

Memorandum

Software Technology

October 4, 2023

To: Members of the Board
From: Josh R. Williams, Senior Analyst
Thru: Monica R. Valentine, Executive Director
Subject: **Seized and Forfeited Digital Assets** (Topic C)

INTRODUCTION

At the April 2023 meeting, the Board did not support staff's proposal that the Board consider developing amendments to SFFAS 3, *Accounting for Inventory and Related Property*, to address seized and forfeited digital assets as part of the omnibus amendments effort. However, some members were open to considering issuing a Technical Bulletin (TB) to narrowly address the issues identified by staff. During the August 2023 meeting, the Board added this effort as a "Technical Clarifications of Existing Standards" project.

For this meeting, staff is proposing that the Board consider a draft TB that clarifies and elaborates upon seized and forfeited property guidance in SFFAS 3 to address digital assets, a new and unique resource not previously contemplated by the Board. Staff is requesting that the Board approve to move forward with the TB.

REQUEST FOR FEEDBACK BY October 13, 2023

Prior to the Board's October meeting, please review the attached draft TB and accompanying analysis and respond to the question by October 13, 2023.

Please submit responses to Josh Williams at WilliamsJR@fasab.gov with a cc to Monica Valentine at ValentineM@fasab.gov.

NEXT STEPS

Pending Board approval and feedback, staff plans to coordinate with the working group to further edit and clarify the draft TB as needed.

ATTACHMENTS

1. Staff Analysis
2. Draft TB

Staff Analysis

Digital Assets

October 4, 2023

CONTEXT

Background

A reporting entity has approached staff multiple times in recent years with issues analogizing and applying existing seized and forfeited property guidance from paragraphs 57 through 78 of SFFAS 3, *Accounting for Inventory and Related Property* to an increasingly material amount of seized and forfeited digital assets. The Board has never previously addressed reporting guidance for digital assets.

During the April 2023 Board meeting, staff proposed that the Board consider developing amendments to SFFAS 3 as part of the omnibus amendments effort to address seized and forfeited digital assets. The Board generally agreed that digital assets are a timely and important topic to address but did not support staff's proposal to amend SFFAS 3 for seized and forfeited digital assets as part of the omnibus amendment effort. Some members viewed digital assets as a major issue that the Board should take sufficient time to deliberate for general reporting guidance.

However, some members were open to considering issuing a Technical Bulletin (TB) to narrowly address the issues identified by staff. One member asked that staff consider if a TB could solve the identified issues with seized and forfeited digital assets in the short-term without conflicting with a larger project in the future. Staff then began coordinating with the working group to draft a TB for the Board's consideration. During the August 2023 meeting, the Board added this effort as a "Technical Clarifications of Existing Standards" project.

Research

For this draft TB proposal, staff coordinated with a working group that consists of approximately 20 volunteers from the Department of Justice, Internal Revenue Service, Department of Defense, Department of Homeland Security, Treasury's Fiscal Service, Commodity Futures Trading Commission, Defense Finance and Accounting Service, Federal Bureau of Investigation, General Services Administration, U.S. International Trade Commission, and a few audit firms.

The volunteers consist of federal employees primarily from accounting, financial management, and OIG offices. For this TB proposal, staff held roundtable discussions with reporting entities and auditors from the working group that specifically deal with seized and forfeited digital assets. Staff also received multiple rounds of feedback on the draft TB from other reporting entities in the digital asset working group.

Additionally, staff researched information from the following sources for this TB proposal:

- AICPA & CIMA Practice aid, *Accounting for and Auditing of Digital Assets*, February 28, 2023
- Economic Report of the President, Chapter 8: *Digital Assets: Relearning Economic Principles*, March 2023
- Emerging Technology, *Demystifying cryptocurrency and digital assets*, <https://www.pwc.com/us/en/tech-effect/emerging-tech/understanding-cryptocurrency-digital-assets.html>
- Executive Order 14067, *Ensuring Responsible Development of Digital Assets*, Section 9(b), March 2022
- FASB ASC 820-10, *Fair Value Measurements and Disclosures*
- FASB Exposure Draft, Intangibles—Goodwill and Other—Crypto Assets (Subtopic 350-60), *Accounting for and Disclosure of Crypto Assets*, March 23, 2023
- FASAB Technical Bulletin 2000-1, *Purpose and Scope of FASAB Technical Bulletins and Procedures for Issuance*, June 2000
- IRS Digital Assets, *Definition of Digital Assets*, <https://www.irs.gov/businesses/small-businesses-self-employed/digital-assets>
- McKinsey & Company, *What is central bank digital currency (CBDC)?*, March 1, 2023, <https://www.mckinsey.com/featured-insights/mckinsey-explainers/what-is-central-bank-digital-currency-cbdc>
- SFFAC 2, *Entity and Display*, June 6, 1995
- SFFAC 7, *Measurement of the Elements of Accrual-Basis Financial Statements in Periods After Initial Recording*, August 16, 2011
- SFFAS 1, *Accounting for Selected Assets and Liabilities*, March 30, 1993
- SFFAS 3, *Accounting for Inventory and Related Property*, October 27, 1993
- Technical Release 4, *Reporting on Non-Valued Seized and Forfeited Property*, July 31, 1999
- U.S. Department of Justice, *Fiscal Year 2022 Agency Financial Report*, January 2023

- U.S. Department of Treasury, *Crypto-Assets: Implications for Consumers, Investors, and Businesses*, September 2022

Staff has included Information from the above references and working group feedback throughout this analysis.

There is an abundance of literature addressing digital assets for different purposes. However, staff is not aware that GAAP addressing digital assets currently exists. The Financial Accounting Standards Board (FASB) recently issued an Exposure Draft (ED)¹ proposing guidance that would require fair value measurement and re-measurement for certain crypto assets identified as intangible assets².

The scope and objective of the FASB ED is significantly different from seized and forfeited digital assets that this TB would address. However, staff has considered the FASB ED in this analysis where relevant. Staff also spoke with FASB staff to further understand the ED requirements, specifically around active market valuation.

RECOMMENDATION

Staff is proposing that the Board consider a draft proposal TB that would clarify how to apply reporting requirements in paragraphs 57-78 of SFFAS 3 to seized and forfeited digital assets. Staff believes that this proposal meets the purposes of a TB in accordance with paragraph 4 of Technical Bulletin 2000-1, *Purpose and Scope for FASAB Technical Bulletins and Procedures for Issuance*. Specifically, this TB clarifies and elaborates upon seized and forfeited property guidance in paragraphs 57-78 of SFFAS 3 to address digital assets, a resource not previously contemplated by the Board.

The blue italicized text in the analysis represents excerpts from the draft TB (Attachment 2). Staff is requesting that the Board approve to move forward with the TB.

ANALYSIS

Overview of issues and other literature

In recent years, the OMB Circular A-136, *Financial Reporting Requirements* began analogizing digital assets to existing GAAP by instructing reporting entities to report seized and forfeited digital assets in accordance with SFFAS 3. Additionally, a reporting

¹ See FASB Exposure Draft, Intangibles—Goodwill and Other—Crypto Assets (Subtopic 350-60), *Accounting for and Disclosure of Crypto Assets*, March 23, 2023. During the September 6, 2023 meeting, FASB largely affirmed the exposure draft guidance and directed staff to begin a final accounting standards update for ballot.

² The current FASB accounting practice for holdings of crypto assets is to report them as indefinite-lived intangible assets, which is a cost-less-impairment accounting model. The ED proposal would essentially allow preparers to re-measure crypto assets at fair value even for increases in fair value, with the increases being reported in net income.

entity has approached staff multiple times in recent years with issues applying SFFAS 3 reporting requirements to seized and forfeited digital assets.

After several rounds of feedback and roundtable discussions with the digital asset working group, staff is proposing a TB that provides clarifying guidance for the following issues with applying SFFAS 3 reporting requirements to seized and forfeited digital assets:

- Whether to categorize seized and forfeited digital assets as monetary or nonmonetary property
- How and when to report a market value for seized and forfeited digital assets
- Note disclosure concerns with digital assets seized as evidence

The Department of Justice (DOJ) has stated that seized and forfeited digital assets have become qualitatively and quantitatively material in the annual financial report and will continue to be so as digital assets become more prevalent in the global economy. In 2022, DOJ seized \$3.6 billion in stolen Bitcoin, the largest financial seizure in the Department's history³.

