



STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

LETITIA JAMES
ATTORNEY GENERAL

DIVISION OF ECONOMIC JUSTICE
INVESTOR PROTECTION BUREAU

October 18, 2021



Re: [REDACTED]

Dear [REDACTED]:

We write on behalf of the New York State Office of the Attorney General (“OAG”) regarding [REDACTED] (including affiliates such as [REDACTED]) offering of lending products or services for virtual currencies.¹

The OAG enforces General Business Law article 23-A, commonly referred to as the Martin Act. Relevant to this matter, the Martin Act prohibits fraud in connection with the purchase or sale of securities and commodities, and requires registration with the OAG of securities and commodities broker-dealers, salespersons, or investment advisors, unless exempted. The OAG also enforces Executive Law section 63(12), which prohibits repeated or persistent fraudulent or illegal activity in the conduction of business.

The OAG has, for several years, expressed its concern that many virtual currency businesses – including trading platforms, issuers, and those engaging in purchase or sale of assets on behalf of clients – expose New Yorkers to significant undisclosed risks.² More recently, the OAG reminded all industry participants that if they conduct activity within or from the State, they must be properly registered with this Office, and/or other governmental authorities.³ And as

¹ For purposes of this letter, and for ease of reference, “virtual currency” as used herein refers to any digital asset, cryptocurrency, stablecoin, or other similar digital reflection of value.

² Office of the Attorney General, [Virtual Markets Integrity Initiative Report](#) (2018); Office of the Attorney General, [Investor Alert: Virtual Currency Risks](#) (2021).

³ Office of the Attorney General, [Industry Alert: Registration of Commodity Brokers-Dealers, Salespersons, and Investment Advisors Doing Business Relating to Virtual or “Crypto” Currency](#) (2021).

you are likely aware, this Office will not hesitate to take significant action, on an expedited basis, if it believes that New York law is being violated and investors are at risk.⁴

In connection this Office's obligation to ensure that virtual currency businesses comply with the law, we request that you provide the following material no later than November 1, 2021:

1. Provide the (a) legal names of your company, all corporate parents and subsidiaries, affiliates, incorporation location(s), headquarters, and place(s) of business for each. Identify and describe any locations or other operations in the state of New York.
2. Identify and describe each lending, loan, interest, or deposit/earnings product you offer, along with a description of:
 - a. All virtual currencies (or other digital assets) available for use with each product;
 - b. The minimum and maximum amount, if any that can be borrowed/loaned;
 - c. Lending rate(s). If variable, describe the process by which the rate(s) are calculated;
 - d. All fees associated with the product;
 - e. Information regarding loan-to-value ratios, collateral options, payout processes, and other information relevant to understanding the structure of your product(s).
3. Describe, in detail, what is done with the virtual currency that is deposited with your platform. This description should include, but not be limited to:
 - a. All wallet addresses in which the virtual currency is held;
 - b. If you do not custody the virtual currency, provide a list of the entities that do;
 - c. A description of how that virtual currency is pooled or otherwise combined, for any purpose;
 - d. A list of the third party lenders/borrowers to whom virtual currency is hypothecated, in any fashion;
 - e. A list of any employees, board members, affiliates, internal trading desks, or other similar persons or entities who have used such hypothecated virtual currency for any purposes. Include the wallet address(es) used by those persons or entities for this purpose.
 - f. Copies of all contracts, agreements, or other similar documents between you and your lenders/borrowers.
4. Identify whether U.S. dollars or "fiat" currency can be deposited onto, or withdrawn from, your platform or products and services, and as to each such platform, product, or service, identify all financial institutions (e.g., banks, transfer agents, payment processors, etc.) are utilized, and for what purpose.
5. State whether you and/or your lending product solicits, accepts, loans, or accepts as collateral, tethers (USDT), and provide details regarding the use of USDT in connection

⁴ *James v. iFinex*, 185 A.D.3d 22, 28 (1st Dep't 2020); see also Press Release, Sept. 13, 2021, available at <https://ag.ny.gov/press-release/2021/attorney-general-james-shuts-down-virtual-currency-trading-platform-and-stops>.

with your product. Further, provide:

- a. All contracts, agreements, or other communications with Tether Limited, or other affiliated persons or entities;⁵
 - b. A list of users/clients that have provided, or have been loaned, or have placed as collateral, USDT, with transaction details (i.e. dates, amounts, and wallet addresses);
 - c. A list of transactions by or through your platform or service that, in whole or in part, include USDT, including all relevant transaction details.⁶
6. Provide exemplars of all agreements, contracts, terms of service, risk disclosures or other similar documents provided to clients.
 7. List all jurisdictions (including U.S. states) from which your products or services accept clients and/or allow transactions.
 8. Provide all user/client due diligence policies and procedures, and any other documentation, describing whether, and how, you (i) identify and verify the identity of users/clients, (ii) identify and verify the beneficial owners of companies opening accounts, (iii) understand the nature and purpose of user/client relationships, and (iv) conduct ongoing monitoring of such information. Provide the names of individuals within your organization responsible for administering or implementing these policies and procedures.
 9. Provide all policies and procedures, and any other documentation, describing whether and how you identify and report (i) manipulative or other abusive trading activity, and (ii) suspicious transactions. Provide the names of individuals at your organization responsible for administering or implementing these policies and procedures.
 10. State whether your platform permits use by “unverified” accounts.⁷ If so, identify all such “unverified” accounts that took part in any product or service, and for each such account list the name, if any, provided, user name, email address, associated IP address, which product was utilized, and which virtual currencies were used in account transactions.
 11. Provide a list of all clients and/or accounts that are, or are believed by you to be, from New York, with contact information for each. If you maintain that no such clients and/or

⁵ This includes, but is not limited to, Tether Holdings Ltd., Tether International Ltd., Tether Operations Ltd., iFinex Inc., BFXNA Inc., BFXWW Inc., DigFinex, and any person or entity interacting with you on behalf of, or affiliated with, those entities.

⁶ This includes but is not limited to, user/client name, user/client ID, time, date, amount, counterparty, wallet address(es), corresponding withdrawal or deposit of digital or fiat currency, wires, etc.

⁷ “Unverified accounts” here refers to any accounts from which a user/client can deposit virtual currency onto your platform without undertaking full identification processes (i.e., an account that can be opened and used with just an email address, wallet address, or similar).

accounts exist, provide a list of all clients and/or accounts that have been suspended, disabled, or otherwise removed from your service because they were, or were believed to be, in New York.⁸

12. In a sortable Excel spreadsheet, provide a list of all visits, log-ins, or accessing of your website or platform,⁹ that reflects or suggests a log-in or access from New York. Include user/client name, user ID, date, time, IP address, and any other captured information.¹⁰
13. State whether you currently maintain any securities, commodities, banking, financial services, or other relevant registration or license, in any U.S. jurisdiction, and provide details of how that registration or license is connected with your lending service. If you are in the course of obtaining such registration or licensure status, provide all details of same, including (if known) the name and contact information of contact persons at the given agency or organization.
14. State whether you are currently engaged in any investigation, litigation, or informal discussions with any regulatory, law enforcement, or similar agency in any jurisdiction, within or without the United States. If so, provide the details known to you of the matter(s), and provide (if known) the name and contact information of contact persons at the given agency.

Finally, and as you are well-aware, you and your employees, and other persons or entities under your control, should take all necessary steps to preserve all physical and electronic records and data pertaining to the matters raised in this letter, including but not limited to the provision of any product or service within or from New York, or known or possible New York users or clients. The information that should be preserved includes active data (readily accessible today), archived data (stored on backup media), and deleted data (still recoverable through the use of computer forensics). You should also take affirmative steps to prevent anyone with access to your data systems and archives from seeking to modify or destroy electronic evidence on network or local hard drives or servers

⁸ If New York-based users/clients or/accounts were previously permitted on your platform, provide full information about those accounts as directed above, and provide information about when, and the method by which, you removed those accounts from your platform.

⁹ This can include, by way of example, log-ins to your website, calls to an API or other interface, or any other similar accessing of your product or services.

¹⁰ This list may exclude visits to your homepage or other sub-pages of your publicly-accessible website, but must include any visits to any portion of your site, platform, or service that requires log-in, or which may be used to effectuate transactions.

Should you have any questions, please contact Brian M. Whitehurst of the Investor Protection Bureau by email at brian.whitehurst@ag.ny.gov or telephone at 212-416-8355. If you would prefer that a subpoena be served, please let us know immediately so that arrangements can be made. We look forward to your prompt response.

Sincerely,



Brian M. Whitehurst
Assistant Attorney General
Office of the New York State Attorney General
Tel: (212) 416-8355

cc: John Castiglione, john.castiglione@ag.ny.gov
Amita Singh, amita.singh@ag.ny.gov