

Introduction

In June and July of 2018 Global Digital Finance conducted a public consultation seeking industry and stakeholder input and validation regarding ***the GDF Code of Conduct Part I - Overarching Principles, Part II - Additional Principles for Token Trading Platforms*** and ***Part III - Additional Principles for Token Sales and Token Sale Service Providers***, and the ***GDF Taxonomy for Cryptographic Assets***.

These documents were drafted over the first half of 2018 through collaborative working groups made up of market actors from across the cryptoasset community. The drafts were published on the GDF website for a 60-day open public consultation period, and received 640 comments from 160 different commenters. During this time, GDF actively sought feedback from industry participants, subject matter experts, regulators and global policy makers, and held in-person roundtables in Paris, London and New York and two virtual roundtables.

Post Consultation Summary

The comment period closed on 31 August 2018. The consultation review process itself concluded on 29 October 2018, following GDF community meetings held in ten locations in Asia, Europe and North America. Consultation feedback was reviewed and assessed, and the Code of Conduct and Taxonomy were revised in response to this feedback. Important new work streams were also identified through this process. A high level summary of the working group contributors, consultation respondents and feedback received is detailed below.

Overall Consultation Metrics	QTY
Initial Working Group Contributors	70*
Comments received via Public Consultation and In-Person Roundtables facilitated by GDF	640
Public Consultation Respondents	160

Overall Consultation Feedback Theme:

- We received significant input on the need to establish a meaningful structure for how adherence to the GDF code should work in practice and how that could be validated:
 - Recommendations on methodology
 - A strong focus on establishing and maintaining accountability and credibility through formal governance
 - Queries on scheme administration and audit.
- *To implement this feedback, a new GDF Registration workstream is underway, being led by DLA Piper.*
- *The Registration workstream will articulate recommendations for Code adherence guidelines and mechanisms to the broader GDF community.*

* Some working group contributors have elected to remain anonymous.

Code of Conduct	Input
Working Group Contributors	34
Consultation Respondents	62
Respondent comments incorporated into final version	58
Respondent comments tabled for later versions or not incorporated	4

Code of Conduct - Part I - Overarching Principles

Consultation Feedback Themes:

- **Compliance, monitoring and enforcement of the code**

We received many queries and recommendations as to how GDF will ensure Code adherence, both pre and post Registration:

- To what extent should the GDF Code of Conduct model FINRA, NFA, or other self-regulatory organisations' operating documents?
- Could companies themselves determine how much disclosure they wish to make on how they comply, for example item by item, list of guidelines they comply with, list of steps they have taken e.g. train employees, review procedures etc.

- What does or should adherence mean? Adherence could have levels, for example, the environmental LEED standards have bronze and other levels. These levels could correlate to the depth of governance undertaken - from self certification to third party audits.
- Should there be consequences for non-compliance by member organisations? What are the remedies?
- From a general legal perspective, where does liability lie, for example, with the organisation or each individual representative?
- *The Registration workstream is underway, which will articulate the Code adherence guidelines.*
- *Should firms be expected to adhere to the entire Code, or just particular sections? This was debated during the mini-summit conducted in October 2018. The GDF community expressed a strong view that it should be the entire Code, rather than selected principles. The rationale was that even the high-level nature of the principles, compliance with the Overarching Principles and with the applicable Additional Principles (eg in the case of Exchanges, the Overarching Principles and Part III - Additional Principles for Token Trading Platforms) rather than with only selected principles should be the base proposition. In the event that it subsequently appears that there is a pattern of GDF members not being able to comply with a specific principle, amendment of that principle through further public consultation with the GDF community can be proposed - in line with the process followed to date for all finalized sets of principles/ Parts of the Code. This would also assist in achieving the goal below of the Code remaining a living document.*

- **Code of Conduct as a living document**

The Code should be regularly updated to be effective - it cannot remain in stasis.

