



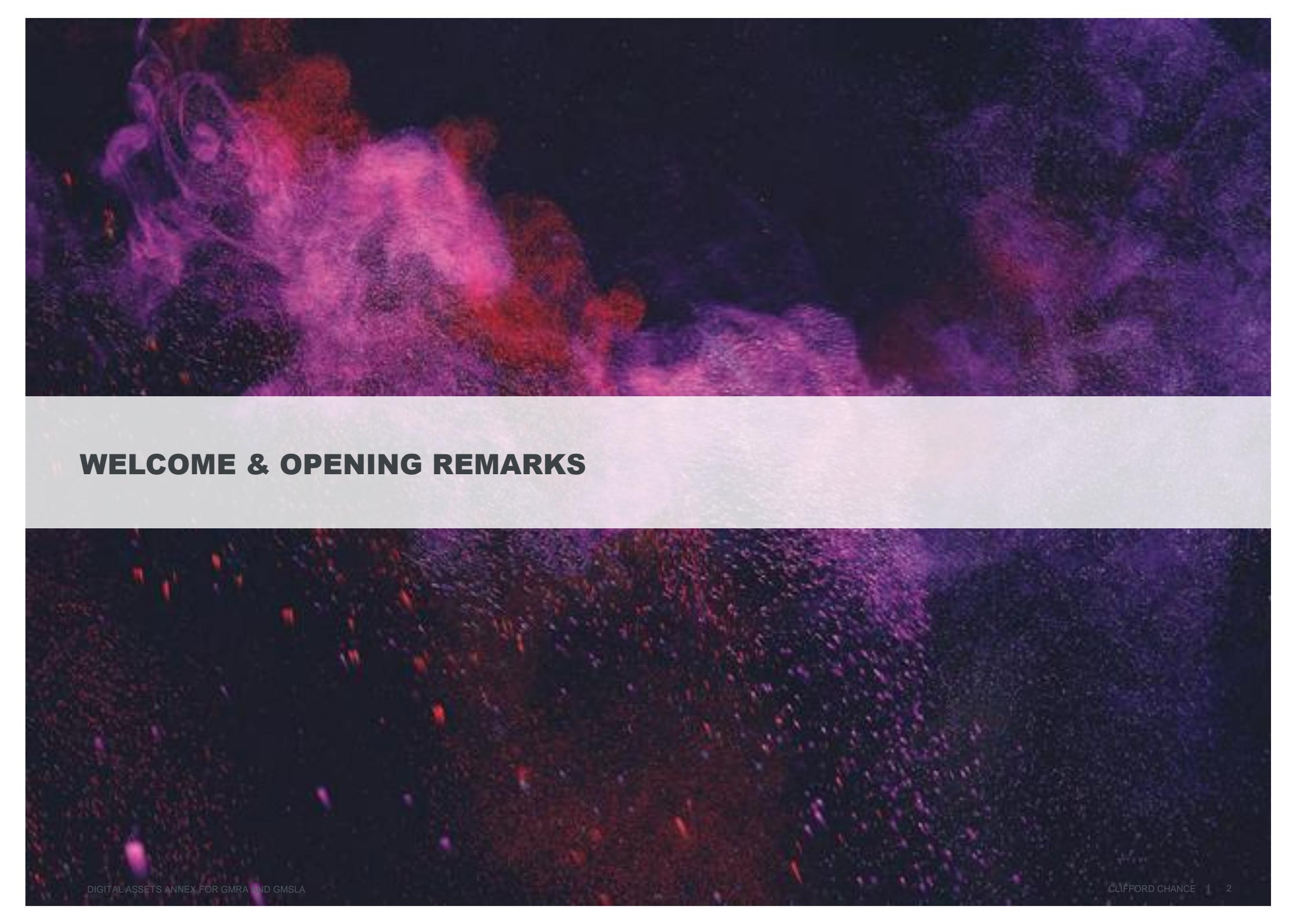
ICMA

International  
Capital  
Market  
Association

ISLA<sup>®</sup> INTERNATIONAL  
SECURITIES LENDING  
ASSOCIATION

C L I F F O R D  
C H A N C E

**DIGITAL ASSETS ANNEX FOR GMRA AND GMSLA  
SEPTEMBER 2024**

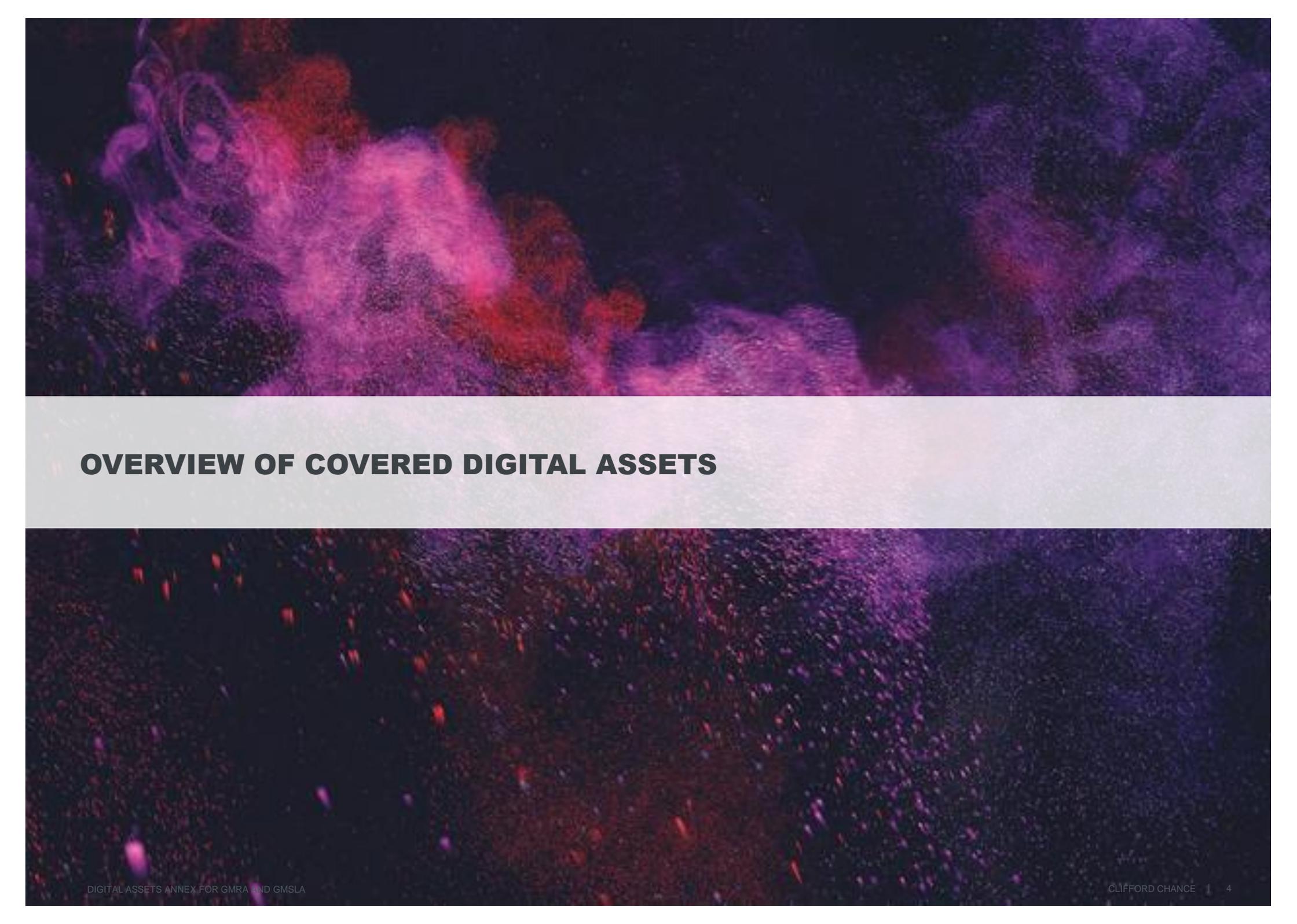
The background of the slide is an abstract, artistic composition of light trails. The top half features a dark, almost black background with vibrant, swirling patterns of purple and magenta light. The bottom half is dominated by a dense field of small, bright purple and red particles, creating a sense of depth and movement, similar to a starfield or a microscopic view of light. A horizontal white band is positioned across the middle of the slide, containing the main title.

