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11 *Inc., BFXWW Inc., and Tether Limited*

12 **UNITED STATES DISTRICT COURT**
13 **NORTHERN DISTRICT OF CALIFORNIA**
14 **SAN FRANCISCO DIVISION**

16 iFINEX, INC., BFXNA, INC., BFXWW, INC,)
17 and TETHER LTD.,)

18 Plaintiffs,)

19 v.)

20 WELLS FARGO & COMPANY and WELLS)
21 FARGO BANK, N.A.,)

22 Defendants.)
23)
24)
25)
26)
27)
28)

No. 17 Civ. 1882

**[PROPOSED] TEMPORARY
RESTRAINING ORDER AND ORDER
TO SHOW CAUSE WHY A
PRELIMINARY INJUNCTION
SHOULD NOT ISSUE**

1 The Court has considered the Ex Parte Application for a Temporary Restraining Order
 2 and an Order to Show Cause Why a Preliminary Injunction Should Not Issue filed by plaintiffs
 3 iFinex Inc. (“iFinex”), BFXNA Inc. (“BFXNA”), and BFXWW Inc. (“BFXWW”) (collectively,
 4 “Bitfinex”), and Tether Limited (“Tether”) (collectively, “plaintiffs”) and the papers filed in
 5 support.

6 After considering (1) whether plaintiffs have a strong likelihood of success on the merits,
 7 (2) whether there is a possibility of irreparable injury to plaintiffs if injunctive relief is not
 8 granted, (3) whether the balance of hardships favors the plaintiffs, and (4) whether injunctive
 9 relief will advance the public interest, the Court finds that plaintiffs have a strong likelihood of
 10 success on the merits. There also is a possibility of irreparable injury to the plaintiffs if a
 11 temporary restraining order is not granted. In addition, the balance of hardships favors the
 12 plaintiffs. Issuing a temporary restraining order will advance the public interest.

13 DEFENDANTS WELLS FARGO & COMPANY and WELLS FARGO BANK, N.A.
 14 ARE HEREBY ORDERED TO SHOW CAUSE at _____ on _____, or as
 15 soon thereafter as counsel may be heard in the courtroom of the Honorable
 16 _____, located at 450 Golden Gate Ave, San Francisco, California, 94102, why
 17 defendants Wells Fargo & Company, Wells Fargo Bank, N.A., their officers, agents, servants,
 18 employees and attorneys, and those in active concert or participation with them or defendants
 19 should not be restrained and enjoined pending trial of this action from suspending, rejecting, or
 20 refusing to process wire transfers of U.S. dollars from plaintiffs’ correspondent accounts, without
 21 further order of the Court or plaintiffs’ written consent.

22 Pending hearing on the above Order to Show Cause, defendants Wells Fargo &
 23 Company, Wells Fargo Bank, N.A., their officers, agents, servants, employees and attorneys, and
 24 all those in active concert or participation with them or defendants ARE HEREBY
 25 TEMPORARILY RESTRAINED AND ENJOINED from suspending, rejecting, or refusing to
 26 process wire transfers of U.S. dollars from plaintiffs’ correspondent accounts, without further
 27 order of the Court or plaintiffs’ written consent.
 28

1 This Order to Show Cause and Temporary Restraining Order must be served on
2 defendants no later than ____ days before the date set for hearing, and proof of service shall be
3 filed no later than ____ court days before the hearing. Any papers filed by defendants in
4 response to this Order to Show Cause must be filed and served on plaintiffs through ECF by no
5 later than ____ a.m./p.m. on _____, 2017. Any reply papers that plaintiffs
6 elect to file must be filed and served on defendants through ECF or before __ a.m./ p.m. on
7 _____, 2017.

8
9 **IT IS SO ORDERED.**

10 DATED: April 5, 2017

11 _____
The Honorable _____
United States District Judge

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12 **UNITED STATES DISTRICT COURT**
13 **NORTHERN DISTRICT OF CALIFORNIA**
14 **SAN FRANCISCO DIVISION**

16 iFINEX INC., BFXNA INC., BFXWW INC,)
17 and TETHER LIMITED,)

18 Plaintiffs,)

19 v.)

