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CMTA.DACS

V 2.0

Certification Marks Regulations

29 April 2023

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1. SUBJECT

The “Digital Assets Custody Standard” V 2.0 of 1 March 2023 (the “**DACS**”) is a set of requirements and recommendations for technology solutions enabling the custody and management of digital assets. The DACS is published by the Capital Markets and Technology Association, a Swiss association whose purpose is to promote the development of new technologies in the field of capital markets.

The following three certification marks distinguish between three levels of compliance with the DACS (the “**Certification Marks**”):

- **CMTA.DACS V2.0**, which certifies compliance with all the requirements and recommendations contemplated by the DACS;



Filed on May 13, 2023 (application no. 06268/2023)

- **CMTA.DACS (Operations) V2.0**, which certifies compliance only with the requirements and recommendations of the DACS’ “Operations stream” (§§ 3.1 and 3.2).



Filed on May 4, 2023 (application no. 05822/2023)

- **CMTA.DACS (Infrastructure) V2.0**, which certifies compliance only with the requirements and recommendations of the DACS’ “Infrastructure stream” (§§ 3.3 to 3.5).



Filed on May 13, 2023 (application no. 06269/2023)

The Certification Marks have been filed for the following services:

Class 36: “Financial services, namely managing, controlling, securing and storing private keys controlling digital assets (including digital tokens or crypto assets).”

The purpose of the Certification Marks is to provide assurance for owners of digital assets who use third party services for the safekeeping of the private keys controlling such digital assets that the relevant custody services are being provided in compliance with good industry practices, as those are outlined in the DACS. The DACS establishes a baseline

upon which service providers, customers and auditors can rely as regards the security, reliability, as well as transparency and control, of the custody technology and processes.

These regulations set forth the terms of use of the Certification Marks (within the meaning of Article 21 of the Swiss Federal Trademark Act) and set out the conditions under which the Certification Marks can be used.

2. CERTIFICATION MARK OWNER AND SUPERVISORY BODY

The Capital Markets and Technology Association (the “**CMTA**”), a Swiss association registered in the commercial register of the canton of Geneva under reference number CHE-408.722.286, is the owner of the Certification Marks.

The Executive Committee of the CMTA (the “**Committee**”) is the supervisory body of the Certification Marks. The Committee may delegate the exercise of certain tasks or responsibilities in relation to controlling the Certification Marks to another body or to third parties (the Committee and any beneficiaries of such delegations are collectively referred to below as the “**Supervisory Body**”).

3. APPLICABLE RULES

The following documents, as published on CMTA’s website (www.cmta.ch), form an integral part of these regulations:

- (a) the DACS;
- (b) the application form for use of the Certification Marks (the “**Application Form**”);
- (c) the guidelines for the practical aspects of the use of the Certification Marks (the “**Guidelines**”); and
- (d) the list of user fees and charges (the “**Fee Schedule**” and, together with the other documents referred to in this Section 3, the “**Terms of Use**”).

4. USE OF THE CERTIFICATION MARK

The Certification Marks can be used by any provider of professional custody services (whether in Switzerland or abroad) that complies with these regulations. Such use is subject to (i) prior authorization from the Supervisory Body (Article 5), (ii) the obligation to comply with the Terms of Use throughout the Authorization Period (as defined in Article 6) and (iii) the obligation to perform certain controls (Article 7).

Only authorized users have the right to use the Certification Marks. The right to use the Certification Marks and the rights deriving therefrom are not transferable, either in whole or in part. Authorized users may not authorize a third party to use the Certification Marks in any way whatsoever without the prior written consent of the Supervisory Body.

