

FTH GOLD — Solicitation Gates & Red-Lines

Memo

DRAFT FOR OUTSIDE COUNSEL · NOT AN OFFERING · NOT ISSUED Prepared for
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20235065 Context: FTH GOLD (2 troy oz 24k/token; transferable; redeem after 5y; FTH
callable anytime; Unykorn rails; TRC20 plan). Risk Capital NOT READY. Full PPM
drafting in parallel; blanks not filled.

Purpose. Internal gates memo for outside counsel. It explains why proposed marketing / pre-sell activity toward a list of ~40,000 persons described as "accredited investors" is **blocked** before launch until named outside counsel signs off in writing. This memo is not legal advice, not an offer, and contains no investor-facing copy. Securities status of FTH GOLD (Howey / investment contract / commodity receipt) is **UNKNOWN**. Availability of any exemption is **UNKNOWN**.

1. Why no offering language until PPM blanks are filled and counsel has opined

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1. **Material facts are ABSENT.** The following are not yet established, so no communication can accurately describe the product:
2. Gold reserves / proof of holdings — **ABSENT** [[FILL: reserve evidence, location, assay, attestation provider]]
3. Custodian / vault and custody agreement — **ABSENT** [[FILL: custodian name, agreement, insurance]]
4. Price per token and pricing method — **ABSENT** [[FILL]]
5. Offering size (min/max) — **ABSENT** [[FILL]]
6. Use of proceeds — **ABSENT** [[FILL]]
7. Call price / call mechanics and redemption mechanics — **ABSENT** [[FILL]]
8. Financial statements, cap table, affiliate arrangements (Unykorn / FutureTech) — **ABSENT** [[FILL]]
9. **No counsel opinion** on classification (security vs. commodity / receipt), exemption path, or state requirements. Howey status: **UNKNOWN**.
10. **Anti-fraud exposure applies regardless of exemption.** Statements about an offering made while material facts are missing or unverified risk being misleading by omission (federal and state anti-fraud provisions — counsel to confirm scope).
11. **"Conditioning the market."** Pre-launch materials that build interest in a specific future token sale may themselves be treated as an offer. Counsel question: does any pre-launch communication by FTH constitute an "offer" under federal law and Georgia law?
UNKNOWN.
12. **Staging site and AI-generated materials are high-risk.** The staging site (<https://fth.genesis402.com>) and any AI-drafted text that describes price, returns, allocations, gold backing, or purchase steps may read as an offer. Recommended hold (pending counsel): staging site behind access control or carrying NOT AN OFFERING / NOT ISSUED notices; no

2. Rule 506(b) vs Rule 506(c) — options for counsel, not a recommendation

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Topic	506(b) (option)	506(c) (option)
General solicitation / advertising	Prohibited	Permitted
Investor type	Unlimited accredited + up to 35 non-accredited (sophisticated; enhanced disclosure if any)	Accredited only
Accredited status	Reasonable belief; self-certification commonly used (counsel to confirm)	Issuer must take reasonable steps to verify each purchaser
Pre-existing relationship	Key to avoiding general solicitation	Not required
Form D	Due within 15 days after first sale (counsel to confirm)	Same
Bad-actor (Rule 506(d))	Applies	Applies

Implications of a ~40k "accredited investor list" — questions for counsel: - **Source of list:** purchased / rented / scraped / prior relationships? [[FILL: provenance of list]] A purchased list generally lacks pre-existing substantive relationships with FTH, which bears on 506(b) availability. **UNKNOWN.** - **Mass outreach** to 40k persons without a pre-existing relationship is likely to be analyzed as general solicitation — counsel to determine whether this forecloses 506(b). - **Accredited status of the list:** none assumed. Labels from a list vendor are not verification. - **Verification at scale (506(c)):** methods (tax returns/W-2 review, bank/brokerage statements + credit report, third-party letter from CPA/attorney/RIA/broker-dealer, minimum-investment approach per 2025 SEC staff guidance — counsel to confirm current status), third-party verification vendors, cost and timing. [[FILL: verification method + vendor]] - **Intermediaries:** any finder, platform, or person compensated for introductions — broker-dealer registration questions. [[FILL]] - **Form D:** timing, content (offering amount, sales compensation, related persons), and whether "general solicitation" box is checked. **UNKNOWN; not filed; not assumed filed.** - **Reg S (option):** offshore-only component; directed-selling-efforts restrictions interact with any US marketing. **UNKNOWN.** - **Integration:** interaction with any other FTH / Unyorn / USDF raise. **UNKNOWN.** - **Token transferability:** Reg D securities are restricted; freely transferable TRC20 design vs. resale restrictions (Rule 144 / transfer controls on Unyorn rails). **UNKNOWN.**

2A. EDGAR / staff research flags (for counsel — not conclusions)

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Research notes (box path): /workspace/artifacts/fth-gold/legal/ppm/EDGAR-comps-2026-10-27.md (2026-10-27). Form D full-text indexing still open.

