

**A BRIEF ANALYSIS OF
KNOW YOUR CLIENT (KYC)
AND
ANTI-MONEY LAUNDERING (AML)
REGULATIONS
AS DEFINED
BY THE FINANCIAL ACTION TASK FORCE (FATF)**

DETAILING A COMPARISON AND COMMENTARY ON APPLICATION BY
STRETTO AND DISTRIBUTION AGENT COINBASE

Including: Experiences of some Court Mandated Creditors

Under the care of: Chief Justice Judge Martin Glenn
RE: Celsius Network LLC – Case No. 22-10964

Presented by:

Rivashnee Singh
Senior Supervisory Financial Planner and Tax Specialist

Date: 29 May 2024

A. BACKGROUND AND INTRODUCTION:

A team of advisors and administrators have been managing the Celsius Chapter 11 and related distributions to Creditors. After Creditor listings were filed on/about 10/05/22 (Doc 974); appointed claim agents Stretto filed and emailed various communications to Creditors for the effective distribution of their due claims.

B. PURPOSE OF THIS REPORT

Having had different engagements with various stakeholders and Court Approved Creditors in the above matter; there is a need to bring to the attention of the Court inconsistencies, irregularities, bias and prejudice faced by such Court Approved Creditors.

The aim and purpose of this communication is to **address these identified violations that are occurring under the guise of KYC.**

Under the mandate of the Court; directed action by the Administration and Distribution partners in correcting these violations and ensuring COURT MANDATED CREDITOR DISTRIBUTIONS. Further, these Administration and Distribution partners (Stretto and Coinbase) are to amend and define a simpler process for Creditors to receive these COURT MANDATED DISTRIBUTIONS.

C. CELSIUS CHAPTER 11 DISTRIBUTION PARTIES - STRETTO AND COINBASE:

Stretto:

Stretto, as the claims and noticing agent and distribution partner, has a responsibility to follow Bankruptcy procedure.

Stretto have in turn announced and appointed Coinbase (amongst others) for the Distribution of Cryptocurrency. Creditors were directed to open a Coinbase account with the credentials held on Celsius.

A commonly accepted definition of a **partner** (Colins): “a person associated with another or others as a principal or a contributor of capital in a business or a joint venture, usually sharing its risks and profits”

Distribution partner per law insider is: “a person [organisation] authorized by a Party to distribute the [product or service as defined] pursuant to the Agreement”.

It would be natural to assume that an Agreement detailing obligations and performance exists between Stretto and Coinbase. The purpose of which should be TO DISTRIBUTE, not hamper the COURT MANDATED CREDITOR DISTRIBUTIONS.

Creditors have diligently carried out requests, from voting (a singular occurrence) to then attempting to open the requested Coinbase account. At various stages of the communication Stretto often advised that 'NO ACTION' was required on the part of the Creditors.

It is important to note:

1. The links sent out by Stretto for customers to open the Coinbase account are directed to Coinbase.com with no differentiation nor guidance on opening a Coinbase or a Coinbase Bermuda account (Applicable to International Creditors). After exploring Coinbase website, there is no such distinction either. No such distinction exists in Court documents filed. According to Doc 4220 01/11/24; "If you are an Account Holder residing in one of the countries included in the table below, Celsius will attempt to make your distribution through Coinbase. Accordingly **you should open a Coinbase account matching the information associated with your Celsius account.**" Doc 974 of 10/05/2 categorised and confirmed Asset Holdings with a confirmed list of Creditors issued. This Creditor listing was then the source linked to distributions.
2. Per the Doc 4298 filed on 01/31/24 it is noted on page 6 "...to be eligible to receive a Liquid Cryptocurrency distribution under the Plan, **Account Holders must have completed and passed AML/KYC compliance checks for their Celsius Account and may be required to register and/or complete additional onboarding with their assigned Distribution Agent, which may require providing any AML/KYC Compliance Information requested by the Distribution Agent.** You will be notified via email and within the Celsius Apps if personal information updates are required before you can receive your distribution. Information regarding the AML/KYC Compliance Information required by each Distribution Agent will be provided by that Distribution Agent."
3. **Given Creditors experiences, the statements above (1 and 2) have been included in its entirety to establish:**
 - a. (1)Per communication to the point of Distribution, Stretto was clear in that "full name, date of birth, email and cellular details are to match what was used on Celsius application". Should any of this information have changed, it was advised that this be updated on the Celsius application; prior to its decommissioning. **Verification in this manner easily ensures that Court Mandated Distributions are made. Why should Creditors have to go through extensive verification to get their OWN invested funds back?**
 - b. (1&2)Under the guise of AML/KYC, the barrier to Creditors receiving their Distributions are often unnecessary and unwarranted Extended Due Diligence (this will be expanded on below). **The source of funds is simple – A Court Mandated Chapter 11 Distribution to Creditors – why has Stretto not confirmed this? Why has Stretto not issued statements to each Creditor confirming what is lawfully due to them under this Court Mandated Distribution, that can be utilised as the source of funds with the allocated distribution agent?**