20 WELLS FARGO & COMPANY and WELLS)
21 FARGO BANK, N.A.,)

22 Defendants.)

No. 17 Civ. 1882

PLAINTIFFS' EX PARTE
APPLICATION FOR TEMPORARY
RESTRAINING ORDER AND ORDER
TO SHOW CAUSE WHY A
PRELIMINARY INJUNCTION
SHOULD NOT ISSUE

Fed. R. Civ. P. 65 and Local Rule 65-1

APPLICATION FOR TEMPORARY RESTRAINING ORDER

1 Plaintiffs iFinex Inc. (“iFinex”), BFXNA Inc. (“BFXNA”), and BFXWW Inc.
2 (“BFXWW”) (collectively, “Bitfinex”), and Tether Limited (“Tether”) (collectively,
3 “plaintiffs”), hereby apply, pursuant to Federal Rule of Civil Procedure 65 and Local Rule 65-1,
4 for a Temporary Restraining Order (“TRO”) and Order to Show Cause (“OSC”) why a
5 preliminary injunction should not issue enjoining defendants Wells Fargo & Company and Wells
6 Fargo Bank, N.A. (collectively, “Wells Fargo”) and each of its agents, employees, and/or
7 representatives, and any and all persons or entities acting under its direction or control, from
8 suspending, rejecting, or refusing to process wire transfers of U.S. dollars from plaintiffs’
9 correspondent accounts, without further order of the Court or plaintiffs’ written consent.
10

11 This application is made on the grounds that plaintiffs are likely to succeed on the merits
12 of their claims against Wells Fargo, plaintiffs will suffer irreparable injury if the requested
13 injunctive relief is not granted, the balance of hardships favor plaintiffs, the requested injunctive
14 relief is consistent with the public interest, and the requested injunctive relief will protect the
15 *status quo ante* prior to Wells Fargo’s unilateral actions.

16 The relief sought by this application is pursued on an *ex parte* basis rather than through a
17 regularly-noticed motion because plaintiffs will suffer irreparable harm each day Wells Fargo
18 refuses to process wire transfers from plaintiffs’ correspondent accounts to plaintiffs’ customers.
19 A regularly-noticed motion would not provide plaintiffs with the necessary relief because
20 plaintiffs will not be able to meet their contractual commitments to their customers as of April 5,
21 2017, well before the end of the notice period for a regularly-noticed motion.

22 Ex Parte Notice. Plaintiffs gave notice of this *ex parte* application to Wells Fargo by
23 telephone to its counsel of record, David C. Powell, Esq., on April 5, 2017. Plaintiffs intend to
24 provide Wells Fargo’s counsel with a copy of plaintiffs’ Complaint and these *ex parte* papers
25 once they are filed. (Declaration of Michael J. Baratz (“ Baratz Decl.”) ¶¶ 20, 23.)
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Wells Fargo’s Counsel’s Contact Information. Wells Fargo’s counsel’s contact

information is:

David C. Powell, Esq.
McGuire Woods LLP
Two Embarcadero Center, Suite 1300
San Francisco, CA 94111-3821
Telephone: (415) 844-1970

This application is based upon the attached Memorandum of Points and Authorities, the declarations of J.L. van der Velde and Michael J. Baratz and attached exhibits, the Proposed Order submitted herewith, and any additional evidence and arguments as may be presented at or before any hearing on this matter.

Respectfully submitted,

Dated: April 5, 2017

STEPTOE & JOHNSON LLP

By: /s/ Laurie Edelstein
Laurie Edelstein
Michael Baratz (*pro hac* application
submitted concurrently)
Seth R. Sias

*Attorneys for Plaintiffs iFinex Inc.,
BFXNA Inc., BFXXWW Inc., and
Tether Limited*

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 Plaintiffs respectfully submit this memorandum of points and authorities in support of
3 their application for a TRO and OSC to enjoin Wells Fargo from suspending, rejecting, or
4 refusing to process wire transfers of U.S. dollars from plaintiffs' correspondent accounts, without
5 further order of the Court or plaintiffs' written consent. Without a TRO, plaintiffs' businesses
6 will be crippled, and they will suffer irreparable harm.

