



February 10, 2026

VIA WEBSITE SUBMISSION

Commissioner Hester M. Peirce
Chair of SEC Crypto Task Force
U.S. Securities and Exchange Commission
100 F Street, N.E.
Washington, DC 20549-1090

Re: Non-Custodial Wallet Software and Neutral User Interfaces

Dear Commissioner Peirce and Members of the SEC Crypto Task Force:

Solana Policy Institute¹ and DeFi Education Fund² deeply appreciate the work of the Securities and Exchange Commission’s Crypto Task Force—and the agency’s ongoing efforts to articulate a coherent regulatory framework for crypto assets under the federal securities laws. As organizations that advocate for fair, appropriate treatment and classification of software developers and neutral technological solutions, we write to provide the Commission with further context and background concerning non-custodial wallets and neutral user interfaces—and to address potential misperceptions.

We agree that it is critical to identify when, if ever, wallet providers that support tokenized securities are engaged in activities that require registration as a broker or dealer under the federal securities laws. We are, however, concerned that potential misconceptions exist concerning the functionality and appropriate regulatory treatment of certain non-custodial wallets and neutral user interfaces, including as reflected in a letter that the Securities Industry and Financial Markets Association and its Asset Management Group (collectively, “SIFMA”) (“SIFMA’s Letter” or the “SIFMA Letter”) recently submitted to the SEC Crypto Task Force.³ Our letter is intended to address mischaracterizations of disintermediated technology and the

¹ Solana Policy Institute is a non-partisan, non-profit entity focused on educating policymakers on how decentralized networks like Solana are the future infrastructure of the digital economy. We are also a member of Project Open—a collection of interested parties working collaboratively to address and enable tokenized securities on public blockchain networks in a manner consistent with existing regulations.

² The DeFi Education Fund (“DEF”) is a non-partisan research and advocacy nonprofit. DEF’s mission is to advocate for sound policy for decentralized finance (“DeFi”), educate lawmakers about the technical workings and benefits of DeFi, achieve regulatory clarity for the future of the global digital economy, and advocate for individual users and developers in the DeFi space.

³ SIFMA, Letter to the SEC on Wallet Providers and Broker Dealer Regulation (Jan. 15, 2026), <https://www.sec.gov/files/sifma-letter-wallet-provider-regulation-011526.pdf>.

software developers who build it, and to provide the Commission with an appropriately nuanced description of the technology at issue.

Non-Custodial Wallets, User Interfaces, and Custodial Arrangements

Any analysis of broker-dealer status must begin with a clear understanding of the distinct functional layers involved in wallet products.

- Crypto wallets enable users to interact with blockchains. Non-custodial wallet software, commonly in the form of a mobile application or browser extension, enables users to generate and control private cryptographic keys and to sign messages or transactions. In this model, the wallet provider does not have possession or control of customer assets and cannot unilaterally initiate, modify, block, or reverse transactions.
- Non-custodial wallet providers may offer interface features that allow a user to discover prices, format transaction messages, and submit instructions that are executed by smart contracts or third-party protocols. This type of interface does not effect transactions. Instead, it simply relays user-directed transactions that are executed programmatically on blockchains. These interfaces do not perform intermediary or custody functions.⁴
- By contrast, other types of crypto wallet providers may offer intermediated custody and safekeeping arrangements that involve the possession of or control over client assets, thereby implicating different regulatory considerations.

Regulatory obligations appropriately attach (or not) based on the given function of the software (or other technology), not based on labels or the mere presence of a graphical interface.

Broker Status Requires a Functional, Facts-and-Circumstances Assessment

When considering the regulatory treatment of non-custodial wallets and neutral user interfaces, the analysis should begin with the statutory framework and key definitions, the manner in which the SEC and courts have historically applied these concepts, the relevant policy implications, and the realities of these technologies.

