

R Token - Regulatory Oversight enabled Token

Source: R-Token Whitepaper, <<https://harbor.com/rtokenwhitepaper.pdf>>

Regulator Service The Regulator Service interface consists of a single `check()` method that is called from within the `transfer()` and `transferFrom()` method. This check contains all information provided during the transfer:

```
contract RegulatorService {
function check(address _token,
address _spender,
address _from,
address _to,
uint256 _amount) public returns (uint8);
}
```

Establishing a legal framework within existing regulations

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Classification of Transactions Under the CEA

The CEA regulates many (but not all) types of derivatives transactions, along with certain retail transactions that are not necessarily derivatives. The CEA imposes requirements on organized markets and clearing systems, industry professionals, and market participants with respect to different classifications of transactions, with further distinctions based on the nature of the underlying interest.

Classifications of Regulated Transactions

A derivative is a contract whose value derives from the value of an underlying interest, such as a physical commodity, an interest rate, the economic or financial consequences of the occurrence of an event, or a security.

Derivatives may take a variety of forms, and may require settlement by delivery (if held to expiration or, in the case of an option, upon exercise) of the underlying interest _(which may occur via transfer of title) _or by a cash payment.

The exception from having to treat a contract for the sale of a commodity as or “as if” it were a futures contracts applies when (i) the contract creates an enforceable delivery obligation between the seller and the buyer and (ii) the seller and the buyer have the ability to deliver and accept delivery of the commodity in connection with their respective lines of business.

Commercial Forward Transactions. A forward contract under the exclusions is a commercial merchandizing contract between commercial parties, where delivery of a non-financial

commodity (such as an agricultural, energy or metals commodity) is deferred for commercial reasons, the parties intend to make or take delivery of the commodity, and delivery routinely occurs. Forward contracts are excluded from regulation as futures pursuant to CEA section 2(a), in conjunction with section 1a(27), which provides that the term “future delivery” used in section 2(a) does not include “any sale of any cash commodity for deferred shipment or delivery.”

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Statutory Process for Seeking Regulatory Clarity for Novel Derivative Products

Section 718 of Dodd-Frank establishes a procedure for the CFTC and SEC to determine the status of “novel derivative products” that might implicate the regulatory interests of both agencies. Under section 718(a)(1)(A), any person filing a proposal to list or trade a novel derivative product that may have elements of both securities and futures contracts, options on futures or commodity options, may concurrently provide notice and furnish a copy of such filing to the SEC and CFTC.⁵⁸⁷ The notice must state it has been made to both agencies. If no concurrent notice is made, section 718(a)(1)(B) provides, as an alternative, that if either Commission receives a proposal to list or trade a product, and determines that the proposal involves a novel derivative product that may implicate the jurisdiction of the other, it must within five business days of making that determination notify and provide a copy of the proposal to the other Commission.⁵⁸⁸

FinCEN

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In its 2013 guidance on virtual currencies, FinCEN further defined an “exchanger” as “a person engaged as a business in the exchange of virtual currency for real currency, funds, or other virtual currency,” and further defined an “administrator” as a “person engaged as a business in issuing (putting into circulation) a virtual currency, and who has the authority to redeem (to withdraw from circulation) such virtual currency.”⁶⁰⁸ Therefore, digital asset businesses are money transmitters that are subject to FinCEN regulation as MSBs.⁶⁰⁹ In a similar vein, FinCEN recently indicated that certain conduct in connection with ICOs may qualify as money transmission and be subject to FinCEN’s rules applicable to that type of MSB.⁶¹⁰

Generally, U.S. MSBs and non-U.S. MSBs that do business in the United States must register with FinCEN.⁶¹¹ FinCEN has explicitly stated that exchangers and administrators of virtual currency are subject to this registration requirement.⁶¹²

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Although the precise expectations for any given MSB will vary based on the nature of the financial activity involved, generally an effective AML program for a MSB will address or include the following:

- collecting and verifying customer identifying information;
- appropriate internal controls;
- designation of a BSA/AML compliance officer;
- employee AML training;
- independent review of the AML compliance program;
- monitoring and reporting suspicious activity by filing SARs with FinCEN, which generally is triggered at a \$2,000 threshold for MSBs;⁶¹⁸
- subject to dollar thresholds, filing Currency Transaction Reports⁶¹⁹ and Currency and Other Monetary Instrument Reports with the U.S. government;⁶²⁰
- maintaining required records;⁶²¹ and
- responding to certain law enforcement requests.⁶²

In December 2015, the Tennessee Department of Financial Institutions issued a memorandum concluding that the transmission of cryptocurrency is not subject to regulation under the State's Money Transmitter Act if the transmission does not also involve sovereign currency. The memorandum also discusses other common scenarios.

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EuroZone

MiFID II is a European Directive that regulates firms that provide services to clients linked to “financial instruments” and the venues in which those instruments trade in the European Union.⁶³⁶ Broadly speaking, MiFID II “aims to create a single market for investment services and activities and to ensure a high degree of harmonised protection for investors in financial instruments.”⁶³⁷ Firms that provide investment services in relation to financial instruments, as defined in MiFID II, in turn must comply with MiFID II requirements.⁶³⁸

MiFID II defines “financial instruments” as transferable securities, money-market instruments, units in collective investment undertakings, and certain options, futures, forward rate agreements, and swaps, among other items.⁶³⁹ ESMA has stated that where firms provide services in relation to financial instruments, including ICOs involving a coin or token that qualifies as a financial instrument, the process by which the coin or token is created, distributed, or traded likely involves MiFID II-regulated activities, and thus must comply with MiFID II requirements.⁶⁴⁰