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Ontario Securities Commission  
Autorité des marchés financiers  
Financial and Consumer Services Commission, New Brunswick  
Superintendent of Securities, Government of Prince Edward Island  
Nova Scotia Securities Commission  
Superintendent of Securities, Department of Service NL, Provincial Government of  
Newfoundland and Labrador  
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Dear Sirs/Mesdames:

**Canadian Securities Administrators' (CSA) Staff Notice 21-327 Guidance on the Application of Securities Legislation to Entities Facilitating the Trading of Crypto Assets**

We have been engaged by each of Bidali Inc., Bitvo Inc., Coinsquare Ltd., Coinsmart and VirgoCX Inc., respectively, each an online platform that offers trading in cryptoassets and/or related financial services (collectively, the **Platforms** and each a **Platform**). This letter sets out the Platforms' response to Canadian Securities Administrators' (CSA) *Staff Notice 21-327 Guidance on the Application of Securities Legislation to Entities Facilitating the Trading of Crypto Assets* published on January 17, 2020 (**Staff Notice 21-327**), and is provided on behalf of each Platform.

Staff Notice 21-327 sets out the position of CSA Staff that a Platform that does not immediately deliver crypto-assets purchased on the Platform to customers is likely dealing in securities or derivatives. By submitting this letter on behalf of the Platforms, we are neither confirming nor disputing Staff's interpretation. However, we note that this interpretation has not been reflected in legislative amendments nor has it been tested in the Canadian courts.

In Staff Notice 21-327, CSA Staff present their expectation for Platforms to take "appropriate steps" to comply with securities legislation and their intention "to take enforcement action against Platforms that do not comply with securities legislation".

In *Joint CSA/Investment Industry Regulatory Organization of Canada (IIROC) Consultation Paper 21-402 Proposed Framework for Crypto-Asset Trading Platforms* published on March 14, 2019 (the **Consultation Paper**), the CSA and IIROC stated that they were developing "a set of tailored regulatory requirements to address the novel features and risks [relating to cryptoasset trading]" (the **Proposed Platform Framework**). In the Consultation Paper, the CSA sought, "feedback from the fintech community, market participants, investors and other stakeholders on how requirements may be tailored for Platforms" with a view to, "facilitat[ing] innovation that benefits investors and our capital markets, while ensuring that we have the appropriate tools and understanding to keep pace with evolving markets". The CSA stated that the Proposed Platform Framework would "provide regulatory clarity to Platforms".

The Consultation Paper acknowledged that IIROC's approach toward custodial requirements, price determination, market surveillance, insurance, clearing and settlement in the securities markets may need to be modified in order to accommodate the regulation of cryptoasset trading platforms. On October 31, 2019, IIROC announced a crypto-asset working group to advise on future proposed IIROC rules, guidance and other policy matters related to the regulation of crypto-assets (the **IIROC Crypto Working Group**).

All Platforms intend to comply with securities legislation to the extent that it applies to their business activities. They seek, and look forward to, regulatory clarity which the Proposed Platform Framework is expected to provide to the Canadian cryptoasset industry. In furtherance of this quest for clarity, Platforms have submitted comments in response to the Consultation Paper, are participating in or following the IIROC Crypto Working Group and have engaged with external counsel and/or the securities regulator in their province regarding the applicability of securities and derivatives regulation to their business activities. Based on these discussions, each Platform that restricts its business to spot crypto-to-crypto or fiat-to-crypto trading in BTC, ETH or other cryptoassets that should not be considered securities or derivatives has expected to continue to operate without the risk of CSA enforcement action while the Proposed Platform Framework is under development.

Until the Proposed Platform Framework is finalized and/or IIROC develops rules for the regulation of Platforms, it will be impossible for a Platform to register as a securities dealer or derivatives dealer without obtaining discretionary exemptive relief from certain dealer registration requirements. In these circumstances, we urge the CSA to engage in constructive dialogue to further the Proposed Platform Framework, and resist taking any enforcement action as threatened in Staff Notice 21-327.

The Platforms are hoping that the CSA will proceed in a manner that does not drive some cryptoasset trading platforms to wind down or relocate their businesses, or consider switching to a non-custodial model of delivery of cryptoassets in order to fall out of scope of CSA Staff's interpretation of trading in securities or derivatives. Such a transition is likely to reduce the security of transactions and fail to meet the expectations of customers, many of which do not have the technological capabilities or interest to self-custody their cryptoasset holdings. Ultimately, the industry and its regulators ought to avoid action that could lead customers to move their business to non-Canadian platforms that offer custodial accounts, which would not advance the investor protection objectives of the CSA.

The Platforms seek to work with the CSA and IIROC to develop fair, transparent industry standards for Canada without the concern of imminent securities regulatory enforcement proceedings. We would welcome the opportunity to engage with the CSA further on this matter on this basis.

Please note that Platforms intend to make this letter available to their stakeholders, including by publishing it on their websites.

Yours very truly,



Lori Stein

- c. Eric Kryski, *Bidali Inc.*  
Pamela Draper, *Bitvo Inc.*  
Justin Hartzman and Jeremy Koven, *Coinsmart*  
Cole Diamond, Felix Mazer and Eric Richmond, *Coinsquare Ltd.*  
Steven Bie and Adam Cai, *VirgoCX Inc.*