



May 27, 2022

VIA ELECTRONIC SUBMISSION

Paul Munter  
Acting Chief Accountant  
U.S. Securities and Exchange Commission  
100 F Street, NE  
Washington, DC 20549

**Re: Request for Deferral of Effective Date of Staff Accounting Bulletin No. 121 “Accounting for Obligations to Safeguard Crypto-Assets an Entity Holds for its Platform Users” (“SAB 121”)**

Dear Mr. Munter:

The Securities Industry and Financial Markets Association (“SIFMA”)<sup>1</sup> and the American Bankers Association (“ABA”)<sup>2</sup> appreciate the focus of the Securities and Exchange Commission’s (“SEC”) Office of the Chief Accountant and Division of Corporation Finance (collectively, the “Staff”) on the various accounting considerations regarding crypto-assets. Given the unique characteristics of many crypto-assets, we believe that in certain cases the existing accounting guidance being applied to crypto-assets does not necessarily provide decision-useful information to users of the financial statements. Accordingly, in our responses<sup>3</sup> to the Financial Accounting Standards Board’s (“FASB” or the “Board”) agenda consultation last year, we asked the Board to add a project to its technical agenda to address the classification and measurement of digital assets, and were pleased that earlier this month the Board voted to do so.

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<sup>1</sup> SIFMA is the leading trade association for broker-dealers, investment banks, and asset managers operating in the U.S. and global capital markets. On behalf of our industry’s nearly one million employees, we advocate for legislation, regulation, and business policy affecting retail and institutional investors, equity and fixed income markets, and related products and services. We serve as an industry coordinating body to promote fair and orderly markets, informed regulatory compliance, and efficient market operations and resiliency. We also provide a forum for industry policy and professional development. With offices in New York and Washington, D.C., SIFMA is the U.S. regional member of the Global Financial Markets Association (GFMA).

<sup>2</sup> The American Bankers Association is the voice of the nation’s \$24.0 trillion banking industry, which is composed of small, regional, and large banks that together employ more than 2 million people, safeguard \$19.9 trillion in deposits and extend \$11.4 trillion in loans.

<sup>3</sup> See *SIFMA and ABA Comment Letters on FASB Invitation to Comment on Technical Agenda*, File Reference No. 2021-004, SIFMA letter available [here](#) and ABA letter available [here](#).

SAB 121 was issued on March 31, 2022 and requires, in many cases, an SEC registrant to record an obligation to safeguard crypto-assets it holds for platform users. The obligation is measured at the fair value of the related crypto-assets, with a corresponding asset also recognized. As you are aware, this guidance has raised a number of policy, scope, and legal questions given its potential broad long-term impact on our member firms, which we are reviewing and addressing with the SEC, as well as other regulators and policy stakeholders. Notwithstanding these broader concerns, this letter is focused on the effective date of SAB 121. Specifically, through discussions with the Staff as well as crypto-asset accounting experts at multiple accounting firms, our member firms believe there are a number of questions regarding the scope and application of SAB 121 and, therefore, believe deferral of the effective date is necessary to ensure these matters are appropriately addressed.

### **Clarification Needed Regarding Scope and Application:**

SAB 121 is effective for our members as SEC registrants for the quarter ended June 30, 2022. Banks and trust companies have long acted as qualified custodians under the securities laws. While our members currently have limited involvement in direct safeguarding of cryptocurrencies (*e.g.*, Bitcoin, Ethereum) some are actively exploring such activities, and many are engaged in other crypto-asset related activities, for example:

- Safeguarding cryptocurrencies via a third-party custodian (*i.e.*, sub-custodian);
- Acting as an introducing broker or “finder” between bank customers and a third-party custodian, where the broker-dealer or bank is not providing any service as principal;
- Tokenization of “traditional” (*i.e.*, non-digital) financial products and transactions, on a private or public blockchain (*e.g.*, deposits; debt and equity securities, including repurchase and borrow-pledge arrangements as well as the use of distributed ledger technology by regulated financial market infrastructure<sup>4</sup>), including providing custody services for such assets; and
- Acting as a fiduciary of an account that holds crypto-assets (*e.g.*, estate, trust, investment management arrangement).

