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Blockstack Announces SEC Filing for $50 Million Regulation A Token Offering

Blockchain and the Law on **April 30, 2019**

On April 11, Blockstack Token LLC ("Blockstack") filed a preliminary offering circular with the SEC for a $50 million token offering under Regulation A of the Securities Act. The offering circular is now under review with the SEC and must be qualified (*i.e.*, cleared) by the SEC before sales of Blockstack's tokens ("Stacks Tokens") can be effectuated under the program.

Blockstack's offering circular is notable because it treats the Stacks Tokens as securities today but discloses that the issuer expects the Stacks Tokens will, at some point in the future, no longer be required to be treated as securities under the federal securities laws. This approach is consistent with recent SEC staff guidance, which stated that the analysis of whether a digital asset represents an investment contract (and thus, a security) may change over time, depending on how the asset is used, offered and sold. Blockstack states that it will refer to the Framework for "Investment Contract" Analysis of Digital Assets, recently published by the SEC's Strategic Hub for Innovation and Financial Technology, for regulatory guidance in connection with making this determination.

If the SEC qualifies Blockstack's offering under Regulation A, it will be the first time the SEC has done so for the offer and sale of a blockchain-native digital asset.

Regulation A provides an exemption from the registration requirements of the Securities Act for offerings of up to $50 million within a one year period, provided that the requirements for conducting a Regulation A offering are satisfied.

For issuers offering more than $20 million, these requirements include: (1) a filed and qualified Form 1-A, which contains basic information and narrative disclosures about the issuer, as well as audited financial statements; (2) filing annual and semiannual financial and business reports on Forms 1-K and 1-SA; and (3) filing current reports for certain events involving the issuer, such as certain fundamental changes to the business, bankruptcy, changes in the certifying accountant, a change in control or a departure of a principal executive officer, financial officer or accounting officer on Form 1-U. Last December, the SEC amended Regulation A to make the exemption available to public reporting companies, which were previously disqualified.

Regulation A provides an attractive avenue for certain issuers to offer and sell digital assets as securities because, among other things:

- Subject to certain investor-specific caps on maximum permissible investments, issuers using Regulation A are able to offer and sell securities broadly to any U.S. investor. By way of comparison, Rule 506(c) under Regulation D limits offers and sales to accredited investors only.
- Securities sold pursuant to Regulation A are not “restricted securities” and thus generally will be freely tradeable by investors after purchase. The relative lack of regulatory friction in the transfer of securities offered under Regulation A can be a critical advantage for developers of blockchain networks that require their underlying digital assets to be transferred freely on the network in order to properly function. Although not a regulatory requirement, Blockstack’s offering is structured such that the majority of the Stacks Tokens offered would nonetheless be subject to a “time lock” that limits the ability of the tokens to be used or transferred for a period of time.

The full text of Blockstack’s April 11 preliminary offering circular is available here.

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