

DEPARTMENT OF BUSINESS OVERSIGHT*Ensuring a Fair and Secure Financial Services Marketplace for all Californians***Jan Lynn Owen****Commissioner of Business Oversight**

IN REPLY REFER TO:
FILE NO:

October 9, 2018

Via U.S. Mail & Email

Re: Opinion Request –

Dear Mr. _____ :

Thank you for your email dated April 8, 2018, to Stephen Lau, Assistant General Counsel in the Department of Business Oversight (“Department”). As Senior Counsel for the Legal Division, I have been asked to respond to this matter. Your letter requests confirmation that _____ (“_____”) is not currently required to obtain a license under the California Money Transmission Act in connection with its business activities.

According to your email, _____ is a Delaware corporation doing business under the name of _____ (_____). _____ is headquartered in Chicago, Illinois. _____ is a digital currency dealer that specializes in the direct buying and selling of the digital currency _____. _____ does not operate a peer-to-peer exchange. Instead, _____ sells _____ directly to individuals from its own inventory.

According to _____’s business plan (“Plan”), _____ is a decentralized cryptocurrency. That is, _____ is produced by the entire cryptocurrency system collectively, at a rate which is defined when the system is created and which is publicly known. _____ represents that _____ is not controlled or issued by any central authority (e.g., large banks or mining hardware manufacturers) and can be mined by anyone profitably. The Plan also represents that _____ was distributed without an ICO. (The Department understands the acronym “ICO” to refer to an initial coin offering.) The

1515 K Street, Suite 200
Sacramento, CA 95814-4052
(916) 445-7205

One Sansome Street, Suite 600
San Francisco, CA 94104-4428
(415) 972-8565

320 West 4th Street, Suite 750
Los Angeles, CA 90013-2344
(213) 576-7500

300 S. Spring Street, Suite 15513
Los Angeles, CA 90013
(213) 897-2085

1350 Front Street, Room 2034
San Diego, CA 92101-3697
(619) 525-4233

7575 Metropolitan Drive, Suite 108
San Diego, CA 92108
(619) 682-7227

Plan further notes that _____ is developed by “community members working as volunteers and the project is wholly funded by donations.”

The Department has been studying the cryptocurrency industry closely. Whether decentralized cryptocurrencies like _____ are a viable form of money or a non-money asset is widely debated. Given this ongoing debate, the Department has not concluded whether decentralized cryptocurrencies are a form of money. Likewise, the Department has not determined whether a business that purchases and sells decentralized cryptocurrencies triggers the application of California’s money transmission law.

Accordingly, the Department is not requiring _____ to be licensed and supervised under the aforementioned law at this time. But this is subject to change. At any time, the Department may determine that _____’s activities are subject to regulatory supervision. The Department may also adopt regulations or issue interpretive opinions that significantly restrict _____’s business operations. If _____ chooses to operate in California, it would do so subject to these risks.

Nothing in this letter should be interpreted to relieve _____ from any obligations under the laws administered by FinCEN or any other agency of the federal government.

Sincerely,

Jan Lynn Owen
Commissioner
Department of Business Oversight

By

/s/

Jennifer L.W. Rumberger
Senior Counsel

JLWR:acp