Crypto
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Innovation

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April 19, 2023

The Honorable Tim Grayson
Chair, Assembly Committee on Banking & Finance
1021 O Street, Suite 5510
Sacramento, CA 95814

Re: AB 39 Digital financial asset businesses: regulatory oversight- OPPOSE UNLESS AMENDED

Chair Grayson,

Thank you for the opportunity to engage with you and your staff on Assembly Bill 39. The Crypto Council for Innovation (CCI) is currently in an Oppose Unless Amended position on this bill. As AB 39 moves through the legislative process, we look forward to continuing the discussion with you regarding our remaining concerns as summarized below.

CCI is a global alliance of industry leaders in the digital asset and Web3 sectors that serves to educate consumers and policymakers and advocate for policy that spurs responsible innovation. Our members include Andreessen Horowitz, Block, Coinbase, Electric Capital, Fidelity Digital Assets, Gemini, OpenSea, Paradigm, and Ribbit Capital. We believe that trusted partnership between government and business stakeholders is key to crafting inclusive policy that benefits consumers and industry alike.

CCI is grateful for the progress the Committee has made in addressing industry concerns following Governor Newsom's veto of AB 2269, including the expedited licensing pathway for businesses operating in compliance with New York's virtual currency business activity regulations and the exemption for smaller digital asset businesses. CCI encourages the Committee to continue building on this progress by amending the bill to increase clarity, address burdensome compliance requirements, and continue fostering innovation in California.

The legislature must work to increase clarity and improve communication structures in the bill, so that expectations for potential licensees and regulators are better aligned. In order to ensure regulated entities are best positioned to compete in a crowded marketplace, the legislature should provide concrete application and review timelines, narrow the scope of the overly broad digital financial asset business activity definition, and ensure licensees are provided written notice before examinations. Additionally, the legislature must expand the federal registration exemption to include entities registered with the Commodity Futures Trading Commission (CFTC) and clarify the mergers and consolidation approval authority it is granting regulators.

Burdensome and expensive compliance requirements, including complex reporting criteria for covered exchanges and short turnaround times go beyond what is traditionally expected of financial services institutions, including by the NY virtual currency licensing regime. The 24/7 live customer service telephone line requirement is especially prohibitive for businesses of any size. No other comparable industry is required to meet this standard. For example, money transmitters in California are only required to provide live customer service over the phone during normal business hours. Less restrictive alternatives like leaving a message, email, or text with reasonable response expectations would allow industry to meet consumers where they are without stagnating this sector's growth in California. All application, reporting, disclosure, and recordkeeping requirements should be also limited to information pertaining to licensed digital financial asset business activity.

We urge the legislature to preserve the state's competitive edge by continuing to foster innovation. In this regard, CCI applauds the author for including an exemption for smaller digital financial asset business activity. We encourage the legislature to increase this exemption to $2,000,000 to accommodate early stage digital asset startups. The legislature should also consider expanding its conditional licensing approach to allow reciprocity for entities licensed or chartered under the New York virtual currency licensing regime.

Lastly, the proposed ban on algorithmic stablecoins unnecessarily paints all algorithmic stablecoins with a broad brush and ignores the complexity in this space. Risks posed by these stablecoins are better attributed to the design of their collateralization than their use of algorithms.[1] Transparent standards in this regard could eliminate the risk of systemic harm without hindering innovation. A blanket ban on stablecoins may also result in other unintended consequences, such as disrupting financial markets and causing significant user losses.

Digital assets and blockchain applications more generally are significant and evolving technological innovations with many use cases developed under a variety of business models. These innovations have the potential to bring increased transparency, security, efficiency, and inclusion not only to financial services, but to other sectors as well.

We appreciate the opportunity to provide input on this important legislation and look forward to working with you to continue promoting responsible digital asset innovation.

Sincerely,

Sheila Warren
Chief Executive Officer
Crypto Council for Innovation

[1] CCI Comment Letter: Consultations on the International Regulation of Crypto-Asset Activities: a Proposed Framework - questions for consultation (Oct. 11, 2022)