

June 18, 2019

Chairman Roger Picard  
Senate Commerce Committee  
State House  
Providence, RI 02903

**RE: Opposed Unless Amended – S 753 (Virtual Currency Transmissions)**

Dear Chairman Picard:

On behalf of the payments industry, the Electronic Transactions Association (“ETA”) are opposed to S 753 unless amended. ETA appreciates the opportunity to provide comments and hopes the committee considers our recommended amendments as they are designed to minimize unintended consequences. For example, the definition of virtual currency currently in the bill would unnecessarily include several activities traditionally exempted under licensure. Additionally, the bill has a number of exemptions which ETA supports but does not include some traditionally included exemptions used by other states.

ETA is the leading trade association for the payments industry, representing over 500 companies that offer electronic transaction processing products and services. ETA’s members include financial institutions, mobile payment service providers, mobile wallet providers and non-bank online lenders that make commercial loans to small businesses, either directly or in partnership with other lenders. ETA member companies are creating innovative offerings in financial services, revolutionizing the way commerce is conducted with safe, convenient and rewarding payment solutions and business lending alternatives.

**Overview of the Bill**

This bill would add virtual currency to the existing electronic money transmission and sale of check licenses and amend the Currency Transmissions Law and licensing requirements.

S 753 includes a number of exemptions from licensure including a person whose participation in a payment system is limited to providing processing, clearing, or performing settlement services solely for transactions between or among persons that are exempt from the licensing or registration requirements. This bill includes a mandated compliance program and monitoring section which requires licensees to have detailed compliance and anti-fraud programs in place. S 753 includes a number of prohibited acts and practices and includes a number of virtual currency specific requirements such as disclosure, bond requirements, etc.

**Definition of Virtual Currency**

S 753 has a definition of “Virtual Currency” which lacks exemptions for services and products which are traditionally exempted under these types of licenses including loyalty or cash back

rewards on a credit card or providing a gift card or prepaid card. This is likely not intentional and in order to prevent traditionally exempted activities from being brought under the definition of virtual currency, ETA recommends that the author consider this definition of Virtual Currency modeled after similar bills in other states.

“Virtual currency” means a digital representation of value that:

1. Is used as a medium of exchange, unit of account, or store of value; and
2. Is not money, whether or not denominated in money.

“Virtual currency” does not include:

1. A gift certificate; store gift card; general-use prepaid card; or loyalty, award, or promotional gift card, as these terms are defined in federal Regulation E, title 12 Code of Federal Regulations section 1005.20(a), without giving effect to any exception as specified in title 31 Code of Federal Regulations section 1010.100(kkk);
2. Any card, code or device, or other device that can add funds to the products specified in paragraph (1); or
3. Units of value that are used solely within online gaming platforms that have no market or application outside of the gaming platforms.

### **Licensure Exemptions**

S 753 includes a number of exemptions from the licensure requirement including “a person whose participation in a payment system is limited to providing processing, clearing, or performing settlement services solely for transactions between or among persons that are exempt from the licensing or registration requirements...” ETA supports an exemption for payment processors as they are traditionally not the type of activities contemplated to be licensed under state money transmission statutes.

ETA also encourages the committee to consider harmonizing the state currency transmission exemptions based on the recommendations of the Conference of State Bank Supervisors FinTech Industry Advisory Panel January 2019 recommendations<sup>1</sup> which include the following exemptions be added to and harmonized between state laws. They include exemptions for payment processors in addition to the following:

- Agent of the Payee
- Insured prepaid card
- Closed loop prepaid access
- Payroll services & 1099 contractors
- Agents and service providers of banks
- Pre-funding

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<sup>1</sup> See *Conference of State Bank Supervisors FinTech Industry Advisory Panel January 2019 Recommendations* available at <https://www.csbs.org/sites/default/files/2019-02/Fintech%20Industry%20Advisory%20Panel%20-%20Payments%20Subgroup%20-%20January%202019%20Recommendations%20%28Final%29.pdf>

- Payment of business taxes
- Business to business activities
- Integral or incidental exemption

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Thank you for the opportunity to participate in the discussion on this important issue. If you have any additional questions, you can contact me at the information below.

Sincerely,



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Electronic Transactions Association  
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Cc: Members of the Senate Commerce Committee  
Senator Louis DiPalma  
Senator William Conley  
Senator Bridget Valverde