



May 19, 2025

Department of Financial Protection and Innovation
Attn: Diana Pha, Regulations Coordinator, Legal Division
651 Bannon Street, Ste. 300
Sacramento, CA 95811
Email: regulations@dfpi.ca.gov

Via Electronic Mail

Re: Comments on Proposed Regulations under the Digital Financial Assets Law (DFAL)

Dear Ms. Pha,

GSR International Limited and its group (collectively, “**GSR**”) appreciate the opportunity to comment on the Department of Financial Protection and Innovation’s (the “**Department**”) Notice of Proposed Rulemaking dated April 4, 2025 (the “**Proposed Regulations**”) under California’s Digital Financial Assets Law (the “**DFAL**”).

GSR has over a decade of experience operating at the forefront of digital asset markets, serving as a trusted liquidity provider and multi-stage investor. We work across the digital asset ecosystem with token issuers, institutional investors, miners, and major trading venues. GSR entities are licensed by or registered with leading regulators, including the Monetary Authority of Singapore, the UK Financial Conduct Authority, the U.S. Financial Crimes Enforcement Network, and state money transmission regulators across the U.S.

We support the Department’s efforts to enhance transparency and consumer protection in the digital asset sector. However, we are concerned that the combined effect of the Proposed Regulations and the certification obligations on entities classified as “covered exchanges” (the “**Certification Framework**”) under the DFAL imposes disproportionate compliance burdens on financial intermediaries that only serve professional and institutional counterparties.

California is home to one of the nation’s largest digital asset user bases. According to the [Crypto Council for Innovation](#), 84% of surveyed California residents believe “crypto and blockchain were important tools for future economies.” When Governor Newsom signed Executive Order N-9-22, he [emphasized](#) the importance for his government to “[lay] the foundation to allow for consumers and business to thrive.” Applying the same regulatory requirements to all California market participants regardless of their financial knowledge or sophistication risks frustrating those goals and deterring productive investment in the state’s digital asset economy.

- I. The Proposed Regulations impose certification obligations on financial intermediaries without exposure to non-professional counterparties under expansive “covered exchange” definition

The DFAL defines a “covered exchange” as any “covered person that exchanges a digital financial asset.” A “covered person” includes any entity that engages in “digital financial asset business activity” with or on behalf of a California resident, a term that expressly includes “exchanging a digital financial asset.” Read literally, this would treat any entity executing a digital asset transaction with a California-based institutional counterparty as a “covered exchange,” triggering substantial compliance requirements under the Certification Framework.

This approach blurs distinctions between retail public-facing platforms and private, negotiated transactions between sophisticated market participants. It disregards key contextual factors, such as whether an entity operates a public platform that is available to retail investors, and whether it has the informational access needed to perform token issuer-level diligence. The result is a definition that indiscriminately sweeps in entities with materially different roles and risk profiles in the market.



The Certification Framework is appropriately designed for trading platforms that list digital financial assets, interface with token issuers, and provide retail market access. These platforms function as critical gatekeepers with respect to the potential risks posed to the general public, and are well positioned to assess token-level risks given they will interact with token issuers as part of their token listing processes. In contrast, financial intermediaries such as institutional OTC desks do not list or promote tokens to non-professional counterparties, but rather operate exclusively through bilateral trades with sophisticated counterparties. They also lack access to issuer-specific information necessary for diligence. Applying the Certification Framework to these types of secondary market participants could effectively eliminate the institutional OTC market in California, forcing all trading activity onto retail public-facing platforms. The OTC market plays a critical role in facilitating large-scale transactions with minimal market disruption, preserving price stability and allowing institutional participants to operate efficiently. Undermining this functionality could impair liquidity and introduce unnecessary volatility into digital asset markets.

- II. Section 3505(a)(2)'s limited carveout does not meaningfully reduce the burden created by the expansive "covered exchange" definition

Section 3505(a)(2) of the DFAL provides an exemption from the Certification Framework for "any digital financial asset approved for listing on or before January 1, 2023, by the New York Department of Financial Services" (the "NYDFS"). While this provision suggests an intent to ease duplicative regulatory burdens, in practice it offers minimal relief to financial intermediaries that do not provide access to non-professional counterparties, ultimately limiting the ability of California residents to access and trade widely used digital financial assets through established institutional channels.

Importantly, the NYDFS does not currently publish a comprehensive list of all digital financial assets it has historically approved for listing. Based on a review of archived pages from the NYDFS website, only 16 digital financial assets meet the carveout criteria. These digital financial assets and their market capitalization rankings on [CoinMarketCap](#) as at May 2, 2025 are listed in the table below. The above means that only six of the top 50 most traded digital financial assets fall within the scope of the NYDFS carveout. Notably, major assets such as USDC are excluded. The carveout, as structured, leaves most digital financial assets, including those most actively traded by institutions, subject to the Certification Framework. This outcome could limit institutional counterparties' access to well-established markets through financial intermediaries.

	Digital Financial Asset*	Market Cap Rank (as at May 2, 2025)	Date Approved for Listing by NYDFS
1	BTC	1st	June 19, 2020
2	ETH	2nd	June 19, 2020
3	LINK	12th	February 14, 2022
4	BCH	19th	June 19, 2020
5	LTC	21st	June 19, 2020
6	AAVE	36th	February 14, 2022
7	PAXG	85th	June 19, 2020
8	SNX	174th	February 14, 2022
9	BAT	183rd	February 14, 2022
10	LPT	199th	February 14, 2022
11	USDP	435th	October 4, 2021
12	BUSD	492nd	August 3, 2020
13	BNT	499th	February 14, 2022



14	GUSD	504th	June 19, 2020
15	ZUSD	860th	March 4, 2021
16	GYEN	943rd	March 4, 2021

** PAX which was approved for listing by the NYDFS on June 19, 2020 is not listed in this table because it is now known as USDP which was separately approved for listing by the NYDFS on October 4, 2021.*

III. Recommendation: Exclude non-retail facing financial intermediaries from the Certification Framework based on DFAL statutory authority granted to the Department's commissioner

The DFAL provides the Department with explicit authority to issue exemptions. Section 3103(c)(1) of the DFAL empowers the Commissioner to exempt, by regulation or order, "any class of persons or transactions" from all or part of the DFAL where such an exemption is "in the public interest" and the "regulation of such persons or transactions is not necessary."

We urge the Department's commissioner to exercise the discretionary authority granted under Section 3103(c)(1) of the DFAL to exempt entities that transact exclusively with professional counterparties from the Certification Framework. This distinction is consistent with established regulatory practice. Some notable examples listed below demonstrate the policy judgment of certain regulators that disclosure and licensing requirements should be proportionate to the sophistication and risk profile of the counterparty. In order to achieve "same risk, same regulation" as between crypto and traditional financial markets, similar differentiation between counterparty types should be made.

- FINRA Rule 2111(b) provides an exemption from the broker-dealer suitability requirement when transacting with institutional customers who are capable of independently evaluating investment risks and affirmatively indicate that they are exercising independent judgment.
- The Commodity Exchange Act provides an exemption from certain business conduct and disclosure requirements when transacting with counterparties that qualify as "eligible contract participants".
- The California Finance Lenders Law provides an exemption from certain disclosure requirements for entities that engage exclusively in commercial-purpose lending.

We thank the Department for its thoughtful work in implementing the DFAL and for the opportunity to provide input. We welcome continued dialogue on these issues and remain available to discuss our recommendations in more detail.

Sincerely,

Roxane Ballew, Legal Counsel
Raphael Landesmann, Regulatory Counsel