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THE UNIFORM LAW COMMISSION RELEASES FINAL VERSION OF THE UNIFORM REGULATION OF VIRTUAL CURRENCY BUSINESSES ACT

The Uniform Law Commission (“ULC”) has released the final version of the Uniform Regulation of Virtual Currency Businesses Act (“Act”). The Act provides a uniform statutory structure states can adopt to regulate persons engaged in “virtual-currency business activities,” which includes exchanging, transferring or storing virtual currency or engaging in virtual-currency administration, whether directly or through an agreement with a virtual-currency control-services vendor.

The ULC adopted a technology-neutral definition of “virtual currency” — a digital representation of value that is used as a medium of exchange, unit of account or stored value and is not legal tender, whether or not denominated in legal tender. The term excludes certain value granted by merchants as part of an affinity or rewards program or issued by a publisher of a game platform.

The Act sets forth a number of exemptions, including (i) a person whose virtual-currency business activities is reasonably expected to be valued in the aggregate on an annual basis at \$5,000 or less; (ii) a person that does not receive compensation from a resident for providing virtual-currency products or services or conducting virtual-currency business activity; (iii) certain banks; and (iv) a person licensed by the state as a money transmitter subject to certain conditions.

The Act applies only to regulated persons whose product or service being offered deals with virtual currency and qualifies as “virtual-currency business activity.” Different licensure applies to regulated persons based on the annual volume of their “virtual-currency business activity” in U.S. dollar equivalent of virtual currency. A person whose annual volume exceeds \$35,000, is subject to full licensure. A person, whose volume is \$35,000 or less but greater than \$5,000 must register with the state and is subject to less stringent registration requirements. A company may maintain a registration for only a limited time. A person whose annual volume is \$5,000 or less is exempt from the Act. The ULC sought to ease the licensing burden by including a provision in the Act addressing reciprocity between states that regulate virtual-currency business

activity.

The Act contains other notable substantive provisions. Licensees and registrants must provide specific disclosures before establishing a relationship with a resident and at the conclusion of a virtual-currency transaction, including disclosures regarding unauthorized transactions, the right to stop pre-authorized payments and unauthorized or mistaken transfers or exchanges. Licensees and registrants are also required, prior to application, to establish and maintain policies and procedures prescribed in the Act, including policies and procedures addressing compliance with state virtual-currency businesses acts, an anti-fraud program, an anti-money-laundering program and an information security program. The policies and procedures to ensure compliance with state virtual-currency businesses acts must be approved by the state.

The Act is modeled after the ULC’s Uniform Money Services Act. The Act has already been introduced in the Nebraska legislature but has not been introduced in any other state. We will continue to monitor the states’ reaction to the Act. If you have any questions about the Act or state money transmission laws, please let us know. ☐

✧ *Mike Tomkies, Susan Manship Seaman and Lindsay Valentine*

Darrell L. Dreher
ddreher@dtlaw.com

Elizabeth L. Anstaett
eanstaett@dtlaw.com

Emily C. Cellier
ecellier@dtlaw.com

Susan L. Ostrander
sostrander@dtlaw.com

2750 HUNTINGTON CENTER
41 S. HIGH STREET
COLUMBUS, OHIO 43215
TELEPHONE: (614) 628-8000 FACSIMILE: (614) 628-1600
WWW.DTLAW.COM

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Michael C. Tomkies
mtomkies@dtlaw.com

Susan M. Seaman
sseaman@dtlaw.com

Lindsay P. Valentine
lvalentine@dtlaw.com

Judith M. Scheiderer
jscheiderer@dtlaw.com

Robin R. De Leo
robin@deher-la.com