Staff is also aware that Department of Homeland Security (DHS) and Internal Revenue Service (IRS) currently deal with immaterial amounts of seized and forfeited digital assets. However, the IRS has indicated that the amount could become material in the near future. Staff is not currently aware of any other material uses of digital assets in the federal environment. Some reporting entities have indicated purchasing an insignificant amount of cryptocurrency for operational purposes, which is not relevant to this TB proposal.

Staff does not believe that existing GAAP is sufficient to address the reporting issues through a technical inquiry. Staff and the identified reporting entities believe that the proposed TB could effectively address the identified issues with applying SFFAS 3 to seized and forfeited digital assets in a narrow manner. The following analysis will explain key aspects of the proposed TB.

TB scope (paragraphs 3 – 6)

Paragraph 4 of the draft TB proposal addresses the scope of the TB by stating, *“This TB provides guidance to address areas not directly covered in existing Statements by clarifying guidance for accounting for and reporting of seized and forfeited digital assets. Reporting guidance for seized and forfeited property is currently addressed in paragraphs 57 - 78 of SFFAS 3, Accounting for Inventory and Related Property. However, the Board determined that additional guidance was needed to clarify the*

³ U.S. Department of Justice, *Fiscal Year 2022 Agency Financial Report*, January 2023

existing reporting requirements to the unique characteristics of digital assets that the Board did not consider when developing SFFAS 3.”

Furthermore, paragraph 6 of the TB provides scope-out language by stating, *“This TB does not apply to any digital asset transactions other than for seized and forfeited property transactions, as addressed by SFFAS 3, paragraphs 57-78.”* Staff believes that these statements combined make it clear that the TB narrowly clarifies existing level A GAAP from SFFAS 3 to apply to digital assets in the context of seized and forfeited property only.

Besides seized and forfeited property, it does not appear that the federal government uses digital assets in any material way. The federal government is currently addressing regulation and taxation issues with digital assets for the general public. However, it does not appear that the federal government currently invests in digital assets or acquires them for operational purposes in any material way. Therefore, staff believes this TB would address the current financial reporting needs for digital assets in the federal environment and there is not a present need for broader reporting guidance.

FASB comparison

The FASB *Accounting for and Disclosure of Crypto Assets* ED appears to provide reporting guidance on crypto assets held by reporting entities for operational and investment purposes. It does not appear to staff that FASB or GASB has specifically addressed digital assets in the context of seized and forfeited property.

Working group feedback

The working group overwhelmingly agreed with the draft TB scope language and agreed that guidance was not needed at this time for digital assets other than in the context of seized and forfeited property. One reporting entity did request that the Board consider issuing guidance for digital assets used in agency operations, such as for law enforcement activities. However, the reporting entity acknowledged this amount is currently immaterial. Based on research and working group discussions, staff is confident that the only current material use of digital assets in the federal government relates to seized and forfeited property.

Digital asset description (paragraphs 7 - 8)

To clarify reporting guidance for seized and forfeited digital assets, staff believes the TB needs to specifically describe digital assets. Paragraph 8 of the draft TB references a digital asset description from the 2023 Economic Report of the President⁴. Paragraph 8 states, *“Digital assets are electronic representations of value and operate as part of a complex and interconnected digital ecosystem.”* Because this proposal is intended to clarify the level A GAAP around a specific type of seized and forfeited property, staff

⁴ The Economic Report of the President is an annual report produced by the Council of Economic Advisers. An important vehicle for presenting the Administration's domestic and international economic policies, it provides an overview of the nation's economic progress with text and extensive data appendices.

believes it is most appropriate for the TB to describe digital assets using an external source rather than uniquely defining the term.

Paragraph 8 of the TB also states, “*Crypto assets, to include cryptocurrencies, are a common subset of digital assets that use cryptographic techniques and distributed ledger technology.*” Based on staff’s review of recent annual financial reports, it appears that cryptocurrencies, such as Bitcoin, represent the majority of seized and forfeited digital assets, based on dollar value.

Additionally, paragraph 8 includes examples of different types of digital assets⁵ that reporting entities could potentially seize, but makes it clear that the possibilities are not limited to the examples. Paragraph 8 states, “*Digital assets also include but are not limited to stable coins, non-fungible tokens, central bank digital currencies, security tokens, and privacy coins.*” One working group member stated there are many types of digital assets that could apply to seized and forfeited property guidance and that it would not be feasible to name them all. Therefore, staff believes the TB should describe digital assets at a high level without excluding any specific type of digital asset. The TB glossary defines various types of digital assets for reference.

FASB comparison

The FASB crypto asset ED appears to apply a narrow scope around the types of digital assets that would apply to the reporting guidance. For example, the proposed guidance in the FASB ED would apply to crypto assets that meet the definition of an intangible asset and do not provide the asset holder with enforceable rights to, or claims on, underlying goods, services, or other assets. Staff believes that this language essentially scopes out anything related to financial assets and fiat currency⁶.

The FASB ED also scopes out non-fungible crypto assets. This means their guidance would not apply to non-fungible tokens or any other type of digital asset that is not replaceable by another identical digital asset. Furthermore, the FASB ED would only apply to crypto assets secured through cryptography and that reside on a blockchain. Staff believes the FASB ED scope would mostly limit the applicable digital assets to various cryptocurrencies, such as Bitcoin.

Staff does not see a need for the TB to apply such a narrow scope that would specifically exclude certain digital assets, such as non-fungible tokens, from the reporting guidance in SFFAS 3. Staff believes that if a reporting entity is seizing digital assets as part of its mission, the TB and associated SFFAS 3 guidance should apply to that property. The TB would help reporting entities better apply all types of digital assets to the seized and forfeited reporting requirements in SFFAS 3.

⁵ See Emerging Technology, *Demystifying cryptocurrency and digital assets*, <https://www.pwc.com/us/en/tech-effect/emerging-tech/understanding-cryptocurrency-digital-assets.html>, for a description of digital assets.

⁶ See paragraph BC15 of the FASB crypto asset ED

Working group feedback

The working group generally supported the draft TB description of digital assets. One working member noted that the FASB crypto asset ED scopes out non-fungible tokens from its reporting guidance and questioned whether staff had a rationale for not excluding non-fungible tokens from the TB. Staff believes the FASB ED scopes out non-fungible tokens due to concerns with difficulties measuring a fair value for such digital assets. This analysis will discuss market value reporting implications for different seized and forfeited digital assets in later sections.

As stated previously, SFFAS 3 does not specifically exclude any type of property from the seized and forfeited reporting guidance. Staff believes that if a reporting entity is seizing digital assets as part of its mission, the TB and associated SFFAS 3 guidance should apply to that property.

Seized and forfeited digital assets in federal government (paragraphs 9 - 11)

Paragraph 10 of the draft TB references the SFFAS 3 definition of seized property⁷ and clarifies that, *“Seized property may include digital assets that the government has taken possession of, typically in consequence of an alleged violation of public law. Some reporting entities deal with a wide range of seized and forfeited digital assets.”*

Furthermore, paragraph 11 of the TB references the SFFAS 3 definition of forfeited property⁸ and clarifies that, *“Seized digital assets are generally considered forfeited when title has passed to the U.S. government. Typically, the forfeited digital assets are sold for monetary proceeds.”*

For paragraphs 10 and 11, staff considered language from the FY 2022 U.S. Department of Justice Annual Financial Report, as well as other input from the working group. Staff believes these paragraphs complement the digital asset description in paragraph 8 by further explaining how the TB provides guidance for digital assets in the context of seized and forfeited property. The language makes it clear that the scope of the TB narrowly applies to specific reporting guidance in SFFAS 3.

FASB comparison

As stated previously, the FASB ED would provide guidance for general holders of crypto assets. It is not apparent to staff that there is a need for FASB or GASB to issue guidance addressing seized and forfeited digital assets. Staff believes that this issue is unique to the federal government.

⁷ SFFAS 3, paragraph 59 states, ““Seized property” includes monetary instruments, real property and tangible personal property of others in the actual or constructive possession of the custodial agency.”

⁸ SFFAS 3, paragraph 68 states, ““Forfeited property” consists of (1) monetary instruments, intangible property, real property, and tangible personal property acquired through forfeiture proceedings; (2) property acquired by the government to satisfy a tax liability; and (3) unclaimed and abandoned merchandise.

Working group feedback

The working group generally supported this section of the TB. There were no notable concerns or suggestions.

Monetary vs. nonmonetary reporting considerations (paragraphs 12 – 18)

SFFAS 3 provides different reporting requirements for seized and forfeited property depending if the property is monetary or nonmonetary property. Most notably, paragraph 61 of SFFAS 3 requires asset and liability recognition for seized monetary property while paragraph 62 only requires footnote disclosure for seized nonmonetary property.

