STATE OF NEW YORK

938--A

Cal. No. 364

2023-2024 Regular Sessions

IN ASSEMBLY

January 11, 2023

Introduced by M. of A. VANEL, OTIS, BLUMENCRANZ -- read once and referred to the Committee on Science and Technology -- reported and referred to the Committee on Codes -- recommitted to the Committee on Codes in accordance with Assembly Rule 3, sec. 2 -- reported from committee, advanced to a third reading, amended and ordered reprinted, retaining its place on the order of third reading

AN ACT to amend the financial services law, in relation to requiring certain disclosures in advertisements involving virtual tokens

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The financial services law is amended by adding a new section 410 to read as follows:

§ 410. Restrictions concerning advertising. (a) No person shall, in any manner, advertise, print, display, publish, distribute, or broadcast, or cause or permit to be advertised, printed, displayed, published, distributed, or broadcasted, any statement or representation with regard to any virtual token for consideration without disclosing the amount of consideration, whether past or prospective, direct or indirect, and the nature thereof.

(b) No person shall, in any manner, advertise, print, display, publish, distribute, or broadcast, or cause or permit to be advertised, printed, displayed, published, distributed, or broadcasted, any statement or representation with regard to any virtual token or other financial product or service if such statement or representation is, in any manner, false, misleading or deceptive.

(c) For the purposes of this section and without limiting subdivisions (a) and (b) of this section, a statement or representation shall be false, misleading and deceptive if it states or implies, directly or indirectly, that a person is authorized legally to offer or provide in New York state or to New York state residents a virtual token or other financial product or service, and such person is not so authorized.

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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(d) For the purposes of this section, "virtual token" shall mean any interchangeable or non-interchangeable unit of data that is stored on any blockchain ledger which shall include, among other digital units that the superintendent determines to be virtual tokens in accordance with this definition, cryptocurrencies, virtual currencies, digital assets and digital tokens, whether fungible or non-fungible. "Virtual token" shall not be construed to include any of the following:

(A) digital units that:

(i) are used solely within online gaming platforms;

(ii) have no market or application outside of those gaming platforms;

(iii) cannot be converted into, or redeemed for, fiat currency or virtual currency; and

(iv) may or may not be redeemable for real-world goods, services, discounts, or purchases;

(B) digital units that can be redeemed for goods, services, or purchases as part of a customer affinity or rewards program with the issuer and/or other designated merchants or can be redeemed for digital units in another customer affinity or rewards program, but cannot be converted into, or redeemed for, fiat currency or other virtual currency; or

(C) digital units used as part of prepaid cards.

§ 2. This act shall take effect immediately.