- c. (1&2) There are detailed guidelines and lists of claims for fees; yet little guidance provided to Creditors to infact obtain their COURT MANDATED DISTRIBUTIONS. This statement in Court documents with the FAQs limiting Stretto involvement (“neither Celsius nor Stretto will be able to resolve issues with your Coinbase account”) in the Court Mandated Distributions is questionable and concerning.
- d. (2) Given the extent of this statement; would it be unreasonable for Creditors to assume that the selected distribution partners are now deliberately colluding to withhold Authorised Court Mandated Creditor Distributions?
- e. Stretto continues to send out communications with payment rejection emails indicating ‘NO ACTION’ is required from Creditors. Is this to now continue for a year with Court Mandated Creditors not receiving their money and the Liquidators redistributing these funds to other creditors (DOC4220 filed 01/11/24)?
- f. This statement (e - above) in the court document 4220; states that “Any distribution that is unclaimed or otherwise remains ***undeliverable for a period of one year*** after the first attempt to deliver, shall ***be treated as unclaimed property*** under the Plan and promptly distributed to creditors.”

Given that the United States Courts website confirms that “Unclaimed funds are held by a Federal Court for someone who is entitled to the money, but who has failed to claim ownership of the funds” - this action being authorised or even submitted in a Court Document or in the Court Approved Plan is questionable. This is highly concerning given the extent Court Mandated Creditor Distributions are being hampered.

Coinbase – Distribution Partner

Coinbase, one of the selected distribution partners has not been performing in terms of this mandate as a DISTRIBUTION PARTNER; but rather some specific actions are hampering and rejecting Court Mandated Distributions. These independent actions are primarily delaying verification of Creditor accounts, instead of drawing on Court Mandated and Authorised information to speed up Distribution. Given that the above highlighted statements were made in Court documents; the question of deliberate collusion and intention to deliberately hamper payments is raised. Experiences with the Distribution partner will be highlighted in relation to the regulatory framework.

D. INTERNATIONAL REGULATORY CONTEXT:

1. **IRS:** The IRS has entered into QI (qualified intermediary) withholding agreements with various countries. A foundation of such agreements is clear regarding the US Treasury and IRS standards, in that they “...will not extend the QI system to any country that does not have KYC rules...”

Through this QI agreement governing banks, brokers and investment funds; the United States IRS accepts amongst others the authority and regulations of FIC Act 38 of 2001; FICA Act 11 of 2008. This agreement further acknowledges and accepts the jurisdiction of the enforcement bodies of FSB (Now

referred to as FSCA) and FIC. Hence acceptance and authorisation of my Licensing under IRS rulings (detailed later in this document).

- Local Legislation:** Companies operating on an international basis are required to adhere to the Legislation of the respective jurisdictions. Cryptocurrency (acquisition, trading, storing and the like) are fully regulated in the local jurisdiction. There are 75 Crypto Asset Service Providers (CASPs) that are fully Registered and Licensed Institutions within the local jurisdiction. Coinbase is **NOT** one of them. Neither is Coinbase registered as an external / foreign company in the local jurisdiction.
- FATF (Financial Action Task Force):** As is common knowledge; AML/KYC standards are based on Internationally accepted standards adopted and regulated under the FATF. Local jurisdictions have been a member of the Financial Action Task Force (FATF) since 2003. FATF is an international body of countries tasked with setting best practices to combat money laundering and terrorism financing; and is also a signatory to and ratified the United Nations (UN) Convention Against Corruption in 2004. Both the USA and Bermuda are also governed by these Internationally accepted standards as members of the FATF and CFATF (Caribbean Financial Action Task Force) respectively.

There have been adjustments in implementation of the required regulations to uphold its membership commitments to the FATF and the UN within the local jurisdiction; with the intention to modernise compliance and to make it easier for people to comply with the FIC Act and **enhance financial inclusion**.

The implementation of FICAA has been to bring local jurisdictions closer to international anti-money laundering standards and best practices recommended by the FATF, and in line with the Charter of the United Nations Security Council. The principal judicial organ of the UN, functions in accordance with the Statute of the International Court of Justice, which is annexed to the UN Charter and forms an integral part of it. All UN Member States are bound by the UN Charter.

As quoted directly from the FATF:

“Financial inclusion has always been important for the FATF.”

“The FATF recognises that applying an overly cautious approach to anti-money laundering and countering the financing of terrorism (AML/CFT) safeguards can have the unintended consequence of excluding legitimate businesses and consumers from the formal financial system. In 2013, the FATF published the Guidance on AML/CFT Measures and Financial Inclusion, which provided support for designing AML/CFT measures that meet the goal of financial inclusion, without compromising their effectiveness in combating crime. The guidance explained how to apply the risk-based approach, reinforced in the 2012 Recommendations, in a financial inclusion context...

