

January 27, 2020

Matthew Homer
Executive Deputy Superintendent, Research & Innovation Division
New York State Department of Financial Services

Re: Proposed Coin Listing Policy Framework

Dear Mr. Homer:

We at CoinList would like to begin by thanking the New York Department of Financial Services (“NYDFS”) for requesting feedback with respect to its proposed Coin Listing Policies for Virtual Currency License holders (“VC Licensees”), including the Model Framework for the Creation of Company Coin-Listing Policies. We appreciate this opportunity to ease the burden of and provide necessary clarity to operating a virtual currency business in New York. While our organization is young, we have been at the nexus of the crypto industry and applaud attempts to bring thoughtful regulation to the space.

As background, CoinList is a family of companies that provides services to blockchain token developers and purchasers. We provide compliance services to issuers, assisting them with AML/KYC procedures and investor accreditation verification. We provide technology services for conducting and managing token sales. We have a FINRA and SEC registered broker dealer to assist with the private placement of digital assets and provide M&A advisory services. We provide online hackathons to assist token developers build their networks and communities. We also have pending virtual currency license and money transmitter applications before NYDFS in order to provide certain cryptocurrency trading and liquidation services to New York residents (in addition to approved licenses to provide money transmitter services in other states).

To be clear, our customer base is a self-selecting subset of the blockchain industry that values compliance with law. We have seen first-hand the struggles both token projects and consumers face navigating the current state of federal and state laws. The suggestions we set forth below are an amalgamation of our experience with CoinList and our broader professional experiences over the course of our careers.

We reiterate our appreciation of this opportunity to comment on these important issues and are available at your convenience for any follow-up or questions you may have.

Very truly yours,

CoinList

Georgia Quinn
General Counsel

I. List of Approved Coins

We applaud NYDFS in proposing to clearly list tokens that may be transmitted by VC Licensees. This will provide necessary certainty in an area clouded by overlapping jurisdictions and diverging interpretations.

II. Adoption of Coin-Listing Policy

We are in favor of allowing VC Licensees to establish their own internal policies (incorporating the proposed guidelines) to determine the coins they will list. This allows VC Licensees certainty around important business decisions while ensuring reasoned and thoughtful procedures are instituted to address underlying concerns of consumer protection. By allowing the adoption of a Coin-Listing Policy by VC Licensees, there is a mutual benefit: first, NYDFS can rest assured that, with minimal oversight cost, all coin listings will conform to the narrowly tailored rubric, thereby protecting New York consumers; and second, the VC Licensee is empowered by the regulatory clarity to list new coins at the pace its business dictates. Relatedly, by implementing the Company Coin-Listing Policy, NYDFS avoids inundating itself with VC Licensee requests for approval of new coin listings.

III. Policy Requirements—Risk Assessment

For the most part we support the required elements of the Coin-Listing Policies as most of these elements would already be a part of our analysis in determining what coins to support. We have only the following feedback:

First, NYDFS proposes that several pieces of data be considered in a Risk Assessment which, by the decentralized nature of certain virtual currency, may be very difficult to ascertain or may simply not exist at all. For example, NYDFS suggests that VC Licensees consider whether the new coin is “created or issued by a legitimate and reputable entity” and whether there is any “pending or potential regulatory, criminal or enforcement action” related to the coin. Other considerations where this may apply are the “concentration of coin holdings or control by a small number of individuals or entities” and “risks related to code defects” in the coin and its blockchain. Much of this information may not be knowable and should be qualified by the VC Licensee’s knowledge thereof. That said, these information gaps may be overcome by the NYDFS recommendation of periodic re-evaluation and possible de-listing as more information emerges, which we agree to be necessary components of a strong listing policy.

Second, NYDFS proposes the requirement to have “an independent audit review of all associated risks relating to a new coin... conducted to ensure that all risks have been assessed and addressed.” This does not seem feasible, as to our knowledge, there are no third-party firms that provide such service. Furthermore, we do not think there could be any such providers who would have sufficient experience to make such determinations. This seems to be an arbitrary toll on a risk we will ultimately bear regardless of what third parties have to say. We don’t see any

additional consumer protections provided by this requirement and instead see a costly and potentially unattainable condition.

IV. Policy Requirements—Monitoring

Again, we think these are necessary elements to the operation of any successful exchange in this industry and are grateful the NYDFS thinks the same. In a fast-moving industry, constant diligence and re-evaluation is necessary; this is something we take very seriously.

Thanks to NYDFS for its outreach to the industry and for its consideration of the ideas we have presented here. We are happy to make ourselves available for further discussion.

