

**Alert | Blockchain & Digital Assets/
Financial Regulatory & Compliance**



February 2024

Hawaii’s Money Transmitters Modernization Act Will No Longer Apply to Cryptocurrency Activities

Go-To Guide:

- Hawaii announces that digital currency companies will no longer require a Hawaii-issued money transmitter license to conduct business within Hawaii.
- The Hawaii DFI makes clear, however, that crypto companies engaging in activity within Hawaii must still comply with any applicable federal and state laws.
- The Hawaii Digital Currency Innovation Lab, a regulatory sandbox created to explore the landscape of digital currency activity within Hawaii and assess the regulatory framework required for companies specializing in digital currency, will conclude as scheduled on June 30, 2024.

On Jan. 25, 2024, the Hawaii Department of Commerce and Consumer Affairs Division of Financial Institutions (DFI) and the Hawaii Technology Development Corporation (collectively, the “Agencies”) jointly issued a [press release](#) summarizing their findings on the proper regulatory framework for companies specializing in digital currency activity (Crypto Companies)—concluding that the DFI will not apply the state’s Money Transmitters Act to cryptocurrency activities. As such, Crypto Companies will no longer require a Hawaii-issued money transmitter license to conduct business within the state. Crypto Companies will be able to operate in Hawaii as unregulated businesses.

The press release underscores the DFI’s expectation that digital currency companies operating in Hawaii comply with any applicable federal licensing or registration requirements, including those set forth by the U.S. Department of the Treasury’s Financial Crimes Enforcement Network, U.S. Securities and Exchange Commission, and the Financial Industry Regulatory Authority, including any pertinent federal regulatory requirements involving consumer protection and anti-money laundering measures.

In issuing the press release, Hawaii joins states—such as Wyoming—that explicitly do not regulate cryptocurrency activity under pre-existing money transmission licensing regimes. It is also worth noting that Hawaii chose not to follow the lead of California, which recently joined New York and Louisiana in implementing a cryptocurrency specific regulatory regime.¹

The Agencies also reaffirmed the scheduled closure of Hawaii’s regulatory sandbox program, the Digital Currency Innovation Lab (DCIL), set for June 30, 2024. Regulatory sandboxes allow certain companies to operate under temporary, experimental rules that aim to foster innovation while providing state regulators with data to inform regulatory developments.² The Agencies’ studies of the DCIL participants led to a determination that the activities conducted by Crypto Companies did not align with the concept of money transmission as outlined in Hawaii’s Money Transmitters Modernization Act. Further, the press release notes that the Agencies, working with DCIL participants and the larger industry companies, were unable to devise a special digital currency licensing scheme that provided sufficient protections for Hawaii consumers.

This announcement is a welcome change for Crypto Companies wishing to operate in Hawaii. Prior to the press release, Crypto Companies largely avoided Hawaii, in part because it was the only state to require Crypto Companies wishing to obtain and maintain money transmission licensure to hold “permissible investments,” as defined in Haw. Rev. Stat. § 489D-4, equal to the aggregate market value of not less than the aggregate amount of the Crypto Companies’ outstanding transmission obligations, including digital currency transmission obligations. *See* Haw. Rev. Stat. § 489D-8. Hawaii took the view that digital currency does not constitute a permissible investment, thereby imposing a heavy burden on Crypto Companies, which tend to hold their assets, unsurprisingly, in cryptocurrencies.

Authors

This GT Alert was prepared by:

- Hilary R. Sledge-Sarnor | +1 310.586.7825 | Hilary.SledgeSarnor@gtlaw.com
- Marina Olman-Pal | +1 305.579.0779 | Marina.Olman@gtlaw.com
- Lisa M. Lanham † | +1 212.801.9200 | Lisa.Lanham@gtlaw.com
- Steven T. Cummings | +1 914.286.2931 | Steven.Cummings@gtlaw.com
- Janiell “Alexa” Gonzalez | +1 305.579.0509 | Janiell.Gonzalez@gtlaw.com

† Admitted in New York and Pennsylvania. Not admitted in Florida.