2017 supplement to the 2013 guidance provides country examples of customer due diligence measures adapted to the context of financial inclusion. Those examples illustrate how a simplified

set of CDD measures or alternative forms of identity verification, for example the use of e-identity tools, can support financial inclusion, while appropriately mitigating the ML/TF risks.”

Given the above; it needs to be pointed out that the purpose of AML is encased and implemented under the banner of FICAA (Financial Intelligence Centre Amendment Act). The FICAA is to be read with at least 20 different Acts at any given time, including:

1. Prevention of Organised Crime Act, 1998
2. Promotion of Access to Information Act, 2000

The foundational principle of all of the above is to ‘Know Your Client (KYC)’. KYC has an industry definition of: **“A process whereby a Financial Services Provider (FSP – substituted by professional per USA definitions) identify and verify the identity of a customer before establishing a business relationship or entering into a transaction with the client.”**

E. UNDERSTANDING KYC:

A GLOBAL STANDARD – Comparing Coinbase Application

Know your client (KYC) is defined globally by 3 principle components:

1. Customer Identification Program (CIP)
2. Customer Due Diligence (CDD)
3. Ongoing Monitoring, Ongoing Due Diligence (ODD)

Given the regulatory environment as well as the spirit of what such regulation aims to achieve; the purpose of FICAA is to assist in the identification of the proceeds of unlawful activities; combat money laundering; and combat the financing of terrorist and related activities.

The FATF emphatically states: “According to the industry, the customer identity verification stage is, in all instances, the most difficult and burdensome part of the process. **Rigorous verification requirements can act as a disincentive for financial inclusion.**”

The principle component of Customer Due Diligence is to IDENTIFY YOUR CLIENT (directly quoted from FICAA and FATF):

a. To establish (CIP) and verify (CDD) the identity of the client:

- i. Natural persons
- ii. Legal persons, trusts and partnerships

b. Establish:

- i. **The nature of the client’s business relationship;**
- ii. **The intended purpose of the business relationship; and**
- iii. **The source of the funds to be used in concluding transactions**

- c. Additional due diligence (generally applicable in the event of legal entities – ie: if not a natural person):
 - i. Establish the ownership and control structure of the legal person, to determine the identity of the beneficial owner: who ultimately owns and/or controls an entity.

My Recommendation to Coinbase for appropriate application of AML/KYC when opening a Coinbase Account for Celsius Chapter 11, Court Mandated Creditors:

CIP: Identify Client you are engaging with	Full name and identity – account verified
CDD: Verify identity of Client <ul style="list-style-type: none"> i. Natural persons ii. Legal persons, trusts and partnership 	Confirmation of Natural Person by uploading either identity document or passport with proof of residence (bank statement or utility bill) Account verified for use
CDD: Establish: <ul style="list-style-type: none"> i. The nature of the client’s business relationship ii. The intended purpose of the business relationship iii. The source of the funds to be used in concluding transactions 	<ul style="list-style-type: none"> i. <u>TO RECEIVE A COURT MANDATED DISTRIBUTION</u> ii. <u>TO RECEIVE A COURT MANDATED DISTRIBUTION</u> iii. <u>COURT MANDATED DISTRIBUTION</u>
CDD: Additional due diligence is generally required in the event of a legal entity	Establish identity of Beneficial Owner with defined documents being provided. Applicable ONLY to Corporate Creditors (legal entities / companies), where the above individual information is required for each Director and Shareholder. THIS IS NOT RELEVANT TO INDIVIDUAL CREDITORS IN THIS TRANSACTION OR EQUATION OF COURT MANDATED DISTRIBUTIONS

Despite the above definition; in line with legislation; Coinbase has persisted in:

1. Subjecting Creditors to Extended Due Diligence (EDD – further defined below) in that:

- a. Legislation is clear in verification of identity: common documents are copy of identity card or passport. **Coinbase has requested both!** Creditors have had to provide both, which is contrary to legislative requirements.
- b. Proof of residence: is satisfied through Utility bill or a bank statement (Current – meaning it can be a statement for a day – as long as it confirms address and/or account details were required) or a bank confirmation of account. Again Creditors have been requested to provide both and more:
 - i. First a proof of account was provided and was rejected
 - ii. Second Request: A full 1 month bank statement was requested – this was provided
 - iii. Third Request: A 3 month bank statement was requested – this was provided
 - iv. Fourth Request: A 4 month bank statement was requested – this was providedThis request is made under the guise of KYC. Registered and licensed Financial Services Providers do not request a detailed bank statement to examine / audit transactions.
- c. Source of funds (Not core to CDD per FATF as defined below): usually verified by client or an external designated party (accountant / fund manager).

