

U.S. TMMF Legal, Reg., and Ops. WG March 19th

Short Summary

The working group discussed legal and operational frameworks for tokenizing U.S. money market mutual fund interests, centering on two priority models: natively digital issuance (native tokens) and digital twin (issuer-maintained master file plus token). The conversation focused on eligibility considerations across CFTC and USPR regimes, UCC implications (Article 8 vs Article 12 and Article 9 mechanics), interplay with recent SEC staff taxonomy, custodial/intermediated approaches, collateral/CSA consequences (transfer, perfection, re-pledge), and near-term practical tests (ISDA webinar on Mar 25, 2026; sandbox demo on Mar 31, 2026). What matters: selecting an initial legal pathway (Article 8 favored), defining what constitutes a valid transfer for collateral purposes, and minimizing documentation rework while enabling interoperability.

1) Eligibility considerations and regime differences

- a) Currently, there are no regulatory issues to using MMFs for repos or securities lending
- b) In the U.S., MMFs are allowed for cleared Initial Margin (IM) and allowed by certain CCPs; in the EU, MMFs are not allowed for cleared IM or Variation Margin (VM) and discussions are ongoing within the industry to update these rules
- c) Within the U.S., MMFs are allowed for uncleared IM and VM per CFTC and USPR rules but there are significant restrictions as MMFs that allow asset transfers, such as repo and securities lending, are ineligible. This limits the number of MMFs eligible for uncleared margin
- d) The industry has been in discussion with the CFTC and USPRs on this topic in recent years, and in 2023 the CFTC GMAC recommended to remove asset transfer restrictions. There is current activity with the CFTC to implement this amendment, but further action will be necessary with the USPRs
- e) There is also a need to ensure equivalence determination/substituted compliance so that counterparties facing off against counterparties in different jurisdictions can follow one set of margin rules
 - i) Specifically, the CFTC should make the equivalence determination permanent with the UK. Additionally, the USPR should put equivalence determination in place with EU EMIR RTS and UK RMIR

2) Security interests and perfection

- a) It was agreed upon that the project is focused on U.S. money market mutual funds and U.S. security interests, so the analysis is primarily under the UCC. It was noted that Article 8 is the preferred framework where possible, because it gives familiar control, perfection, and re-pledge mechanics across all U.S. jurisdictions, whereas Article 12 is new and its applicability is unclear.
- b) The SEC's recent tokenization taxonomy was discussed but viewed as not directly impacting the UCC analysis. It was noted that it is important to align terminology, especially because the SEC's concept of issuer-sponsored tokenized securities maps quite well within Article 8.

- c) A practical distinction also emerged between an asset being legally “eligible” and being operationally usable. It was stated that money market funds can sometimes already be posted as collateral, but once transferred they often become trapped in siloed custody arrangements and cannot easily be reused or rehypothecated. That operational problem is one of the main drivers for tokenization. How firms structure the tokenized assets will be crucial as models will impact the reusability of the asset
- d) It was favored to structure tokenized assets to fit within Article 8, with Article 9 then governing the security interest and perfection mechanics. That approach was seen as especially important if the goal is to support re-pledge and broader collateral mobility.
- e) For digital native securities, the key legal question is whether the tokenized instrument can qualify as a “security” under Article 8, including the requirement that transfers be registered on books maintained for that purpose by or on behalf of the issuer. Some suggested the argument is stronger where the blockchain is only one component of a broader integrated recordkeeping system that includes the issuer’s or transfer agent’s master securityholder file.
- f) For the digital twin model, the consensus was that it offers legal certainty with establishing ownership rights. In that structure, the issuer’s or transfer agent’s centralized books and records remain the legal source of truth, while the token is monitored and used to trigger updates to those records. That makes the Article 8 analysis much cleaner, even if it is somewhat less technologically ambitious. In insolvency scenarios, questions remain on the representation and worth of the token if traditional books and records remain the system of record upon insolvency
- g) The custodial/intermediated model was also seen as important. Under that approach, a broker, bank, or other securities intermediary records ownership using DLT while the legal relationship remains within the traditional intermediated holding system under Article 8. This could be especially useful for public-chain implementations because it avoids some of the uncertainty around whether the chain itself constitutes issuer-maintained books and records.
- h) 1994 ISDA CSA definition of “Transfer” - The group agreed that the main documentation challenge may be less about whether tokenized money market funds are eligible collateral in principle and more about defining what counts as a legally effective transfer in a tokenized environment, particularly where delivery may involve wallets, confirmations, or transfer-agent updates rather than traditional depository instructions.
- i) While a preference was noted to not require updated documentation, it was noted that tokenized collateral would likely necessitate updated eligibility schedules and documentation
- j) A key point raised was that tokenization can embed compliance directly into the asset. By binding a token to a digital identity, transfers can be automatically blocked unless the holder satisfies issuer-defined conditions such as residency, age, or accredited investor status. That makes tokenization potentially useful for handling regime-specific eligibility rules and transfer restrictions across jurisdictions.

3) Insolvency and access to collateral

- a) The main conclusion was that from a safe harbor perspective, the method of transfer should not matter. Whether securities are moved by token, book-entry, certificate, or

another mechanism, the insolvency analysis should rely on the nature of the underlying transaction, not the technology used to represent or transfer the asset.

- b) The secured party still needs an enforceable and perfected security interest, so the work done under Topics 1 and 2 remains critical. In practice, access to collateral could still be impaired if documentation is unclear or if assets remain trapped in a siloed custody arrangement, even if the safe harbor analysis itself does not change materially.
 - c) UCC 9-207 and re-pledge: The group noted that re-pledge/re-hypothecation mechanics are important for money market funds' mobility and utilization in funding markets (e.g., repo, securities financing). Ensuring the framework allows intended re-pledge (and clarifying legal mechanics) was flagged as an area to address.
- 4) **ISDA Clarity on Chain webinar**
- a) ISDA will be hosting a webinar to address legal questions on tokenized collateral within derivatives markets on March 25th, 10am EST.
 - b) Speakers will include Mark New, Senior Counsel (ISDA), Marcus Hunter, Counsel (ISDA), Brandon Hammer, Partner (Cleary Gottlieb), and Thomas Sullivan, Managing Director (DTCC).
 - c) All participants must register in advance to listen to the webinar by clicking [here](#).

Overall takeaways

- A clear preference for tokenization models that preserve an issuer, transfer agent, or intermediary as the legally recognized source of truth emerged, because those structures fit more comfortably into the existing UCC framework
- Digital twin and custodial models currently appear to provide legal certainty. Digital native models are able to provide certainty as well given they satisfy UCC 8-103(i) definition of security, specifically “or the transfer of which may be registered upon books maintained for that purpose by or on behalf of the issuer”
- It was recognized that one of the major advantages of tokenization is the ability to embed compliance, transfer restrictions, and eligibility checks directly into the asset itself. The remaining challenge is to balance that innovation with legal certainty, interoperability, and manageable changes to existing ISDA and collateral documentation.