



STATE OF CALIFORNIA

## Department of Business Oversight

GOVERNOR **Gavin Newsom** • COMMISSIONER **Manuel P. Alvarez**

IN REPLY REFER TO:

FILE NO: \_\_\_\_\_

December 11, 2019

Re: \_\_\_\_\_ – Opinion Request

Dear Mr. \_\_\_\_\_:

Thank you for your letter dated July 20, 2019 to the Department of Business Oversight (“Department”) and your recent letter received on November 26, 2019. Your letter requests confirmation that \_\_\_\_\_ (“\_\_\_\_\_”) is not currently required to obtain a license under the California Money Transmission Act in connection with its proposed business activities in California.

According to your letter, \_\_\_\_\_ is a Georgia corporation doing business as \_\_\_\_\_. \_\_\_\_\_ operates kiosks for the purpose of selling cryptocurrency that it holds in its own inventory, to consumers for fiat currency. \_\_\_\_\_ also purchases cryptocurrency from consumers for its own inventory through the kiosks. Transactions occur in the following manner: To purchase cryptocurrency, a consumer inserts fiat currency into the kiosk, and \_\_\_\_\_ transfers the appropriate amount of cryptocurrency from its digital wallet to the consumer’s digital wallet. To sell cryptocurrency, a consumer transfers the cryptocurrency from his or her wallet directly to \_\_\_\_\_’s wallet and receives fiat currency from the kiosk. The cryptocurrency becomes part of \_\_\_\_\_’s inventory. Currently, \_\_\_\_\_ supports the exchange of Bitcoin, Ethereum, and Litecoin.

The Department has been studying the cryptocurrency industry closely. Whether Bitcoin and other cryptocurrencies are a viable form of money or a speculative non-money asset is widely debated. Given this ongoing debate, the Department has not concluded whether Bitcoin and other cryptocurrencies are a form of money.

Notwithstanding the foregoing, the sale and purchase of Bitcoin, Ethereum, and Litecoin by \_\_\_\_\_ out of its own inventory through a kiosk, which does not support any other types

of transactions, does not meet the definition of “receiving money for transmission.”<sup>1</sup> Therefore, \_\_\_\_\_’s activities in connection with its kiosks are not subject to licensing under the MTA.

While not the subject of your inquiry, if in the future \_\_\_\_\_ offers customers the ability to purchase and sell cryptocurrencies other than Bitcoin, Ethereum, and Litecoin, to the extent that any of those other cryptocurrencies are securities, \_\_\_\_\_ may have obligations under California’s broker-dealer laws. The Department reserves the right to take administrative action against \_\_\_\_\_ if it is later determined that \_\_\_\_\_ is trading securities in violation of California law.

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.

Please contact me at \_\_\_\_\_ if you have any questions.

Sincerely,

Manuel P. Alvarez  
Commissioner  
Department of Business Oversight

By

\_\_\_\_\_  
Pamela F. Hernandez  
Counsel

PFH:ss

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<sup>1</sup> Fin. Code, § 2003, subd. (u) (defining “receiving money for transmission” to mean receiving money or monetary value in the United States for transmission within or outside of the United States).