

Gemini co-founders Cameron and Tyler Winklevoss propose virtual commodity self-regulatory organisation

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On March 13 2018 virtual currency exchange Gemini released a proposal to create the first self-regulatory organisation (SRO) for US virtual currency exchanges.(1) The so-called 'Virtual Commodity Association' (VCA), as envisioned, would be a non-profit, independent regulatory organisation that would operate to foster responsible virtual commodity markets by requiring members to implement specified sound practices and supervising members' implementation of such practices. The VCA would also encourage greater cooperation with relevant regulators in an effort to assist with the maturation of the virtual commodity industry.

The proposal noted that the VCA would not:

- operate any markets;
- be a trade association; or
- provide regulatory programmes for security tokens or security token platforms.

Initially, the VCA would be open to trading facilities that offer users the ability to transact in the virtual commodity spot markets, but may offer membership to additional categories of market participants in the future.

The VCA would aim to foster responsible markets through a system of industry-sponsored standards, best practices and oversight that would promote price discovery, efficiency and transparency in virtual currency markets. It would also require firms to adhere to the VCA's "Sound Practices" regarding responsible financial management, transparency and conflicts of interest, rules-based markets, cyber and information security and recordkeeping, surveillance, information sharing and cooperation with regulators. Shortly after publication of Gemini's proposal, CFTC Commissioner Brian Quintenz issued a statement encouraging the promotion of an SRO for virtual commodities.(2)

While an independent, self-regulatory body could provide a form of oversight over virtual commodity spot platforms and promote best practices, many questions must still be answered – for example:

- Who will assess membership qualifications?
- What sanctioning and penalty authority will the body have over members?
- Most importantly, what regulatory oversight will be imposed on the SRO by the CFTC (or other regulators)?

CFTC Commissioner Rostin Behnam also raised concerns with virtual currency SROs given the nascent nature of the industry and lack of a congressional mandate (given that the regulatory framework for other SROs has been established by statute).(3) However, there is still plenty of time for these questions to be answered, and it will be interesting to monitor how the VCA or any other proposed virtual currency SRO navigate these issues.

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Endnotes

(1) Gemini's VCA proposal is available [here](#).

(2) Commissioner Brian Quintenz, CFTC, "Statement of CFTC Commissioner Brian Quintenz on a Proposal by Cameron and Tyler Winklevoss for a Virtual Commodity SRO" (March 13 2018), available [here](#).

(3) Joe Rennison, "Call for US Treasury to Fill Cryptocurrency 'Regulatory Vacuum'", *Financial Times* (March 15 2018), available [here](#).

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