Section 15(a) of the Exchange Act provides that any person acting as a “broker” must register with the SEC or otherwise operate pursuant to an applicable exemption from registration.⁵ Section 3(a)(4)(A) of the Exchange Act defines “broker” to mean “any person engaged in the business of effecting transactions in securities for the account of others.”⁶ Therefore, whether a person acts as a “broker” depends on a two-part test: (1) whether the

⁴ For a detailed and informative discussion of various crypto wallet functionalities and “broker” analysis considerations, we recommend the Brief of DeFi Education Fund as *Amicus Curiae* in Support of Defendants Coinbase, Inc. and Coinbase Global, Inc.’s Motion for Judgment on the Pleadings in *SEC v. Coinbase, Inc. and Coinbase Global, Inc.*, dated Aug. 11, 2023, https://www.defieducationfund.org/_files/ugd/84ba66_05b10d3583a647b08dd071727ab8b7f1.pdf.

⁵ 15 U.S.C. § 78o(a).

⁶ 15 U.S.C. § 78c(a)(4)(A).

person is “engaged in the business,” and (2) whether the person “effect[s] transactions in securities.”

The Exchange Act does not define what it means to be “engaged in the business” or to “effect[] transactions in securities.” Instead, the SEC and federal courts have made clear that this assessment depends on the totality of the facts and circumstances presented, with no single factor being dispositive.⁷ The SEC staff has explained that a person “effect[s] transactions in securities” by participating in a meaningful way in the purchase or sale of securities at “key points” in the securities distribution chain.⁸

As the court in *SEC v. Coinbase, Inc.* recently observed, courts consider a variety of factors to determine whether a person is acting as a broker, including whether the person:

- (1) actively solicits investors;
- (2) receives transaction-based compensation;
- (3) handles securities or funds of others in connection with securities transactions;
- (4) processes documents related to the sale of securities;
- (5) participates in the order-taking or order-outing process;
- (6) sells, or previously sold, securities of other issuers;
- (7) is an employee of the issuer;
- (8) is involved in negotiations between the issuer and the investor; and/or
- (9) makes valuations as to the merits of the investment or gives advice.⁹

The court correctly observed that a wide variety of factors are potentially relevant to the analysis. SIFMA’s Letter, by contrast, suggests that transaction-based compensation is largely dispositive to the analysis. In fact, the SEC and the courts have cautioned that the receipt of transaction-based compensation is only one of several factors considered as part of the broker status analysis.

We note that:

- SEC staff recently granted no-action relief permitting payment of transaction-based compensation to unregistered personal services entities without requiring such entities to register as a broker.¹⁰
- SEC staff previously granted no-action relief permitting unregistered technology service providers to receive per-order fees in exchange for establishing and maintaining linkages for subscribers to communicate securities orders to broker-dealers for execution.¹¹

⁷ See, e.g., *SEC v. RMR Asset Mgmt. Co.*, No. 18 Civ. 1895 (AJB) (LL), 2020 WL 4747750, at *2 (S.D. Cal. Aug. 17, 2020), *aff’d sub nom. SEC v. Murphy*, 50 F.4th 832 (9th Cir. 2022) (“A determination of whether a person acts as a broker is based on the totality of the circumstances.”).

⁸ See, e.g., *MuniAuction, Inc.*, SEC No-Action Letter (Mar. 13, 2000).

⁹ *SEC v. Coinbase, Inc.*, 726 F. Supp. 3d 260, 305-06 (S.D.N.Y. Mar. 27, 2024) (internal citations omitted).

¹⁰ Financial Services Institute, SEC No-Action Letter (Nov. 17, 2025).

¹¹ See *Schwab & Co., Inc.*, SEC No-Action Letter (Nov. 27, 1996); *Swiss American Securities, Inc. and Streetline, Inc.*, SEC No-Action Letter (May 28, 2002).