To reiterate, at any stage of Due Diligence; source and verification requests can be satisfied by evidence from the Creditor and/or independent source (usually Fund Manager / Accountant). This is a requirement that is globally accepted by banks and Registered Financial Service Providers (FSPs), yet was ignored and not good enough for Coinbase. The Portfolio Manager Certificate issued confirmed (amongst others):

- Confirmation of a 35 year client history
- Source of funds and source of wealth (active, passive as well as gifts and inheritance)
- Retirement and Savings portfolio
- Medical Insurance
- Property Insurance
- PEP status

On what basis was this Official Confirmation Certificate, by a fully licensed FSP ignored by Coinbase and NOT adequate for Coinbase purposes. Some further case engagement of one Creditor is detailed for clarity of what is transpiring:

- After having met onboarding requests with account opened and verified for country of residence between 17-18 March 2024; on 18 March 2024 (the very same day) Creditor was advised that the account was under review and that additional information was required. Information as listed above have been requested and promptly provided; as all Creditors want is to receive their COURT MANDATED DISTRIBUTION. With this in mind, Creditors have tried to satisfy every request despite the requests NOT being relevant to **the purpose of the transaction / opening the account** as defined by FATF.
- Requests were timeously met; culminating in a catch all Confirmation Certificate issued in terms of above regulations.

- As the party holding the Creditor's portfolio; a verification and confirmation of Wealth (covering a 35 year period-with details as listed above) was issued on 07 April 2024. This Certificate issued satisfies full and extended FICA (Including KYC and AML) regulations as a catch all and final requirement acceptable by all registered Financial Institutions globally.
 - The Certificate invited requests for clarification be directed to the writer, if required (which under these circumstances – should not be the case). To date there have been no requests.
 - Many Creditors continue to face unnecessary, prolonged and excessive due diligence requests. Some Creditors continue to have difficulty 3 months after opening the account.
 - Further on 16 April 2024; complaints were lodged with both Coinbase and Stretto, with no feedback apart from an automated acknowledgement of receipt.
 - This is the first time in history that a catch-all verification and confirmation Certificate issued under licensing, was ignored. What exactly are Coinbase and Stretto driving to achieve as this goes against common practice as well as national and international regulations?
 - Alarming, requests made after this Certificate do not relate to the above parameters of AML/KYC regulations. To reiterate, once this Certificate is issued, the Creditor is considered fully verified and transactions concluded and/or processed as required. In this instance and as is evidenced from numerous filings to Your Honourable Chief Justice, inappropriate requests are suspiciously and deliberately hindering payment of Court Mandated Distributions. Many Creditors cannot be experiencing the same / similar issues; **this is now clearly forming a trend of behaviour that needs to be addressed and corrected.**
2. Coinbase continues to persistently request information not relevant to this transaction of ***RECEIVING A COURT MANDATED CREDITOR DISTRIBUTION***: ***“could you please provide the last 3 salary slips and provide the last 3 months bank statement highlighting where your monthly salary amount will be credited to your bank account.”*** NO licensed Financial Services Provider requires this level of verification; this is certainly **not** for verification purposes? Is Coinbase in fact investigating Creditors, if so, on what authority and under what legislative mandate are Coinbase conducting this level of investigation under the guise of a verification? **It certainly is not in line with AML/KYC or any guidelines as set forth by FATF as already established.** Again stating the obvious, this has **NO relevance to the purpose of this account being opened, ie receiving a COURT MANDATED CREDITOR PAYOUT.**
3. These unnecessary and unjustifiable requests did not stop here. Requests were made of Creditors (*all of which are not relevant to purpose of this transaction or opening of this Coinbase account, nor AML/KYC Legislation*):
- a. “Do you expect to send and/or receive cryptocurrency or fiat currency into your Coinbase account from family members or friends...”
 - b. “Do you expect anyone other than yourself to access your Coinbase account?”
 - c. “Our records indicate you currently reside in [your country], is this accurate? If yes, please provide further details regarding your presence there...including whether you reside full time or partially...”
 - d. “Can you please explain why you are using a phone number associated with [your country]? Do you reside there...”

- e. “Our records indicate you spent time in [your country] based on **your IP location**. Is this accurate? If yes, please provide further details by stating the primary reasons why you spend time in or have used an IP address associated with [your country].....(eg **use of VPN...**)”

Is Coinbase now investigating Creditors for staying in their country of birth, using their phone number in their country of birth and for living in their country of birth?

None of these requests even remotely speak to the requirements under AML/KYC or any requirements related to the purpose of the account with Coinbase; which over several communications and verification documents confirm: CHAPTER 11, CREDITOR COURT MANDATED DISTRIBUTION.

To further frame the unreasonableness of these requests and stress the **FATF priority of Financial Inclusion**; further extracts from the FATF have been included below.

