



STATE OF CALIFORNIA

## Department of Business Oversight

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

IN REPLY REFER TO:

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

April 7, 2020

Re: \_\_\_\_\_ – Opinion Request

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

Thank you for your letters dated January 27, 2020 and March 20, 2020 to the Commissioner of the Department of Business Oversight (“Department”). You request confirmation that \_\_\_\_\_ (“\_\_\_\_\_”) is not required to obtain a license under the California Money Transmission Act in connection with its business activities in California.

According to your letter, \_\_\_\_\_ is registered as a money services business with the U.S. Department of Treasury’s Financial Crimes Enforcement Network (“FinCEN”). \_\_\_\_\_ operates a nationwide network of cryptocurrency kiosks in 20 states including California. Customers can either buy or sell cryptocurrencies at the kiosks which operate in the following manner: A customer physically approaches a kiosk, typically located within a convenience store or gas station. The customer (1) inserts U.S. dollars into the kiosk as payment for cryptocurrencies which are sent to the customer’s digital wallet, or (2) sends cryptocurrencies from their digital wallet to \_\_\_\_\_, which in turn dispenses U.S. dollars from the kiosk as payment. Cryptocurrency sold to customers at kiosks come from \_\_\_\_\_’s own inventory and cryptocurrency purchased from customers at kiosks become part of \_\_\_\_\_’s inventory. \_\_\_\_\_ does not facilitate third-party transactions or act as a custodian of funds. Currently, \_\_\_\_\_ supports the exchange of Bitcoin, Bitcoin Cash, Litecoin, and Ethereum.

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 constitute a form of money.

Notwithstanding the foregoing, the sale and purchase of Bitcoin, Bitcoin Cash, Litecoin, and Ethereum 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, Bitcoin Cash, Litecoin, and Ethereum, 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.

The Department’s determination is limited to the activities described herein and does not extend to any other activities in which \_\_\_\_\_ may engage. Any change in the facts and circumstances or the products or services that \_\_\_\_\_ provides could lead to a different determination.

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

<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).