- How often will / should the code be reviewed?
- What will the process be for this review?
- How will community input continue to be sought / incorporated?
- *GDF strongly agrees that the Code of Conduct should be a living document and expressed the same in the Introduction to the Code:*
 - *“This Code is intended to be a living document and as such principles may be amended and new principles may be added as new business models emerge.”*
- *The Overarching Principles include the following principles that are intended to assist in achieving this:*

- *“We agree to respond to periodic surveys by GDF to enable GDF to ensure that the Code remains a living document that may be amended and updated from time to time and to which new principles may be added on an as-needed basis.”*
 - *“Where not limited by confidentiality obligations and commercial responsibilities to our business and customers, we will provide GDF with notice of issues that could negatively affect the cryptoasset industry, so as to enable GDF to react appropriately.”*
- *A process that may be considered is to link updating the Code with the Registration/ Attestation process, for example by annually polling registrants/ attestants as to:*
 - *Which parts of the Code require updating to further best practice within the industry,*
 - *Which new principles could be drafted or which standing principles should be amended, or*
 - *Which new sub-groups should be created to address topical issues or emerging risks in the industry.*

- **Treatment of customer assets**

Input received clarifying that customer assets in Section 4 refers to customer property that is held at a custodial exchange - NOT customer funds which have been paid to the issuer in a token sale (Issuer’s funds).

- *This section has been rewritten to more clearly show that it concerns customer assets held in custody.*
- *Additionally, the work of the sub-group on Custody of Cryptoassets (currently work in progress) will further clarify these distinctions.*

Code of Conduct - Part II - Principles for Token Sales & Service Providers

Consultation Feedback Themes:

- **Team, legal structure & applicable laws**

Queries were raised around which jurisdiction would the legal opinions need to be sought? This could be a potentially onerous obligation and lawyers may take different approaches in different jurisdictions to whether or not they will provide a legal opinion.

- *The principle mentions “legal advice” rather than a “legal opinion”. Typically legal advice is sought for the jurisdictions where the token sale occurs. The token issuer can decide to limit the token sale to a smaller number of jurisdictions to reduce legal complexity.*

- **Compensation & Conflicts Disclosure**

Queries were raised around how disclosures should be considered - on an aggregate or individual basis?

- It would be helpful to have an aggregate figure for all team incentives. Less senior members may receive much smaller entitlements, so it may not be useful to publish this on an individual basis.
- *While the principle is not prescriptive as to whether it should be in aggregate or on an individual basis, “for each member of the Core Team” is intended to mean for core, in other words senior, team members.*

Feedback received that it may not be appropriate/helpful to provide information around discounts.

- Earlier funding rounds tend to be subject to a much higher risk profile, which is why there is a discount.
- How useful it is to show valuation information for an equity investment that may have been made many years previously and based on a very different risk profile.
- Also some advisers advise that issuers do not include this disclosure so that they avoid the investment element of the Howey test.

- *This feedback was orally discussed at the October 2018 mini-summit and the GDF community felt strongly that it is important that this transparency is created, unless precluded by law.*
- *“Unless precluded by law” will accordingly be inserted into this principle.*

- **Content of Whitepapers**

Queries raised regarding whitepapers as described in Section 2.

- Are whitepapers akin to prospectuses?
- Are there other pieces of information required by prospectuses that would be relevant to include here?
- *White papers are not prospectuses as they have no formal status under securities laws or listing rules.*
- *GDF included in the Principles for Tokens Sales and Token Sale Service Providers the most material matters which the GDF community believes should be covered in whitepapers. However, we welcome ongoing feedback from the community if it feels additional matters should be included so that we can ensure the principles remain a living document (see above).*

Code of Conduct - Part III - Principles for Trading Platforms

Part III - Token platforms: addresses all token types, but does specify that the code is not advising on regulated instruments.

- Other codes specifically note that they are concentrating on non-regulated commodity tokens and design their best practices to avoid falling under SEC regulation as a “security”.
 - *The Principles for Trading Platforms states the below:*
 - *“1. Compliance with Existing Laws*
 - *a. We understand that if we engage in advising on or dealing in regulated instruments (including, but not limited to securities, collective investment*

schemes, futures or options), we may need to obtain licenses, and therefore we will take reasonable steps to ensure that we either:

1. do not make available for trading, deal in or advise on any regulated instruments; or
2. obtain the requisite licenses and authorisations before engaging in such activities.

b. We also understand that even if a token falls outside the remit of financial laws, that we remain subject to all other existing laws, including as noted in the Overarching Principles consumer protection laws. Therefore, we will seek to abide by the Additional Principles set forth below.”

- o Also the Introduction to the Codes states:

“While the Code is informed by global regulatory principles and practices, it is not law and does not carry or contend to carry any such value. Instead, the Code constitutes a set of voluntary principles.”