- Commissioner Peirce issued a statement in 2021 cautioning that, “absent a showing that that business is the effecting of securities *transactions on behalf of others*, transaction-based compensation does not make a firm a broker,” and that “using this factor to bootstrap non-broker activity into the broker definition is contrary to law because it reduces the broker definition to a question of form of compensation and disregards the nature of the actual business activity of the firm.”¹²
- The court in *SEC v. Mapp* held that a person was not a broker despite receiving transaction-based compensation because he “was merely facilitating securities transactions rather than performing the functions of a broker.”¹³
- The court in *SEC v. M&A West, Inc.* distinguished “the business of *facilitating* securities transactions *among other persons*” from the business of “*effecting* transactions *for the account of others*,” concluding that the former is not tantamount to the latter.¹⁴

These and other precedents reinforce a critical point: manner of compensation is merely one potentially relevant piece of a broader analysis.

The Coinbase Decision, Which SIFMA Ignores Entirely, Confirms Limits on Broker Status for Non-Custodial Wallets

The *Coinbase* decision—the only judicial application of the broker “facts and circumstances” test to a non-custodial wallet product—underscores the importance of function over form. That ruling addressed broker status questions in the context of a swapping interface embedded in a non-custodial wallet. The court found that the SEC’s allegations failed to plausibly allege facts evidencing many of the factors courts traditionally rely on in identifying broker activity, including custody, discretion, negotiation, or agency. It further explained that the fact that Coinbase at times received a commission “does not, on its own, turn Coinbase into a broker”—quoting case law stating that “Commission-based payment, standing alone, is not dispositive of whether a party acts as a broker-dealer under the Exchange Act.”¹⁵ The court also observed that, “even when considered in the aggregate,” the SEC’s factual allegations concerning the wallet functionality were insufficient to establish “brokerage activities”—noting that “[f]acilitation or bringing together parties to transact . . . is not enough to warrant broker registration under Section 15(a).”¹⁶

The *Coinbase* decision confirms that non-custodial wallets with embedded interface functionality do not become brokers absent meaningful participation in effecting transactions.

¹² Commissioner Hester M. Peirce, Statement Regarding Neovest, Inc. (June 29, 2021) (emphasis in original).

¹³ *SEC v. Mapp*, 240 F. Supp. 3d 569, 592-93 (E.D. Tex. 2017).

¹⁴ *SEC v. M&A West, Inc.*, 2005 WL 1514101, at *9 (N.D. Cal. June 20, 2005) (emphasis in original).

¹⁵ *Id.* at 307.

¹⁶ *Id.* at 307, n.20.

Any proposed regulatory framework that treats non-custodial wallet providers as presumptive brokers cannot be reconciled with this holding. SIFMA’s letter does not acknowledge the existence of the *Coinbase* decision and instead cites outdated allegations against Consensys Software Inc. that have been voluntarily dismissed by the Commission.¹⁷

Other Potential Misperceptions

We believe that it is also important to address certain other potential mischaracterizations:

- SIFMA’s Letter suggests that “buttons” on a wallet operator’s application or browser extension are somehow indicative of “broker” status, in part because they “look very similar to those one would see on a broker-dealers’ app or website.”¹⁸ Appearance does not substitute for functional analysis. The relevant inquiry is what occurs after user initiation: who exercises control, discretion, or agency in effecting the transaction.
- SIFMA’s Letter states that a wallet provider is “as a factual matter intermediating trades.”¹⁹ But just saying it does not make that statement true. This type of blanket generalization requires some sort of substantiation tied to traditional broker functions. Software that passively reflects user instructions executed by smart contracts or third-party venues does not, without more, constitute intermediation.
- SIFMA’s Letter states that wallet providers are seeking broad “exemptions” from the Commission because they recognize that they may be engaging in broker activity and creating traditional broker risks.²⁰ We are not aware of any such blanket requests for exemptive relief. To the contrary, non-custodial wallet providers, such as Phantom in its communications with the SEC Crypto Task Force, have explained why their services do not constitute brokerage services under existing law or present traditional brokerage risks.²¹ Rather than requesting blanket exemptive relief, they have sought clarifying guidance from SEC staff confirming agreement with this view.²²