¹ For further information on California’s new cryptocurrency specific regulatory regime, see our Nov. 6 2023 GT Alert, [California Enacts Digital Assets Licensing Law](#).

² Hawaii is one of eight states in the United States that has enacted a regulatory sandbox program for virtual currency, blockchain and other financial technology innovations more broadly. These states include Arizona, Florida, Nevada, North Carolina, Utah, West Virginia, and Wyoming, with other state legislatures proposing to adopt similar sandboxes (see, e.g., New Hampshire’s bill, HB 1507, introduced Dec. 11, 2023, which proposes to create a financial services regulatory sandbox).

Albany. Amsterdam. Atlanta. Austin. Berlin. ▸ Boston. Charlotte. Chicago. Dallas. Delaware. Denver. Fort Lauderdale. Houston. Kingdom of Saudi Arabia. « Las Vegas. London.* Long Island. Los Angeles. Mexico City.+ Miami. Milan.» Minneapolis. New Jersey. New York. Northern Virginia. Orange County. Orlando. Philadelphia. Phoenix. Portland. Sacramento. Salt Lake City. San Diego. San Francisco. Seoul.∞ Shanghai. Silicon Valley. Singapore. = Tallahassee. Tampa. Tel Aviv.^ Tokyo.* United Arab Emirates.< Warsaw. ▸ Washington, D.C.. West Palm Beach. Westchester County.

*This Greenberg Traurig Alert is issued for informational purposes only and is not intended to be construed or used as general legal advice nor as a solicitation of any type. Please contact the author(s) or your Greenberg Traurig contact if you have questions regarding the currency of this information. The hiring of a lawyer is an important decision. Before you decide, ask for written information about the lawyer's legal qualifications and experience. Greenberg Traurig is a service mark and trade name of Greenberg Traurig, LLP and Greenberg Traurig, P.A. ▸Greenberg Traurig's Berlin office is operated by Greenberg Traurig Germany, an affiliate of Greenberg Traurig, P.A. and Greenberg Traurig, LLP. «Khalid Al-Thebity Law Firm in affiliation with Greenberg Traurig, P.A. is applying to register a joint venture in Saudi Arabia. *Operates as a separate UK registered legal entity. +Greenberg Traurig's Mexico City office is operated by Greenberg Traurig, S.C., an affiliate of Greenberg Traurig, P.A. and Greenberg Traurig, LLP. »Greenberg Traurig's Milan office is operated by Greenberg Traurig Santa Maria, an affiliate of Greenberg Traurig, P.A. and Greenberg Traurig, LLP. ∞Operates as Greenberg Traurig LLP Foreign Legal Consultant Office. °Greenberg Traurig's Singapore office is operated by Greenberg Traurig Singapore LLP which is licensed as a foreign law practice in Singapore. ^Greenberg Traurig's Tel Aviv office is a branch of Greenberg Traurig, P.A., Florida, USA. ▹Greenberg Traurig's Tokyo Office is operated by GT Tokyo Horitsu Jimusho and Greenberg Traurig Gaikokuhojimubengoshi Jimusho, affiliates of Greenberg Traurig, P.A. and Greenberg Traurig, LLP. <Greenberg Traurig's United Arab Emirates office is operated by Greenberg Traurig Limited. ~Greenberg Traurig's Warsaw office is operated by GREENBERG TRAURIG Nowakowska-Zimoch Wysokiński sp.k., an affiliate of Greenberg Traurig, P.A. and Greenberg Traurig, LLP. Certain partners in GREENBERG TRAURIG Nowakowska-Zimoch Wysokiński sp.k. are also shareholders in Greenberg Traurig, P.A. Images in this advertisement do not depict Greenberg Traurig attorneys, clients, staff or facilities. No aspect of this advertisement has been approved by the Supreme Court of New Jersey. ©2024 Greenberg Traurig, LLP. All rights reserved.*