



ENFORCEMENT AND INVESTOR PROTECTION DEPARTMENT

SEC ADVISORY

The Commission has received information that **GEMINI TRUST COMPANY, LLC**, through its website **GEMINI.COM** has launched its product **GEMINI DERIVATIVES** and is openly offering this product that involves offering of derivatives which is a form of “securities”.

A screenshot of a promotional banner for Gemini Foundation 2023. The background is a reddish-orange landscape with jagged, spire-like rock formations. The text is white and red. At the top left, it says "INTRODUCING". Below that, in large red letters, is "GEMINI FOUNDATION 2023". Underneath, it says "Unlock the power of derivatives trading". There is a white rounded rectangular button with the text "Learn more". At the bottom right, there is a small disclaimer: "Gemini Foundation's derivatives product is available in select jurisdictions globally. It is not currently available in the US, UK, or EU. *For a full list of eligible jurisdictions, please view the FAQs".

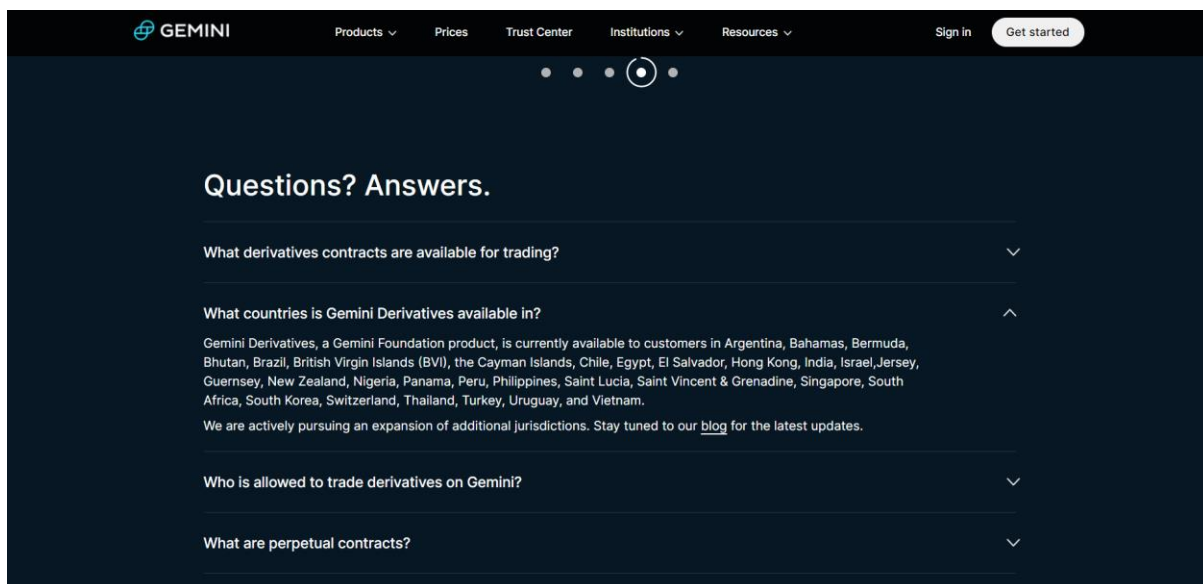
INTRODUCING

GEMINI FOUNDATION 2023

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Learn more

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“Securities” as defined under Section 3 of the Securities Regulation Code (SRC), are shares, participation or interests in a corporation or in a commercial enterprise or profit-making venture and evidenced by a certificate, contract, instruments, whether written or electronic. It Includes:

“xxx.

(d) **Derivatives** like options and warrants;

xxx”

In the Philippines, it is prohibited to sell and/or offer for sale, or distribute securities without prior registration with the Securities and Exchange Commission.

Section 8.1 of the Securities Regulation Code specifically states that, “securities shall not be sold or offered for sale or distribution **within the Philippines**, without a registration statement duly filed with and approved by the Commission. Prior to such sale, information on the securities, in such form and with such substance as the Commission may prescribe, shall be made available to each prospective purchaser.”

