



September 27, 2023

The Honorable Patrick McHenry
Chairman
Committee on Financial Services
U.S. House of Representatives
2129 Rayburn House Office Building
Washington, DC 20515

The Honorable Maxine Waters
Ranking Member
Committee on Financial Services
U.S. House of Representatives
4340 O'Neill House Office Building
Washington, DC 20515

Re: Introduction of the Uniform Treatment of Custodial Assets Act.

Dear Chairman McHenry and Ranking Member Waters:

The Securities Industry and Financial Markets Association (“SIFMA”)¹ commends Congressmen Flood (R-NE), Torres (D-NY), Hill (R-AR), and Nickel (D-NC) on the introduction of the *Uniform Treatment of Custodial Assets Act* to address the capital treatment of digital assets held in custody at a financial institution.

In March 2022, the SEC published Staff Accounting Bulletin No. 121 (“SAB 121”), which imposes fundamental changes on the way financial institutions are expected to account for the custody of digital assets. Specifically, SAB 121 requires a financial institution acting as a custodian to record a liability, and to recognize a corresponding asset, on its balance sheet in the amount equal to fair value of the digital asset under custody. SAB 121’s requirement for balance sheet recognition deviates from current accounting treatment for traditional assets held in custody, which are not required to be recorded on a firm’s balance sheet. This is a critical shift, as on-balance sheet treatment would have a negative impact on capital ratios for any bank that custodies digital assets. Naturally, this has disincentivized such banks from providing custodial services to their clients for such assets.

SIFMA believes the *Uniform Treatment of Custodial Assets Act* represents a commonsense and bipartisan solution to a problem manufactured by the SEC. By preventing the SEC from requiring banks and certain other financial entities to recognize digital assets as

¹ 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 one million employees, we advocate on 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. For more information, visit <http://www.sifma.org>.



liabilities on-balance sheet or from holding regulatory capital against such assets, the bill would restore the ability for banks to provide digital asset-related custody services for their clients. We commend the bill's sponsors on their commitment to providing greater regulatory clarity, preventing market disruption and protecting customer choice.

Sincerely,

A handwritten signature in blue ink, appearing to read "J. Wilsusen", is written over a light gray rectangular background.

Josh Wilsusen
Executive Vice President, Advocacy