

STA Open Call – April 25, 2019 Call Notes¹
SEC FinHub Guidance on Digital Assets
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to learn more about asset digitization visit
www.alphapoint.com/STA

Opening Remarks

SEC Rule 606 - last night the SEC extended the required start date for firms to begin collecting data required by Rules 606 (a) & (b), from the May 20th to Oct 1st. While this relief will be well received by many firms, the industry is still waiting on FAQs to be published by the Commission. [link](#)

STA letter to SEC on Strikes - STA filed a letter with the SEC earlier this month on proliferation of option strikes. Today there are over 900,000 series of options available for quoting and trading, on 4,300 products (or, “issue”). [Letter](#)

May 21 NYC Event - STA Women in Finance Committee, “STA WIF” will be hosting our annual, *Evening of Recognition and Education* on May 21st in NYC. The event features the presentation of the *Ken Heath Award*, which honors those men who have made a genuine and meaningful impact on the advancement of women in finance. [Details](#)

Executive Summary

In Nov. ‘18, the SEC announced the formation of its Strategic Hub for Innovation and Financial Technology, aka, [SEC FinHub](#). Among the goals or purposes of FinHub is to enable the SEC to actively engage with innovators, developers, and entrepreneurs. Since forming FinHub has made two significant announcements, one being a May 31st [Forum](#) on Digital Asset that will open to public and the other being [guidance](#) on digital assets, the topic of tonight’s call.

Q#1: What does AlphaPoint do & where does it fit into the Digital Asset space?

AlphaPoint is a Financial Technology firm founded in 2013. It has 100+ Global Customers in 35+ countries and about 100 employees We offer technology solutions for both primary issuance and secondary trading of digital assets.

Q#2 Please describe the background on the SEC guidance on Digital Assets.

In Nov. of 2018, [“TimesTalk w/ Chairman Clayton”](#) stated that in his confirmation hearing in March of 2017 not one person asked him a question about bitcoin, eth, distributed ledger technology, or blockchain. By July of 2017, the SEC had to address the new technology how the digital assets fell into the regulated security markets. Chairman Clayton emphasized investor protection & the SEC’s role to “not to vote” but to provide an “even playing field in which other people vote.”

Q#3 Please describe the Framework of the SEC’s guidance on “Investment Contracts” & Digital Assets

¹ This brief is meant for informational purposes only and therefore should not be considered legal advice. STA’s goal is to raise awareness on industry developments and encourage dialogue.

First, as Commissioner Peirce pointed out, the guidance & no-action letters – are NOT law. They are people’s opinions – very important people’s opinions. The Framework is to (1) provide clarity to an industry clamoring for lines of what defines an offering, and (2) to further define the **Howey Test**.

Q#4 Please outline what the additional framework states as applied to digital assets and ICOs.

The SEC introduced the concept of “**Active Participant**” – a concept that didn’t exist before. In evaluating whether a digital asset previously sold as a security should be reevaluated at the time of later offers or sales as a security, there would be additional considerations as they relate to the “efforts of others,” including: And there are more “relevant considerations” including:

Whether the distributed ledger network and digital asset are fully developed and operational. Holders of the digital asset are immediately able to use it for its intended functionality on the network, particularly where there are built-in incentives to encourage such use.

The digital assets’ creation and structure is designed and implemented to meet the needs of its users, rather than to feed speculation as to its value or development of its network. For example, the digital asset can only be used on the network and generally can be held or transferred only in amounts that correspond to a purchaser’s expected use.

Q#5 What do you think DA industry can learn from mature asset classes about how to engage regulators.

There is a very well defined process in equities and options market structure today. The party bringing the innovation engages SEC and CFTC via rule filings. Once SEC or CFTC find these proposals acceptable, the rule filings are sometimes published for industry comments where industry participants get to challenge or support an idea. In short there is a collaborative process in these mature industries and engaging regulators at an early stage is always a good idea.