## **WELCOME & OPENING REMARKS**

# AGENDA

- 1** OVERVIEW OF COVERED DIGITAL ASSETS
- 2** KEY AMENDMENTS TO STANDARD TERMS
- 3** VARIATIONS BETWEEN FORMS OF DIGITAL ASSET ANNEX
- 4** KEY TAKEAWAYS





## **OVERVIEW OF COVERED DIGITAL ASSETS**

# COVERED DIGITAL ASSETS

## Platform Transferred Securities

- Property of the holder is a traditional security.
- Technology is used to more efficiently transfer that security, typically on a near instantaneous basis.

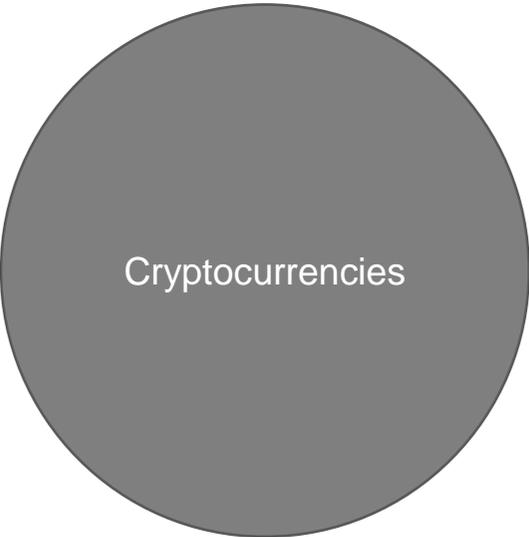
## Asset-backed Digital Assets (including Tokenised Traditional Securities)

- Property of the holder is a digital asset.
- That digital property has underlying property of some kind (for example, a traditional security).

## Digital Cash

- This may be a central bank digital currency or a tokenised deposit.
- Often important to enable delivery versus payment in respect of digital assets.

# PROMINENT CATEGORIES OF DIGITAL ASSET THAT ARE NOT COVERED



## Cryptocurrencies

- Examples include Bitcoin and Ethereum.
- Significant numbers of bespoke provisions required and an area of lesser focus for traditional market participants.



