
SENATE COMMITTEE ON APPROPRIATIONS

Senator Anthony Portantino, Chair
2023 - 2024 Regular Session

AB 39 (Grayson) - Digital financial asset businesses: regulatory oversight

Version: July 13, 2023

Urgency: No

Hearing Date: September 1, 2023

Policy Vote: B. & F.I. 6 - 0, JUD. 10 - 0

Mandate: No

Consultant: Janelle Miyashiro

Bill Summary: AB 39 establishes a licensing and regulatory framework, administered by the Department of Financial Protection and Innovation (DFPI), for digital financial asset business activity, as specified.

***** **ANALYSIS ADDENDUM – SUSPENSE FILE** *****

**The following information is revised to reflect amendments
adopted by the committee on September 1, 2023**

Fiscal Impact: DFPI reports costs of approximately \$14.0 million in year one, \$17.0 million in year two, and \$21.2 million in year three and ongoing for a multi-year build-up of the program and for continued administration and enforcement workload (Financial Protection Fund). Costs to establish the program would include equipment, software, other IT operating expenses, and workload related to promulgating regulations and training for DFPI staff. Ongoing costs would include additional staffing resources to conduct licensing, examination, investigation, and enforcement activities.

Generally, when DFPI establishes a new regulatory program it will cover those start-up costs through the Financial Protection Fund. Once the program is fully operational, the DFPI will recoup those costs through that program's licensing fees, fines, penalties, settlements, or judgements. DFPI does not anticipate the need for additional General Fund support, and will likely be able to cover its administrative costs through the Financial Protection Fund until the program is able to collect adequate fee revenue to support this program's operations.

Author Amendments:

- Clarify an exemption for entities or futures commission merchant, swap dealer, or introducing broker registered under the federal Commodity Exchange Act.
- Revise the information an applicant for licensure is required to provide to DFPI relevant to the applicant's proposed digital financial asset business activity, including documentation related to capital and liquidity and the number of residents the applicant engaged in activity with.
- Authorize the commissioner to issue a conditional license to an applicant pending compliance with licensure requirements if specified conditions are met.
- Replace the license renewal reapplication process with an annual report and fee based on a licensee's or conditional licensee's pro rata cost share, as specified.

- Before January 31 of each year, requires the commissioner to notify each licensee and conditional licensee of the amount assessed and levied against it.
 - Authorizes the commissioner to use funds obtained pursuant to the above as well as through fines, penalties, settlements, or judgement for the DFPI's administrative and enforcement costs.
 - Authorizes DFPI to adopt rules that change the pro rata cost share calculation and the dates on which assessment notification and payments are due.
 - Establishes a process to suspend or revoke a license and a hearing process to contest a suspension or revocation.
- Clarify the fingerprinting submission process.
 - Specify in “best execution” requirements, that a covered exchange must, at least once every six months, review aggregated trading records or residents against benchmarks to determine execution quality, investigate the causes of any variance, and promptly take action to remedy any issued identified.
 - Revise provisions related to stablecoin, including making these provisions go into effect January 1, 2025 and clarifying that specified trust companies may be issuers and that issuers may include foreign currency eligible securities as part of the reserve requirement if those securities are required in other jurisdictions.
 - Make other technical, clarifying, and conforming changes.

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