There are a substantial number of interpretive questions being raised by our member firms with respect to the application of SAB 121 to these and other activities. Many of these issues relate to the broad nature of SAB 121, especially around scope – both as it relates to the roles and to the products intended to be captured. Further, if an activity is determined to be in scope of SAB 121, there are questions regarding classification and measurement including, for example, whether the recognized asset meets the definition of a financial, tangible or intangible asset, and whether the

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<sup>4</sup> Given the broad definition of crypto-assets, our members believe it is unclear whether providing custody of traditional assets traded and settled on regulated centralized financial market infrastructures (*e.g.*, exchanges and central securities depositories) would be in scope of SAB 121 when distributed ledger technology is utilized. This technology is currently being used by the SIX Digital Exchange, with numerous projects underway globally to test this technology (*e.g.*, by Depository Trust & Clearing Corporation’s Digital Securities Management, Deutsche Börse, Clearstream, Euroclear, and the Australian Stock Exchange).

recognition of any potential loss events (e.g., theft) is captured in a fair value or contingent loss framework. As a result, SAB 121 could have a significant impact on our member firms.

Our member firms are highly-regulated financial institutions that sit within tightly-managed capital frameworks that generally utilize U.S. GAAP to classify recognized assets and liabilities, with disclosure of certain of the resulting capital ratios required in their financial statements. As a part of this structure, banking institutions are also required to measure certain assets and liabilities on a daily basis for regulatory purposes. The Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation and Office of the Comptroller of the Currency (collectively, the “Banking Agencies”) are jointly evaluating a number of crypto-asset activities in which banking institutions may be interested, and plan to provide greater clarity on such activities within the context of their respective frameworks.<sup>5</sup> As part of this process, the Banking Agencies will also evaluate the application of bank capital and liquidity standards to crypto-assets for activities involving U.S. banking institutions. The fact that these processes are on-going, coupled with the lack of clarity regarding scope and application of SAB 121, impacts the ability of our members to meet their regulatory reporting requirements.

Further, management of SEC registrants have a responsibility to ensure that there are appropriate controls over financial reporting, and to evaluate the effectiveness of such controls. Given the immediate effective date of SAB 121 and the lack of clarity regarding its scope and application, however, we are concerned that our member firms will not have sufficient time to evaluate and analyze the nature of existing safeguarding arrangements in such context and develop appropriate processes and internal controls to support complete and accurate financial reporting and to ensure that the impacts of SAB 121 are appropriately reflected in the financial statements.

### **Request for Delayed Effective Date:**

Given the significant concerns described above around our member firms’ ability to timely and fully implement SAB 121 within their internal control environments, we strongly urge that the effective date of SAB 121 be delayed to the later of January 1, 2023 or the finalization of the aforementioned efforts of the Banking Agencies.

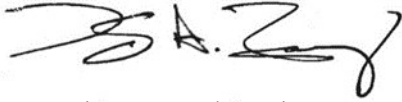
In the event the Staff concludes that a deferral of SAB 121 in its entirety is not appropriate, we request the current effective date apply only to situations where the registrant is directly safeguarding crypto-assets that would be considered cryptocurrencies that are traded on a platform, with all other application being deferred until the later of January 1, 2023 or the finalization of the aforementioned efforts of the Banking Agencies. As noted above, SAB 121 does not directly address these other fact patterns and, therefore, is where it is most important to have more time to perform a full analysis.

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<sup>5</sup> See <https://www.federalreserve.gov/newsevents/pressreleases/files/bcreg20211123a1.pdf>.

We thank you for the consideration of our request. Should you have any questions or require further information concerning any of the matters discussed in this letter, please do not hesitate to contact Kevin Zambrowicz or Michael Gullette.

Regards,



Kevin A. Zambrowicz  
Managing Director & Associate General Counsel  
SIFMA



Michael L. Gullette  
Senior Vice President, Tax and Accounting  
ABA

CC: The Honorable Gary Gensler, Chair, SEC  
The Honorable Hester M. Peirce, Commissioner, SEC  
The Honorable Allison Herren Lee, Commissioner, SEC  
The Honorable Caroline A. Crenshaw, Commissioner, SEC