7 **INTRODUCTION**

8 Until last week, Bitfinex and Tether, which operate digital currency platforms, freely
9 transferred U.S. dollars to and from their customers through their Taiwan-based banks, which
10 used Wells Fargo to process plaintiffs' U.S. dollar transactions. At the end of March, however,
11 Wells Fargo, without notice or explanation to plaintiffs, decided to stop processing outgoing wire
12 transfers in U.S. dollars from plaintiffs' accounts with their Taiwan-Based banks.¹ Wells
13 Fargo's unilateral action will cause irreparable harm to plaintiffs because they will not be able to
14 send to their customers U.S. dollars that belong to them, and plaintiffs will not be able to
15 function as viable businesses. Plaintiffs' businesses will be crippled without a TRO enjoining
16 Wells Fargo's suspension of wire transfers of U.S. dollars from plaintiffs' accounts.

17 **BACKGROUND**

18 The accompanying Complaint details the facts. Plaintiff iFinex, through its subsidiaries,
19 BFXNA and BFXWW, owns and operates a leading global Virtual Currency platform called
20 Bitfinex. (Declaration of J.L. van der Velde ("van der Velde Decl.") ¶ 2.) Bitfinex provides a
21 technology platform for customers (both business and individuals) to engage in the trade of
22 Virtual Currency using U.S. dollars. (*Id.* ¶ 4.) Plaintiff Tether owns and operates a digital
23 platform that allows customers to store, send, and make purchases with digital tokens called
24 tethers. (*Id.* ¶¶ 5.) Tethers may be redeemed or exchanged for U.S. dollars on deposit. (*Id.* ¶ 6.)
25 Currently, the only currency Bitfinex and Tether receive from or remit to their customers is the
26 U.S. dollar. (*Id.* ¶ 27.)

27 _____
28 ¹ All capitalized terms have the same meaning as set forth in the Complaint.

1 Before using Bitfinex's or Tether's platforms, customers must enter into a contract with
2 Bitfinex or Tether agreeing their terms of service, which are publicly available on plaintiffs'
3 respective websites. (*Id.* ¶ 9.) Customers using U.S. dollars also must go through an extensive
4 due diligence process. (*Id.* ¶ 10.) Plaintiffs also have in place standards to monitor transactions,
5 assess risks, and file Suspicious Activity Reports (SARs) and other reports required by U.S. law.
6 (*Id.* ¶ 11.)

7 Customers who want to purchase Virtual Currency through Bitfinex must deposit U.S.
8 dollars or tethers into their Bitfinex account. (*Id.* ¶ 12.) In exchange, they receive an equivalent
9 amount of Virtual Currency until they ask Bitfinex to remit back the U.S. dollars they deposited.
10 (*Id.*) Likewise, customers who want to purchase tethers through Tether must deposit U.S. dollars
11 in their Tether account and in exchange receive an equivalent amount of tethers until they ask
12 Tether to remit back the U.S. dollars they deposited. (*Id.*) For these platforms to work,
13 customers depend on plaintiffs' ability to send back in U.S. dollars the money customers
14 deposited with plaintiffs. (*Id.* ¶ 14.) This concept is similar to a customer of a U.S. financial
15 institution having access to her money from a branch, on demand, and 24/7 through an ATM.
16 (*Id.* ¶ 15.) Currently, Bitfinex has Virtual Currency equal to approximately \$430 million USD
17 and customer deposits in banks in Taiwan equal to approximately \$130 million USD. (*Id.* ¶ 13.)
18 Tether currently has approximately \$50 million USD in banks in Taiwan. (*Id.*)

19 Plaintiffs hold or have held customers' deposits at Taiwan-Based Banks, which conduct
20 business on their behalf pursuant to correspondent bank agreements that the Taiwan-Based
21 Banks have with U.S. financial institutions, such as Wells Fargo. (*Id.* ¶¶ 16-17.) Plaintiffs,
22 however, are not direct customers of the U.S. banks. (*Id.* ¶ 18.) Wells Fargo is a correspondent
23 bank to the Taiwan-Based Banks. (*Id.* ¶ 19.) Plaintiffs rely on these Taiwan-Based Banks to
24 make and receive wire transfers with and through Wells Fargo to obtain and transmit value for
25 their customers in USD, *e.g.*, to fulfill customers' demands to remit their U.S. dollars deposited
26 with plaintiffs, settle accounts, and for plaintiffs to pay its employees and suppliers, including
27 some of Wells Fargo's own customers. (*Id.* ¶ 20.)
28

