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MEMORANDUM

May 10, 2019

To Our Clients and Friends

Re: FinCEN Guidance on Convertible Virtual Currencies

The Financial Crimes Enforcement Network (“FinCEN”) has issued guidance clarifying the application of its regulations to certain business models involving convertible virtual currency (“CVC”). The guidance consolidates FinCEN regulations, administrative rulings, and guidance concerning money transmission involving virtual currency and applies them to common business models. The guidance also summarizes the development and content of FinCEN’s 2013 guidance on the applicability of money transmission regulations to transactions involving CVC and explains FinCEN’s current regulatory approach. The guidance includes a list of resources containing methods for analyzing circumstances not expressly covered.

FinCEN has also issued a reminder to financial institutions regarding regulatory obligations concerning reporting suspicious activities and criminal activity involving CVC, such as money laundering and evasion of sanctions. The guidance focuses on the criminal use of CVC through darknet marketplaces, peer-to-peer exchangers, foreign located money service businesses, and CVC kiosks. FinCEN lists red flags that may indicate transactions involving CVC linked to illegal conduct. The advisory notes that financial institutions should collect particular transaction information, such as virtual currency wallet addresses, account information, transaction history, and mobile device information to assist law enforcement in detecting illicit conduct involving CVC.

If you have any questions, please call Gilbert Schwartz, Robert Ballen, Heidi Wicker, or Victor Razon at (202) 776-0700.