

# The REGX PROPOSAL FRAMEWORK TLDR DECK

Provide opt-in exempt offering framework for token issuers coupled with a secondary market disclosure framework that enables the public policy framework of securities laws to extend to issuances of cryptotokens in a way that:

- facilitates **certain** cryptotoken issuances and peer-to-peer transactions by enacting certain key modifications to laws around exempt securities offerings while minimizing arbitrage opportunities for issuers;
- retains the focus on issuer disclosures while adjusting such disclosures where necessary to interact with the particularized risks posed by these models;
- clarifies what types of issuances of cryptotokens fall beyond the securities laws, provided that all conditions are met (referred to in our proposal as qualifying distributions);
- mandates secondary markets disclosure with a focus on (i) insiders, (ii) points of control and centralization and (iii) actors with large holdings in the market, while retaining traditional securities law focus on ongoing issuer reporting obligations, protections for retail investors, and enforcement against bad actors; and
- attempts to harmonize how these assets and this disclosure regime interacts with existing securities laws and disclosures, including when a cryptotoken offering might implicate a registration of an issuer's equity under Section 12(g) of the Exchange Act.

# REG X

## Summary of Proposed Framework

The proposed requirements for Reg X offerings are described more fully in our proposal but notable elements of this proposal include:

## OVERVIEW

While our proposed exempt offering framework is not intended to address all the complexities of how U.S. securities laws could interact with tokens, it provides a way for issuers seeking to distribute certain types of cryptotokens by “opting-in” to the use of a new federal securities law offering exemption from registration (which we call “Reg X”). Below, we walk through the key features of the Reg X offering exemption (which is essentially a modified Reg A+ and Reg CF hybrid for token offerings) coupled with a secondary market beneficial ownership disclosure framework that could enable the public policy framework of securities laws to extend to issuances of cryptotokens.

## ELIGIBILITY

### ISSUER

Eligibility criteria similar to that of Reg A but with broader eligibility for non-U.S. Issuers

### ASSET

Must meet the definition of a cryptotoken on an open network, which are defined narrowly to exclude, among other things, electronic versions of traditional securities.

## FILING

The required filing includes elements of Form 1-A and Form C, but the resulting filing is a Reg CF style filing as opposed to a qualification process. The filing would cover the offered cryptotokens and include disclosures around the issuer’s equity stack, tokens, and disclosure around significant stakeholders, and transactions in both; requires use of an intermediary like with Reg CF for quality control, allows retail participation and secondary market transfers.

# REG X

## Summary of Proposed Framework (continued)

### ISSUANCE

Reg X offerings would have no overall cap on proceeds for the offering (similar to Reg D) but there would be caps on the percent of the offering that may be purchased by any purchaser to ensure the cryptotokens are broadly distributed and a dollar amount cap would apply for retail purchasers ("Retail Cap") similar to Reg CF. The Retail Cap would not apply for "airdrops" and similar offerings with eligibility criteria where no money changes hands.

Separately, there will be a resale cap (30%) similar to Reg A on the percent of the offered cryptotokens that are allocated to selling cryptotoken holders in the offering.

The cryptotokens sold or otherwise distributed in a Reg X offering will not be considered "restricted securities" under Securities Act Rule 144 and resales of cryptotokens by persons who are not affiliates of the issuer are not subject to any transfer restrictions under Rule 144.

Except for cryptotokens which are offered in the Reg X Offering and subject to the resale cap, insiders and affiliates of the issuer will be subject to a programmatic lockup of their cryptotokens in a holding period requirement that commences as of the date the offering is opened and continues for a 12 month period thereafter (the "Lockup Period").

### SUBSEQUENT DISTRIBUTIONS & RESALES

**By the Issuer.** Additional distributions of the cryptotokens by a reporting issuer under the Reg X would occur through subsequent shelf offerings (a "Token Shelf"), subject to the issuer meeting Reg X eligibility requirements at the time of the Token Shelf and being current in its reporting.

The abbreviated process provides relief from the time/cost burden of preparing offering documentation when the required disclosures are publicly available and can be incorporated by reference.

**By Insiders and Large Holders.** Apart from the resale allocation in the offering, insiders and large holders would be subject to a lockup where they would not be able to resell their existing cryptotokens and any new issuances outside of Reg X would be subject to a lockup, in each case for the Lockup Period.

## ISSUER REPORTING

# REG X

### Summary of Proposed Framework (continued)

From and after a Reg X Offering, the issuer would be subject to ongoing reporting requirements. We expect these disclosures to track those contained in the Reg X Safe Harbor proposed by Gabriel Shapiro and to be further supplemented by traditional securities disclosures, modified where appropriate. For example, we believe the disclosure should make room for conceptual shifts from traditional securities disclosure: (a) dependence on management concepts become dependence on community (members) and discuss points of centralization; (b) the structure of the project will impact who we attribute liability to for incorrect disclosure; and (c) technology-based risks versus human dependencies.

If the issuer were to meet the requirements of the Safe Harbor in the future, there would be an offramp for reporting for projects that have decentralized to the point where the issuer is no longer an appropriate party or knowledge group to make disclosures on behalf of a decentralized project. In these instances, on balance, the obligations for secondary market reporting would continue.

However, it is our expectation that many issuers will not meet these requirements and an ongoing reporting regime would be appropriate in that circumstance. We also expect there will be scenarios where issuers will be subject to dual reporting in their tokens and equity (see below flow chart).

## SECONDARY MARKET REPORTING

We believe that there should be a focus on secondary market reporting for cryptotokens and a disclosure regime for large secondary market actors would be appropriate.

Persons and groups who constitute large holders at the time of the offering, inclusive of existing holdings, would be subject to a beneficial ownership reporting regime akin to 13D and 13G commencing from and after the offering. Again, like the existing beneficial ownership reporting regime, large holders would be required to file reports as their ownership exceeds the threshold for reporting, and thereafter subject to ongoing reporting (amendments to their disclosures) and would file exit reports when their holding drop below the reporting threshold. We would expect additional disclosures regarding extrinsically affiliated persons to develop.

# REG X

In addition to forging a compliant path forward for token projects that solves public policy goals, the Reg X proposal focuses on:

- (1) Issuer disclosure where appropriate,
- (2) harmonization with existing securities laws, including closing arbitrage loopholes and disclosure regarding equity to solve information asymmetries, and
- (3) reporting in secondary market/ shift of focus to secondary market disclosure for decentralized projects.

## TOKEN ISSUANCE

Hits all Safe Harbor Autonomous Definitions

**REG X  
SAFE  
HARBOR (1)**

Project hits Safe Harbor at Issuance

Hits all Crypto definitions (which can include but are broader than Autonomous Definitions)

**REG X  
ISSUERS**

**REG X  
ISSUERS**

**CEASE  
REPORTING**

Hits all Meet Conditions Autonomous Definitions of Safe Harbor

Reporting Forever

## TRADITIONAL SECURITIES REGIME

**OFFERING EXEMPTIONS & REGISTRATION REQS**

Integration Safe Harbor for Traditional Securities Offerings

Mandated disclosure regarding Traditional Securities Offerings

**OFFERING  
DISCLOSURE**

Limited Information about securities offerings in the market

**REPORTING  
REGIME**

Secondary market information in the market

**REG X REQUIRED  
SECONDARY  
MARKET  
DISCLOSURE**

\* Built in triggers for dual reporting regimes