Furthermore, paragraph 69 of SFFAS 3 requires asset and revenue recognition for forfeited monetary property while paragraph 70 requires asset and deferred revenue recognition for forfeited nonmonetary property⁹. Therefore, it is critical for preparers to categorize seized and forfeited digital assets as monetary or nonmonetary property to apply SFFAS 3.

Staff has received inquiries in recent years on whether to categorize digital assets as monetary or nonmonetary property to apply SFFAS 3. Complicating matters is the fact that SFFAS 3, paragraphs 67 and 68 include intangible property as a type of forfeited nonmonetary property while paragraph 59 omits intangible property from the definition of seized property. This has led some to question whether to categorize seized and forfeited digital assets as intangible property, and thereby not have to report seized digital assets.

Due to a lack of explanation, staff believes it is possible that the omission of intangible property from the seized property definition could have been a mistake¹⁰. However, staff does not believe this distinction is relevant for applying digital assets to SFFAS 3 because the Board issued SFFAS 3 well before digital assets existed and the Board has never addressed digital assets in any way. Furthermore, the basis for conclusions in SFFAS 3 only mentions savings and loans charters as examples of intangible property¹¹. Therefore, staff believes it would be inappropriate to provide advice on how to categorize digital assets in SFFAS 3 without Board issued guidance.

Due to these reasons, staff believes the proposed TB should clarify whether to categorize seized and forfeited digital assets as either monetary or nonmonetary property. Staff is not aware that SFFAS 3 or any other pronouncement defines monetary property. However, SFFAC 2, *Entity and Display*, paragraph 84 describes cash and other monetary assets as consisting of “coins, paper currency and readily

⁹ Revenue is recognized for forfeited nonmonetary property when the property is actually sold (SFFAS 3, para 72).

¹⁰ Paragraph 150 of SFFAS 3 in the Basis for Conclusions states - One respondent noted that the definitions of seized and forfeited property seem to be limited to monetary instruments, real property and tangible personal property. The respondent asked that this definition be extended to intangible assets (e.g., savings and loan charters). The Board did broaden the definition to address intangible property.

¹¹ See footnote 10.

negotiable instruments, such as money orders, checks, and bank drafts on hand or in transit for deposit, amounts on demand deposit with banks or other financial institutions, cash held in imprest funds, and foreign currencies.”¹² Additionally, staff believes that the Board has historically used the word “monetary” to denote measuring an element in terms of U.S. dollars.

Other standard-setters, regulators, and policymakers often discuss this same issue of whether digital assets have monetary properties. Some people and institutions use certain digital assets, such as cryptocurrencies for investment purposes and as payment for goods and services¹³. However, the IRS states that most digital assets are not real currency (also known as “fiat”) because they are not the coin and paper money of the United States or a foreign country and are not digitally issued by a government’s central bank¹⁴.

Chapter 8 of the Economic Report of the President describes how digital assets, other than central bank digital currencies, are typically treated as speculative investments and do not serve typical monetary purposes as effectively as sovereign money. For example, the report states that digital assets do not fully serve as a unit of account because they must first be converted to a sovereign currency, such as the U.S. dollar, to provide a relative value for goods and services. Additionally, the report states that digital assets are not an effective medium of exchange due to the lack of firms that accept digital assets as a form of payment and because digital assets do not possess factors that give the U.S. dollar strength and legitimacy, such as backing by the U.S. government institutions and legal system. Finally, the report states that digital assets do not represent stable stores of value due to their substantial volatility in value compared to other securities. A monetary instrument should have a stable store of value to serve effectively as money.

Several federal government sources¹⁵ consider central bank digital currencies as exceptions when stating that digital assets do not represent real or fiat currency. This is because central bank digital currencies are official digital forms of government-backed money that serves the same purposes as physical cash¹⁶. Section 9(b) of Executive Order 14067 defines central bank digital currencies as “a form of digital money or monetary value, denominated in the national unit of account that is a direct liability of

¹² SFFAS 1, paragraph 27 also generally describes “cash” this way.

¹³ U.S. Department of Justice, *Fiscal Year 2022 Agency Financial Report*, January 2023

¹⁴ IRS Digital Assets, Definition of Digital Assets, <https://www.irs.gov/businesses/small-businesses-self-employed/digital-assets>.

¹⁵ Economic Report of the President, Chapter 8: *Digital Assets: Relearning Economic Principles*, March 2023,

Executive Order 14067, *Ensuring Responsible Development of Digital Assets*, Section 9(b), March 2022,

U.S. Department of Treasury, *Crypto-Assets: Implications for Consumers, Investors, and Businesses*, September 2022

¹⁶ Central Bank Digital Currency, Frequently Asked Questions, Board of Governors of the Federal Reserve System, April 11, 2023, <https://www.federalreserve.gov/cbdc-faqs.htm>

the central bank.” The United States does not currently have a central bank digital currency, but approximately 11 other nations do¹⁷.

This analysis led staff to propose that paragraph 16 of the TB state, *“For purposes of applying the seized and forfeited property guidance in paragraphs 57-78 of SFFAS 3, reporting entities should treat central bank digital currencies as monetary instruments and treat all other digital assets as nonmonetary instruments.”*

This proposed language makes it clear that preparers should categorize essentially all digital assets, such as cryptocurrencies, non-fungible tokens, and stable coins as nonmonetary property when applying SFFAS 3. Based on research and working group feedback, staff believes that central bank digital currencies would present as virtual forms of foreign currencies in the context of seizures and forfeitures. Therefore, financial reports should categorize seized and forfeited central bank digital currencies as monetary property.

FASB comparison

Paragraph BC15 of the FASB ED indicates that the scope categorizes crypto assets as intangible assets and scopes out fiat currency and other securities from the proposed guidance. Paragraph BC20 indicates that FASB decided not to include characteristics such as “medium of exchange” or “store of value” when describing crypto assets so as not to confuse or overlap crypto assets with fiat currency or other assets that share those characteristics for financial reporting purposes. However, staff does not see that FASB deliberated whether some digital assets could represent forms of currency.

Staff notes that the FASB ED simply scopes out currency-related assets from the crypto asset scope. However, this is not possible when clarifying SFFAS 3 seized and forfeited property reporting requirements. Staff believes it is critical that the proposed TB address how to categorize digital assets as monetary or nonmonetary so preparers can accurately apply seized and forfeited property guidance from SFFAS 3 in a consistent manner.

Working group feedback

The working group generally supported the TB proposal to treat central bank digital currencies as monetary property and all other digital assets as nonmonetary property when applying SFFAS 3 reporting requirements. Some working group members specifically agreed that the guidance would remove some confusion with applying SFFAS 3 and did not foresee the guidance causing any issues.

Working group members indicated that they were not aware of prior central bank digital currency seizures but acknowledged that their agency could potentially seize central bank digital currencies in the future, as they do for foreign currencies in general. One working group member questioned if the TB needed to address central bank digital

¹⁷ Jones, Marc, Reuters, *Study shows 130 countries exploring central bank digital currencies*, June 28, 2023, <https://www.reuters.com/markets/currencies/study-shows-130-countries-exploring-central-bank-digital-currencies-2023-06-28/>

currencies. However, other working group members strongly agreed that the TB should address central bank digital currencies because several nations have established them already and many other nations are currently considering establishing them.

Nonetheless, staff believes the TB guidance is critical for applying SFFAS 3 because it clearly directs preparers to treat all other digital assets as non-monetary property for seized and forfeited guidance purposes.

One working group member questioned whether paragraph 15 of the TB needed to reference paragraph 70 of SFFAS 3 that discusses the deferred revenue recognition for forfeited nonmonetary property. Staff believes the TB should reference this guidance to highlight the different SFFAS 3 reporting requirements between monetary and nonmonetary property because it underscores the need for the TB to address whether to categorize digital assets as monetary or nonmonetary property for applying the reporting requirements.

Market value measurement (paragraphs 19 – 26)

The working group identified issues with measuring market value for seized and forfeited digital assets as a significant challenge when applying SFFAS 3 requirements. Preparers have difficulties determining when and how to measure market value for seized and forfeited digital assets because market prices are volatile, unreliable, and/or not readily determinable for many digital assets.

Therefore, reporting market value for many digital assets could lead to inaccurate information that misleads users. These issues have led to disagreements between management and auditors with reporting market values for seized and forfeited digital assets, as required by SFFAS 3.

