

**STATE OF VERMONT
DEPARTMENT OF FINANCIAL REGULATION**

IN RE:)	
VOYAGER DIGITAL LTD., VOYAGER)	
DIGITAL HOLDINGS, INC., AND VOYAGER)	DOCKET NO. 22-004-S
DIGITAL, LLC)	
)	
)	

EX PARTE ORDER TO CEASE AND DESIST

Based on the Motion for Ex Parte Order to Cease and Desist (the “Motion”) filed by the Securities Division of the Vermont Department of Financial Regulation (the “Department”) pursuant to 9 V.S.A. § 5602 and § 5604 and Department Regulation No. 2022-01, the Commissioner makes the following Findings of Fact and Conclusions of Law and enters the following Order:

I. FINDINGS OF FACT

Respondents

1. Voyager Digital Ltd. (“Voyager Limited”) is incorporated in British Columbia, Canada and conducts business in the State of Vermont through its wholly owned subsidiaries. Voyager Limited’s principal place of business is located at 33 Irving Plaza, Suite 3060, New York, New York. Voyager Limited is the parent company for various subsidiaries, including Voyager Digital Holdings, Inc.
2. Voyager Digital Holdings, Inc. (“Voyager Holdings”), a wholly owned subsidiary of Voyager Limited, is a Delaware corporation that conducts business in the State of Vermont through its wholly owned subsidiaries. Voyager Holdings is the holding company for Voyager Limited’s subsidiaries in the United States, including Voyager Digital, LLC.

3. Voyager Digital, LLC (“Voyager Digital”) is a Delaware limited liability company that conducts business in the State of Vermont. Voyager Digital’s principal place of business is located at 185 Hudson Street, Jersey City, New Jersey. Voyager Digital is a wholly owned subsidiary of Voyager Holdings and Voyager Limited. Voyager Digital provides user-facing products and services to customers in the United States, including in Vermont.
4. Voyager Limited, Voyager Holdings, and Voyager Digital are referred to herein collectively as the “Respondents” or “Voyager.”¹

The Crypto Interest Accounts

5. Voyager is a financial services company that generates revenue by providing execution for customer-initiated trades of certain digital assets and virtual currencies (collectively, “cryptocurrency” or “cryptocurrencies”), lending cryptocurrencies to commercial and institutional borrowers, participating in blockchain and cryptocurrency staking protocols, and engaging in other types of transactions selected and conducted at Voyager’s discretion.
6. Since November 1, 2019, Respondents have been, at least in part, financing their lending activities and cryptocurrency staking activities through the sale of unregistered securities in the form of interest-earning cryptocurrency accounts (the “Voyager Interest Accounts”) to residents of Vermont and other states.
7. Respondents refer to the interest-earning feature of the Voyager Interest Accounts as Voyager’s “Earn Program” or “Rewards Program.” Prior to August 20, 2021, it was known as Voyager’s “Interest Program.”
8. Respondents conduct their business on the internet, through a website accessible to the general public at <https://www.investvoyager.com> (the “Voyager Website”), as well as

¹ The Respondents mirror the debtors in the chapter 11 case discussed *infra* at Paragraph 37.

through Respondents' proprietary smartphone applications, which are also accessible to the general public.

9. Respondents permit Vermont residents and other investors who self-certify as being at least eighteen years old to invest in the Voyager Interest Accounts through the Voyager Website and smartphone applications.
10. Investors open their Voyager Interest Accounts by transferring U.S. dollars or eligible cryptocurrency to Voyager to invest in the Voyager Interest Accounts. Investors relinquish control over their deposits and Voyager takes legal and beneficial ownership of the investors' deposits.
11. Investors retain the right to withdraw their deposited cryptocurrencies but investors otherwise consent to Voyager's use of such cryptocurrencies consistent with the terms of the Voyager Interest Accounts. Voyager's use includes: commingling cryptocurrencies with cryptocurrencies deposited by other investors; holding cryptocurrency held in an investor's account in Voyager's name or in another name; pledging, repledging, hypothecating, rehypothecating, selling, lending, staking, arranging for staking, or otherwise transferring or using any amount of such cryptocurrency, separately or together with other property, with all attendant rights of ownership, and for any period of time and without retaining a like amount of cryptocurrency; and otherwise using or investing such cryptocurrency at the investor's sole risk.
12. In exchange for consideration (*i.e.* deposits and the attendant rights to use them as described above) received in the present, Voyager has at all relevant times promised to pay lucrative interest rates in the future. Voyager has at all relevant times promoted the interest rates through the Voyager Website and applications, which advertise annualized returns on

cryptocurrencies for retail investors which significantly exceed the rates offered on short-term investment grade fixed income securities or on bank savings accounts.