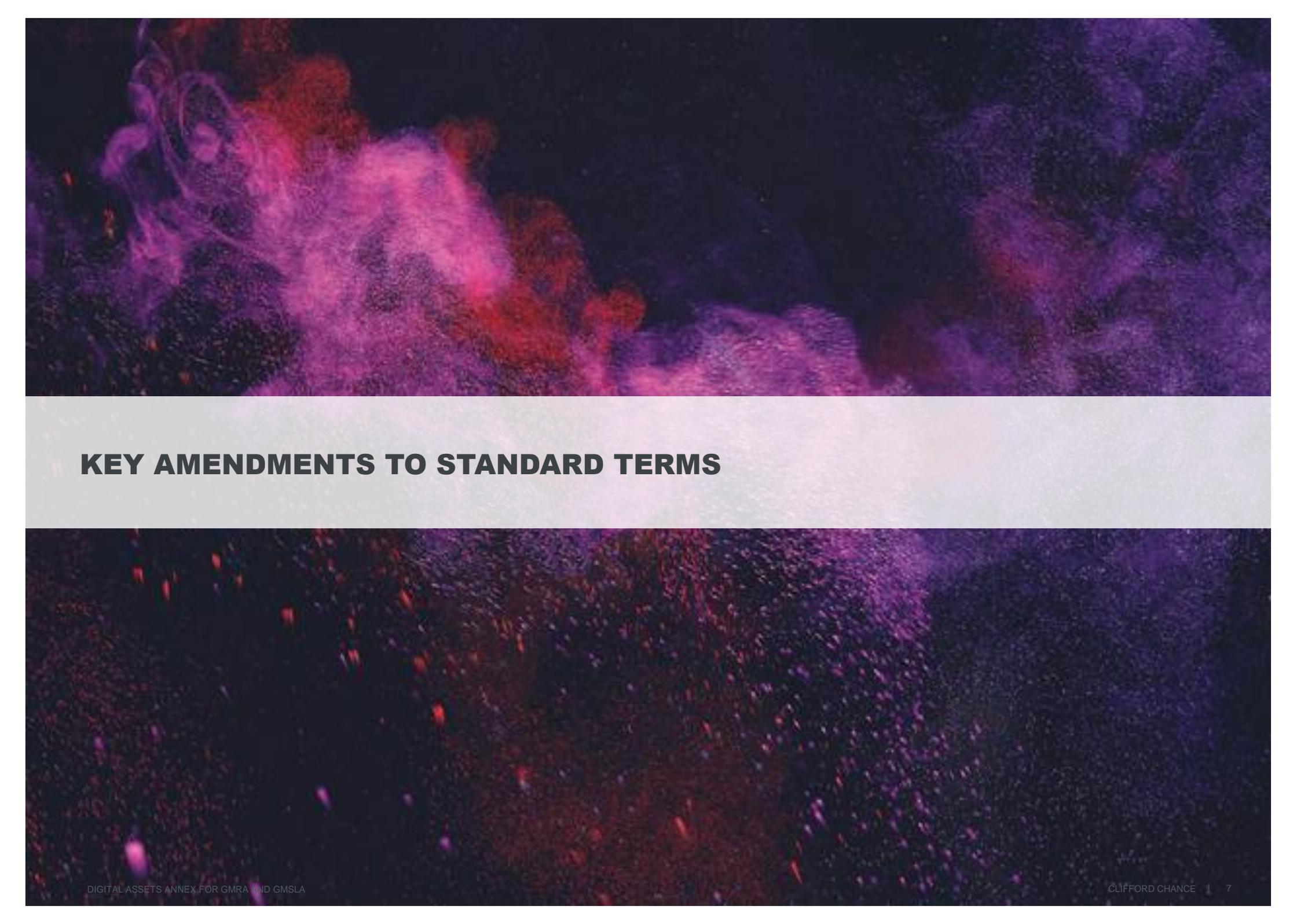
## Native Digital Bonds

- Actively considered by the working group but not covered at this stage.



## Other categories of Token

- A wide range of tokens exist in the market that would be out of scope, for example tokens that are used to access platforms or services.



## **KEY AMENDMENTS TO STANDARD TERMS**

# KEY AMENDMENTS

## Technical/drafting

- Amendments to cover scope and interpretation.
- Covered Digital Assets are defined.
- Clarifications regarding certain provisions of the relevant master agreement.

## Equivalent Securities

- Amendments to clarify which assets are “equivalent” to Asset-backed Digital Assets.
- Non-Defaulting Party may elect to treat the Underlying Asset as equivalent to the relevant Asset-backed Digital Asset for the purposes of calculating the Default Market Value.

## Market Value

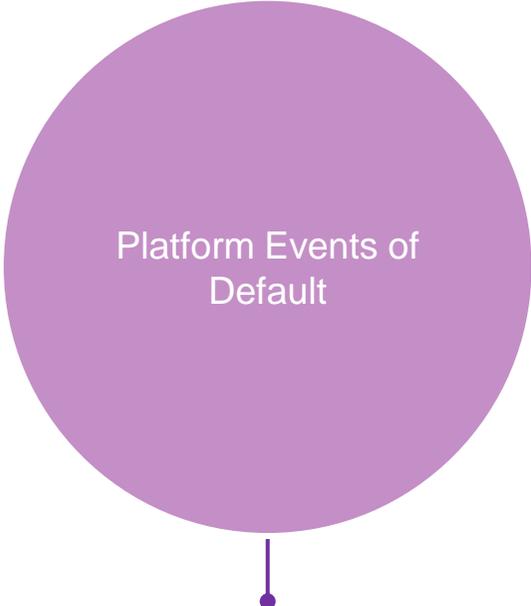
- Parties may agree that Market Value of any Asset-backed Digital Asset shall be determined by reference to the value of the Underlying Asset in the case of Asset-backed Digital Asset.
- This does not change the existing position under the master agreement.

# KEY AMENDMENTS



## Terminable on demand

- Platform Loans terminable on demand if a Platform Event occurs. This does not immediately result in cash close-out (but may if the trade cannot settle).
- This is intended to capture circumstances where Platform becomes inoperable (or inaccessible) without the fault of either party.
- Collateral in the form of Digital Cash or Asset-backed Digital Assets is excluded from collateral calculations.



