

Colorado Blockchain Council

Exchanges

Team Lead

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Volunteer Guidance

- *To Volunteer for this Working Group or others, please sign up to participate [here](#).*
- *To discuss this working group in real time please [join the Slack Channel](#) [#council-wg-exchanges](#)*
- *If you have comments on this document please email them to coblockchain@gmail.com*

Problem Explanation

What is the problem, and why is it a problem?

Technical explanation of anything needed to understand this (pictures and graphics are okay):

Succinct explanation of the problem:

The Problem: It is unclear to existing and prospective businesses that desire to operate crypto exchanges whether any or all of what they do is regulated in any way by Colorado State.

What are the most relevant use cases where this issue must be addressed?

Please cite specific articles and references where helpful.

1. Operation of a blockchain-based exchange
2. Creation of a blockchain-based exchange
- 3.
- 4.
- 5.

What legislation/regulation already exists that addresses this issue? In what ways is it sufficient/insufficient?

Please cite specific legislation and regulation to the extent possible (i.e.HB1035-96). For ease of reference use the [Colorado Revised Statutes \(C.R.S\)](#)

What are the subquestions that will need to be answered to solve this problem?

1. Is there any kind of state-level regulation having to do with “exchanges” broadly (in crypto or otherwise). Is “exchange” defined in any way? Can anyone in Colorado operate any kind of exchange (however defined) whatsoever?
2. If there are regulations on exchanges in any form (crypto or otherwise), what are they?
3. Are there consumer protection regulations that apply to exchanges in particular?
4. Are there custodial regulations that apply to exchanges in particular?
5. Are there AML/KYC regulations that apply to exchanges in particular?
6. Does the State treat an exchange that handles fiat differently than one which doesn’t?
7. Do other states have regulations surrounding exchanges which entrepreneurs and businesses might incorrectly assume apply in Colorado? (thus can CO make it clear the differences between it and other states?)
- 8.

STAKEHOLDER OUTREACH PLAN (first tab)

https://docs.google.com/spreadsheets/d/1Llikh7HzF0x_WIBrFPEROVtrHhv5t09PYpqbFEu2hXI/edit?usp=sharing

UPDATE SEPT 10 2018: THIS WORKING GROUP MAY IN FACT BE REDUNDANT... UPON EXPLORATION, MOST OF THE IMPORTANT ISSUES IMPACTING EXCHANGES ARE ALREADY COVERED IN OTHER GROUPS (SUCH AS MONEY TRANSMISSION OR SECURITIES ISSUES). AS SUCH, THERE MAY NOT BE A SPECIFIC “SOLUTION” PUT FORWARD BY THIS WORKING GROUP.

Potential Solutions

What is the ideal state we are trying to create in this issue area?

This will become the succinct messaging we will use when sharing our solutions with various stakeholders. Please be non-technical but specific.

Ideal State: To best encourage entrepreneurship and innovation, exchanges should be exempted from the various regulations which apply to traditional financial firms. To ensure consumer protection, it would be fair to require such exchanges to post explicit warnings and terms as well as contact information about the operators (helping to prevent fraud and disappearance). The principle here should be: if a customer is aware of and comfortable with the risks, and the company is willing to provide a service, and the actors behind the service are known and transparent, then no further regulatory burden should be imposed.

Such consumer warnings could include phrases such as, "Company X is not a bank. Your funds are not insured or protected by the State. Cryptocurrency has a high risk of falling to zero in value. Buyer assumes all responsibility for the experimental nature of this technology. The operators of this service are Bob Jones etc etc with address X, which was last verified on Date Y."

What (if any) legislative action is needed to support this ideal state?

Existing laws that need to be changed or specific bills that need to be passed.

Ideally - a new bill exempting digital asset businesses from the major areas of state-level regulation, so long as the requisite conditions are met: clear and prevalent user warnings, detailed operator information registered with the State, etc.

What are other public policy solutions that could support this ideal state?

Government action that does not necessarily require the passage of legislation - Examples could include clarification of regulation, new/different business incentives, government adoption of certain systems/solutions, etc.

If the above Ideal State cannot be achieved, a non-ideal but still improved environment could be fostered by simply categorizing and listing the regulations which would apply to a given startup (this suggestion could apply to any type of business, not just crypto exchanges)

This idea considers the availability of an easily-accessible list of activities which a) are relevant to digital asset businesses (broadly defined) and b) are regulated in Colorado. The list would include references to the specific statutes, example activities which trigger the regulations, and specific steps describing how to be compliant.

1. Consumer protection
 - a. Regulation A
 - i. This regulation applies if you do x, y, or z
 - b. Regulation B
 - i. This regulation applies if you do x, y, or z
 - c. Regulation C
 - i. This regulation applies if you do x, y, or z
2. Money transmission and KYC
 - a. Regulation A
 - i. This regulation applies if you do x, y, or z
 - b. Regulation B
 - i. This regulation applies if you do x, y, or z
 - c. Regulation C
 - i. This regulation applies if you do x, y, or z
3. Custodianship and Fiduciary Duties
 - a. Regulation A
 - i. This regulation applies if you do x, y, or z
 - b. Regulation B
 - i. This regulation applies if you do x, y, or z
 - c. Regulation C
 - i. This regulation applies if you do x, y, or z
4. Etc

What are other solutions that could support this ideal state?

This will likely be ideas that are outside the council's purview, but worth cataloging for other stakeholders. Examples could include better technical training programs, industry/community self-regulation, new community organizations, etc. Feel free to be creative!

How can we measure success?

If we take a certain action, how will we know its impact? If a legislator is evaluating a bill, what are the potential outcomes they should be thinking about.

The successful passage of a clear, comprehensive bill exempting digital asset companies from State-level regulations in X, Y, and Z areas.