Current guidance

FASAB has not issued overarching fair value or market value guidance. However, paragraph 63 of SFFAS 3 states, “Seized property shall be valued at its market value when seized or, if market value cannot be readily determined, as soon thereafter as reasonably possible. Market value shall be based on the value of the property assuming an active market exists for the property. If no active market exists for the property in the general area in which it was seized, a value in the principal market nearest the place of seizure shall be used.”

Footnote 6 for paragraph 63 explains that “Market value is the estimated amount that can be realized by disposing of an item through arm’s length transactions in the marketplace or the price (usually representative) at which bona fide sales have been consummated for products of like kind, quality, and quantity in a particular market at any moment of time. For investments in marketable securities, the term refers to the per-unit market price of a security times the number of units of that security held.”

Paragraph 69 of SFFAS 3 requires market value measurement when recognizing forfeited monetary property. However, paragraph 70 of SFFAS 3 unexpectedly uses the

term “fair value” for the measurement requirement for recognizing forfeited nonmonetary property. However, staff confirmed in the June 1993 Board meeting minutes that the Board intended to use “market value” rather than “fair value” throughout the seized and forfeited property section. Therefore, this was likely an oversight.

Furthermore, staff believes that fair value measurement, as described by FASAB, is not practical for seized and forfeited digital assets. Paragraph 39 of SFFAC 7, *Measurement of the Elements of Accrual-Basis Financial Statements in Periods After Initial Recording* indicates that fair value includes market value, but can also include other estimations. Paragraph 41 of SFFAC 7 explains that calculating the present value of future cash flows is an example of a non-market valuation for fair value. Staff does not believe net present value of future cash flows is a relevant valuation method for seized and forfeited digital assets. The analysis will explain why in later paragraphs.

Through working group roundtable discussions, staff believes that preparers understand SFFAS 3 requires and defines market value for seized and forfeited property. Nevertheless, preparers still have issues measuring market value specifically for seized and forfeited digital assets. The working group identified two primary issues with the market value guidance in SFFAS 3, paragraph 63 for seized and forfeited digital assets:

- What is an active market for digital assets?
- When is a market value for digital assets readily determinable?

The following paragraphs will analyze these issues and explain how the proposed TB addresses the issues.

What is an active market for digital assets?

SFFAS 3, paragraph 63 states, “Market value shall be based on the value of the property assuming an active market exists for the property.” Both SFFAS 3 and SFFAC 7 use the term “active market” but do not define an active market. Footnote 6 of SFFAS 3 describes market value as “...the estimated amount that can be realized by disposing of an item through arm’s length transactions in the marketplace or the price (usually representative) at which bona fide sales have been consummated for products of like kind, quality, and quantity in a particular market at any moment of time.”

However, SFFAS 3 does not explain the difference in an active market and inactive market. The working group indicated that this issue has led to disagreements between management and auditors with when and how to measure market value for seized and forfeited digital assets.

Staff researched FASB ASC 820¹⁸, which states, “Active markets are those in which transactions for the asset or liability occur in sufficient frequency and volume to provide

¹⁸ ASC 820 is FASB’s overarching guidance for measuring fair value.

pricing information on an ongoing basis.” Additionally, paragraph 39 of SFFAC 7 appears to treat established markets and active markets as synonyms.

The working group discussed different ways of measuring market value using well known and established markets for different types of seized and forfeited property. For example, stock and bond markets for securities, pawn shops for a watch, or car dealerships or third-party valuation tools for automobiles. However, many forms of digital assets are not bought or sold in a typical market.

Digital asset markets that do exist are sometimes not well established or regulated and could therefore quote volatile and unreliable values. Chapter 8 of the 2023 Economic Report of the President states that digital asset values are highly volatile compared to other types of property, such as real estate, commodities, equities, bonds, foreign exchange, etc. This is because most digital assets, unlike stocks or gold, do not have a fundamental value and are therefore valued mostly on speculative demand. The report also states that the digital asset industry needs sound consumer, investor, and market protections, for which it currently lacks. Without these safeguards in place, there is a lack of needed transparency in the markets.

The U.S. Department of Treasury issued a report¹⁹ on crypto assets that discusses transparency and information asymmetry issues associated with most digital asset markets. The report states, “The traditional capital markets have statutes and regulations that create a robust disclosure regime, providing consumers and investors with material information, including with respect to conflicts of interest, so that users can better understand the risks of participation and make more informed decisions regarding their investment risks. In the crypto-asset ecosystem, issuers and platforms may be acting in non-compliance with these statutes and regulations and, thus, do not maintain the same protocols to protect investors. Further, disclosures in the crypto-asset ecosystem that are provided may lack standardization and may not disclose material information integral to assessing risk.”

Due to the inherent risk and information asymmetry issues with digital asset markets, staff believes that it is important that reporting guidance only require preparers to report a market value for a seized or forfeited digital asset that is observable to the public. Staff believes that reporting a value for the digital asset based on an active market price observable to the public would benefit users by adding transparency to how the reporting entity determined the market value of the digital asset. This could reduce, but not eliminate, the risk of reporting a misleading value.

Therefore, paragraph 23 of the draft TB proposes, *“For purposes of applying the seized and forfeited property guidance in paragraphs 57-78 of SFFAS 3, reporting entities should only report a market value for seized or forfeited digital assets if a publicly observable active market exists for the specific digital asset. An active market is an established market in which transactions occur with sufficient frequency and volume to*

¹⁹ U.S. Department of Treasury, *Crypto-Assets: Implications for Consumers, Investors, and Businesses*, September 2022

provide pricing information on an ongoing basis. A publicly observable market is a market that is widely visible to anyone with a need-to-know.”

SFFAS 3 does not require another method for valuing seized or forfeited property unless an active market exists for the property. Paragraph 63 of SFFAS 3 states, “If no active market exists for the property in the general area in which it was seized, a value in the principal market nearest the place of seizure shall be used.” However, staff believes this statement would apply to geographic based property, such as real estate.

Additionally, staff believes there is risk in reporting a market value for a similar type of digital asset, as two similar digital assets could have significantly different market values. For example, Bitcoin and Ethereum are both cryptocurrencies but have significantly different per unit market values.

The proposed TB guidance in combination with SFFAS 3 would result in preparers not having to report a market value for seized or forfeited digital assets unless the price for the specific digital asset was observable to the public in an active market. This would reduce preparer burden by not requiring reporting entities to determine market values for digital assets based on prices of similar types of digital assets or valuation models that use market factors not generally observable to the public, such as independent appraisals, various economic assumptions, or historical buy/sale transactions.

Staff believes that this proposed guidance could result in reporting entities reporting a market value for more common seized and forfeited digital assets, such as cryptocurrencies. Publicly observable market prices exist for common cryptocurrencies, such as Bitcoin and Ethereum, stablecoins such as Tether, and even some wrapped tokens²⁰. Examples of exchanges that publicly depict digital asset market values include CoinMarketCap²¹, Binance, CoinGecko, Kraken, and Bitgur.

However, staff believes that this guidance would result in reporting entities not reporting a market value for more obscure forms of digital assets, such as non-fungible tokens. While there are observable markets for non-fungible tokens in general, each non-fungible token is usually unique from one another and have significantly different values. For these types of digital assets, staff believes the potential benefits of reporting a market value is limited and the potential costs are likely high if a market value is not observable to the public on an active market.

Finally, paragraph 26 of the draft TB proposes, *“The U.S. government does not currently have a central bank digital currency. Reporting entities should translate seized and forfeited foreign central bank digital currencies into U.S. dollars at the relevant exchange rate.”* As stated previously, Section 9(b) of Executive Order 14067 defines central bank digital currencies as a form of digital money or monetary value, denominated in the national unit of account that is a direct liability of the central bank. The value of the central bank digital currency is equivalent to the country’s fiat

²⁰ See the Glossary section in the draft TB for definitions of various digital assets.

²¹ CoinMarketCap also provides volume, liquidity, and accuracy assessments for various digital asset markets.

currency²². Therefore, if a reporting entity seized a foreign central bank digital currency, the entity should report the monetary property at market value in U.S. dollars based on the foreign exchange rate of the country for which the central bank digital currency belongs.

When is a market value for digital assets readily determinable?

Paragraph 63 of SFFAS 3 states, “Seized property shall be valued at its market value when seized or, if market value cannot be readily determined, as soon thereafter as reasonably possible.” FASAB guidance uses the term “readily determined” or “readily determinable” roughly 10 times throughout the Handbook. The Handbook typically uses the term to present multiple reporting options for preparers, such as choosing between fair value of acquired property or surrendered property in an asset exchange, whichever is more readily determinable.²³ In other words, it appears that the Board has historically used the term to allow preparers to choose a reporting option that is less burdensome to implement.

