

POLONIEX

Poloniex Statement on Today's CFTC Request for No-Action Relief

Poloniex, Inc. (Poloniex) filed a request for no action relief with the Commodity Futures Trading Commission (CFTC) seeking clarity with respect to the CFTC's laws as they relate to margin and lending transactions on cryptocurrency exchanges.

Poloniex, through counsel, requested that a petition for rulemaking be filed with the Commission. Such a request for rulemaking was filed in July 2016. Establishing regulatory clarity will lead to the development of technological innovation and the launch of new markets.

While Poloniex's letter is tailored to its platform, the request could provide benefits for the entire marketplace. Poloniex encourage customers and other exchanges to contact the CFTC in support of the request for clarity.

Briefly, our letter explains that:

- There is no clear regulatory interpretation of the CFTC's rules for how "actual delivery" is achieved in the context of cryptocurrency trading or lending.
- The delivery requirements that were written years ago to apply to the delivery of "hard" commodities such as wheat, soybeans or gold, have not been updated to apply to the delivery of virtual currency.

Today's request seeks confirmation of a specific legal position:

- The CFTC's rules provide an exemption from CFTC registration for certain retail commodity transactions that fall within the plain meaning of "actual delivery."
- The lending and margin trading transactions on the Poloniex Platform satisfy both the statutory definition of "actual delivery" and the Commission's "functional" interpretation of the term "actual delivery" because, every transaction involves the "physical . . . delivery [of] the entire quantity" of digital currency, either loaned by the lender or purchased by the buyer.
- The immediate transfer of ownership, title, and possession of digital currency from one party to another, where the transferor retains no property or other legal interest in the delivered commodity, would appear to unambiguously meet the CFTC's requirement of "actual delivery within 28 days."

Finally, Poloniex seeks clarity so that all Exchanges can compete under the same rules in a global marketplace:

- By undertaking a formal rulemaking to consider these issues, the Commission would ensure that all market participants understand their compliance obligations under the law, which, in turn, would facilitate fair competition among all market participants.
- No-action relief would remove legal uncertainty until the Commission promulgates a rule or further interprets the term "actual delivery."