13. Voyager sets the interest rates it pays on various cryptocurrencies in advance, typically on a monthly basis. Voyager sets its interest rates based on various considerations and prioritizing Voyager's need for particular types of cryptocurrencies or digital assets.
14. The accrual of interest is calculated using a daily periodic rate applied to the principal in a Voyager Interest Account and interest is paid the month after it accrues. Interest is payable on or before the fifth business day of each month for the interest accrued the prior month.
15. Interest payments are denominated in the same type of cryptocurrency or digital asset originally invested.
16. Retail investors may withdraw their cryptocurrencies at any time, subject to certain processing times and minimum balance requirements; however this right is limited by Voyager's sole discretion to delay or prohibit withdrawals and by the availability of the particular cryptocurrency.
17. As of July 15, 2022, Voyager had over \$1.9 billion in outstanding Voyager Interest Account liabilities and more than 1.6 million funded accounts from the sale of Voyager Interest Accounts, nationally.
18. As of July 10, 2022, more than 1,500 Vermont residents have over \$2.5 million invested in Voyager Interest Accounts. Respondents offered these Voyager Interest Accounts to Vermonters without complying with the securities registration requirements in Vermont law.

The Lack of Registration and Public Protections

19. Respondents are not licensed as money transmitters under the Vermont Money Services Act, 8 V.S.A. § 2500, *et seq.*
20. Respondents are not registered with the Vermont Department of Financial Regulation to offer or sell securities in Vermont.
21. The Voyager Interest Accounts are not registered or permitted for sale in Vermont, nor do they qualify for any exemption from registration pursuant to the Vermont Uniform Securities Act, 9 V.S.A. §§ 5101-5617 (the “Securities Act”).
22. The Voyager Interest Accounts are not registered for offer or sale with the United States Securities and Exchange Commission (the “SEC”).
23. Respondents did not file or cause to be filed a registration statement with the SEC in connection with the offer and sale of the Voyager Interest Accounts.
24. Respondents are not disclosing — and at all relevant times have not disclosed — material information to Voyager Interest Account investors that issuers of registered securities must include in a registration statement and provide to prospective investors in the form of a prospectus pursuant to Subchapter 3 of the Securities Act and Section 6-1 of the Vermont Securities Regulations.
25. The Voyager Interest Accounts are not protected by Securities Investor Protection Corporation, otherwise known as the SIPC, a federally mandated, non-profit, member-funded United States corporation created under the Securities Investor Protection Act of 1970 that mandates membership of most US-registered broker-dealers.
26. The Voyager Interest Accounts are also not insured by the Federal Deposit Insurance Corporation, otherwise known as the FDIC, an agency that provides deposit insurance to

depositors in the United States, or the National Credit Union Administration, otherwise known as the NCUA, an agency that regulates and insures credit unions.

Voyager's Past and Continuing Registration Violations

27. On June 22, 2021, Voyager applied for a Vermont money transmitter license; Voyager's application remains pending.
28. On July 1, 2021, as part of its review of Voyager's pending application for a Vermont money transmitter license, the Department directed Voyager to provide an affidavit, signed and dated by an officer of the company, indicating whether or not business has been conducted with any Vermont clients.
29. On August 3, 2021, Voyager's chief compliance officer provided a statement confirming that "Voyager Digital LLC has not conducted any unlicensed business activities with Vermont clients." Voyager did not provide the required affidavit.
30. On September 21, 2021, the Department requested that Voyager provide information regarding all financial business engaged in, effected, conducted or facilitated by Voyager or any of its affiliates with any customer, client, borrower, person or entity located or residing in the State of Vermont. Voyager did not provide the requested information.
31. On February 18, 2022, the Department resent its request and directed Voyager to respond by March 1, 2022. Voyager complied with this final request and confirmed that over three thousand Vermonters had either signed up for, opened, or invested in Voyager Interest Accounts between December 20, 2020 and February 28, 2022.²

² In addition to the unregistered offering and sale of securities in the form of Voyager Interest Accounts, Voyager's response on March 1, 2022, reported extensive unlicensed business activities with Vermont customers that appear to require a Vermont money transmitter license pursuant to 8 V.S.A., Chapter 79. Such matters are beyond the current scope of this Order, which is limited to enforcement of the Securities Act.

32. On March 29, 2022, the Department issued a Show Cause Order to Respondents, ordering Respondents to show cause within thirty days why an order should not be entered directing Respondents to cease and desist offering Voyager Interest Accounts in Vermont (the “Show Cause Order”).
33. The Department granted Respondents an extension of time until August 31, 2022 to provide a response to the Show Cause Order.
34. In response to the Show Cause Order, Respondents failed to provide the Department with any convincing reason why the Voyager Interest Accounts are not securities.
35. At all relevant times, Respondents offered the Voyager Interest Accounts to Vermonters without complying with the registration requirements in Vermont law.