1. **Coro Global / Hash Labs (CXAU)** — SEC staff correspondence (CORRESP 2018-12-31; staff UPLOAD 2019-03-01). Staff treated a **transferable gold-backed token** as appearing to be a **security**. Links in the comps memo. **Counsel flag for FTH GOLD:** locked terms include transferability + delayed holder redemption + issuer call — classification remains **UNKNOWN**; do not treat commodity-receipt theory as settled. Cite only for risk-factor / *Howey questions*, not as a determination that FTH GOLD is or is not a security.
2. **LODE Payments International LLC** — Form 1-A/A Reg A offering circular (2021-08-31) usable for **section skeleton** patterns (risk factors, plan of distribution, use of proceeds, legends), not as a Reg D template. URL in comps memo.
3. **506(b)/(c) and the ~40k list:** comps memo restates that pre-marketing is governed by whether general solicitation is used — **no general solicitation** without a counsel-cleared **506(c)** path **plus** accredited-investor verification at scale. Purchased/unverified lists do not satisfy verification.

3. Pre-buy / reservation / discount structures

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Each structure below can look like an offer or sale of a security or investment contract. **All must wait** until (a) exemption path, (b) completed PPM, (c) legends, and (d) verification process are counsel-cleared in writing.

Structure	Why it raises offer/sale concern (for counsel)	Status
Reservations / "reserve your tokens"	Commitment to buy at future sale; may be offer + conditional sale	BLOCKED
Waitlist with deposit	Funds taken = possible sale; escrow/refund terms ABSENT	BLOCKED
Waitlist without deposit	Lower risk but may still condition market if tied to price/allocation	Counsel decision [[FILL]]
Early-commit discounts	Pricing inducement tied to investment decision	BLOCKED
SAFT-like / future-token agreements	Typically treated as securities themselves	BLOCKED
IOUs / pre-mint credits / vouchers	Claim on future tokens; possible security	BLOCKED
"Guaranteed allocation"	Implies commitment and scarcity; offer language	BLOCKED
Referral / affiliate rewards	Possible unregistered broker compensation	BLOCKED

Structure	Why it raises offer/sale concern (for counsel)	Status
Letters of intent / soft-circle	Indications of interest — counsel to address whether permissible and under what legends	Counsel decision [[FILL]]

Missing facts: price [[FILL]], escrow agent [[FILL]], refund terms [[FILL]], reserve/custody — ABSENT.

Structural note for counsel: holder redemption only after 5 years combined with FTH's call right at any time creates an asymmetry (issuer can exit, holder cannot) that must be disclosed in any communication and bears on classification. Howey: **UNKNOWN**.

4. Georgia blue sky + federal legends — categories only

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If counsel ever clears limited communications, categories typically considered (counsel to select and word): - **Not-an-offer legend:** not an offer to sell or solicitation of an offer to buy; any offer only by definitive PPM. - **Unregistered securities legend:** not registered under the Securities Act of 1933 or state securities laws; offered under claimed exemption [[FILL: exemption]]. - **Restricted / transfer legend:** resale restrictions; holding period; transfer controls. - **Accredited-only legend** (if applicable) and verification notice. - **No regulator approval:** SEC and Georgia Commissioner of Securities have not approved or passed on merits/accuracy. - **Risk legend:** speculative; total loss possible; illiquidity; 5-year redemption lock; issuer call at any time. - **Forward-looking statements** disclaimer. - **AI-generated content** notice: content reviewed by counsel; no reliance on unapproved AI output. [[FILL: counsel policy on AI materials]] - **Not a payment stablecoin / not a deposit / not FDIC/SIPC insured.** - **Jurisdictional / Reg S** restrictions if offshore component.

Georgia (issuer domicile) — questions for counsel, not conclusions: - Georgia Uniform Securities Act (O.C.G.A. § 10-5) treatment of offers made *from* Georgia. - Rule 506 "covered security" status: state notice filing (Form D) and fees in Georgia and each purchaser's state — timing. **UNKNOWN**. - Georgia money transmitter / MSB (and FinCEN) questions for Unykon rails, redemption, and TRC20 transfers. **UNKNOWN**. - Exposure in other states where list recipients reside. [[FILL]]

5. RED LINES

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🚫 NO SENDING of any investor marketing, pre-sell, reservation, waitlist, or "accredited list" outreach until named outside counsel signs off in writing.

Named counsel: [[FILL: firm, attorney, date of written sign-off]]

- **No Form D is assumed filed.**
- **No accredited status is assumed** for any of the ~40,000 persons on the list.
- **No exemption is assumed available.** Howey / security status: **UNKNOWN**.
- **No funds, deposits, commitments, or wallet connections** accepted.

- **No price, yield, return, appreciation, or allocation statements** in any channel (site, social, email, AI chat, DMs).
- **Staging site:** no purchase or reservation functionality; NOT ISSUED.
- **USDF / GENIUS Act:** do **not** market FTH GOLD as a payment stablecoin. USDF is a **SEPARATE** product and is **BLOCKED** for US persons absent a permitted payment stablecoin issuer. No cross-promotion of USDF with FTH GOLD.
- **Risk Capital: NOT READY.**
- Any AI-generated materials must be held in draft, not distributed, pending counsel review.

Gate checklist (all required before any outreach)

- ☐ PPM complete; all [[FILL]] resolved
- ☐ Reserves + custody evidenced (currently ABSENT)
- ☐ Classification memo from counsel
- ☐ Exemption selected by counsel [[FILL]]
- ☐ Verification process + vendor (if 506(c)) [[FILL]]
- ☐ Legends approved
- ☐ Blue sky plan (GA + recipient states)
- ☐ MTL/MSB analysis
- ☐ Written sign-off from named outside counsel

End of memo — DRAFT FOR OUTSIDE COUNSEL · NOT AN OFFERING · NOT ISSUED