Furthermore, according to Section 28.1 of the Securities Regulation Code, no person shall engage in the business of buying or selling securities in the Philippine as a broker or dealer, or act as a salesman, or an associated person of any broker or dealer unless registered as such with the Commission.

On the other hand, **Rule 3.1.17** of the **2015 Implementing Rules and Regulations of the Securities and Regulation Code** defined public offering as follows:

Public offering is any offering of securities to the public or to anyone, whether solicited or unsolicited. Any solicitation or presentation of securities for sale through any of the following modes shall be presumed to be a public offering:

xxx

3.1.17.3. Advertisement or announcement on radio, television, telephone, electronic communications, **information communication technology** or any other forms of communication; or

3.1.17.4. Distribution and/or making available flyers, brochures or any offering material in a public or commercial place or to prospective purchasers through the postal system, **information communication technology** and other means of information distribution.

Lastly, the 2015 SRC Rules also define “dealing in securities” and “solicitation,” as follows:

Dealing in securities includes making or offering to make with any person, or inducing or attempting to induce any person to enter into or to offer to enter into any agreement for or with a view to acquiring, disposing of or subscribing to securities.

Solicitation is the act of seeking or asking for business or information which includes the act of providing information about a security or investment product being offered for sale with the view of making another person a client or closing or bringing a sale or purchase of security or investment product. The solicitor need not be a signatory to any contract relative to such offer or sale of security.

Therefore, **GEMINI TRUST COMPANY, LLC.** must be duly registered with the Commission and that any person or entity intending to offer and/or sell its securities are required to secure the necessary registration and/or license from the Commission as well.

However, per record, **GEMINI TRUST COMPANY, LLC. is NOT REGISTERED** with the Commission and **OPERATES WITHOUT THE NECESSARY LICENSE AND/OR AUTHORITY** to solicit, accept or take investments/placements from the public nor to issue securities defined under Section 3 of the Securities Regulation Code (SRC).

GEMINI TRUST COMPANY, LLC's lack of prior registration with the Commission makes their activities of offering and/or selling securities in the form of derivatives **ILLEGAL** in violation of the provisions of the SRC.

Hence, the public is advised **NOT TO INVEST** or **STOP INVESTING** in any investment-taking scheme offered by **GEMINI TRUST COMPANY, LLC** or such other entities engaged in investment-taking schemes without the necessary licenses and/or authority.

Accordingly, the Commission warns all individuals and/or entities that **strict penalties are imposed for violations of the Securities Regulation Code, the Revised Corporation Code, and such other rules and regulations enforced by the Commission.**

Those who act as salesmen, brokers, dealers or agents of entities without authority to offer and/or sell securities like **GEMINI.COM/ GEMINI TRUST COMPANY, LLC** in selling or convincing people to invest in their investment scheme including

solicitations and recruitment through the internet may likewise be criminally prosecuted and penalized with a maximum fine of Five Million pesos (P5,000,000.00) or a penalty of Twenty-one (21) years of imprisonment or both pursuant to Sections 28 and 73 of the SRC.

The Securities and Exchange Commission of the United States of America (US SEC) has also filed a complaint against Gemini earlier this year, January 12, 2023. The complaint against Gemini alleges that the entity's Gemini Earn program constitutes an offer and sale of securities which requires prior registration with the Commission.

It is also noteworthy to quote the US SEC Chairman Gary Gensler's sentiments on the complaint saying, "Today's charges build on previous actions to make clear to the marketplace and the investing public that crypto lending platforms and other intermediaries **need to comply with our time-tested securities laws**. Doing so best protect investors. It promotes trust in markets. **It's not optional. It's the law.**"¹

Likewise, in 2022, Gemini was sued by the US Commodity Futures Trading Commission for allegedly deceiving regulators by providing false information about the exchange and futures contracts during meetings with the regulators as part of an attempt to secure approval for Bitcoin futures in 2017.

Should you have any information on any investment solicitation activity by any individual or group of individuals representing **GEMINI TRUST COMPANY, LLC** or its website **GEMINI.COM**, please send your report to the EIPD at epd@sec.gov.ph.

For the information and the guidance of the public.

Makati City, May 11, 2023.

¹ <https://www.sec.gov/news/press-release/2023-7>