



**COMMONWEALTH OF MASSACHUSETTS**  
**Office of Consumer Affairs and Business Regulation**  
**DIVISION OF BANKS**

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December 6, 2019

Emilio Pagan-Yourno  
Kalbas, Inc.  
22138 Candle Ct  
Boca Raton, FL 33428  
[Emilio@unbank.world](mailto:Emilio@unbank.world)

Dear Mr. Pagan-Yourno:

This letter is in response to your correspondence dated October 1, 2019 to the Division of Banks (Division) in which you request an opinion relative to the registration and licensing requirements for Kalbas, Inc.'s (Kalbas) virtual currency automated kiosks in the Commonwealth of Massachusetts.

Kalbas is a Delaware-based foreign corporation headquartered in Florida. Kalbas plans to operate a kiosk or kiosks, similar to a vending machine, which will sell virtual currency to the public in exchange for United States dollars. These machines provide users with the ability to buy bitcoins by accepting United States dollars.

The kiosk will require the customer to provide certain Know Your Customer (KYC) information, including the following: his/her phone number, full name, physical address, date of birth, social security number, and driver's license or other identifying documents. Concurrently, in near real-time, the kiosk will facilitate one or more verifications, including SMS phone verification, customer identification verification, and government watch list screening. The customer information required is determined in accordance with the risk-based approach and, where required, meets and exceeds FinCEN regulatory obligations and FFIEC compliance expectations.

According to your correspondence, no transaction, however nominal, may be conducted without providing at a minimum one's phone number and full name. In addition, the kiosk shall retain the following transaction information for all completed transactions: customer virtual currency wallet, transaction date, transaction time, transaction location (i.e. kiosk location), and video footage of the customer from an embedded surveillance camera. Further, all customer transactions, regardless of denomination, are subject to SMS phone verification and customer OFAC SDN watchlist screening.

All transactions are conducted via a kiosk manufactured by a trusted provider (i.e. General Bytes USA, LAC). The kiosk is complimented by a native software platform provided and hosted by the kiosk manufacturer. The native kiosk software platform notifies Kalbas of every transaction in real-time and provides a dashboard to monitor and control transactions.

You request that the Division confirm your conclusion that Kalbas' bitcoin kiosks do not meet the definition of "electronic branch" as defined in Massachusetts General Laws chapter 167B, section 1 and, therefore, are not required to be approved by or registered with the Division. In addition, you ask the Division to confirm that Kalbas does not require a foreign transmittal agency license under Massachusetts General Laws chapter 169 in order to operate its bitcoin kiosks in the Commonwealth.

Massachusetts General Laws chapter 167B, section 1 defines an electronic branch as an electronic device, other than a telephone operated by a consumer, through which a consumer may initiate "an electronic fund transfer." An electronic fund transfer is defined as any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic branch telephone instrument, or computer or magnetic tape or point of sale terminal so as to order, instruct, or authorize a financial institution to debit or credit an account. A "financial institution" is defined in Chapter 167B as any person who a) directly or indirectly holds an account belonging to a consumer, or b) issues an access device and agrees with a consumer to provide electronic fund transfer services; provided, however, that a person shall not include a co-operative bank, a credit union, a federal bank, a foreign bank, an out-of-state bank, an out of state federal bank, a savings bank or a trust company, as defined in section 1 of chapter 167, and a federal credit union and a foreign credit union, as defined in section 1 of chapter 171.

Kalbas' bitcoin kiosks are electronic devices, but they do not provide the user with a means of initiating an electronic funds transfer because the kiosk does not, in any way, order, instruct, or authorize a financial institution to debit or credit an account. The bitcoin kiosk where the transaction takes place does not meet that part of the definition of "financial institution" which references "any person who directly or indirectly holds an account belonging to a consumer" because the Kalbas kiosk does not hold an account of the consumer. The bitcoin transaction is conducted on a bitcoin exchange where the consumer buys bitcoins in a bitcoin wallet; the bitcoin wallet is owned by the consumer and secured with an encrypted private key of the consumer.

Based on the facts as presented in your letter, Kalbas' bitcoin kiosks do not constitute an electronic branch under Massachusetts General Laws chapter 167B, section 1, and bitcoin transactions conducted at the kiosks do not constitute an electronic fund transfer under said statute. Therefore, it is the position of the Division that Kalbas' bitcoin kiosks are not non-bank ATMs requiring the approval of the Division pursuant to section 3 of chapter 167B of the General Laws.

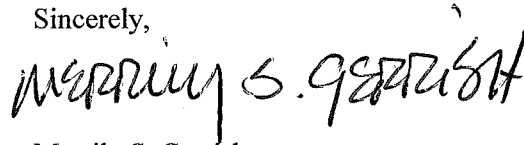
Massachusetts General Laws chapter 169 requires that all persons who engage or are financially interested in the business of receiving deposits of money for the purpose of transmitting the same or equivalents thereof to foreign countries obtain a foreign transmittal agency license from the Division. In a Kalbas bitcoin kiosk transaction, the kiosk receives U.S. dollars or funds from the user. The purpose is not for transmission to a foreign country but rather the purchase of bitcoins from Kalbas by the user. Kalbas will be selling its own bitcoins to the user-buyer at the kiosk and does not take possession of the user-buyer's funds for later transmission. *See* Division of Banks Selected Opinion 18-002. All bitcoin transactions with users will take place entirely in Massachusetts. Based on the facts presented, Kalbas is not required to be licensed as a foreign transmittal agency by the Division.

The conclusions reached in this letter are based solely on the facts presented. Fact patterns which vary from those stated above may result in a different position statement by the Division.

Emilio Pagan-Yourno  
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The Division continues to monitor the evolution and use of virtual currencies such as bitcoin and notes that there may be regulatory changes in the future governing such digital currencies.

Sincerely,

A handwritten signature in black ink that reads "Merrily S. Gerrish". The signature is written in a cursive style with some capital letters.

Merrily S. Gerrish  
Deputy Commissioner of Banks  
and General Counsel

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