1 Plaintiffs believe and understand that for more than two years, the Taiwan-Based Banks
2 have conducted both ingoing and outgoing wire transfers in U.S. dollars with Wells Fargo on
3 accounts for Bitfinex and Tether. (van der Velde Decl. ¶ 25; Compl. ¶ 37.) Wells Fargo, as part
4 of its due diligence process with these Taiwan-Based Banks, knew or should have known they
5 were conducting transfers from accounts held by plaintiffs that involved wire transfers to receive
6 or remit U.S. dollars for the purpose of providing customers with the means to purchase Virtual
7 Currency or tethers. (van der Velde Decl. ¶ 25; Compl. ¶ 38.)

8 Plaintiffs believe and understand that during the latter half of March 2017, Wells Fargo
9 informed the Taiwan-Based Banks that it would no longer service outgoing wire transfers from
10 plaintiffs' correspondent accounts that plaintiffs rely on to fulfill requests to remit U.S. dollars to
11 customers, without further due diligence concerning these accounts. (*Id.* ¶ 39.) Taishin was the
12 last of the Taiwan-Based Banks processing wires for and on behalf of the plaintiffs through
13 Wells Fargo. (*Id.* ¶ 41.) On Friday, March 31, 2017, near the close of business in Taiwan,
14 Taishin confirmed to Bitfinex that Wells Fargo would no longer process plaintiffs' outgoing
15 wires as a correspondent bank for Taishin. (*Id.*) Wells Fargo, however, has continued to process
16 incoming wires to plaintiffs' accounts through the Taiwan-Based Banks without interruption or
17 delay. (van der Velde Decl. ¶ 24.)

18 Prior to suspending the processing of plaintiffs' outgoing wires through the Taiwan-
19 Based Banks, Wells Fargo did not provide any explanation as to why it will no longer process
20 them. (*Id.* ¶ 30.) Plaintiffs received no inquiry or request for information. (*Id.* ¶ 31.) If any
21 request had been made, plaintiffs would have fully cooperated and responded to same. (*Id.*)
22 Plaintiffs have a long history of responding timely to requests for information. (*Id.*)

23 Plaintiffs have made repeated attempts to resolve this issue without Court intervention
24 but they have been unsuccessful. (Declaration of Michael J. Baratz ("Baratz Decl.") ¶ 4.) They
25 have sought clarifying information directly from Wells Fargo, but Wells Fargo has refused to
26 speak with plaintiffs claiming it will speak only to its customers, the Taiwan-Based Banks,
27 despite knowing that these banks were closed during the holiday. (*Id.* ¶¶ 5-13.) On April 4,
28

1 2017 at 12:00 p.m. Eastern Time, plaintiffs' attorneys sent another e-mail to Wells Fargo,
 2 informing it that they would pursue relief in court if Wells Fargo did not respond. (*Id.* ¶ 14.)
 3 However, plaintiffs' attorneys offered to continue communicating with Wells Fargo and its
 4 attorneys and to present Wells Fargo with information about plaintiffs in an attempt to find an
 5 immediate short-term arrangement to resume the processing of wire transfers. (*Id.*) This
 6 morning, April 5, 2017, plaintiffs' attorneys finally spoke with outside counsel for Wells Fargo
 7 and explained the issue. (*Id.* ¶ 20.) Wells Fargo's outside counsel said he would communicate
 8 with Wells Fargo and provide a response this morning, Pacific Time. Plaintiffs' attorneys
 9 reiterated plaintiffs' preference to work out a short-term arrangement to allow wire transfers to
 10 continue being processed without Court intervention, but indicated they remained ready and
 11 willing to seek the instant temporary restraining order if necessary. (*Id.*)

12 After consulting with his client, Wells Fargo's counsel confirmed at 11:53 a.m. that
 13 Wells Fargo had instructed the Taiwan-Based Banks that Wells Fargo would not accept any
 14 more outgoing wire transfers from plaintiffs' accounts. (*Id.* ¶ 21.) He explained that Wells
 15 Fargo will not service wires that relate to Virtual Currency. (*Id.*) Wells Fargo's counsel also
 16 informed plaintiffs that Wells Fargo is not interested in meeting with plaintiffs or exploring any
 17 additional due diligence. (*Id.*) Wells Fargo has been aware of plaintiffs' business for years and
 18 has known, or should be aware, that its decision to suspend outgoing wire transfers from
 19 plaintiffs' correspondent account to plaintiffs' customers will cripple plaintiffs' businesses and
 20 render them unable to function as of Wednesday, April 5, 2017. (van der Velde ¶ 25; Compl.
 21 ¶¶ 53-54.)