International KYC standards per FATF vs Coinbase Application:

According to the FATF: “Domestic legislation varies, although common customer information tends to consist of name, date of birth, address and an identification number. **Other types of information (such as the customer’s occupation, income, telephone and e-mail address, etc.) are generally more business and/or anti-fraud driven and do not constitute core CDD information that must be collected as part of standard CDD—although such information could appropriately be part of enhanced CDD for higher risk situations....” **Again, given the source of funds is a COURT MANDATED CREDITOR PAYMENT, this has no relevance to the transaction.** Creditors were directed by Stretto to open this Coinbase account as Coinbase is the selected Distribution partner to receive COURT MANDATED PAYOUT – how then and under what conditions have CREDITORS been identified as “High Risk”?**

FATF further defines “Simplified due diligence [SDD] regime where simplified CDD never means an exemption from CDD measures. A simplified set of CDD measures may be basic and minimal but must still respond to each of the four CDD components [as indicated above] ... In a lower risk context, fulfilling customer identification, verification and monitoring requirements ... entail less intensive and formal means of information gathering and monitoring and a reliance on appropriate assumptions regarding **the intended usage of basic products, or less detailed and frequent information.** **Both Stretto and Coinbase seem to be oblivious to this fact; the verification level is dependent on the USAGE of the product – which again is a COURT MANDATED CREDITOR DISTRIBUTION.**

According to the FATF; countries can adopt a tiered approach to CDD where : “Access to the basic, 1st level set of services is provided upon minimum identification. Access to the subsequent account levels and additional services ... is allowed only if/when the customer provides the required additional identification/verification information.” **In the absence of utilizing SDD (Simplified Due Diligence) given the source of a COURT MANDATED CREDITOR DISTRIBUTION, this should have been the standard applied by and between Stretto and Coinbase.**

Further to this, Extended Due Diligence (EDD) (which is being incorrectly applied by Coinbase) is defined as required only in instances where:

1. A transaction is:
 - a. Complex
 - b. Unusually Large (per FinCen and FATF – over \$/€15,000)
 - c. Forms an unusual pattern of transactions, or
 - d. Has no apparent economic or legal purpose
2. Politically Exposed Person (PEP)
3. If false or stolen identification document or information was provided
4. High risk country as defined by FATF. [Even in the event of High Risk Countries, the FATF defines how EDD should be applied and the purpose thereof].

Coinbase is calously discriminating against countries (as evidenced in point 3 on page 9-10 above) when they have not been identified as *high risk* by the FATF. Here again, relevance of EDD given the source of funds being A COURT MANDATED CREDITOR DISTRIBUTION?

Coinbase also mentions **Ongoing Due Diligence (ODD)**: which is also defined by the FICAA as being required in terms of S21(C) (quoted directly):

- (a) “Monitoring of transactions undertaken throughout the course of the relationship, including, where necessary,
 - i. The source of funds, to ensure that the transactions are consistent with the accountable institution’s knowledge of the client and the client’s business and risk profile; and
 - ii. The background and purpose of all complex, unusual large transactions, and all unusual patterns of transactions which have no apparent business or lawful purpose.”

Again, Creditors across the world have newly opened / existing (and updated) Coinbase accounts under the direction of Stretto. There are NO changes to purpose of receiving COURT MANDATED CREDITOR DISTRIBUTIONS.

Screen captures of practical examples have been included for reference and clearer understanding of AML/KYC implementation:

3.1 FICA explanation of what it aims to establish in a transactional environment.

6: Financial Intelligence Centre Act (FICA) requirements

Influential persons

The Financial Intelligence Centre Act (Fica) requires that we know if you are an influential person as explained in the Act. It differentiates between a politically exposed person, domestic prominent influential person, foreign prominent public official and a known close associate or family of domestic prominent influential persons and foreign prominent public officials. More than one of the definitions can apply to the same person.

- **A domestic prominent influential person** is any individual who is, or has been, entrusted with prominent functions in South Africa.
Examples: A premier of a province, government minister, leader of a political party or senior politician, high-ranking member of the military or police force.
- **A foreign prominent public official** is any individual who is, or has been, entrusted with prominent functions in a country other than South Africa.
Examples: A premier or similar of foreign country's province or state, member of a foreign royal family, foreign government minister, leader of a foreign political party or senior politician, high-ranking member of a foreign military or police force.
- **A known close associate** is an individual closely connected to a prominent person, either socially or professionally. Close associate is not intended to include every person who has been associated with a domestic prominent influential person or foreign prominent public official.
Examples: A prominent member of the same political party, civil organisation, labour or employee union as the prominent person, business partner or associate, especially one that shares (beneficial) ownership of corporate vehicles with the prominent person, or who is otherwise connected through joint membership of a company board, any individual who has sole beneficial ownership of a corporate vehicle set up for the actual benefit of the prominent person, a known intimate partner outside the family unit like a girlfriend, boyfriend, mistress.
- **A family member** is an individual who is related to a politically exposed person, domestic prominent influential person, foreign prominent public official and a known close associate either directly (biological) or through marriage or similar (civil) forms of partnership.
Examples: A spouse, previous spouse, children and stepchildren and their spouses, parents, siblings and stepsiblings and their spouses.

Source of funds

The source of funds is the origin of the income which funds the premium (e.g. salary, business transactions, savings, inheritance and winnings).

Source of income/Nature of business

The nature of your business will determine the source of your income.

