can be reduced to traditional forms of custody, like publicly-traded equity securities and cash. The intersection of the ever-expanding universe of digital assets and the limited number of Qualified Custodians is further complicated by the slow pace of adoption by those few Qualified Custodians (as well as non-qualified custodians) that have the resources to support new digital assets.

   Custodians, generally, and Qualified Custodians, specifically, often only begin to support a specific digital asset after broader market adoption of the digital asset emerges, as supporting a new protocol often involves additional infrastructure investment by the custodian. In our experience, this often happens well after one of our clients has acquired a particular digital asset for its investment portfolio, and at times, custodians have only implemented custodial support for novel assets at our request for such support. This lack of ready-made qualified custodian solutions for client assets is a challenge that requires a registered investment adviser to satisfy different, and sometimes conflicting, obligations in selecting a safekeeping approach: on the one hand, a registered investment adviser is mindful of the broad application of the Custody Rule's requirement to hold client funds and securities with Qualified Custodians within meaning of the rule; on the other hand, a registered investment adviser is obligated to evaluate and execute investments that its clients have engaged it to pursue, including investments in digital assets that may not be capable of being reduced to traditional forms of custody at the time of investment.

   Effective and efficient liquid trading strategies often require a registered investment adviser to be able to move its clients' liquid digital assets on and off-chain quickly to maximize profits and avoid losses in a volatile asset class. In this context, the need to move clients' assets on and off chain expeditiously to capitalize on investment opportunities and/or reduce risk is incompatible with the operational processes required by "cold storage" custody solutions traditionally used by digital asset Qualified Custodians. It often takes Qualified Custodian users days to complete these processes in order to effect transactions in digital assets held by Qualified Custodians, which can result in the custodian's users needlessly foregoing investment opportunities or being exposed to additional market risk. Consistent with its fiduciary duties, registered investment advisers seek to avoid both risks when implementing its client's investment strategies.

Even where a user utilizes a Qualified Custodian's cold storage services for safe keeping liquid digital assets, its inherent operational limitations often require the user to move digital assets away from the Qualified Custodian's control and into omnibus accounts at centralized exchanges or other wallets that can interact with DeFi protocols in order to execute transactions.

This highlights situations where even if a Qualified Custodian is available to custody a digital asset, it may not be in the client's best interests to do so and thus argues for an alternative approach. There are other fiduciary considerations that may preclude using a Qualified Custodian to hold a client's digital assets. For example, while there is a relative and absolute small number of custodians in the digital asset class that meet the definition of a Qualified Custodian within the meaning of the Custody Rule (as compared to Qualified Custodians that can support custody of traditional assets), that number is further reduced by the number (if any) of Qualified Custodians that can support a specific digital asset owned by a client.

We recognize the unique security and regulatory challenges presented by digital assets and is designed to balance these risks with the practical realities, discussed above, that a digital asset-focused investment advisor faces when selecting among custodial options.

While a registered investment adviser strives to utilize Qualified Custodians, even where available, it might not be in the client's best interest to utilize such solutions in light of trading requirements (as specified above), diversify counterparty exposure and risk, and/or the desire to stake digital assets to earn additional yield for clients (which cannot be accomplished currently through the "cold storage" solutions offered by Qualified Custodians).

Accordingly, we would welcome the Commission's clarification regarding use of third-party alternative custodial solutions that may not meet the technical definition of Qualified Custodian under the custody rule (e.g., service providers that offer segregated storage of digital assets on chain with addresses uniquely reserved for the client's account), exchange omnibus accounts (e.g., centralized exchange omnibus accounts), and self-custody solutions (e.g., the use of a combination of software-based key sharing solutions, on-chain multi-signature wallets and hardware wallets) for custody of client's digital assets.

Reliance on alternative custodial arrangements should come with additional checks and balances. Not only should a registered investment adviser vet the technology utilized by the proposed custodial solution and it should also test the account control procedures for account access, account withdrawal, M of N user controls and other key components of effective custody relationships. Testing includes sending a sub-$100 transfer to confirm correct wallet address creation. This process eliminates (from an already limited set of third-party options) certain potential custodial solutions on the basis of risk profile.

In addition to making sure that third party custodial solutions have robust internal controls, clients' digital assets are afforded additional safeguards when digital assets are held through self-custody solutions.

For example, when third party custodial solutions are unavailable or unattractive due to risk issues, registered investment advisers should be required to implement policy and biometric protections to prevent unauthorized use or loss of client digital assets. This includes maker/checker functions across multiple internal functional areas to reduce the risk of a single employee being able to move a digital asset by him/herself. Furthermore, the use of a multi-signature layer for all self-hosted wallets, which incorporates biometric requirements to access each portion of the multi-signature for additional client safeguards, should be standard practice.

Finally, additional protections are afforded to clients and their investors through the registered investment adviser's annual auditing process with the clients' auditor. As part of each annual audit, the auditor would independently verify that each asset, including digital assets, are located where the adviser claims they are located. For digital assets, on-chain tools can be used to confirm the contents of each client's wallet and then allows the auditor to match the contents not only to the contents of the client's financial statements but also to transactions entered into by the client as referenced in transaction documents (for privately negotiated transactions) or confirmation statements (for liquid digital assets).