However, paragraph 63 in SFFAS 3 is unique because it uses “readily determined” to require that preparers eventually measure market value for seized property, when it is reasonably possible to measure market value if not readily determinable upon seizure.²⁴ The working group has stated that this nuance in the guidance has resulted in significant disagreements between management and auditors with when it is reasonably possible to determine market value for seized and forfeited digital assets.

It does not appear that FASAB or any other standard-setting body has specifically defined “readily determinable”. The dictionary defines “readily” to mean “without difficulty, or easily”. The dictionary defines “determinable” as “definitely ascertained, or decided upon”.

Staff combined these definitions to propose the following guidance in paragraph 24 of the TB, *“Readily determinable” generally means that a market value can be conclusively established without difficulty.* Staff believes that this description aligns with the Board’s previous uses of the term in current reporting guidance.

Paragraph 24 of the TB also relates to the previous active market value discussion and emphasizes that management should apply a conservative approach²⁵ to measuring market value for seized and forfeited digital assets. Paragraph 24 states, *“Due to the inherent volatility and risk associated with most digital asset markets, reporting entities should apply a conservative approach to measuring seized and forfeited digital assets and report a market value only if management can conclusively determine that a*

²² McKinsey & Company, *What is central bank digital currency (CBDC)?*, March 1, 2023, <https://www.mckinsey.com/featured-insights/mckinsey-explainers/what-is-central-bank-digital-currency-cbdc>

²³ SFFAS 6, *Accounting for Property, Plan, and Equipment*, paragraph 32

²⁴ SFFAS 3, paragraph 71 provides an exception to recognizing a market value for forfeited property that cannot be sold due to legal restrictions. However, the working group has indicated this scenario does not typically apply to digital assets.

²⁵ In this context, the conservative principle means to use caution when estimating the value of an asset and only report a market value if certain.

publicly observable active market exists for the specific digital asset. Management should apply judgment in determining the most appropriate publicly observable active market to reference for valuing each digital asset. Management could theoretically use different active markets for valuing different types of digital assets.” This statement makes it clear that management should only report a market value for a seized or forfeited digital asset if a publicly observable active market exists for that specific digital asset²⁶. Otherwise, the market value is not readily determinable. The guidance also makes it clear that management would have to use judgment to determine the most appropriate market value for the digital asset.

Because it is difficult to assess market value for many digital assets, staff believes it is reasonable that preparers could need more time to determine an appropriate market value for seized and forfeited digital assets than it would for other types of seized or forfeited property with more regulated and established markets. Staff also believes that it is reasonable that preparers would never report a market value for some more obscure seized or forfeited digital assets, such as non-fungible tokens, due to a lack of an active market.

Therefore, paragraph 25 of the TB states, *“It is reasonable that it could require more time and effort to readily determine a market value for seized and forfeited digital assets than it would for seized or forfeited property associated with more liquid, regulated, and established markets. It is also reasonable that a market value cannot be readily determined for some seized and forfeited digital assets if a publicly observable active market does not exist.”* Staff believes that this proposed language would further clarify SFFAS 3, paragraph 63 by making it clearer for preparers how to assess if and when a market value is readily determinable for seized or forfeited digital assets. Prior FASAB guidance has acknowledged that fair value may not be readily determinable for some assets²⁷.

FASB ED Comparison

The FASB Crypto Asset ED applies ASC 820 for measuring fair value for crypto assets. ASC 820 presents the fair value guidance using a hierarchy of three levels. Level 1 requires measurement based on observable quoted prices from active markets for identical liabilities or assets. Level 2 generally requires measurement based on observable inputs other than quoted prices for identical assets from active markets, such as active markets of similar items or inactive markets. Level 3 generally requires measurement based on unobservable inputs, such as estimates using assumptions and internal data.

Staff does not recommend that the TB reference ASC 820 for measuring seized or forfeited digital assets because it would conflict with the level A guidance in SFFAS 3. Paragraph 63 of SFFAS 3 makes it clear to report seized and forfeited property based only on market value from an active market for the property. The only caveat is to report

²⁶ Such as measuring the value of a unit of Bitcoin based only on the market value of a unit of Bitcoin, not another cryptocurrency

²⁷ SFFAS 6, paragraph 32

market value using an active market for property in a general area of the property if an active market does not exist for that property.

Both SFFAS 3 and ASC 820 level 1 require valuation based on an active market. However, SFFAS 3 is more flexible because it does not expressly require market valuation based on observable quoted prices for identical property²⁸. Furthermore, SFFAS 3 does not require market value measurement based on inactive markets or unobservable internal data that levels 2 and 3 of ASC 820 require, respectively.

It appears to staff that fair value levels 2 and 3 of ASC 820 would rarely apply to the FASB crypto asset ED. The narrow scope of digital assets that would apply to the FASB guidance would mostly likely consist of cryptocurrencies that apply to level 1 for fair value measurement.

Paragraph BC32 of the FASB ED indicates that some stakeholders observed that it would be rare to apply any valuation technique other than a market approach based on observed transactions or market quotes when measuring a crypto asset's fair value. Furthermore, paragraph BC19 indicates that FASB included "fungibility" as a scope requirement to reduce the cost and complexity of obtaining market prices for items such as non-fungible tokens. In other words, staff believes the FASB crypto asset ED effectively scopes out digital assets that would not have quotable prices in active markets based on identical digital assets.

Staff did however use aspects of ASC 820 level 1 for the TB, such as the active market description and reference to observable prices for identical assets. Staff believes the TB can clarify these market valuation aspects specifically for seized and forfeited digital assets and it would not conflict with the SFFAS 3 market value requirements for other types of property.

Working group feedback

The working group generally supported the TB guidance for assessing when and how to measure market value for seized and forfeited digital assets. One working group member specifically agreed that fully applying the fair value guidance from ASC 820 was likely not practical and could overly burden preparers and ultimately not lead to useful information for seized and forfeited digital assets.

One working group member questioned if the TB description of a publicly observable market needed to be more specific to apply consistently. Another working group member stated that the TB guidance was helpful but noted that it still leaves some judgment to management for market valuation. The working group member also noted that the high-level guidance in the TB was necessary, but suggested that some kind of policy guidance may also be necessary to ensure consistent and appropriate selections of digital asset active markets for valuation.

²⁸ It would likely not be feasible for SFFAS 3 to apply ASC 820 level 1 fair value based on quoted prices of identical property for many types of seized and forfeited property, such as a car, watch, or jewelry.

Another working group member questioned if the TB's use of the term "without difficulty" in determining whether a value is "readily determinable" needed more explanation. However, other working group members thought that the guidance in the TB was sufficient for management to apply. Staff believes the TB sufficiently explains that "readily determinable" equates to using a publicly observable active market for the specific digital asset. For example, staff does not believe the TB would require preparers to use consultative services for measuring market value for digital assets. Staff also agrees that management will still have to apply judgment and policy decisions to assign market values to seized and forfeited digital assets, like any guidance.

A few working group members questioned if revaluing digital assets on a periodic basis due to market swings would provide information that is more useful than a one-time valuation. One working group member noted that seized property could remain in seized status for years and that initial market valuation would become irrelevant without revaluation.

Staff agrees that revaluing seized and forfeited digital assets periodically, such as at the end of the reporting period, would provide more up-to-date information for users and would help with the price volatility issues of digital assets. However, SFFAS 3 does not require revaluation for seized and forfeited property and staff believes it would be inappropriate for this TB to create a new reporting requirement to only revalue seized and forfeited digital assets periodically.

One working group member questioned if the TB should require that reporting entities value seized central bank digital currencies by a specific date, such as the balance sheet date. However, staff and other working group members agree that this would directly conflict with existing SFFAS 3 requirements to value property when seized. The TB offers guidance for assessing when it is reasonable to value digital assets after seizure but does not establish a concrete time requirement.

Another working group member noted guidance from SFFAS 3, paragraph 63 that states, "If no active market exists for the property in the general area in which it was seized, a value in the principal market nearest the place of seizure shall be used." The working group member noted that the guidance was specific to property with similar geographic locations but questioned if the TB should clarify this sentence for seized and forfeited digital assets. As stated previously, staff agrees this part of the guidance is more relevant to tangible property from similar geographic locations, such as seized real estate. Additionally, staff does not believe that the TB should require market valuation for digital assets based on market values of similar digital assets because seemingly similar types of digital assets could have vastly different market values.