It is important to note there is no confusion, vagueness or ambiguity as to the purpose of the FICA process. Clear definitions and guidelines as to requirements are set out in this document.

3.2 Individual client verification in terms of KYC.

Client due diligence verification documentation

Additional or updated documentation may be requested in certain circumstances. Please refer to the complete Client Due Diligence (CDD) Checklists for specific requirements for each role-player.

Natural Persons (FICA001)

Identification

Copy of one of the following confirming the identity:

- RSA identity document (Green Bar-coded)
- RSA Smart ID Card (Front & back)
- Valid RSA Drivers Licence (Front)
- Valid Passport
- Birth certificate (minors only)

Verification of Residential address

- A city council/municipal/electricity provider/utility/service bill (less than 3 months old); or
- A property rental agreement/rental contract renewal (less than 12 months old); or
- A property rates and taxes invoice (less than 3 months old); or
- If pre-paid (e.g. utilities like an electricity meter), proof of payment that reflects the date, stand number, account number (less than 3 months old); or
- A mortgage statement (less than 3 months old); or
- A Telkom land line, fiber or ADSL account (less than 3 months old); or
- Correspondence from a body corporate/share-block association (less than 3 months old); or
- A short-term insurance schedule (less than 12 months old); or
- A bill/statement from a company contracted for an ongoing service at the property given as the person's address. Examples of such services are security monitoring and armed response services that are regularly billing the person (less than 3 months old); or
- A bank statement (less than 3 months old); or
- Mobile account from service provider (less than 3 months old); or
- A payslip/salary slip (less than 3 months old); or
- A document from SARS (less than 12 months old).

This document, again clearly defines documentation requirements to satisfy FICA requirements. Documents are reasonable and within the scope of what is required to be established (ie identity and residence).

3.3 Anti-money laundering requirements (source of income and source of wealth)

1.3 Anti-money laundering provisions

1.3.1 Source of Income/Wealth* (Policyholder/Contribution Payer)

<input type="checkbox"/> Unemployed			
<input type="checkbox"/> Employed	Name of employer		
	Occupation	Job title	
	Nature of business	Public sector	Private sector
<input type="checkbox"/> Self-employed	Name of business	Nature of business	
<input type="checkbox"/> Income as business owner/director	Name of business	Nature of business	
<input type="checkbox"/> Income as Trustee/Trust beneficiary	Name of Trust	Trust number	
<input type="checkbox"/> Other (e.g. Retirement/Disability/Rental income)	Specify		

* Source of Income/Wealth is defined as funds received on a regular basis for work/services rendered or investment income which is known as the individual's wealth.

We reserve the right to request proof of source of wealth, if needed.

1.3.2 Source of funds for investment/transaction* (Policyholder/Contribution payer)

Tick box and provide relevant detail.

If contribution payer is different to policyholder, both parties need to individually complete and provide their relevant detail, as per the appropriate checklist.

<input type="checkbox"/> Salary/Remuneration	i. My bank account	ii. Stop order
<input type="checkbox"/> Business transaction	Nature of business transaction	
<input type="checkbox"/> Investment/Savings/Dividends	Source of capital/savings	
	Name of investment company	
	Account/contract number where the funds are held	
<input type="checkbox"/> Inheritance	Estate late name and relationship	
<input type="checkbox"/> Winnings	E.g. Lotto, casino name, competition name	
<input type="checkbox"/> Other*	Specify	

* E.g. sale of vehicle, sale of property, bonus from employer, dividends received, gift, donation, loan repayment from third party.

* The source of funds funding the transaction or new business investment will not always correspond with the source of income/wealth, e.g. an employed person may sell his/her property and invest the capital gained.

There is a distinction between Source of Income and Source of Wealth. The requirements in each instance are clearly defined. Again there is no confusion as to what is required.

****NNB: Source of Income, Source of Wealth and Source funding transactions at no point request an amount to be confirmed,** as Creditors are being probed in clauses b(pg8); 2&3 on page 8-9 above. From decades of experience in compliance at this level, amounts are only necessary and required in the instance of credit applications, where affordability formulae are dependent specifically on the amount of earnings. In every other instance; this is irrelevant.

From the above it is evident that Coinbase's unchecked application of AML/KYC requirements to the degree of EDD when SDD would suffice, raises several concerns and questions:

- Do they understand what they are doing?
- Given the court disclosures; are these actions premeditated and deliberate to prevent COURT MANDATED CREDITOR DISTRIBUTIONS?
- Raises questions that go against the FATF foundation of FINANCIAL INCLUSION as for some or other reason Creditors are experiencing (to mention a few):
 - Bias
 - Prejudice
 - Discrimination against Creditors on who is worthy and/or unworthy of receiving payouts based on age, gender, religion, country of residence...
 - Extended scrutiny
 - Violation of privacy rights
 - Unsanctioned investigations

all to prevent the receipt of their COURT MANDATED CREDITOR DISTRIBUTIONS. In some instances, Creditors have had 15 or more payment attempts obstructed and rejected.