Taken together, implementing these alternative procedures and financial controls help ensure that a registered investment adviser is meeting its fiduciary duty to protect client assets all times from the risk of loss, theft, or misappropriation, even when self-custody is being utilized instead of a Qualified Custodian.

2. Token Taxonomy

Much of the regulatory uncertainty in digital assets stems from the lack of clarity surrounding their classification as a commodity, a security or sometimes being both. The first step in appropriately classifying digital assets is the creation of a common taxonomy for tokens that is adopted by the pertinent regulators. To this end, some of the heavy lifting has been done by the CFTC's General Markets Advisory Committee's Digital Asset Market Subcommittee, which was led by our President, Christopher Perkins. This subcommittee's work was informed by stakeholders from across the digital asset ecosystem and resulted in a lexicon of token terms that can serve as a framework for building an unambiguous regulatory regime that reflects the nature and utility of different tokens.

Building off of an accepted token taxonomy, additional clarity from the Commission is needed with respect to the applicability of traditional investment contract analysis in light of the decentralized nature of distributed ledger technology, which is at the core of blockchain based digital assets. The definition and impact of decentralization in the application of investment contract analysis requires definitional clarity and objective guidelines each of which will serve to foster the growth of this asset class in the United State as opposed to the negative impact the current amorphous tests that were weaponized by the prior administration.

3. Treatment of Airdrops and Staking Rewards

Among the numerous unique characteristics of digital assets and their ecosystem are "airdrops" and "rewards", pursuant to which projects distribute digital assets to community participants for free or for de minimis cost in connection for the participants' usage or support of the specific network or project. These distributions have enormous value to the project as it continues its path towards decentralization by disseminating token ownership to a broad user base and can serve to create yield for holders of the native digital asset.

There is needless uncertainty whether these distributions are exempt from securities offering registration requirements. Currently, airdrops are customarily limited by the issuer to non-US participants, which adversely impacts U.S. investors by virtue of their exclusion.

We would support regulatory clarity about the treatment of these distribution, ideally setting parameters regarding eligibility for exemptions from registration as an exclusion from being an investment contract.

4. Amending Regulation A

Startup ventures in the digital asset space, like our portfolio companies, face unique fundraising issues associated with the offering of traditional securities and/or tokens to potential investors in exempt offerings. Traditional private placements made to sophisticated investors might raise sufficient funds to help build the business, however, it does nothing to foster and support the community building and decentralization which are paramount to the success of such projects.

Facilitating crowdfunding rules that recognize the unique nature of transparent, autonomous, permissionless, immutable and distributed platforms, applications and protocols by crafting specifically tailored disclosure rules for such issuers would enhance the capital formation process and serve to enhance the security of the underlying computer network running the project's software.

The Commission's revisiting of exemptions from registration available to nascent digital asset projects should be enhanced by clear obligations that require disclosure material to investor protections, including information about insiders' holdings and compensation as well as the most relevant and specific information regarding the project focusing on the underlying blockchain as well as its governance and consensus mechanisms.

Not only would these changes enhance investor protections while fostering growth, but they would also make investment opportunities available to a larger segment of the U.S. investor base than is available under current exemptions from registration.

5. **Restrictions on Resales by Insiders and Affiliates**

Registered investment advisers not only consider issues associated with making investments in new digital asset projects, but they also must deal with the lack of clarity surrounding the disposition of digital assets acquired from issuers and/or insiders to make returns to their clients. Current regulations provide exemptions from registration for the resale of securities acquired from issuers and affiliates (e.g., Rule 144, Regulation S and the informal Rule 4(a)(1 ½)), however, digital assets (even if considered a security) rarely meet the specific information availability requirements of these exemptions.

In the resale of digital assets context, registered investment advisers are not acting as a statutory underwriter as they are customarily long-term holders (e.g., often digital assets acquired from issuers or their affiliates are subject to multi-year lock up/vesting periods) who take on market risk for their clients. Their role in the capital formation process is not to facilitate the distribution of tokens into the liquid markets, rather, they are crucial funding sources for these projects that ultimately require liquidity in order to make investment feasible for their clients.

Accordingly, the Commission should take the time to craft specific exemptions for digital asset resale transactions or alternatively craft No Action relief that reflects the unique elements of digital assets as they apply to existing exemptions.

6. **Staking Rates**

In addition to the regulatory topics on the agenda, CoinFund would like to share its expertise as the staking rate administrator for Ethereum with the Commission to assist it with its understanding of the role staking rates (i.e., the rate of return a token holder can expect to receive in exchange for staking their tokens to a validator node on a "proof of stake" blockchain) can play in unlocking innovation and markets here in the United States.

We welcome the opportunity to discuss these important matters with the Task Force at your earliest convenience.

Sincerely,

Stewart Eichner
General Counsel & CCO, CoinFund