The Freeze of Withdrawals and Bankruptcy Proceedings

36. On July 1, 2022, Voyager suspended the fulfillment of customer withdrawal requests, citing “current market conditions.”
37. On July 5, 2022, Respondents filed voluntary Chapter 11 bankruptcy petitions in the United States Bankruptcy Court for the Southern District of New York (jointly administered as Case No. 22-10943) (the “Bankruptcy Case”).
38. Voyager has represented that, since filing the Bankruptcy Case, it has ceased opening new Voyager Interest Accounts and paying interest to existing Voyager Interest Account customers.
39. On July 21, 2022, Voyager filed a Motion Seeking Entry of an Order (I) Approving the Bidding Procedures and Related Dates and Deadlines, (II) Scheduling Hearings and

Objection Deadlines with Respect to the Debtors’ Sale, Disclosure Statement, and Plan Confirmation, and (III) Granting Related Relief (the “Motion”) in the Bankruptcy Case.³

40. The Motion seeks, among other things, to establish bidding procedures and deadlines relating to “the potential sale of the Debtors’ equity and/or all or substantially all of the Debtors’ assets.”
41. On August 5, 2022, the court in the Bankruptcy Case granted the Motion, approved the bidding procedures in connection with the sale of the Debtors’ assets, and set certain deadlines.⁴
42. On August 12, 2022, Voyager filed its First Amended Joint Plan of Reorganization in the Bankruptcy Case (the “Amended Plan”).⁵ The Amended Plan contemplates that after the effective date of the reorganization, “each Reorganized Debtor may operate its business and may use, acquire, or dispose of property and compromise or settle any Claims, Interests, or Causes of Action without supervision or approval by the Bankruptcy Court and free of any restrictions of the Bankruptcy Code or Bankruptcy Rules.”
43. On August 22, 2022, Voyager filed a Notice of Filing of Revised Bidding Procedures, extending the bid deadline to September 6, 2022, the auction deadline to September 13, 2022, the sale objection deadline to September 22, 2022, and the sale hearing to September 29, 2022.⁶
44. Given the possibility that Voyager may imminently sell all or substantially all its assets and/or resume offering unregistered securities to Vermont consumers pursuant to the Amended Plan, the Securities Division seeks an *ex parte* order to protect the financial

³ See ECF No. 126 in the Bankruptcy Case.

⁴ See ECF No. 248 in the Bankruptcy Case.

⁵ See ECF No. 287 in the Bankruptcy Case.

⁶ See ECF No. 328 in the Bankruptcy Case.

health and welfare of Vermont residents who may be affected by Respondents' conduct or otherwise harmed by Respondents' violations of the Vermont Securities Act.

II. CONCLUSIONS OF LAW

45. Pursuant to 9 V.S.A. § 5301, “[i]t is unlawful for a person to offer or sell a security in this State unless: (1) the security is a federal covered security; (2) the security, transaction, or offer is exempted from registration under sections 5201 through 5203 of this chapter; or (3) the security is registered under this chapter.”
46. Pursuant to 9 V.S.A. § 5102(28), the term “security” includes notes, investment contracts, evidence of indebtedness, and related types of participation in profit-sharing agreements. Section 5102(28)(D) specifies that the Securities Act’s definition of security includes “an investment in a common enterprise with the expectation of profits to be derived primarily from the efforts of a person other than the investor and a ‘common enterprise’ means an enterprise in which the fortunes of the investor are interwoven with those of either the person offering the investment, a third party, or other investors.” *Id.* (codifying the definition set forth in *SEC v. W.J. Howey Co.*, 328 U.S. 293 (1946), commonly referred to as the “*Howey test*”).
47. The Voyager Interest Accounts offered by Respondents are securities within the meaning of 9 V.S.A. § 5102(28).
48. The Voyager Interest Accounts were neither federal covered securities nor registered with the Department nor exempted from registration when Respondents offered or sold them to Vermont investors.
49. Accordingly, Respondents are — and have for some time been — in violation of 9 V.S.A. § 5301.

50. Moreover, if Voyager's Amended Plan is approved in the Bankruptcy Case and Voyager resumes offering Voyager Interest Accounts to Vermont consumers, Respondents will be in violation of 9 V.S.A. § 5301.

III. COMMISSIONER'S AUTHORITY

51. Pursuant to 9 V.S.A. § 5604(a)(1), the Commissioner may issue orders or directives to any person to cease and desist from specific conduct if the Commissioner finds that the person has engaged, is engaging, or is about to engage in an act, practice, or course of business which constitutes a violation of 9 V.S.A. Chapter 150, the Vermont Uniform Securities Act, which spans 9 V.S.A. § 5101 to § 5617.
52. Pursuant to 9 V.S.A. § 5604(b) and Section 1.04(O) of the Department of Financial Regulation No. 2022-01, the Commissioner may issue orders without prior notice or opportunity to be heard.
53. In light of the immediate need to protect the financial health and welfare of Vermont residents who may be affected by Respondents' conduct or otherwise harmed by Respondents' violations of the Vermont Uniform Securities Act identified herein, an *ex parte* order is appropriate in this case.

IV. ORDER

54. Based on the findings of fact and conclusions of law identified above, IT IS HEREBY ORDERED:

A. Respondents shall cease and desist from the offer and sale of the Voyager Interest Accounts to Vermont residents, except to the extent any such offer or sale is properly registered or exempt from the registration requirements of the Securities Act; and

- B. Respondents shall not withhold, destroy, mutilate, or by any means modify or falsify any documentary material, electronic records, or other information in their possession that is relevant to the activities and transactions described herein or that involves or relates in any way to the Voyager Interest Accounts.

Dated at Montpelier, Vermont this 13th day of September 2022.



Kevin J. Gaffney
Commissioner
Vermont Department of Financial Regulation