July 16, 2021

James P. Sheesley, Assistant Executive Secretary
Attn: Comments-RIN 3064-ZA25
Federal Deposit Insurance Corporation
550 17th Street NW Washington, DC 20429

Via Electronic Submission

RE: Request for Information and Comment on Digital Assets (RIN 3064-ZA25)

Dear Mr. Sheesley:

On behalf of our 120 commercial, cooperative, federal savings banks and savings and loan associations with more than 72,000 employees located throughout the Commonwealth and New England, the Massachusetts Bankers Association (MBA) appreciates the opportunity to comment on the Request for Information and Comment (RFI) on Digital Assets. MBA's voting membership consists entirely of FDIC-insured depository institutions (IDIs) and we recognize that many of our members presently have limited interest in or activities with digital assets. Nevertheless, the past 18 months have seen significant disruption in both digital markets and the overall financial services industry. Rather than address each question specifically, MBA's comments will fall under the sub-headings that begin on Page 4 of the RFI.

Current and Potential Use Cases

MBA has members that are both actively and passively engaged in use cases for digital assets, and we recognize that for many of our members, digital assets will have no strategic utility for their institution as presently constituted. Proponents have promoted the idea that digital assets and their potential services have a broad and unlimited spectrum for potential use cases to IDIs. Initially, we believe it is imperative that the FDIC and all prudential regulators work to define the term "digital asset" in a clear and comprehensive fashion. Customer demands for digital asset activities are somewhat nebulous and relegated to many of the largest financial institutions in the country. Nevertheless, our members have in the past indicated significant interest conceptually in technology solutions for distributed ledgers, custody and holding of digital asset reserves as well as complete engagement in payments – bank-to-bank transfers for wholesales operations as well as commercial development purposes. A concrete definition of "digital assets" would provide a clear indicator to MBA members where they can and should focus strategic discussions in the years to come.

Risk and Compliance Management

While many of our members may not engage with digital assets, similar to other financial technologies, the presence of digital assets and cryptocurrencies in United States and foreign markets will impact the entire financial system and all IDIs. Bank customers now routinely list digital asset holdings on financial statements and our members already facilitate transfers of funds into digital asset exchanges (Coinbase, for example). They may potentially lend to customers who have liabilities that are not visible via more traditional underwriting and documentation processes.

In this context, IDIs are well-positioned to manage the compliance and risk management concerns associated with use cases for digital assets. Specifically, custodial activities and the holding of digital dollars has potential for prevalent adoption throughout the current banking system. Banks are well-positioned to manage this risk because they have been highly regulated and subject to requirements for anti-money laundering (AML) purposes as well as consumer protection rules for decades. MBA recommends that, to whatever extent possible, the FDIC and other prudential regulators implement many of the same audit and examination considerations for non-bank technology firms. It would also be beneficial to clarify specific components of existing regulatory frameworks – AML requirements for identification and verification of recipients of digital funds, or legal questions surrounding estates and custody.

Supervision and Activities

We briefly discussed the difficulty of reigning in non-bank technology firms above but our comments on *Supervision and Activities* will simply reinforce this imperative. Non-supervision of digital assets firms could create a secondary market with little or no oversight and no enforcement of consumer protections. Long-term market concerns relative to expected returns, interest rates and other factors could drive interested consumers to markets that offer them little protection without disclosing the proper amount of risk inherent to their financial behaviors. It remains crucial that financial technology firms and banks are held to similar regulatory disclosure and consumer protection standards.

Deposit Insurance

As you know, IDIs already clearly and accurately state the deposit insurance protections afforded to consumers when banking with an FDIC-insured financial institution. We recommend the FDIC and other regulatory agencies consider implementing requirements for 'negative' disclosures to firms that offer products and services to consumers that do not have the benefit of the insurance fund. MBA recognizes that this would require several agencies working through a joint rulemaking process; however, we believe it is an important component of a federal oversight regime for uninsured digital assets.

Conclusion

Digital assets are impacting the US financial system today. Their advent and emergence in capital markets is certainly appealing and we are sincerely appreciative of the FDIC's present effort to seek additional information from the banking industry. Moving forward, it is crucial that the regulatory agencies provide clear definitions for what it considers "digital assets". Increased clarity for IDIs will allow senior management and boards of directors across the country to appropriately identify products and services that will benefit both their banks and consumers generally.

We look forward to providing further comment as the FDIC announces further proposed regulations. If you have any questions, or need additional information, please contact me at (617) 523-7595 or via email.

Sincerely,

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