¹⁷ SIFMA’s Letter cites the Commission’s prior allegations against Consensys Software Inc. (“Consensys”) in connection with the provision of its non-custodial MetaMask wallet software, which implicated the same activities as alleged in the *Coinbase* complaint. Critically, however, SIFMA’s Letter does not acknowledge the important fact that the Commission has since dismissed, with prejudice, the broker-dealer registration claims against Consensys. See *SEC v. Consensys Software Inc.*, No. 1:24-cv-04578, Joint Stipulation to Dismiss, and Releases (E.D.N.Y. Mar. 27, 2025).

¹⁸ SIFMA Letter (citing Wallet, Bitpay, <https://www.bitpay.com/wallet>).

¹⁹ SIFMA Letter.

²⁰ SIFMA Letter.

²¹ See, e.g., Letter from Kevin Jacobs, General Counsel, Phantom, to Commissioner Hester M. Peirce, Chair, SEC Crypto Task Force (Apr. 17, 2025), <https://www.sec.gov/files/ctf-memo-phantom-042925.pdf> (“Phantom Letter I”); Letter from Kevin Jacobs, General Counsel, Phantom, to the SEC Crypto Task Force (June 17, 2025), <https://www.sec.gov/files/phantom-technologies-061725.pdf> (“Phantom Letter II”).

²² See, e.g., Phantom Letter I and Phantom Letter II.

- SIFMA’s Letter states that one “activity of particular note” that is indicative of wallet providers triggering broker status is the provision of routing services.²³ However, SIFMA does not explain or support the claim that wallet providers are, in fact, routing user transactions. And, as discussed above, these are the same unsupported claims that the *Coinbase* court rejected as doing “little to suggest that Wallet undertakes routing activities in a manner recognized by courts to have been traditionally carried out by brokers, such as by providing trading instructions to third parties or directing how trades should be executed.”²⁴ Even if a wallet provider hypothetically did engage in some form of “routing” activity, longstanding guidance from SEC staff explains that routing services, standing alone, are insufficient to trigger broker status, particularly where such services do not involve exercising discretion over routing decisions.²⁵

* * *

The question before the SEC is not whether wallet providers are exempt from the law. It is whether neutral, non-custodial software and software developers that neither control customer assets nor perform core trading functions should be treated and regulated as securities intermediaries. The *Coinbase* court answered this question in the negative and recent statements from Chair Atkins and Commissioner Peirce indicate that the Commission is prepared to draw important distinctions between intermediated financial actors and disintermediated systems and technologies. We appreciate your thoughtful approach and engagement on these issues, and we are available to discuss this topic in further detail at your convenience.

Respectfully submitted,

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²³ SIFMA Letter (citing the Commission’s now-dismissed complaint against Consensys).

²⁴ *Coinbase Inc.*, 726 F. Supp. 3d at 306.

²⁵ *See, e.g.*, Neptune Networks Ltd., SEC No-Action Letter (Mar. 4, 2020); S3 Matching Technologies LP, SEC No-Action Letter (July 19, 2012); GlobalTec Solutions, LLP, SEC No-Action Letter (Dec. 28, 2005); Swiss American Securities, Inc., and Streetline, Inc., SEC Staff No-Action Letter (May 28, 2002); Prescient Markets, Inc., SEC No-Action Letter (Apr. 2, 2001); Broker-to-Broker Networks, Inc., SEC No-Action Letter (Dec. 1, 2000); Evare, LLC, SEC No-Action Letter (Nov. 30, 1998); and Charles Schwab & Co., SEC Staff No-Action Letter (Nov. 27, 1996). *See also* Commissioner Hester M. Peirce, Statement Regarding Neovest, Inc. (June 29, 2021).