One working group member stated that seized digital assets should not be assigned a market value because the government does not hold legal title to the property until forfeited. However, SFFAS 3 does not require that the government own the seized property in order to apply the reporting requirements. In fact, in discussions with other reporting entities, it is typical for the government to not own the seized property until the property is forfeited to the government. Furthermore, paragraphs 62-66 of SFFAS 3

indicate that reporting entities should report market value for seized property. In fact, other reporting entities do disclose market value for seized nonmonetary property in the financial statement notes.

Note disclosure requirements (paragraphs 27 – 29)

Paragraphs 66 and 78 of SFFAS 3 provide note disclosure requirements for seized and forfeited property, respectively. The disclosure requirements for both seized and forfeited property includes information such as a general description of the property, methods for valuing the property, accounting method changes, and analysis of changes of property, categorized by type of property, on hand at the beginning and end of year. Paragraph 28 of this TB makes it clear that all SFFAS 3 disclosure requirements would apply to seized and forfeited digital assets. The TB does not add or remove any disclosure requirements.

However, because this TB states that it is reasonable that a market value cannot be readily determined for some seized and forfeited digital assets, staff added language to the TB to make it clear that the remaining SFFAS 3 disclosure requirements apply to seized and forfeited digital assets, even if reporting entities do not disclose a market value. Therefore, paragraph 28 of this TB states, *“Reporting entities should apply the disclosure requirements of paragraphs 66 and 78 of SFFAS 3 for seized and forfeited digital assets, respectively. If a reporting entity is not able to reasonably determine a market value for the seized or forfeited digital asset pursuant to paragraphs 19 - 26 of this TB, the reporting entity should still apply the other disclosure requirements in SFFAS 3.”* Staff believes the guidance supports Technical Release 4²⁹ that clarified the importance of disclosing non-valued seized and forfeited property.

Some working group members voiced concerns with disclosing specific information about digital assets that reporting entities seize as evidence for criminal investigations. For example, working group members stated that public disclosure of the market price of certain seized digital assets could prejudice evidence that is part of ongoing criminal procedures. This risk is pronounced for digital assets due to their relatively less liquid markets when compared to other types of seized property. For example, one reporting entity indicated that publicly disclosing the market value estimate for a significant cryptocurrency seizure could influence the very market value for that cryptocurrency and influence the ongoing criminal procedures.

Staff believes that the current SFFAS 3 disclosure requirements are high-level and do not require detailed information about specific seized or forfeited property of any kind. As stated previously, both paragraphs 66 and 78 allow for a general description of the property, method of valuation, and dollar value and quantity disclosure by the type of property. Therefore, staff believes that SFFAS 3 would allow reporting entities to

²⁹ Technical Release 4 clarified that an analysis of changes for all material non-valued seized property should be disclosed in the financial statement footnotes in the same manner as prescribed for non-valued forfeited property.

disclose market value and quantity information in a broad “digital asset” category that encompasses all seized and forfeited digital asset transactions.

However, some working group members were still concerned with other stakeholders interpreting the disclosure requirements differently, leading to required disclosure of sensitive information. Therefore, paragraph 29 of the TB states, *“SFFAS 3 requires reporting entities to disclose the dollar value and quantity of seized and forfeited property by the type of property. SFFAS 3 does not require reporting entities to disclose specific quantitative or qualitative information about individual digital asset seizures or forfeitures.”* Staff believes this guidance would reduce preparer burden and unnecessary disclosure risk by simply asserting how the existing SFFAS 3 disclosure requirements apply to seized and forfeited digital assets.

FASB ED comparison

The FASB crypto asset ED requires basic note disclosures such as the name, number of units, and fair value for each significant crypto asset holding. The ED would also require disclosures related to restrictions around the use or sell of crypto assets, which staff does not believe is relevant for seized or forfeited digital assets. While paragraph 71 of SFFAS 3 addresses legal restrictions affecting sell of forfeited property, the working group has indicated that guidance would not generally apply to digital assets.

Working group feedback

The working group generally supported the note disclosure guidance in the TB.

Internal Control issue

The working group also presented staff with issues regarding internal control over seized digital assets. The complex and intangible nature of digital assets makes it difficult for management to assert existence and possession of seized or forfeited digital assets. Blockchains that digital assets exist on, typically provide less transparency of ownership than fiat currencies or securities transacted through traditional financial institutions. Consequently, safeguarding a digital asset presents challenges unique from physical and traditional financial assets.

Staff held roundtable discussions with affected entities and researched recent digital asset reports such as the AICPA digital asset practice aid³⁰ and Treasury crypto asset report to understand the control-related issues³¹. Staff understands that the intangible nature of digital assets presents unique challenges with private and governmental entities with asserting control and rights.

However, after thorough discussions, staff and the working group agreed that these challenges are internal control issues that are not directly part of the Boards financial

³⁰ AICPA & CIMA Practice aid, *Accounting for and Auditing of Digital Assets*, February 28, 2023

³¹ U.S. Department of Treasury, *Crypto-Assets: Implications for Consumers, Investors, and Businesses*, September 2022

reporting and accounting mission. Staff believes that the OMB A-123, *Management's Responsibility for Internal Control* and/or GAO Greenbook, *Standards for Internal Control in the Federal Government* may be more appropriate avenues for providing guidance on this issue.

Final thoughts and next steps

It is possible that preparers could have some of these same challenges with other types of seized and forfeited property. However, preparers and auditors have approached staff multiple times with issues applying SFFAS 3 specifically to seized and forfeited digital assets. Staff has not received inquiries about applying SFFAS 3 to any other types of seized or forfeited property.

Both DOJ, who deals with material amounts of seized and forfeited digital assets, and DHS support this TB and stated that it would help them with applying the SFFAS 3 reporting requirements for seized and forfeited digital assets. The IRS offered no concerns. Additionally, a representative from DOJ plans to speak with the Board during the October meeting to explain the agency's issues with reporting seized and forfeited digital assets and why the TB will help.

Staff understands some member concerns with issuing reporting guidance on digital assets for a narrow topic without first addressing digital assets (or even intangible assets) as part of a larger project to issue broad guidance. However, staff recommends the Board consider issuing the proposed TB to address a current need for a material reporting issue. Staff is confident that there is not currently another material need for digital asset reporting guidance in the federal space at this time. Furthermore, because a TB is level B GAAP, any future standard addressing digital assets from a broader perspective would have precedence over the TB in the GAAP hierarchy.

Question for the Board:

1. Do members support moving forward with the Seized and Forfeited Digital Assets TB? Please provide any feedback on the staff proposal.



SEIZED AND FORFEITED DIGITAL ASSETS

Technical Bulletin 202X-X

Draft Exposure Draft

Public comments are not requested on this draft.

THE FEDERAL ACCOUNTING STANDARDS ADVISORY BOARD

The Secretary of the Treasury, the Director of the Office of Management and Budget (OMB), and the Comptroller General of the United States established the Federal Accounting Standards Advisory Board (FASAB or "the Board") in October 1990. FASAB is responsible for promulgating accounting standards for the United States government. These standards are recognized as generally accepted accounting principles (GAAP) for the federal government.

Accounting standards are typically formulated initially as a proposal after considering the financial and budgetary information needs of citizens (including the news media, state and local legislators, analysts from private firms, academe, and elsewhere), Congress, federal executives, federal program managers, and other users of federal financial information. FASAB publishes the proposed standards in an exposure draft for public comment. In some cases, FASAB publishes a discussion memorandum, invitation for comment, or preliminary views document on a specific topic before an exposure draft. A public hearing is sometimes held to receive oral comments in addition to written comments. The Board considers comments and decides whether to adopt the proposed standards with or without modification. After review by the three officials who sponsor FASAB, the Board publishes adopted standards in a Statement of Federal Financial Accounting Standards. The Board follows a similar process for Statements of Federal Financial Accounting Concepts, which guide the Board in developing accounting standards and formulating the framework for federal accounting and reporting.

Additional background information and other items of interest are available at www.fasab.gov:

- [Memorandum of Understanding](#) among the Government Accountability Office, the Department of the Treasury, and the Office of Management and Budget, on Federal Government Accounting Standards and a Federal Accounting Standards Advisory Board
- [Mission statement](#)
- [Documents for comment](#)
- [Statements of Federal Financial Accounting Standards and Concepts](#)
- [FASAB newsletters](#)

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September XX, 2023

TO: ALL WHO USE, PREPARE, AND AUDIT FEDERAL FINANCIAL INFORMATION

Your comments on the exposure draft of a proposed Technical Bulletin, *Seized and Forfeited Digital Assets*, are requested. Specific questions for your consideration appear on pages 3-4, but you are welcome to comment on any aspect of this proposal. If you do not agree with the proposed approach, your response will be most helpful to the Board if you explain the reasons for your positions and any alternatives you propose.

