RESOLUTION

RESOLVED, That the American Bar Association approves the Uniform Supplemental Commercial Law for the Uniform Regulation of Virtual-Currency Businesses Act, promulgated by the National Conference of Commissioners on Uniform State Laws, as an appropriate Act for those states desiring to adopt the specific substantive law suggested therein.
The Uniform Supplemental Commercial Law for the Uniform Regulation of Virtual-Currency Businesses Act (the “Supplemental Act”) is a follow-up to the Uniform Regulation of Virtual-Currency Businesses Act (“URVCBA”). The URVCBA establishes a regulatory framework for virtual-currency businesses to operate either by license or registration in a state and creates safeguards to protect users of virtual-currency business services. While the URVCBA provides numerous robust user protections based on commercial law principles, it does not directly address the commercial law rules for transactions and relationships between virtual-currency businesses and consumers.

The Supplemental Act provides commercial law rules using the time-tested duties and rights of customers of securities intermediaries under the Uniform Commercial Code. The Supplemental Act does this by requiring the incorporation of Article 8 of the Uniform Commercial Code into the agreement made between a virtual-currency licensee or registrant and users.

This approach provides certainty and finality to virtual-currency transactions by treating virtual currency as a financial asset under UCC Article 8 rules. This makes virtual currency “negotiable” by allowing good faith purchasers for value to achieve “protected purchaser” status. This also facilitates the use of virtual currency as collateral for UCC Article 9 secured transactions.

The utilization of UCC Article 8 to supply the commercial law rules does not determine the characterization or treatment of virtual currency under other laws, such as income taxation or securities or commodities regulation.

The act also provides that a party’s failure to comply with the Supplemental Act is a violation of the URVCBA, which may result in civil penalties and license or registration revocation or suspension.

The Supplemental Act is designed to replace the user protections in Section 502 of the URVCBA in a state that already has the URVCBA or to take effect when a state enacts the URVCBA.

The Uniform Supplemental Commercial Law for the Uniform Regulation of Virtual-Currency Businesses Act and the work of the Drafting Committee is available at www.uniformlaws.org, the website of the Conference.
Respectfully submitted,

Anita Ramasastry, President
National Conference of Commissioners on Uniform State Laws
January 2019
GENERAL INFORMATION FORM

Submitting Entity: National Conference of Commissioners on Uniform State Laws

Submitted By: Anita Ramasastry, President

1. Summary of Resolution(s).

   The National Conference of Commissioners on Uniform State Laws (NCCUSL) requests approval of the Uniform Supplemental Commercial Law for the Uniform Regulation of Virtual-Currency Businesses Act by the American Bar Association (ABA) House of Delegates.

2. Approval by Submitting Entity.

   The National Conference of Commissioners on Uniform State Laws granted final approval to the Act at its July 2018 Annual Meeting.

3. Has this or a similar resolution been submitted to the House or Board previously?

   Yes, the House of Delegates approved the Uniform Regulation of Virtual-Currency Businesses Act at its 2018 Midyear Meeting (ABA House Report 18M112F). The Uniform Supplemental Commercial Law for the Uniform Regulation of Virtual-Currency Businesses Act is designed to be enacted alongside the Uniform Regulation of Virtual-Currency Businesses Act. Adoption of this resolution is important because of the related nature of the acts—one act provides the regulatory framework for virtual-currency businesses and the other provides the commercial law rules to govern virtual-currency transactions.

4. What existing Association policies are relevant to this Resolution and how would they be affected by its adoption?

   None.

5. If this is a late report, what urgency exists which requires action at this meeting of the House? N/A

6. Status of Legislation. (If applicable)

   The Uniform Supplemental Commercial Law for the Uniform Regulation of Virtual-Currency Businesses Act has not yet been enacted in any jurisdiction.

7. Brief explanation regarding plans for implementation of the policy, if adopted by the House of Delegates.

   NCCUSL will present the Act to state legislatures for consideration and enactment.
8. **Cost to the Association.** (Both direct and indirect costs)

   None.

9. **Disclosure of Interest.** (If applicable)

   None.

10. **Referrals.**

    Pursuant to the agreement between the NCCUSL and the ABA, all members of the House of Delegates and Chairs of all ABA entities were advised of the drafting project, and those that expressed interest were provided with tentative drafts. The Drafting Committee’s work can be found at uniformlaws.org.

11. **Contact Name and Address Information.** (Prior to the meeting. Please include name, address, telephone number and e-mail address)

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12. **Contact Name and Address Information.** (Who will present the Resolution with Report to the House? Please include best contact information to use when on-site at the meeting. *Be aware that this information will be available to anyone who views the House of Delegates agenda online.*)

    Anita Ramasastry, NCCUSL President  
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EXECUTIVE SUMMARY

1. Summary of the Resolution

That the American Bar Association approves the Uniform Supplemental Commercial Law for the Uniform Regulation of Virtual-Currency Businesses Act promulgated by the National Conference of Commissioners on Uniform State Laws in July 2018 as an appropriate Act for those states desiring to adopt the specific substantive law suggested therein.

2. Summary of the Issue that the Resolution Addresses

The Uniform Supplemental Commercial Law for the Uniform Regulation of Virtual-Currency Businesses Act provides commercial law rules using the time-tested duties and rights of customers of securities intermediaries under the Uniform Commercial Code. The Supplemental Act does this by requiring the incorporation of Article 8 of the Uniform Commercial Code into the agreement made between a virtual-currency licensee or registrant and users.

3. Please Explain How the Proposed Policy Position Will Address the Issue

Approval of the Uniform Supplemental Commercial Law for the Uniform Regulation of Virtual-Currency Businesses Act by the American Bar Association House of Delegates would demonstrate to states that the Act is an appropriate approach for addressing the issues described above.

4. Summary of Minority Views or Opposition Internal and/or External to the ABA Which Have Been Identified

None known.