## Platform Events of Default

- Event of Default covering fault-based events in relation to a Platform.
- Only trades relevant to the applicable Platform terminate.
- Different treatment where relevant Digital Assets include Digital Cash and/or Asset-backed Digital Assets vs Platform Transferred Securities.

# KEY AMENDMENTS



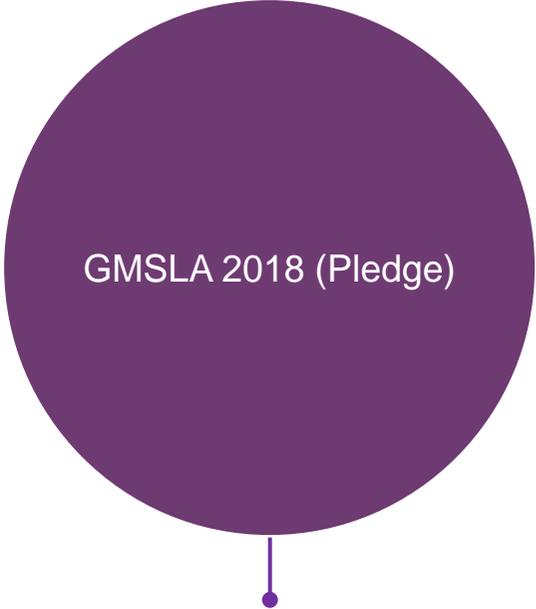
Parties may amend  
Digital Assets Annex  
as necessary

- It is anticipated that many parties will seek to amend the Digital Assets Annex to fit their particular use cases and transactions.
- The Annex also flags circumstances where the parties may wish to agree a particular approach (e.g. in respect of Market Value or waiving an event that would make a trade terminable on demand).



