

July 25, 2023

The Honorable Susan Moran
Massachusetts State Senator
24 Beacon St., Room 312-D
Boston, MA, 02133

Senator Moran,

Thank you for the opportunity to provide feedback on S 690. As the legislation develops, we write to respectfully request amendments that will provide increased clarity for future licensees and allow Massachusetts to continue fostering innovation in the digital asset space.

The Crypto Council for Innovation (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. We use an evidence-based approach to support governments worldwide that are shaping and encouraging inclusive regulation of this innovative technology.

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. State-based frameworks can serve as an efficient and effective regulatory model for our industry. As you consider legislation to promote responsible digital asset innovation, CCI respectfully submits that the policies should be guided by key principles, including:

- Legislation and regulation should be tailored to address the unique characteristics of digital assets – and carefully consider the nuances within the space.
- Legislation should take a strategic and forward-looking approach.
- Legislation and regulation should create a level playing field for industry participants.
- Legislation and regulation should promote responsible innovation while putting in place appropriate protections for consumers and investors.
- Legislation should take a deliberate and thoughtful approach to definitions and categorization.

With these principles in mind, please consider the following issues before advancing S 690:

- Please provide additional clarity on certain definitions, including, “virtual currency,” “virtual currency business activity,” and “Massachusetts customer.”
 - We are encouraged by the exemptions in the definition for “virtual currency,” including those for consumer affinity and rewards programs. The legislature should explicitly exempt decentralized finance (DeFi) protocols. DeFi is an emerging area of blockchain-enabled financial services and instruments that do not involve the use of intermediaries. In a decentralized system, no one particular entity controls the protocol, and a protocol cannot

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incorporate subjective determinations that traditional finance regulations sometimes require. Unlike the protocol layer, businesses and developers of DeFi applications do not have the same constraints with respect to subjective determinations. They can comply with different jurisdictional regulations and design flexible access points that minimize legal and regulatory risks. An appropriately tailored regulatory framework for DeFi should involve the regulation of centralized, business-owned applications or onboarding access points to protocols, not protocols or software themselves.

- Please also narrow the definition of “Massachusetts customer” to include Massachusetts residents residing or conducting business in the state. The current definition could inadvertently capture travelers moving through the state temporarily.
- S 690 should include a clear definition and specific criteria for “material change.” This would mutually benefit the Division of Banks and potential licensees by ensuring better communication and a closer alignment of expectations, including the ability to provide needed information during the registration process.
- The legislature should consider provisions to allow reciprocity with similar state licensing regimes. Other states, including California and Illinois, have included expedited licensing pathways in legislation for entities licensed or chartered under the New York virtual currency licensing regime. Harmonizing licensing requirements with other states, including by utilizing the Nationwide Multistate Licensing System (NMLS), can improve efficiency and reduce costs for both regulators and industry.
- Risk disclosures and advertising requirements should be refined to prevent operational challenges. Interrupting or preventing transactions can pose especially technical difficulties for decentralized platforms or entities without custodial capabilities. Maintaining hard copies of advertising and marketing materials for overly extended periods of time can also be problematic for digitally native businesses.
- In order to ensure regulated entities are best positioned to compete in a crowded marketplace, the legislature should provide concrete guidance on timelines for applications, reviews, risk disclosures, and corrective measures. Licensees should be provided written notice before examinations and defined criteria that would justify preventive injunctions regarding suspected violations. Licensees must be allowed to receive automated clearing house (ACH) payments to ensure interoperability with traditional financial institutions.
- We encourage the legislature to be proactive in assessing resource considerations from this legislation, as crypto and blockchain technology are underpinned by fundamentally new operational, technical, and business models. The Division of Banks must be equipped with increased staffing as well as appropriate technology, education, and training opportunities suited to conduct adequate industry oversight.

We appreciate the opportunity to provide input on this important legislation.

Sincerely,

A handwritten signature in black ink, appearing to be 'S. Warren', with a long horizontal flourish extending to the right.

Sheila Warren
Chief Executive Officer
Crypto Council for Innovation

A handwritten signature in black ink, appearing to be 'J. Kim', with a long horizontal flourish extending to the right.

Ji Hun Kim
General Counsel & Head of Global Policy, Digital Assets
Crypto Council for Innovation

CC: Senator Paul Feeney
Representative James Murphy