5. AUTHORIZATION PROCESS

The process for obtaining the authorization to use the Certification Marks consists of the following steps:

- (a) The firm wishing to use any of the Certification Marks for custody services (the “**Applicant**”) must apply

by completing and sending the relevant Application Form to the email address admin@cmta.ch. The Application Form includes information about the Applicant, a commitment to respect the Terms of Use, and an acknowledgement of the liability disclaimer set forth in Article 11. The Application Form also mentions the audit firm chosen by the Applicant from the list of audit firms recognized by the CMTA (the “**Auditor**”). The Application Form must be accompanied by a confirmation from the chosen Auditor that it agrees to act as an Auditor in accordance with these regulations. In addition, the Applicant must pay the fee for submitting the application set forth in the Fee Schedule (the “**Application Fee**”).

- (b) Upon receipt of a duly completed Application Form, a confirmation from the chosen Auditor and the Application Fee, the Supervisory Body will acknowledge receipt of the application for authorization. It will confirm to the Applicant that it accepts the chosen Auditor or, if it is not an entity recognized as such by the CMTA, will invite the Applicant to cause the chosen Auditor to obtain the necessary recognition or designate another Auditor.
- (c) The Auditor will provide a written opinion to the Supervisory Body (the “**Opinion**”) in the format contemplated in the annex to these regulations, or in a similar format approved by the CMTA. The Supervisory Body may at its discretion request additional information from the Applicant or the Auditor.
- (d) Once the Opinion has been received and the Supervisory Body has determined that all conditions for the use of the Certification Mark have been satisfied (including that the fee mentioned in the Fee Schedule for the right to use the Certification Mark during the Authorization Period (the “**Usage Fee**”) has been paid), the Supervisory Body will authorize the Applicant to use the relevant Certification Mark. The Supervisory Body may make its authorization subject to conditions and define the date as of which the authorization becomes effective and the Certification Mark may be used (the “**Effective Date**”).
- (e) The Supervisory Body will publish the name of the Applicant and the authorization given in the register of users provided for in Article 9. Unless required by law or due process, the Opinion will not be published.
- (f) If the Supervisory Body considers that the Opinion does not meet the requirements of these regulations, if the Applicant or the Auditor does not provide any requested additional information or if the Supervisory Body determines at its discretion that not all conditions for the use of the relevant Certification Mark have been satisfied, the Supervisory Body will inform the Applicant thereof, setting a time limit to remedy the deficiencies observed. If the deficiencies are not remedied within the set time limit, the Supervisory Body will reject the application and inform the Applicant thereof. The Application Fee will not be reimbursed in such a case.

6. DURATION

The right to use the Certification Mark arises as of the Effective Date.

Except under exceptional circumstances, the authorization to use the Certification Mark will be granted for a period ending on 31 December of the year that follows the date of grant (the “**Authorization Period**”).

At least three months before the end of the Authorization Period, the Supervisory Body may ask users to indicate whether they wish to continue using the Certification Mark beyond the Authorization Period. In the absence of a response within 30 days or such longer period as the Supervisory Body may determine, the user will be deemed to have renounced the use of the Certification Mark beyond the Authorization Period. If the user has indicated within the applicable deadline that it wishes to continue using the Certification Mark for another Authorization Period of twelve months (or, under

exceptional circumstances, as may be determined by the Supervisory Body, for another period), the user will pay the Usage Fee for the new Authorization Period at least 30 days before the first day of the new Authorization Period.

Unless the use of the Certification Mark is renewed in accordance with the preceding paragraph, the right to use the Certification Mark will terminate at the end of the current Authorization Period.

In any case, the right to use the Certification Mark will terminate (i) when the user confirms to the CMTA that it has renounced the use of the Certification Mark, (ii) if the Terms of Use of the Certification Mark are no longer satisfied, or (iii) if the Supervisory Body revokes the authorization to use the Certification Mark in accordance with Article 10(b).

7. CONTROL

The user of the Certification Mark must comply with the Terms of Use at all times. The Supervisory Body may at any time, and at least once a year, request a user to confirm in writing that these regulations have been complied with. It may also at any time request the user to provide access to documents, information, persons and premises as the Supervisory Body may reasonably request in order to assess compliance or investigate potential instances of non-compliance with the Terms of Use. If a user becomes aware that the Terms of Use are not being complied with, it must inform the Supervisory Body immediately.