“The Code recognises that certain activities conducted in the token economy may enter the remit of existing laws, rules and regulations. The Code seeks to complement such laws, rules and regulations only where gaps may exist or where legal or regulatory clarity has not yet been achieved.”

Code of Conduct Working Group Members: Parts I-III

Teana Baker-Taylor	Global Digital Finance
Jeff Bandman	Global Digital Finance/ Bandman Advisors
Alex Batlin	Trustology
Martin Baumann	CMCC
Adi Ben-Ari	Applied Blockchain
Patrick Berarducci	Consensys
Max Buchanan	Coinshares
Jehan Chu	Kenetic
Richard Cohen	Allen & Overy LLP
John Collins	FS Vector
Karen Farzam	WHub & Angel Hub
Fabio Federici	Base58 Capital
Soren Fog	Iprotus
Katherine Foster	BLOC (Blockchain Labs for Open Collaboration)
Conan French	International Institute of Finance & Open Revolution
Josh Garcia	Ketsal Consulting LLP
James Gray	Hogan Lovells
Richard Hay	Linklaters LLP
Charles Hayter	CryptoCompare
David Kappos	Cravath, Swaine & Moore LLP
Hugh Madden	ANX
Leon Marshall	CryptoCompare
Benedicte Nolens	Global Digital Finance/ Circle
Sarah Olsen	Gemini.com
Karen Ottoni	Hyperledger
Sunita Patel	CoinShares
Sam Quicke	Linklaters LLP
Rebecca Rettig	Dontzin, Nagy & Fleissig LLP
Denisse Rudich	D. Rudich Consulting Ltd.
Cairistiona Simmonds	Allen & Overy LLP
Peter Stephens	DrumG
Ian Taylor	Global Digital Finance/ Barclays
Simon Taylor	Global Digital Finance/ 11.FS
Ajit Tripathi	Consensys
Dave Weisberger	CoinRoutes
Claire Wells	Circle
Maya Zehavi	Israeli Blockchain Industry Forum

Taxonomy For Cryptographic Assets	QTY
Working Group Contributors	35*
Consultation Respondents	79
Respondent comments incorporated into final version	48
Respondent comments referred to Registration workstream	10
Respondent comments referred to future workstreams	21

Consultation Feedback Themes:

- **Longevity of the Taxonomy**

- *Removed Foreword. It represented the current status of the industry, which will become dated and prevent taxonomy from being a lasting reference. The “Case for a Taxonomy” section conveys the sentiment in a more enduring way.*
- *Removed editorial views where possible to maximize broad acceptance and recognition across the industry.*

- **Jurisdictional Regulatory Highlights**

- *Determined that specific regulatory developments should be removed from future versions as they are subject to change.*
- *The 2019 GDF runway of activities will include development and maintenance of regulatory summaries within key jurisdictions in a “Wiki” resource library (under development) - these workstreams incorporate the bulk of the 21 comments classified above as “referred to future workstreams.”*

- **Additional Risks Identified**

- *Added section: “Issues for Financial Institutions Entering the Cryptocurrency Markets” to the overall Risks.*
- *Added section: “Inherent and potential conflicts of interest in cryptoasset news sources” under Risk to Investors.*
- *Added section: “Certain investors may not be sufficiently sophisticated to assess the risks involved” under Risk to Investors.*

Taxonomy Working Group Members:

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Martin Bartlam	DLA Piper
Patrick Berarducci	The Brooklyn Project
Martin Baumann	CMCC
Max Buchanan	CoinShares
Richard Cohen	Allen & Overy LLP
Matt Corva	Consensus
Michele Curtoni	State Street
Robert Dowling	Alluminate
Jonathan Gabler	Crypto Valley Society
James Gray	Hogan Lovells LLP
Richard Hay	Linklaters LLP
Charles Kerrigan	CMS Cameron McKenna Nabarro Olswang LLP
Mikal Lewis	Mosaic
Mariel Luna	DLA Piper
Leon Marshall	Crypto Compare
Jesse Mcwaters	World Economic Forum
Charlie Morris	CMCC
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Obi Nwosu	Coinfloor
Karen Ottoni	Hyperledger
Sam Quicke	Linklaters LLP
Hector Rosekrans	Messari
John Salmon	Hogan Lovells LLP
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Simon Toms	Allen & Overy LLP
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Peter Van Valkenburgh	Coin Center
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