

O'Melveny Advises Industry-led Crypto Ratings Council on Development and Launch of Rating System for Crypto Assets

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FOR IMMEDIATE RELEASE

SAN FRANCISCO—September 30, 2019—An O'Melveny team led by Financial Technology group chair Eric Sibbitt has advised the newly launched Crypto Ratings Council (CRC), an association of leading crypto companies, in the development of a pioneering evaluation and rating system for cryptocurrencies. The Council's founding members, which represent many of the industry's largest trading platforms, asset managers, and custodians are Anchorage, Bittrex, Circle, Coinbase, DRW Cumberland, Genesis, Grayscale Investments, and Kraken. The new ratings system was developed with multidisciplinary input from the founding members, in-house legal teams and technical experts, and outside legal counsel.

Mr. Sibbitt has counseled the CRC in devising and applying the new ratings system, which aims to provide the crypto industry with a more standardized framework to assess whether a digital asset is more or less likely to be viewed as an investment contract under the U.S. federal securities laws. The methodology and ratings have not been endorsed by the SEC or any other governmental authority and are not intended to supplant the responsibility of industry participants to make their own individual determinations before transacting in digital assets for any intended purpose.

Mr. Sibbitt's work with the CRC marks another major milestone for O'Melveny's Financial Technology Group. Drawing on O'Melveny's historical strengths in technology and financial services regulation, Mr. Sibbitt and his team help clients navigate regulatory regimes as they develop innovative and sophisticated applications of blockchain technologies.

Mr. Sibbitt explained, "The development of new applications for blockchain technology and digital assets has presented novel

issues across the legal landscape, including those potentially involving the U.S. federal securities laws. Because lawmakers designed legacy financial regulation that did not envision these technological advances, industry participants have struggled when applying existing laws to the unique nature and characteristics of digital assets. Evaluating the legal status of a particular digital asset is always a facts and circumstances determination. The CRC seeks to improve this process by creating a standardized framework that takes into account available facts, relevant U.S. securities law statutes, court cases, enforcement actions, and applicable SEC regulations and guidance, while accommodating the potential for that determination to change as the law and facts and circumstances around a particular asset evolve.”

The CRC arrives at a critical time in the evolution of the crypto market, with Congress closely examining Facebook’s Libra cryptocurrency and the owner of the New York Stock Exchange recently announcing the launch of a Bitcoin futures market.

Mr. Sibbitt advises clients in the digital asset industry in areas such as financial regulation, capital raises, corporate governance, strategic transactions and technological innovation, among others. Together with the broader team in O’Melveny’s Financial Technology Group, Mr. Sibbitt has also been active in other industry initiatives, including serving as an Expert Contributor to The Digital Chamber of Commerce’s recent series of guides on “Understanding Digital Tokens.”

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