Responses are requested by XXX X, 2023.

All comments received by FASAB are considered public information. Those comments may be posted to [FASAB's website](#) and will be included in the project's public record.

Please provide your comments by email to fasab@fasab.gov. We will confirm receipt of your comments. If you do not get a confirmation, please contact our office at 202-512-7350 to determine if your comments were received. If you are unable to email your responses, please call (202) 512-7350 to make alternate arrangements.

We may hold one or more public hearings on any exposure draft. No hearing has yet been scheduled for this exposure draft. Notice of the date and location of any public hearing on this document in the Federal Register and in FASAB's newsletter.

Sincerely,

Pending

Monica R. Valentine
Executive Director

SUMMARY

WHAT GUIDANCE IS BEING PROPOSED?

This Technical Bulletin (TB) would clarify existing standards for seized and forfeited digital assets. Statement of Federal Financial Accounting Standards (SFFAS) 3, *Accounting for Inventory and Related Property* provides guidance for seized and forfeited property. However, guidance is needed to clarify the existing reporting requirements to the unique characteristics of digital assets that the Board did not consider when developing SFFAS 3.

Specifically, this TB clarifies that SFFAS 3 requirements in paragraphs 57 - 78 apply to seized and forfeited digital assets. The TB further clarifies that, with the exception of central bank digital currencies, reporting entities should treat all digital assets as nonmonetary property when applying the requirements of SFFAS 3. This TB also provides clarifying guidance for measuring market value and applying SFFAS 3 disclosure requirements for seized and forfeited digital assets.

This TB facilitates consistent accounting and reporting of seized and forfeited property in accordance with generally accepted accounting principles. This TB also reduces preparer burden and improves user benefits associated with seized and forfeited digital assets financial reporting.

MATERIALITY

The provisions of this proposed Technical Bulletin would not need to be applied to information if the effect of applying the provision(s) is immaterial.¹ A misstatement, including omission of information, is material if, in light of surrounding facts and circumstances, it could reasonably be expected that the judgment of a reasonable user relying on the information would change or be influenced by the correction or inclusion of the information. Materiality should be evaluated in the context of the specific reporting entity. Determining materiality requires appropriate and reasonable judgment in considering the specific facts, circumstances, size, and nature of the misstatement. Consequently, after quantitative and qualitative factors are considered, materiality may vary by financial statement, line item, or group of line items within an entity.

¹Refer to Statement of Federal Financial Accounting Concepts 1, *Objectives of Federal Financial Reporting*, chapter 7, titled *Materiality*, for a detailed discussion of the materiality concepts.

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QUESTIONS FOR RESPONDENTS

The Federal Accounting Standards Advisory Board (FASAB or “the Board”) encourages you to become familiar with all proposals in the Technical Bulletin (TB) before responding to the questions below. In addition to the questions below, the Board also welcomes your comments on other aspects of the proposed TB. Because FASAB may modify the proposals before a final TB is issued, it is important that you comment on proposals that you favor as well as any that you do not favor. The Board especially appreciates that include the reasons for your views.

The Board believes that this proposal would improve federal financial reporting and contribute to federal financial reporting objectives. The Board has considered the perceived costs associated with this proposal. In responding, please consider the expected benefits and perceived costs and communicate any concerns that you may have regarding implementing this proposal.

The questions in this section are available for your use at <https://www.fasab.gov/documents-for-comment/>. Your responses should be sent to fasab@fasab.gov. If you are unable to respond by email, please fax your responses to (202) 512-7366.

All responses are requested by XXX X, 20XX.

- QFR1.** Do you generally support the proposed TB as a whole? Please provide reasons for your views.
- QFR2.** Are there specific aspects of the proposed TB that you disagree with? If so, please explain the reasons for your positions, the paragraph number(s), and/or topic area(s) of the proposal that are related to your positions, and any alternatives you propose and the basis for such alternatives.
- QFR3.** Do any ambiguous areas remain that could lead to challenges with implementing the requirements? If so, please provide examples of the issues, references to applicable guidance, and any potential solutions you propose.
- QFR4.** Are there specific aspects of this proposal that you otherwise wish to provide comments on?
- SMC1.** Paragraph XX of the TB requires that....

PROPOSED TECHNICAL GUIDANCE

SCOPE

1. **What reporting entities are affected by this Technical Bulletin (TB)?**
2. This TB applies to reporting entities that present general purpose federal financial reports (GPFFRs) in conformance with generally accepted accounting principles (GAAP), as defined by paragraphs 5 through 8 of Statement of Federal Financial Accounting Standards (SFFAS) 34, *The Hierarchy of Generally Accepted Accounting Principles, Including the Application of Standards Issued by the Financial Accounting Standards Board*.
3. **What accounting practices are addressed in this TB?**
4. This TB provides guidance to address areas not directly covered in existing Statements by clarifying guidance for accounting for and reporting of seized and forfeited digital assets. Reporting guidance for seized and forfeited property is currently addressed in paragraphs 57 - 78 of SFFAS 3, *Accounting for Inventory and Related Property*. However, the Board determined that additional guidance was needed to clarify the existing reporting requirements to the unique characteristics of digital assets that the Board did not consider when developing SFFAS 3.
5. **What is excluded from this TB?**
6. This TB does not apply to any digital asset transactions other than for seized and forfeited property transactions, as addressed by SFFAS 3, paragraphs 57-78.

DEFINITIONS AND APPLICABILITY

7. **What are digital assets?**
8. Digital assets are electronic representations of value and operate as part of a complex and interconnected digital ecosystem.² Crypto assets, to include cryptocurrencies, are a common subset of digital assets that use cryptographic techniques and distributed ledger technology. Digital assets also include but are not limited to stable coins, non-fungible tokens, central bank digital currencies, security tokens, and privacy coins.
9. **How do digital assets apply to seized and forfeited property in the federal government?**
10. Paragraph 59 of SFFAS 3 defines seized property as “property of others in the actual or constructive possession of the custodial agency.” Seized property may include digital assets that the government has taken possession of, typically in

² Economic Report of the President, Chapter 8: *Digital Assets: Relearning Economic Principles*, March 2023

consequence of an alleged violation of public law. Some reporting entities deal with a wide range of seized and forfeited digital assets.

11. Paragraph 68 of SFFAS 3 defines forfeited property as “(1) property acquired through forfeiture proceedings; (2) property acquired by the government to satisfy a tax liability; and (3) unclaimed and abandoned merchandise.” Seized digital assets are generally considered forfeited when title has passed to the U.S. government. Typically, the forfeited digital assets are sold for monetary proceeds.

REPORTING CONSIDERATIONS

12. **Should reporting entities treat seized and forfeited digital assets as monetary or nonmonetary property when applying reporting guidance in SFFAS 3?**

13. SFFAS 3 provides different reporting requirements for seized and forfeited property based on if the property in question is considered monetary or nonmonetary.
14. Paragraph 61 of SFFAS 3 states, “Seized monetary instruments shall be recognized as seized assets when seized. In addition, a liability shall be established in an amount equal to the seized asset value.” Paragraph 62 of SFFAS 3 states, “Seized property other than monetary instruments shall be disclosed in the footnotes.”
15. Paragraph 69 of SFFAS 3 states, “Monetary instruments shall be reclassified from seized monetary instruments to forfeited monetary instruments when forfeited...When the asset is recorded, revenue shall be recognized in an amount equal to the value of the monetary instrument and the associated liability for possible remittance shall be removed.” Paragraph 70 of SFFAS 3 addresses recognition of forfeited nonmonetary property by stating “property shall be recorded with an offsetting deferred revenue when forfeiture judgment is obtained.” Meanwhile paragraph 71 states, “Revenue from the sale of property shall be recognized when the property is sold.”
16. For purposes of applying the seized and forfeited property guidance in paragraphs 57-78 of SFFAS 3, reporting entities should treat central bank digital currencies as monetary instruments and treat all other digital assets as nonmonetary property.
17. Except for central bank digital currencies, digital assets are not generally considered real (or fiat) currency because they are not the coin and paper money of a sovereign nation and are not issued by a government’s central bank. Additionally, digital assets, other than central bank digital currencies do not typically possess monetary characteristics. That is, they are not effective as a unit of account, medium of exchange, or store of value.³
18. Central bank digital currencies are a form of digital money or monetary value, denominated in the national unit of account that is a direct liability of the central

³ Economic Report of the President, Chapter 8: Digital Assets: Relearning Economic Principles, March 2023

bank.⁴ Therefore, central bank digital currencies are typically considered official digital forms of government-backed money that essentially serves the same purposes as physical cash.