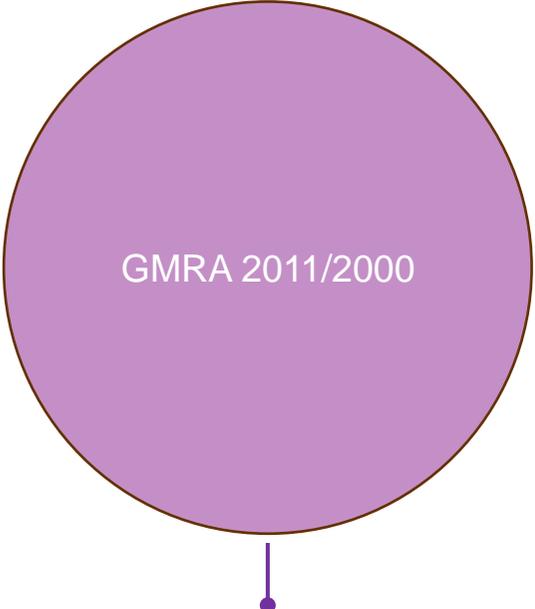
## **VARIATIONS BETWEEN FORMS OF DIGITAL ASSET ANNEX**

# VARIATIONS BETWEEN FORMS OF THE DIGITAL ASSET ANNEX



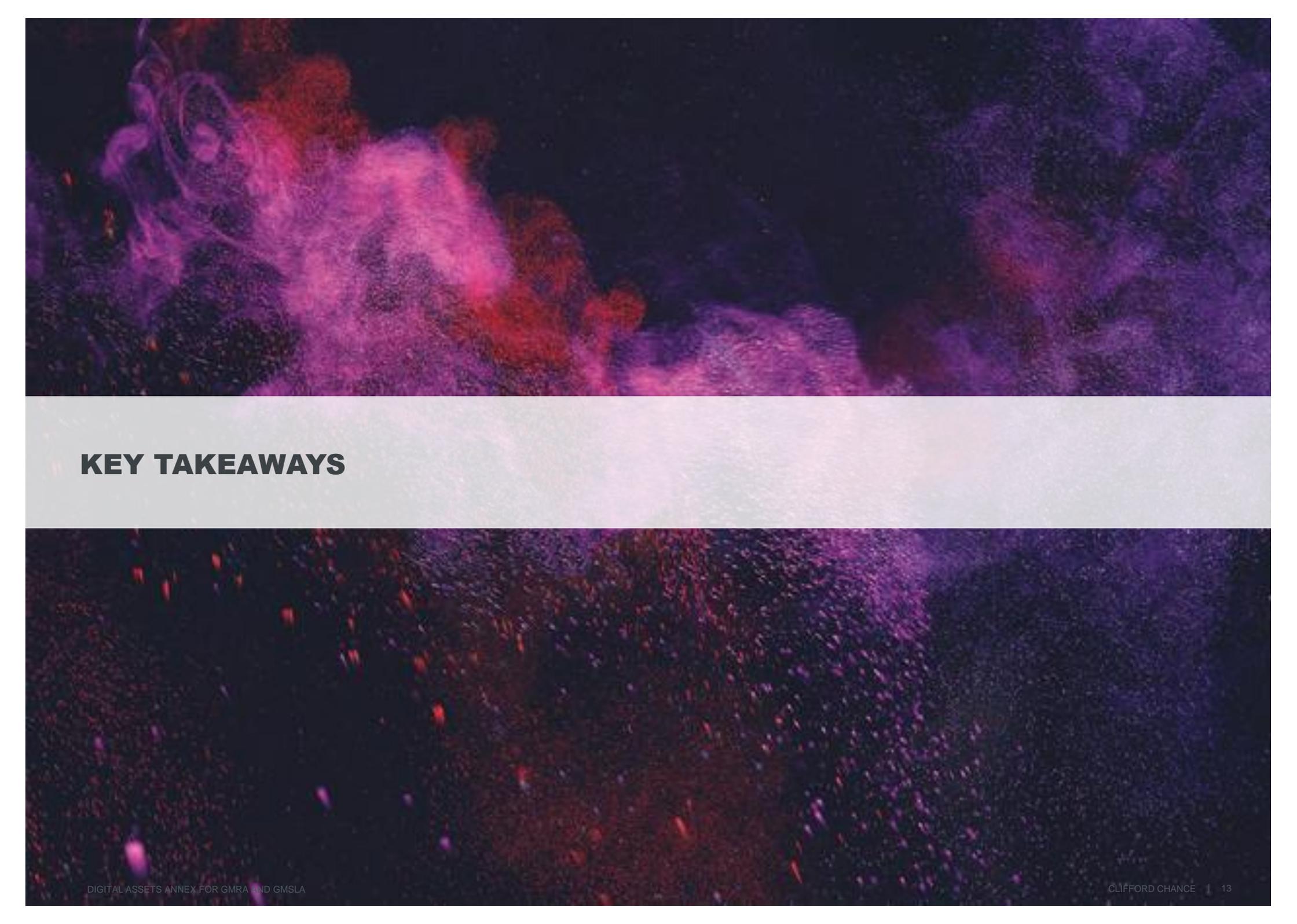
## GMSLA 2018 (Pledge)

- Only covers transactions where Loaned Securities consist of Asset-backed Digital Assets or Platform Transferred Securities.
- The position where collateral consists of Digital Assets is not covered.



