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BULL BITCOIN

RE: Bull Bitcoin/ Satoshi Portal's response to the **Joint Canadian Securities Administrators/Investment Industry Regulatory Organization of Canada**

Consultation Paper 21-402
Proposed Framework for Crypto-Asset Trading Platforms

The following letter is the collective response from the leadership of both Bull Bitcoin Inc. and Satoshi Portal Inc. to the Joint Canadian Securities Administrators/Investment Industry Regulatory Organization of Canada. It is of our objective observation and assessment that nearly every other "crypto asset" platform currently operating in Canada relies on the sale of what could be considered securities to the public as part of their current business model. We believe that digital asset platforms that offer any form of custodial solutions as storage for their clients represents a promise to hold and release their coins and qualifies them as a security. As well, we believe that platforms that issue financial instruments with a promise of delivery and are controlled by a subset of organizations or individuals are manipulable and are securities.

Background

Bull Bitcoin was formed in 2019 as the merger of two of the most established companies in the Canadian bitcoin/blockchain industry, Satoshi Portal, the operator of the Bylls platform and Bitcoin Brains. Founded by Francis Pouliot and Dave Bradley, Bull Bitcoin boasts over 60 years of combined experience in the bitcoin industry between our staff of 13. Bull Bitcoin is now Canada's largest and oldest continuously operating bitcoin brokerage as well as Canada's first and largest bitcoin payment processor.

Francis Pouliot, CEO and founder of Bull Bitcoin/ Satoshi Portal (@FrancisPouliot_)

In addition to being a notable Bitcoin/ DLT thought leader with over 47,000 Twitter followers, in his 6+ years of full-time bitcoin experience, Francis has served as an advisor to the Ontario Securities Commission as well as Fintrac on matters relating to Fintech and Digital Currency/Assets. With a background in public policy, Francis is uniquely positioned to understand the challenges at hand from the perspective of both regulators and first hand as an industry participant.

Dave Bradley, President and founder of Bull Bitcoin and Bitcoin Brains (@BitcoinBrains)

In the 8 years that Dave has been involved in bitcoin/blockchain, he has consulted for Fortune 500 Companies, extensively researched both public and private blockchains as well as helped the formation of numerous other industry players. Both Francis and Dave are highly regarded among the top bitcoin/blockchain experts in the world.

These combined and unique qualifications put Bull Bitcoin in a position to offer comments with a deeper level of insight and fewer conflicts of interest than other current market participants.

Crypto assets issued, sold and stored with the promise of disbursement should be regulated

The intention of this reply is to offer clear and specific guidance using our unique technical knowledge on how regulators should view certain assets in regards to securities regulations. In this letter, we will use Ethereum as an example because it has been the focus of most of the comments worldwide on the issue. The conclusions we draw about Ethereum should be extended to other “crypto assets” meeting the same criteria. We will also take the opportunity to share some of our expertise as it relates to the custody of “crypto assets” and the implications for regulators.

The first and potentially most important question that needs to be addressed is the question of decentralization. Some comments and direction from regulators internationally have indicated that they think some platforms like Ethereum might no longer be considered securities due to the fact that they may have become sufficiently decentralized to no longer meet the “Reliance on the Efforts of Others” prong of the Howey Test. Now that the SEC has released its first official guidance on the matter, we believe that contrary to previous verbal comments made by SEC officials, it’s very clear that the Ether asset, issued and sold by The Ethereum Foundation, does, in fact, meet the definition of a security within the framework of the Howey Test. Furthermore, we believe that the logic applied to US interpretations of the law is similar enough that the same conclusions should be drawn by Canadian regulators.

In order to answer the question of whether a platform is sufficiently decentralized, it will be very important to specifically define the term “decentralized”. Some platforms, like Ethereum, have a decentralized user base but the operation, control and ownership of the network are entirely centralized to a small coordinated group of foundation members. It is our opinion that the corporations who are by de facto, in charge of Ethereum development, such as Parity, Consensys and the Ethereum Foundation, act as fiduciaries and are providing the quasi-totality of efforts from which the market value of Ethereum is derived. All future decisions on the roadmap for the development of Ethereum will be made by this small group. These organizations are funded entirely from the sale of Ether tokens to the public with no risk disclosures whatsoever.

This is one example but any virtual currency or crypto asset which could reasonably be said to have a leader or leaders should not be considered decentralized and should in our view, be considered a security. This kind of structure is mirrored by many different crypto asset projects and offerings who have raised funds by selling their tokens to the public.

The only currently provably, truly decentralized virtual currency at scale/ digital asset is Bitcoin. In our opinion, to be considered decentralized, the following standards should be met and digital assets such as Ether do not meet this criteria:

- There should be no issuing body behind the asset or central governance process. Any project that has done an ICO with a single or small group of beneficiaries cannot be considered decentralized unless that issuer and its affiliates abandon the project entirely.

- There should be no leader or founder involved in the project. Even projects without an explicitly proclaimed leader often have a small number of people with near total control.
- The entire consensus layer should be open source and free of patents or other intellectual property claims to maintain the integrity and adoption at a wide scale and to protect the rules of engagement of those who use the network.
- The project should either maintain its own consensus layer or operate on another provably decentralized blockchain. Appcoins built on centralized networks like Ethereum should be considered under the ultimate control of the central entity behind the base network. It is technically, socially and functionally possible that The Ethereum Foundation could directly control transactions of any ERC20 token or other token based on their network. As such forks, derivations, applications built on securitized digital assets such as Ether should be regulated under the same conditions.
- Node and mining infrastructure should be separate so that the economic incentives driving each remain independent.
- A robust distributed network of non-mining, economic nodes should exist in a variety of jurisdictions. These include exchanges, brokerages, payment processors or merchants using the token directly. These economic nodes support the consensus of the network by providing independent input and verification on their version of the agreed upon rules of the network. Because these nodes represent a large portion of the real economic activity happening on the network, it would be impossible to meaningfully fork the network without first forming a near total consensus amongst these node operators. Because the interests of these node operators are varied and diverse, they may only converge as it relates to the overall health and security of the network and therefore can't be considered to be anything approaching a "Common Enterprise".
- A commoditized and competitive market for mining hardware should exist.