8. FEES AND CHARGES

The authorization process is subject to an Application Fee and the use of the Certification Mark is subject to a Usage Fee, each in accordance with the Fee Schedule.

Usage Fees are payable in advance for the relevant Authorization Period, as further detailed in these regulations.

9. REGISTER OF USERS

The CMTA keeps a public register in which it records the firms that are authorized to use one of the Certification Marks and the authorizations that have been granted in this respect. The register can be consulted on the CMTA website or in other manners that the CMTA considers appropriate.

10. PENALTY FOR VIOLATION OF THE TERMS OF USE

In case of violation of the Terms of Use or insufficient cooperation with an inspection carried out in accordance with Article 7, the Supervisory Body may at its discretion impose the following sanctions:

- (a) a warning to the user, with or without a deadline for remedying the deficiencies observed;
- (b) temporary suspension or permanent withdrawal of the authorization to use the Certification Mark;
- (c) in case of serious or repeated violation, a contractual penalty of CHF 5,000 to CHF 50,000 per violation; and/or
- (d) in case of serious or repeated violation, the permanent ineligibility of the user to apply for the right to use the Certification Mark.

To determine the appropriate sanction, the Supervisory Body will take into account the seriousness of the violation, any previous violations committed by the same user, the degree of fault and the damage that the violation is likely to cause to the public's trust in the Certification Mark. A summary of the reasoning behind the decision will be provided upon request to the user of the Certification Mark.

In case of a temporary suspension of an authorization to use the Certification Mark, the Authorization Period will not be extended.

The Supervisory Body can publish its decision to impose a sanction, including the name of the relevant user, on the CMTA's website or in any other way it deems appropriate.

Sanctions pronounced in accordance with this Article 10 are without prejudice to any other rights or claims that the CMTA may have against the relevant users or third parties.

11. DISCLAIMER AND INDEMNIFICATION

The CMTA grants the right to use the Certification Marks on the basis of opinions delivered by experts that are recognized by the association. The grant of such rights of use does not include any representation or warranty from CMTA that the conditions outlined in these regulations are actually satisfied, or that the Applicant's services are being provided in a manner consistent with the DACS's requirements or recommendations.

Under no circumstances and under no legal theory, whether tort, contract, or otherwise, will the CMTA, the Auditor or their respective members, members of governing bodies, employees, contractors or affiliates be liable to the Applicant or any third parties in relation to the matters set out or contemplated in the Terms of Use or otherwise related to the use of any of the Certification Marks. Without limitation to the generality of the foregoing, no person should rely on the use of one the Certification Marks by anyone, even if such use has been authorized by the CMTA.

The Auditor and its members, directors, officers, employees, contractors or affiliates shall not be liable to any person in relation to the matters set out or contemplated in these regulations or the Terms of Use or otherwise related to the use of the Certification Mark, except for the Auditor's liability to the CMTA for the Opinion. Any liability based on contractual arrangements between and among the Applicant and/or the Auditor shall remain unaffected by this disclaimer.

12. CHANGES TO THESE REGULATIONS AND THE OTHER TERMS OF USE

The CMTA may amend these regulations and the other Terms of Use at any time at its discretion. Amendments will take effect when published on CMTA's website. For users who have obtained an authorization to use the Certification Mark prior to such (if any) amendment, the amended regulations or Terms of Use will take effect at the end of the Authorization Period during which the amendments have been made. In any case, amendments that are requested or ordered by the Swiss Intellectual Property Office or a competent court shall take effect for all users on the date the relevant amended regulations are registered in the Swiss Trademark Register.

13. APPLICABLE LAW AND JURISDICTION

These regulations and the other Terms of Use are governed by Swiss law.

The courts of the canton of Geneva will have exclusive jurisdiction over any dispute arising from or in connection with the application of these regulations and the other Terms of Use, including over disputes relating to liability or indemnification pursuant to Article 11.