F. COINBASE ANALYSIS

The continued and extended verification requests in relation to various COURT MANDATED CREDITORS have proven concerning and raise several questions regarding Coinbase registration and hence resultant compliance. The unnecessary scrutiny of legitimate and COURT MANDATED CREDITORS, can also be applied to Coinbase:

1. From information provided on Coinbase website; services outside USA fall under Coinbase Bermuda Limited and/or Coinbase Bermuda Services Limited; with such services being limited to Digital Asset Services. The terms of use of both USA and Bermuda seem to be the same.
2. Every email link sent out by Coinbase; Creditors are directed to a different set of requirements, which continue to change. AML/KYC requirements are fixed as outlined above and not fluid.
3. **In terms of Licensing, transparency, minimum public disclosures:**
 - a. The address disclosed between Coinbase website and the Bermuda International Exchange Coinbase User Agreement differs.

- b. Licensing confirms: Coinbase Bermuda Limited and Coinbase Bermuda Services Limited to be exempted company limited by shares incorporated in Bermuda with their relevant company numbers; together referred to as “Coinbase Bermuda”.
- i. **The various US Regions show Coinbase Registered as a Money Transmitter**
 - ii. **Coinbase Bermuda User Agreement defines services as Digital Asset Exchange Derivatives Services and is licensed as a Digital Asset Exchange**

Verification requests should be aligned with the service offering. Coinbase presents themselves as a **“regulated financial services company”**; which is contrary to the FinCen classification. Per FinCen classification Coinbase licensing placement is as a **Money Service Business (MSB)** which is further classified under **Non-Bank Financial Institution (NBFI)**. Coinbase is therefore NOT a Financial Services Company as they present themselves in extended invasive and unnecessary requests from Court Mandated Creditors. Local jurisdictions consider this a violation of Regulations.

- c. The information regarding verification requests are not specific per the regulations as set out for AML/KYC purposes. Coinbase contradicts many of their own listed requirements:
- i. For example bank statement requests are limited (**name of the bank, the account type, routing number, and account number**). Creditors are requested for **extensive banking records that are not relevant to his purpose of transacting with Coinbase**.
 - ii. Coinbase understanding of Enhanced Due Diligence (EDD) and Ongoing Due Diligence (ODD) has been incorrectly applied as these requests are not aligned to AML/KYC as defined above. Coinbase continues to contradict their own listed requirements per their own User Agreement: the purpose of EDD to **“establish the source of your wealth and source of funds for any transactions carried out in the course of your use of Coinbase Bermuda Services.”** Again there is no doubt in this instance and every such instance filed with The Honourable Chief Justice; that the source of funds is a **COURT MANDATED CREDITOR DISTRIBUTION**.

KEY SUMMARY POINT TO REITERATE: “THE COURSE OF YOUR USE OF COINBASE BERMUDA SERVICES” – should lead to the extent of verification required. Creditors, have since the outset of engagement, confirmed and stressed that this account was set up at the direction of Stretto to receive **“Court Mandated Payout as a Creditor under Celsius Chapter 11.”** **Court documents as well as confirmation of assets and loans were provided by Creditors to Coinbase, yet these were not acknowledged as the Source of Funds!** By all means, should these Court Mandated Creditors opt to utilise other services on the Coinbase platform, same can be restricted or limited until EDD is satisfied, until then it remains highly irrelevant. To safe-guard Court Mandated Creditors; SDD should have been applied and a tiered approach ONLY to those who wish to engage further on the platform. In most instances; **Creditors simply want their money out with no further engagement with all of these parties.**

From experience, when a party easily and simply defines requirements it speaks to their experience, skill and intention. On the other hand confusion, convoluted word jugglery and tones of bullying and arrogance only present when a party does not know what they are doing.

Another Key Distinction provided by the FATF (directly quoted) included an explanation on the World Bank – Financial Inclusion Product Risk Assessment Module (FIRM).

The World Bank’s FIRM tool assesses the ML/TF risks associated with a particular Product / service intended to support financial inclusion, and determines if a low / lower level of ML/TF risk can be associated to this product/service. The assessment is based on the net risk level of:

- the product features, which reflect the characteristics of the product as realistically as possible;
- the product-specific mitigating measures, in place or planned;

***Again this module highlights CHARACTERISTICS OF THE PRODUCT being reflected AS REALISTICALLY AS POSSIBLE with THE PRODUCT-SPECIFIC MITIGATING MEASURES, IN PLACE or PLANNED. Neither have Stretto, Kirkland & Ellis, nor M3 defined these in relation to COURT MANDATED CREDITORS. Rather, Creditor rights are being violated and the burden of meeting unnecessary requirements that are preventing COURT MANDATED DISTRIBUTIONS.**

Given all of the above, reportable violations by both Coinbase and Stretto under Risk Management and Compliance under FICAA:

- a. S42.2(g): “provide for the manner in which and the processes by which ongoing due diligence and account monitoring in respect of business relationships is conducted by the institution” – There is no clear direction as to when this will be applied in any documents published by Coinbase.
- b. S42.2(m): “provide for the manner in which and the processes by which enhanced due diligence is conducted for higher-risk business relationships and when simplified customer due diligence might be permitted in the institution” – Again no definition.
- c. S42.2(n): “provide for the manner in which and place at which the records are kept ... The information provided in Coinbase User Agreements are inadequate as if any third party storage companies or data verification companies be engaged, full details including names, addresses and the like need to be listed.” – No address and vagueness as to how documents are stored.
- d. S42.2(q)(i): “provide for the manner in which – the Risk Management and Compliance Programme is implemented at branches, subsidiaries or other operations of the institution in foreign countries so as to enable the institution to comply with its obligations....” – it is clear that there is no definition in these terms.

G. CONCLUSION

Stretto should have made distribution to COURT MANDATED CREDITORS as easy as possible. Despite the manner in which the Debtor/s presented themselves; all funds were CREDITORS funds. The turnaround plan, abundant fees – with various entitled parties, have all been **funded by the CREDITORS**. Now that Celsius has successfully emerged from Chapter 11, why must LEGITIMATE COURT MANDATED CREDITORS continue to face difficulties in receiving their long overdue funds?

It is interesting to note that many of the Creditors continue to encounter difficulties in having their Cryptocurrency payments rejected, yet have received their Share Allocation in the NewCo.

While Compliance (specifically AML/KYC) may be new to recently formed companies like Coinbase; many (including FSPs mentioned herein); have been in this industry, practicing and involved in formulating these Regulations from several decades ago.

H. EXPECTED OUTCOME

- Vague guidance given by Stretto needs definition for Creditors.
- Stretto excluding themselves from the Distribution process and requirements, needs to be addressed and corrected. This lazy approach to COURT MANDATED CREDITOR DISTRIBUTIONS, needs to be dealt with the same diligence and attention given to fee entitlement and the appropriate attention CREDITORS deserve.
- The lack of experience and understanding of the purpose of AML/KYC is evident. The related excessive overreach of Coinbase needs to be checked in terms of related and relevant Regulations. Inclusion of SDD to easily enforce COURT MANDATED DISTRIBUTIONS.
- These violations need to be addressed and corrected, lest thousands of COURT MANDATED CREDITORS lodging justified complaints with both their local and international Regulators (including but not limited to FinCen, NFA, CFATF, Bermuda Regulators...). This can be prevented if Your Honourable Chief Justice intervenes in this process and ensures proper compliance with the letter and the spirit of the Law with the necessary corrections to this highly flawed process that is creating discrimination against COURT MANDATED CREDITORS.
- Reinforcement of COURT MANDATED CREDITORS receiving their distributions in the manner selected at the voting stage. Cryptocurrency options should be respected and honoured. Generally in liquidation / bankruptcy claims a legitimate creditor is asked for 'payment' details. In this instance the process was just as simple – globally there are several exchanges that are licensed and registered; all that was required was a Crypto address to release payments.

This action is falling within the jurisdiction of New York and under Your Honourable Chief Justice care, however with Creditors on a global scale, the World is watching. The Court does not need the distraction of having to deal with Creditor grievances and gaining global attention for the wrong reasons. The essence of the action required; is that the COURT MANDATED CREDITORS are no longer

prejudiced. Neither does Stretto, Coinbase, M3, Kirkland & Ellis, and related parties want the same level of scrutiny that the COURT MANDATED CREDITORS are facing. A brief analysis has resulted in this report, a deep dive will surely reveal more. Have the initial source of funds for payment of fees been established to the extent that Creditors are now being scrutinised?

It is my hope that by filing this report **Your Honourable Chief Justice is able to enforce the correct process application so that Court Mandated Creditors can easily receive their Approved Distributions.**

CAPACITY:

My engagement has been in a Professional Capacity, having over 28 years experience and under the following Licenses:

1. Senior Supervisory Financial Planner; being registered and licensed with the Financial Services Conduct Authority (FSCA) (the Financial Regulator).

The Financial Services Provider under which licensing is held is one of the oldest and largest pioneering FSPs housing various Advice, Sales and Support Services under local and international operating licenses in various countries across the globe.

2. Tax Specialist; being registered and licensed under the local Tax Regulator and a Professional Member of the Institute of Taxation.

As a Tax Specialist, Licensing includes: Compliance, Tax Advising, Drafting, Submission, and Representation at Tax Court. A Registered Regional Representative for the Institute and having clients in over 15 countries across the world.

These Licenses are recognised by local authorities and international authorities; including but not limited to: IRS, FinCen, and ultimately The Financial Action Task Force registered under the United Nations.

While this report is drafted to address shortcomings in the process and is a brief initial review of circumstances and irregularities; should a deep dive be required, my office have both the resources and capacity to do so.

Given the context and reach of this report; further information, enquiries, guidance requests can be directed to Rivashnee@gmail.com.