

Federal Court



Cour fédérale

Date: 20210319

Docket: T-1114-20

Ottawa, Ontario, March 19, 2021

PRESENT: The Honourable Mr. Justice Pamel

BETWEEN:

MINISTER OF NATIONAL REVENUE

Applicant

and

COINSQUARE LTD.

Respondent

ORDER

UPON application of the Minister of National Revenue [Minister] under subsections 231.2(2) and (3) of the *Income Tax Act*, RSC 1985, c 1, (5th Supp), as amended, and subsections 289(2) and (3) of the *Excise Tax Act*, RSC, 1985, c E-15, as amended, for judicial authorization to impose on the respondent a requirement to provide information relating to unnamed persons;

UPON reviewing the material filed by the Minister;

AND UPON being satisfied that the statutory conditions of paragraphs 231.2(3)(a) and (b) of the *Income Tax Act* and authorizing the requirement has been satisfied in that:

- a) The group of unnamed persons is ascertainable; and
- b) The requirements are made to verify compliance by persons in the group with their duties and obligations under the *Income Tax Act*;

AND UPON being satisfied that the statutory conditions of paragraphs 289(3)(a) and (b) of the *Excise Tax Act* and authorizing the requirement has been satisfied in that:

- a) The group of unnamed persons is ascertainable; and
- b) The requirements are made to verify compliance by persons in the group with their duties and obligations under the *Excise Tax Act*;

THIS COURT ORDERS that:

1. The Minister is authorized to impose on the respondent, Coinsquare Ltd., a requirement pursuant to subsection 231.2(1) of the *Income Tax Act* and 289(1) of the *Excise Tax Act* relating to unnamed persons in the form attached hereto as Appendix "A" and Appendix "B"; and
2. There is no order as to costs.

"Peter G. Pamel"

Judge

Appendix A



Canada Revenue
Agency

Agence du revenu
du Canada

XXXXX ##, 2020

Attn: Stacey Hoisak
Coinsquare Ltd.
590 King Street West
4th Floor Suite 400
Toronto ON M5V 1M3

Re: Requirement to Provide Information and Documents

For purposes related to the administration or enforcement of the *Excise Tax Act* (“**ETA**”) according to the provisions of subsection 289(1), 289(2) & 289(3) of the ETA, as well the administration or enforcement of *Income Tax Act* (“**ITA**”) according to the provisions subsection 231.2(2) of the ITA, Coinsquare Ltd. (“**Coinsquare**”) is required to provide within **sixty (60) days** from the date of receipt of this requirement, the following documents and information pertaining to the period from January 1, 2013 to the date of the court authorization (the “**Period**”) for each of its customers registered with an address in Canada (the “**Customers**”):

1. A list of all Customer accounts, both active and inactive, either alone or jointly held with any other person(s) or business(es).
2. A detailed listing of all cryptocurrency and fiat currency transfers identifying the source and destination of all Customers’ deposits and withdrawals. Details should include the method of funding/withdrawal, the type of fiat currency/cryptocurrency transferred in/out, date, time, cryptocurrency address/bank accounts, transaction ID, amount, fees, and all other information Coinsquare captures regarding funding and withdrawals to/from all Customer accounts, either alone or jointly with any other person(s) or business(es).
3. A detailed listing of all trading activity of its Customers, including over-the-counter (OTC) or off-exchange trades and information indicating the following: trading pair, buy/sell order, date, time, amount, price per unit, fees, transaction identifier, which can include a list of all known cryptocurrency addresses that were, or may have been, used during the Period of its Customers, either alone or jointly with any other person(s) or business(es).

Canada

4. A copy of the “know your customer” documentation of its Customers.
5. A list of all deposit addresses of its Customers, either alone or jointly with any other person(s) or business(es).
6. All other additional information retained by Coinsquare relating to cryptocurrency or fiat transactions of its Customers, either alone or jointly with any other person(s) or business(es).

The required information above may include documents and information relating to a third party not identified in the subject line above. The documents and information are sought and are required as part of the broad powers of the Minister of National Revenue under section 289 of the ETA and 231 of the ITA. These powers have been confirmed by the Federal Court of Appeal and the Supreme Court of Canada.

To comply with this requirement, send by registered mail, within the **sixty (60) day** period, the documents and information to **Paul Kalil**, Acting Manager – Cryptocurrency Section, at the following address:

Digital Compliance and Audit Support Division
GST/HST Directorate
Compliance Programs Branch
320 Queen St., Place de Ville, Tower A, 19th floor
Ottawa ON K1A 0L5

Alternatively, if your Cryptocurrency Exchange is approved to transact with the

Canada Revenue Agency through our electronic portal, compliance with this requirement may be achieved by electronically submitting documents and information as required through a secure File Transfer Protocol arrangement. In such case, please contact **Paul Kalil**, Acting Manager – Cryptocurrency Section to facilitate an electronic transfer.

If a representative of your Cryptocurrency Exchange has questions, they can call **Paul Kalil**, Acting Manager – Cryptocurrency Section, at 613-292-8321.

If your Cryptocurrency Exchange does not comply with this requirement, the Canada Revenue Agency may initiate legal proceedings against your Cryptocurrency

Exchange for a compliance order under section 289.1 of the ETA or 231 of the ITA. If your Cryptocurrency Exchange does not comply with the compliance order, it could be held in contempt of court.

Federal Court



Cour fédérale

Sincerely,

Sahil Behal
Director, GST/HST Directorate Directeur,
Direction de la TPS / TVH
Compliance Programs Branch
Direction générale des programmes d'observation
320 Queen Street, Room 1911 | 320, rue Queen, pièce 1911
Ottawa, Ontario, K1A 0L5

Website: canada.ca/revenue-agency

REGISTERED

Appendix B

Coinsquare Ltd. (“**Coinsquare**”) and the Minister of National Revenue (the “**Minister**”) have agreed that the definition of “Customer” or “Customers” in Appendix “A” shall be as described below.

Customer or Customers are defined herein as:

Category A: Customers with accounts with a value of \$20,000 CDN or more on:

- December 31, 2014,
- December 31, 2015,
- December 31, 2016,
- December 31, 2017,
- December 31, 2018,
- December 31, 2019,
- December 31, 2020;

Category B: Customers who have cumulative deposits of \$20,000 CDN or more since the account opening; and

Category C: The 16,500 largest Customer accounts by trading volume in CDN dollars between 2014 and 2020, and if not already included, the 16,500 largest Customer accounts by number of trades between 2014 and 2020

Certain customers may be included in more than one category, above. Coinsquare shall identify customers in each category, regardless of whether the customer is included in another category.

The parties agree that the customer information shall be provided by the later of (i) February 26, 2021, or (ii) fifteen (15) days from the date of Coinsquare’s receipt of the requirement issued pursuant to the court’s Order.

Further to Appendix “A”, the documents and information for the Customers are to be transmitted electronically in Excel or CSV file format to **Paul Kalil**, Senior Advisor (as of October 19, 2020) – Digital Compliance & Audit Support Division, at the following electronic mail address: Paul.Kalil@cra-arc.gc.ca.

For further clarification, the “know your customer” documentation required in paragraph 4 of Appendix “A” is to be provided where it is available in the aforementioned Excel or CSV formats. To the extent that such documentation is not available or exists solely in other formats such as PDF and/or JPG formats, such documentation is not required to be provided on the initial disclosure of the customer information, and Coinsquare understands the CRA may request that it be produced at a later date.