14. LANGUAGE

These regulations and the other Terms of Use are available in more than one language. In case of inconsistencies between the versions, the French version will prevail, except for what regards the DACS, for which the English version will prevail.

15. ADOPTION BY THE CMTA

These regulations were adopted by the Executive Committee on 29 April 2023.

ANNEX: OPINION SPECIMEN

[Auditor's Header]

Capital Markets and Technology Association

Route de Chêne 30

CH-1208 Geneva

To the attention of the Secretariat

[Place], [Date]

Re: Opinion regarding the satisfaction by [name of relevant firm] of the requirements for receiving the right to use the certification mark [CMTA.DACS/CMTA.DACS (Operations)/CMTA.DACS (Infrastructure)]¹

Ladies and Gentlemen,

In our capacity as audit firm recognized by the Capital Markets and Technology Association ("CMTA") for the delivery of audit opinions under CMTA's certification mark regulations regarding CMTA's Digital Assets Custody Standards V2.0 of 1 March 2023 (the "DACs"), we have audited the [operation and infrastructure] of [name of relevant firm] (the "Applicant") for compliance with [(§§ 3.1 to 3.5/§§ 3.1 and 3.2/(§§ 3.3 to 3.5))] ² of the DACs.

The audit was limited to compliance with the provisions of the DACs referred to above.

Applicant's responsibility

The Applicant is responsible for designing and documenting the [operations and infrastructures]² for the provision of custody services with respect to digital assets for which the right to use the Certification Mark is being requested.

Auditor's responsibility

Our responsibility is to express an opinion on the Applicant's [operations and infrastructures]² for compliance with the requirements and adherence to the recommendations of the DACs. We conducted our audit in accordance with EXPERTsuisse' Swiss Auditing Standards. Those standards require that we comply with ethical requirements and plan and perform the audit to obtain reasonable assurance about whether the Applicant's [operations and infrastructures]² comply with the corresponding requirements and are in adherence with the corresponding recommendations of the DACs. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the nature of the

1 Select as appropriate.

2 For the CMTA.DACS V2.0 Certification Mark: "operations and infrastructures"; for the CMTA.DACS (Operations) V2.0 Certification Mark: "operations"; for the CMTA.DACS (Infrastructure) V2.0: "infrastructures".

Applicant's [operations and infrastructures]², whether due to fraud or error. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our opinion.

Opinion

<Opinion for the right to use the Certification Mark CMTA.DACS V2.0>

In our opinion, the Applicant's operations and infrastructures comply with the requirements and are in adherence with the recommendations set forth in §§ 3.1 to 3.5 of the DACS.

<Opinion for the right to use the Certification Mark CMTA.DACS (Operations) V2.0>

In our opinion, the Applicant's operations comply with the requirements and are in adherence with the recommendations set forth in §§ 3.1 and 3.2 of the DACS.

<Opinion for the right to use the Certification Mark CMTA.DACS (Infrastructure) V2.0>

In our opinion, the Applicant's infrastructures comply with the requirements and are in adherence with the recommendations set forth in §§ 3.3 to 3.5 of the DACS.

Reliance

This opinion is rendered solely to the CMTA for the purposes of authorizing the Company to use the certification mark [CMTA.DACS V2.0 / CMTA.DACS (Operations) V2.0 / CMTA.DACS (Infrastructure) V2.0].² It may not be used, circulated, quoted, referred to or relied upon by any person other than the CMTA nor for any other purpose without our prior written consent. Notwithstanding the foregoing, this opinion may be disclosed without such consent (i) to the corporate bodies, employees, contractors or auditors of the CMTA, or (ii) in the context of any enquiry or litigation involving the CMTA or its corporate bodies, employees or contractors relating to the proper implementation of the DACS or the Terms of Use, in each case, on the basis that such disclosure is made solely to enable the person making the enquiry to be informed that an opinion has been given and to be made aware of its terms, but not for the purpose of reliance by such person.

Yours sincerely,

[Signature]