MEASUREMENT

- 19. Are there special considerations with determining market value for seized and forfeited digital assets?**
20. Some reporting entities have raised concerns about whether management can accurately measure market value for digital assets. Many forms of digital assets are not bought or sold in a typical market. Furthermore, digital asset markets that do exist are sometimes not well established or regulated and could therefore quote volatile and unreliable values. Reporting inaccurate and/or unreliable market values for seized and forfeited digital assets could result in financial information that is misleading and/or lacks relevance.
21. Paragraph 63 of SFFAS 3 states, “Seized property shall be valued at its market value⁶ when seized or, if market value cannot be readily determined, as soon thereafter as reasonably possible. Market value shall be based on the value of the property assuming an active market exists for the property.”⁵
22. Footnote 6 of SFFAS 3 states, “Market value” is the estimated amount that can be realized by disposing of an item through arm’s length transactions in the marketplace or the price (usually representative) at which bona fide sales have been consummated for products of like kind, quality, and quantity in a particular market at any moment of time. For investments in marketable securities, the term refers to the per-unit market price of a security times the number of units of that security held.”
23. For purposes of applying the seized and forfeited property guidance in paragraphs 57-78 of SFFAS 3, reporting entities should only report a market value for seized or forfeited digital assets if a publicly observable active market exists for the specific digital asset. An active market is an established market in which transactions occur with sufficient frequency and volume to provide pricing information on an ongoing basis. A publicly observable market is a market that is widely visible to anyone with a need-to-know.
24. “Readily determinable” generally means that a market value can be conclusively established without difficulty. Due to the inherent volatility and risk associated with most digital asset markets, reporting entities should apply a conservative approach to measuring seized and forfeited digital assets and report a market value only if management can conclusively determine that a publicly observable active market exists for the specific digital asset. Management should apply judgment in

⁴ Executive Order 14067, Ensuring Responsible Development of Digital Assets, Section 9(b), March 2022

⁵ SFFAS 3, paragraphs 69 - 70 also requires market value reporting for forfeited property.

determining the most appropriate publicly observable active market to reference for valuing each digital asset. Management could theoretically use different active markets for valuing different types of digital assets.

25. It is reasonable that it could require more time and effort to determine a market value for seized and forfeited digital assets than it would for seized or forfeited property associated with more liquid, regulated, and established markets. It is also reasonable that a market value cannot be readily determined for some seized and forfeited digital assets if a publicly observable active market does not exist.
26. The U.S. government does not currently have a central bank digital currency. Reporting entities should translate seized and forfeited foreign central bank digital currencies into U.S. dollars at the relevant exchange rate.

DISCLOSURE REQUIREMENTS

27. **What information should reporting entities disclose about seized and forfeited digital assets?**
28. Reporting entities should apply the disclosure requirements of paragraphs 66 and 78 of SFFAS 3 for seized and forfeited digital assets, respectively. If a reporting entity is not able to reasonably determine a market value for the seized or forfeited digital asset pursuant to paragraphs 19 - 26 of this TB, the reporting entity should still apply the other SFFAS 3 disclosure requirements.
29. SFFAS 3 requires reporting entities to disclose the dollar value and quantity of seized and forfeited property by the type of property. SFFAS 3 does not require reporting entities to disclose specific quantitative or qualitative information about individual digital asset seizures or forfeitures.

EFFECTIVE DATE

30. The requirements of this TB are effective upon issuance.

<p>The provisions of this Technical Bulletin need not be applied to information if the effect of applying the provision(s) is immaterial. Refer to Statement of Federal Financial Accounting Concepts 1, <i>Objectives of Federal Financial Reporting</i>, chapter 7, titled <i>Materiality</i>, for a detailed discussion of the materiality concepts.</p>

WORKING DRAFT

APPENDIX A: BASIS FOR CONCLUSIONS

The Federal Accounting Standards Advisory Board (FASAB) has authorized its staff to prepare Technical Bulletins to provide timely guidance on certain financial accounting and reporting problems, in accordance with the Board's Rules of Procedures, as amended and restated through October 2010, and the procedures described in FASAB Technical Bulletin 2000-1, *Purpose and Scope of FASAB Technical Bulletins and Procedures for Issuance*. The provisions of Technical Bulletins need not be applied to immaterial items.

This appendix discusses some factors considered significant by staff in reaching the conclusions in this Technical Bulletin. It includes the reasons for accepting certain approaches and rejecting others. Some factors were given greater weight than other factors. The guidance enunciated in the proposed technical guidance section—not the material in this appendix—would govern the accounting for specific transactions, events, or conditions.

This Technical Bulletin may be affected by later Statements or pronouncements. The FASAB Handbook is updated annually and includes a status section directing the reader to any pronouncement that affects this Technical Bulletin. Within the text of the Technical Bulletins, the authoritative sections are updated for changes. However, this appendix will not be updated to reflect subsequent changes. The reader can review the basis for conclusions of amending Statements or other pronouncements for the rationale for each amendment.

PROJECT HISTORY

- A1. The Federal Accounting Standards Advisory Board (FASAB or “the Board”) issued SFFAS 3, *Accounting for Inventory and Related Property* in 1993. Paragraphs 57-78 of SFFAS 3 provide reporting requirements for seized and forfeited property. The Board subsequently issued Technical Release 4, *Reporting on Non-Valued Seized and Forfeited Property* in 1999 to establish that an analysis of changes for all material non-valued seized property should be disclosed in the financial statement footnote in the same manner as prescribed for non-valued forfeited property.
- A2. FASAB had planned to deliberate reporting guidance needs for digital assets as part of the software technology project scope. However, as the value and occurrence of seized and forfeited digital assets has become more material in recent years, the Board has received several requests from reporting entities and auditors for further guidance and clarification on applying the existing seized and forfeited property reporting requirements in SFFAS 3 to new and unique characteristics of digital assets.

CURRENT GUIDANCE

A3. Digital assets were not originally contemplated when FASAB issued SFFAS 3 and the Board has never previously issued guidance pertaining to digital assets. The Board is not aware of any other significant uses of digital assets in the federal government. Some reporting entities have indicated purchasing an immaterial amount of amount of cryptocurrency for operational purposes.

A4. TBD

PROPOSED GUIDANCE

A5. This proposal meets the purposes of a Technical Bulletin in accordance with paragraph 4 of Technical Bulletin 2000-1, Purpose and Scope for FASAB Technical Bulletins and Procedures for Issuance. Specifically, this Technical Bulletin clarifies and elaborates upon seized and forfeited property guidance in paragraphs 57-78 of SFFAS 3 to address digital assets, a resource not previously contemplated by the Board.

A6. TBD

IMPLEMENTATION

A7. Reporting entities should

APPENDIX B: ABBREVIATIONS

ED	Exposure Draft
FASAB	Federal Accounting Standards Advisory Board
FASB	Financial Accounting Standards Board
GAAP	Generally Accepted Accounting Principles
GPFFR	General Purpose Federal Financial Report
SFFAC	Statement of Federal Financial Accounting Concepts
SFFAS	Statement of Federal Financial Accounting Standards

APPENDIX C: GLOSSARY

Digital asset

Digital assets are electronic representations of value and operate as part of a complex and interconnected digital ecosystem.

Crypto asset

Crypto assets are a common subset of digital assets that use cryptographic techniques and distributed ledger technology, such as blockchain.

Cryptocurrency

Cryptocurrency is a crypto asset that is promoted to be an alternative payment instrument.

Central bank digital currency

Central bank digital currencies are a type of digital asset that are a form of digital money or monetary value, denominated in the national unit of account that is a direct liability of the central bank.

Non-fungible tokens

Non-fungible tokens (NFTs) are digital assets that are not interchangeable. Each NFT is unique and often contains a pointer to a digital object, such as an image file.

Privacy coins

Privacy coins are cryptocurrencies with enhanced features to reduce traceability.

Stable coins

Stables coins are crypto assets that are backed by a portfolio of underlying assets and claimed to have a stable exchange value with these assets.

Security tokens

Security tokens are digital forms of financial instruments that represent ownership in another asset, such as real estate or equity in a company.

Wrapped tokens

Wrapped tokens allow a digital asset on one blockchain to transfer to another blockchain.

WORKING DRAFT

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