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Illinois Department of Financial and Professional Regulation

Division of Financial Institutions

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August 28, 2023

Chris Groshong
Ballet Crypto Inc.
Compliance Officer
reg.affairs@ballet.com

Re: Request for Non-Binding Statement

VIA ELECTRONIC MAIL

Non-Binding Statement 2023-1

Dear Mr. Groshong:

Thank you for your letter dated June 14, 2023 and supplemental correspondence. You requested a non-binding statement pursuant to Title 38, Section 200.310 of the Illinois Administrative Code addressing whether Ballet Crypto Inc. (“Ballet Crypto”) is required to obtain a license under the Illinois Transmitters of Money Act (“TOMA”). You have not requested confidential treatment.

Please be advised that consistent with governing law, the Illinois Department of Professional and Financial Regulation, Division of Financial Institutions (“Department”), does not render formal legal opinions or interpretations and non-binding statements do not have precedential value. In addition, facts, or conditions different than those presented will require different conclusions. Persons other than those requesting the statement should not rely on this statement. The Department has not independently verified any represented facts, and instead has relied upon the statements and representations contained in your correspondence.

FACTS

Ballet Crypto is a subsidiary of Ballet Global Inc. (“Ballet Global”) and registered with FINCEN. Ballet Crypto intends to allow customers the ability to purchase bitcoin (“BTC”) by offering a proprietary product called the PURE Wallet (the “Wallet”), which is a pre-denominated BTC storage device in the form of an empty metal card.¹ Customers may also purchase preloaded PURE

¹ Ballet Crypto notes that its parent company (Ballet Global) and Ballet Crypto sell different products with different working models. For example, Ballet Global offers a product called the REAL Wallet which allows for loading funds. BCI further notes that their request for a non-binding statement is only for the PURE Wallet. This Non-Binding Statement does not address the REAL Wallet.

series plastic cards. Customers may purchase the Wallet with fiat on Ballet Crypto's website (bitcoin.ballet.com).²

Ballet Crypto makes the additional representations:

- Customers must go through a Know Your Customer ("KYC") screening process.
- BTC is sent from its own reserves which is regularly sourced from cryptocurrency exchanges and liquidity providers.
- Ballet Crypto does not act as an intermediary in an exchange type transaction.
- After the initial load, Ballet Crypto does not reload additional BTC for the same Wallet.³

OPTION 1: Wallet

- Customer purchases the Wallet, which is available in four available denominations: 0.1 BTC, 0.025 BTC, 0.01BTC and 0.005 BTC. The value of the BTC will be displayed on Wallet.⁴
- Payment with fiat funds can be made through bank wire, ACH transfer, debit card, credit card. Payment is processed by Ballet Crypto's third-party payment processing service provider.
- Ballet Crypto's merchant agreement for payment processing services is with Checkout.com and Cross River Bank, a New Jersey state chartered bank. The agreement also provides: certain money transmission services provided under these Merchant Terms may be provided by Checkout LLC's affiliates Global Transfers LLC (NMLS ID: 1750101) and eMoola Inc. (NMLS ID: 1791692), each of which are licensed or authorized to provide money transmission services in one or more U.S. jurisdictions ("Money Transmitters").
- Ballet Crypto ships the empty metal Wallet with no value.
- Customer activates the Wallet upon receipt via Ballet Crypto's mobile app⁵ or online.
- Transaction is complete when Ballet Crypto sends BTC from its own reserve to the associated Wallet address.

OPTION 2: Preloaded plastic card

- Customer can purchase preloaded plastic cards with denominations of 1,000 bits⁶ (5-pk only), 500 bits (5-pk only), 200 bits (10-pk only), and 100 bits (20-pk only).
- Payment with fiat funds can be made through bank wire, ACH transfer, debit card, credit card. Payments are processed by Ballet Crypto's third-party payment service provider (see above).
- Transaction is complete when preloaded cards are shipped.

² Ballet Crypto represents that only customers within states where Ballet Crypto has authorization to conduct business will be able to proceed to checkout.

³ Ballet Crypto represents that the customer may continue to use the Wallet as a cold storage device and load additional BTC from an external source (*i.e.*, source other than Ballet Crypto).

⁴ The denominated amount of BTC is the value based on the median price of BTC at the time of transaction.

⁵ Ballet Crypto represents that the mobile app only allows for activation of the card.

⁶ The equivalent of the 1,000 bits 5-pack is the same amount of BTC as the smallest metal card (0.005 BTC).

LAW

Pursuant to Section 5 of TOMA:

A money transmitter is a person who is located in or doing business in this State and who directly or through authorized sellers does any of the following in this State:

- (1) Sells or issues payment instruments.
- (2) Engages in the business of receiving money for transmission or transmitting money.
- (3) Engages in the business of exchanging, for compensation, money of the United States Government or a foreign government to or from money of another government.⁷

Money means a medium of exchange that is authorized or adopted by a domestic or foreign government as a part of its currency and that is customarily used and accepted as a medium of exchange in the country of issuance.

Payment instrument means a check, draft, money order, traveler's check, stored value card, or other instrument or memorandum, written order or written receipt for the transmission or payment of money sold or issued to one or more persons whether or not that instrument or order is negotiable. Payment instrument does not include an instrument that is redeemable by the issuer in merchandise or service, a credit card voucher, or a letter of credit. A written order for the transmission or payment of money that results in the issuance of a check, draft, money order, traveler's check, or other instrument or memorandum is not a payment instrument.

Stored value card means any magnetic stripe card or other electronic payment instrument given in exchange for money and other similar consideration, including but not limited to checks, debit payments, money orders, drafts, credit payments, and traveler's checks, where the card or other electronic payment instrument represents a dollar value that the consumer can either use or give to another individual.

TOMA applies to the “transmission of money by any means, including transmissions to or from locations within the United States or to and from locations outside of the United States by payment instrument, facsimile or electronic transfer, or otherwise, and includes bill payment services.”⁸ TOMA defines money as “a medium of exchange that is authorized or adopted by a domestic or foreign government as a part of its currency and that is customarily used and accepted as a medium of exchange in the country of issuance.”⁹

⁷ 205 ILCS 657/5

⁸ *Id.*

⁹ *Id.*

CONCLUSION

If all the facts provided in Ballet Crypto's June 14, 2023 letter, supplemental correspondence and responses to requests for clarification are true and correct, the Department would not recommend that enforcement action be initiated against Ballet Crypto for the described activities without a TOMA license.¹⁰

The Department expressly disclaims any obligation to advise you of any changes in the circumstances, laws or events that may occur after this date or otherwise update this response. This letter does not address the applicability of any law except TOMA.

Sincerely,

Francisco Menchaca
Director, Division of Financial Institutions

By,

s/ Helen Kim
Helen Kim
Associate General Counsel

¹⁰This Non-Binding Statement is only applicable to the business model proposed in this request.