



December 16, 2020

MULTIPLE CRYPTOCURRENCY COMPANIES APPLY FOR OCC BANK CHARTER

Over the past month, three cryptocurrency companies filed for a bank charter with the Office of the Comptroller of the Currency (“OCC”).

In November, Anchorage, a digital asset custodian, filed an application for a national trust charter with the OCC. Anchorage’s General Counsel announced in a statement that a national bank charter would be significant for the following reasons: (i) it would put Anchorage on par with other national banks from a regulator perspective, making it easier for traditional banks to offer crypto services through sub-custody arrangements with Anchorage; (ii) it would preempt existing piecemeal regulatory structure and certain requirements at the state level; and (iii) it significantly increases the flexibility of the products and services Anchorage can offer to existing clients.

On December 8, 2020, BitPay, a cryptocurrency payments company, filed an application with the OCC to create a national bank named the BitPay National Trust Bank. BitPay has not released a formal statement regarding their application.

On December 9, 2020, Paxos, a cryptocurrency services firm and stablecoin issuer, submitted its application for a national trust charter with the OCC. In a blog post, Paxos’s General Counsel stated that the national charter would provide Paxos with flexibility to operate across the U.S. and help Paxos reach its goal of modernizing financial market infrastructure and enable the movement of any asset, any time, in a trustworthy way.

These national bank charter applications were filed after the OCC released Interpretive Letter #1170 in July. Interpretive Letter #1170 states that a national bank may provide cryptocurrency custody services on behalf of customers, including holding the unique cryptographic keys associated with cryptocurrencies. See our prior ALERT dated [Sept. 4, 2020](#).

In October, Kraken Financial became the first digital asset company to receive a specialty bank charter when the State of Wyoming approved Kraken Financial’s Special Purpose Depository Institution application. Kraken Financial is also the first regulated, U.S. bank to provide comprehensive deposit-taking, custody and

fiduciary services for digital assets. See our prior Alert dated [Oct. 12, 2020](#).

As cryptocurrencies continue to gain popularity, the digital assets also face regulatory scrutiny. In the beginning of December, several lawmakers introduced the Stablecoin Tethering and Bank Licensing Enforcement Act (“STABLE Act”). The STABLE Act would require, among other things, any prospective issuer of a stablecoin to obtain a banking charter and to notify and obtain approval from the Federal Reserve, Federal Deposit Insurance Corporation and the appropriate banking agency six months prior to its issuance. The STABLE Act also requires stablecoin issuers to obtain FDIC insurance or otherwise maintain reserves at the Federal Reserve to ensure that all stablecoins can be readily converted into United States dollars, on demand.

The STABLE Act is not the first proposed legislative attempt at regulating cryptocurrencies. In February, we reported on the draft bill titled Crypto-Currency Act of 2020. See our prior ALERT dated [Feb. 6, 2020](#). The Crypto-Currency Act was introduced on March 9, 2020 and has not had any action since being referred to the Committee on Financial Services.

Federal regulatory agencies have been grappling with how to handle and regulate digital currencies for the past few years. See, e.g., our prior ALERTS of [May 13, 2019](#) and [Mar. 28, 2018](#). As the use of digital currencies continue to evolve and increase, this area would benefit from uniform regulation. Recently, a prominent cryptocurrency firm, Ripple, threatened to move the company’s headquarters overseas due to the lack of unfavorable and piecemeal cryptocurrency regulation in the United States. An executive for Ripple stated that nearly every other country offers a more favorable regulatory climate for cryptocurrencies than the United States.

We will continue to keep you informed on cryptocurrency regulation and updates on related matters. If you have any questions, please let us know. ☐

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