Custody: if a "Platform" holds value for a client, we believe that is an investment contract

When a user holds bitcoin or other digital assets in an account at a custodial exchange, we believe it's reasonable to consider this a contract for the future delivery of these coins/value. We believe this is a contract and a promise made between the client and the "platform". The ability for the exchange to deliver on this contract will be dependant upon their ability to hold the coins safe in the meantime. As in the case, most recently, with Quadriga CX the situation invites the question of where the Platform is holding that value and to what degrees of security should the "platform" adopt? Should these platforms be regulated as to how they hold this value as banks are? Is it lawful for these "platforms" to state that this value is no longer the clients when it is held as a custodial agent? Are these assets allowed to be used in other financial services/products and how much of collateral should these "platforms" hold to ensure proper delivery? A myriad of questions surrounding the complexities of being a custodian of digital assets drums up the same questions and begs for regulatory bodies to intervene much like the banking industry.

If a platform is determined to allow its users to hold coins on the platform, for the purposes of ongoing trading for example, then the best option available to limit the risk of losses is to strictly limit withdrawals to a specific, narrowly defined time frame.

Bitmex, the largest crypto asset exchange in the world by volume, allows for withdrawals only once per day. This allows users time to react if their account is hacked. It also allows the exchange to carefully control when and how they expose any of their stored coins to the live network. There is a very strong case to be

made that onramp and trading platforms should remain separate as onramp platforms require much quicker withdraws. Onramp platforms should remain non-custodial.

The best way to deal with the risk of loss of virtual currencies or crypto assets during the process of purchasing or selling these coins is to remove the option for custody entirely. Non-custodial services which immediately send coins to the user represent a much safer way for consumers to transact. Platforms which do not hold customer crypto assets cannot lose customer crypto assets. The inherent nature of truly decentralized digital assets is the ability to control, hold and use your own value. We believe that if a “platform” holds value on behalf of a client, it is an incredible amount of responsibility and should be regulated as such.

Considerations for a successful digital asset custodial solution

When a user holds bitcoin or other digital commodities in an account at a custodial exchange, we believe it's reasonable to consider this a contract for the future delivery of these coins. The ability for the exchange to deliver on this contract will be dependant upon their ability to hold the coins safe in the meantime. When platforms store crypto assets the following best practices should also be applied:

- All crypto assets should be stored in segregated accounts. These need to be separate from both company operating funds as well as the funds of any other businesses served by third-party custody providers if they are used.
All crypto assets should be stored and controlled within Canada. Both the private keys, any physical backups thereof as well as the server infrastructure controlling any hot wallets should be within Canada. It would be impossible to define the jurisdictional risk posed by a third party custodian handling crypto assets from companies around the world and based in a country other than Canada. It's not hard to imagine a scenario where a US-based custodian company holding crypto assets belonging to Canadians on behalf of a Canadian company has its entire pool of crypto assets frozen by a US government agency as a result of this custodian's dealings in other parts of the world. The only way to control this risk is to keep the crypto assets in Canada.
- Custodial exchanges should also plan for the possibility of kidnappings or ransoms of key personnel or systems. Both physical and digital seizures of hardware or personnel should be considered. Platforms should also consider the risk of the destruction of private keys through acts-of-god or other disasters. Keys should be redundantly stored in a variety of geographic locations.
- Another consideration should be the ability to recover the private keys in the event of the death of one or more of the key parties managing the platform.

The specific technological risks associated with a particular project, token or blockchain should also be considered in the context of custody. Since each blockchain is potentially unique, the technology risks associated with it can be very hard to define. We don't believe that these risks should be externalized to the holders of other assets on a single platform.

- A prime example of this happened in 2017 when QuadrigaCX burned around \$17M worth of customer Ether which they were holding as a result of the DAO fork when the Ethereum Foundation forked their version of the network away from their original codebase, creating Ethereum and Ethereum Classic. While this bug was caused by a technical error on the part of QuadrigaCX staff, the bug would not have been possible without the actions of The

Ethereum Foundation. A few important considerations arise from this situation. First, we don't believe that the lack of network solidity created by The Ethereum Foundation should be inflicted upon holders of other assets on the QuadrigaCX platform. Only holders of ETH on that platform should be subject to the losses. Second, we believe that The Ethereum Foundation has a fiduciary duty to those ETH holders who were victimized due to their actions.

Conclusion

Overall, we believe that the majority of "crypto assets" do fall under the jurisdiction of securities regulators. We also believe that existing action from these regulators has fallen significantly short of offering the investor protection they are mandated to provide.

At the same time, we believe that over-regulation of these assets is likely to simply push the industries tied to them to more favorable jurisdictions.

We believe in keeping Alberta and Canada a business-friendly environment. Part of how we can accomplish this is a very clear and concise regulatory regime with minimal requirements that would be easy for the public to understand.

To that end, we believe that "crypto assets" such as ICOs who wish to raise money like an IPO who are wishing to sell to Canadians should be required to make one simple but meaningful disclosure:

"How is the value of your token tied to the success or usefulness of your platform?"

Signed:

A handwritten signature in black ink, appearing to be a stylized name, possibly 'Francis Pouliot', written over a horizontal line.

Francis Pouliot, Dave Bradley and the rest of the staff and management of Bull Bitcoin.