## GMRA 2011/2000

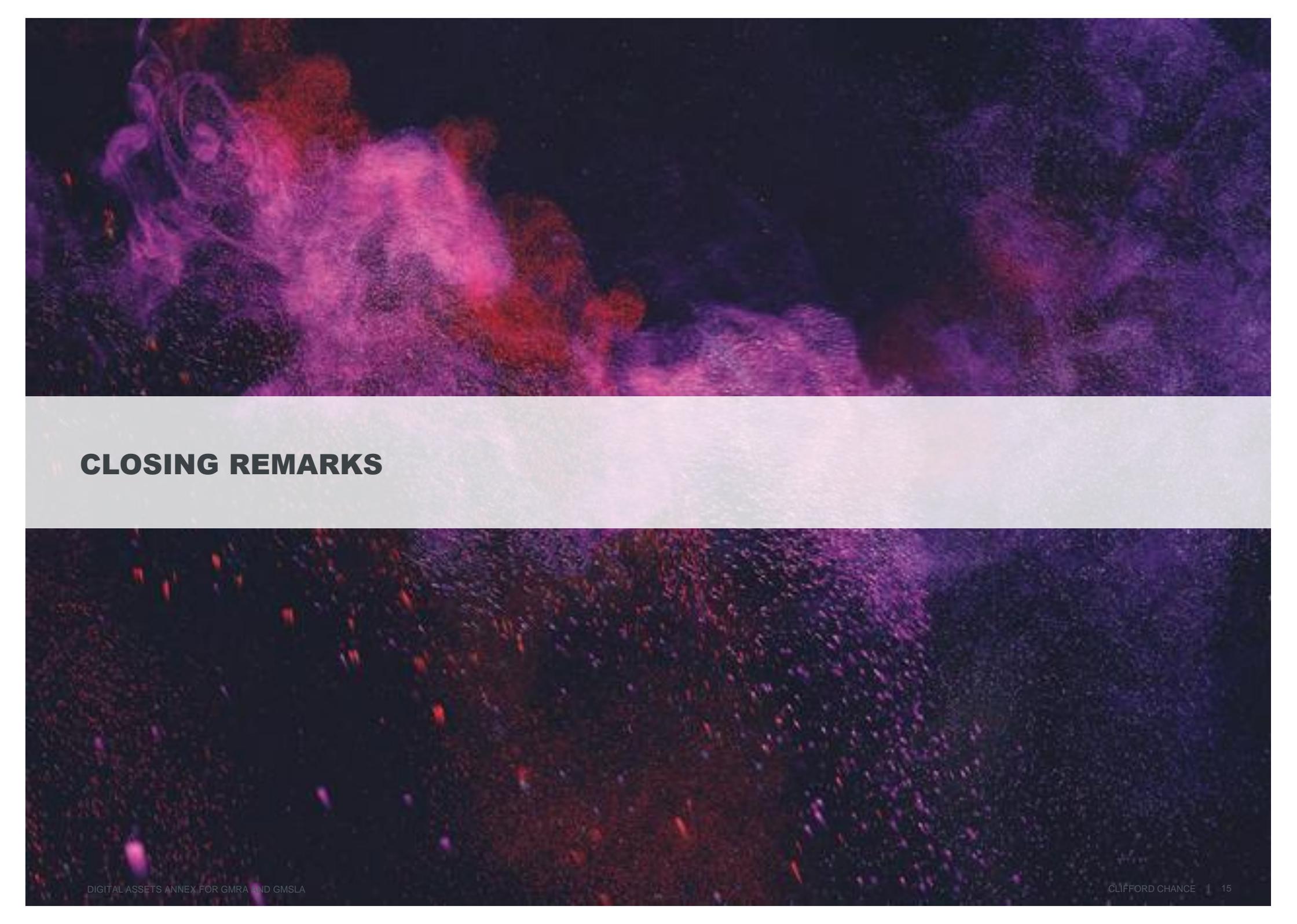
- Intraday Transactions covered. Not perceived as necessary for the GMSLA, this is an area of focus for GMRA documentation.
- Changes to reflect differences in terminology between GMRA and GMSLA documentation.
- No material differences between the GMRA annexes.



## KEY TAKEAWAYS

## KEY TAKEAWAYS

- Consider carefully whether a given use case is within scope of the Digital Assets Annex
- Review any given use case to determine whether it is appropriate to hardwire agreement on specific points in Digital Assets Annex and/or whether to include bespoke provisions
- Remember to think about wider documentation
- If you are using the Digital Asset Annex and have a new use case – reexamine the above analysis – the answers may be different!
- Regulatory requirements
- To extent structure involves a security interest, think carefully about how that works.
- Think about legal opinion coverage.



## **CLOSING REMARKS**

# CONTACTS



**DEENA SEOUDY**  
ICMA, Senior Director

**E** Deena.Seoudy  
@icmagroup.org



**TINA BAKER**  
ISLA, Head of Legal  
Services

**E** tinajbaker@islaemea.  
org



**MICHAEL BROWN**  
Clifford Chance LLP,  
Partner

**T** +44 20 7006 8359  
**E** Michael.Brown  
@CliffordChance.com



**SAMUEL STEINERT**  
Clifford Chance LLP,  
Associate

**T** +44 20 7006 1945  
**E** Samuel.Steinert  
@CliffordChance.com