Open blockchain tokens—exemptions.

Sponsored by: Representative(s) Lindholm, Brown, Clem, Harshman, Larsen, Miller and Olsen and Senator(s) Agar, Case, Driskill, Nethercott and Rothfuss

A BILL

for

AN ACT relating to securities; providing that a person who develops, sells or facilitates the exchange of an open blockchain token is not subject to specified securities and money transmission laws; making conforming amendments; and providing for an effective date.

Be It Enacted by the Legislature of the State of Wyoming:

Section 1. W.S. 17-4-206 is created to read:

17-4-206. Open blockchain token exemption.

(a) A developer or seller of an open blockchain token shall not be deemed the issuer of a security and shall not
be subject to the provisions of W.S. 17-4-301 through 17-4-510 if all of the following are met:

(i) The token has not been marketed by the developer or seller as an investment;

(ii) The token is exchangeable for goods or services; and

(iii) The developer or seller of the token has not entered into a repurchase agreement of any kind or entered into an agreement to locate a buyer for the token.

(b) A person who facilitates the exchange of an open blockchain token shall not be deemed a broker-dealer or a person who otherwise deals in securities under this chapter and shall not be subject to the provisions of W.S. 17-4-301 through 17-4-510 if all of the following are met:

(i) The person has a reasonable and good faith belief that a token subject to exchange:
(A) Conforms to the requirements of paragraphs (a)(i) and (ii) of this section; and

(B) Is not the subject of a repurchase agreement of any kind or the subject of an agreement to locate a buyer for the token.

(ii) The person takes reasonably prompt action to terminate the exchange of a token that does not conform to the requirements of this subsection.

(c) As used in this section, "open blockchain token" means a digital unit which is:

(i) Created:

(A) In response to the verification or collection of a specified number of transactions relating to a digital ledger or database;

(B) Based on random selection or the possession or age of existing units; or
(C) Using any combination of the methods specified in subparagraphs (A) and (B) of this paragraph.

(ii) Recorded in a digital ledger or database which is chronological, consensus-based, decentralized and mathematically verified in nature, especially relating to the supply of units and their distribution; and

(iii) Capable of being traded or transferred between persons without an intermediary or custodian of value.

Section 2. W.S. 17-4-102(a)(iv)(D), (E), by creating a new subparagraph (F), (xvii)(intro), (xxviii)(D), (E) and by creating a new subparagraph (F) and 40-22-104(a)(iv), (v) and by creating a new paragraph (vi) are amended to read:

17-4-102. Definitions.

(a) In this act, unless the context otherwise requires:
(iv) "Broker-dealer" means a person engaged in the business of effecting transactions in securities for the account of others or for the person's own account. The term does not include:

(D) An international banking institution; or

(E) A person excluded by rule adopted or order issued under this act; or

(F) A person who facilitates the exchange of an open blockchain token, as defined in W.S. 17-4-206(c).

(xvii) "Issuer" means a person that issues or proposes to issue a security, subject to W.S. 17-4-206(a) and the following:

(xxviii) "Security" means a note; stock; treasury stock; security future; bond; debenture; evidence of indebtedness; certificate of interest or participation in a profit-sharing agreement; collateral trust
certificate; preorganization certificate or subscription; transferable share; investment contract; voting trust certificate; certificate of deposit for a security; put, call, straddle, option, or privilege on a security, certificate of deposit, or group or index of securities, including an interest therein or based on the value thereof; put, call, straddle, option, or privilege entered into on a national securities exchange relating to foreign currency; or, in general, an interest or instrument commonly known as a "security"; or a certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing.
The term:

(D) Includes as an "investment contract" an investment in a common enterprise with the expectation of profits to be derived primarily from the efforts of a person other than the investor and a "common enterprise" means an enterprise in which the fortunes of the investor are interwoven with those of either the person offering the investment, a third party, or other investors; and
(E) Includes as an "investment contract," among other contracts, an interest in a limited partnership and a limited liability company and an investment in a viatical settlement or similar agreement; and

(F) Does not include an open blockchain token, as defined in W.S. 17-4-206(c).

40-22-104. Exemptions.

(a) This act shall not apply to:

(iv) Banks, bank holding companies, credit unions, building and loan associations, savings and loan associations, savings banks or mutual banks organized under the laws of any state or the United States provided that they do not issue or sell payment instruments through authorized delegates or subdelegates who are not banks, bank holding companies, credit unions, building and loan associations, savings and loan associations, savings banks or mutual banks; and
(v) Electronic transfer of government benefits for any federal, state or county governmental agency as defined in Federal Reserve Board Regulation E by a contractor for and on behalf of the United States or any department, agency or instrumentality thereof, or any state or any political subdivisions thereof; or

(vi) A person who develops, sells or facilitates the exchange of an open blockchain token, as defined in W.S. 17-4-206(c).

Section 3. This act is effective July 1, 2018.