22 LEGAL STANDARD

23 The standard for the issuance of a temporary restraining order or a preliminary injunction
 24 is the same. *See Imperial v. Castruita*, 418 F. Supp. 2d 1174, 1177 (C.D. Cal. 2006). The
 25 applicant must demonstrate: "(1) a strong likelihood of success on the merits, (2) the possibility
 26 of irreparable injury to plaintiff if preliminary relief is not granted, (3) a balance of hardships
 27 favoring the plaintiff, and (4) advancement of the public interest." *Rodde v. Bonta*, 357 F.3d
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1 988, 994 (9th Cir. 2004) (internal quotations and citation omitted). Alternatively, injunctive
2 relief may be granted if a plaintiff demonstrates either “a combination of probable success on the
3 merits and the possibility of irreparable injury *or* that serious questions are raised and the balance
4 of hardships tips sharply in [its] favor.” *Id.* (internal quotations and citation omitted). These two
5 alternatives “represent two points on a sliding scale in which the required degree of irreparable
6 harm increases as the probability of success decreases. They are not separate tests but rather
7 outer reaches of a single continuum.” *Imperial*, 418 F. Supp. 2d at 1177.

8 **ARGUMENT**

9 **I. PLAINTIFFS WILL SUFFER IRREPARABLE HARM ABSENT IMMEDIATE**
10 **INJUNCTIVE RELIEF**

11 To establish irreparable harm, a plaintiff need show only a significant threat, not a
12 certainty or likelihood, of injury. *Arcamuzi v. Continental Air Lines, Inc.*, 819 F.2d 935, 937
13 (9th Cir. 1989). Courts recognize that because certain intangible harms to a plaintiff’s business
14 are not easily quantifiable, they are irreparable. *Rent-A-Center v. Canyon Television &*
15 *Appliance*, 944 F.2d 597, 603 (9th Cir. 1991) (threat of damage to recruiting efforts and goodwill
16 constituted an incalculable costs and thus irreparable harm); *see also Ross-Simons of Warwick,*
17 *Inc. v. Baccarat, Inc.*, 102 F.3d 12, 20 n.7 (1st Cir. 1996) (because harm to goodwill could be
18 incalculable, it was irreparable).²

19 Here, plaintiffs face a threat of overwhelming and irreparable harm if Wells Fargo is not
20 enjoined to restore the *status quo ante* and continue processing plaintiffs’ lawful outgoing wire
21 transfers from their correspondent bank accounts. Absent this injunctive relief, plaintiffs’
22 business relationships and ongoing operations will experience a major – if not fatal –
23 interruption. This interruption almost certainly will undermine plaintiffs’ reputation and

24 ² Courts in other jurisdictions also recognize that injury to business reputation causes irreparable
25 harm. *See Int’l Casings Group, Inc. v. Premium Standard Farms, Inc.*, 358 F. Supp. 2d 863, 876
26 (W.D. Mo. 2005) (possible damage to the plaintiff’s reputation and goodwill constituted an
27 irreparable harm); *see also Merrill Lynch, Pierce, Fenner & Smith, Inc. v. Salvano*, 999 F.2d
28 211, 215 (7th Cir. 1993) (potential loss of clients constituted an irreparable harm); *EMI Latin v.*
Bautista, No. 03 Civ. 0947, 2003 WL 470333 at *14 (S.D.N.Y. Feb. 24, 2003) (possible loss to
plaintiff’s goodwill and business relationships with its customers amounted to an irreparable
harm).

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1 customer goodwill, resulting in the loss of both current and prospective customers. Plaintiffs
2 believe that if they are unable to send timely to their customers the U.S. dollars that belong to
3 them, the customers will view the failure as plaintiffs’ own wrongdoing or inability to provide
4 the U.S. dollars and turn to plaintiffs’ competitors, some of which have lower due diligence
5 standards than plaintiffs. (van der Velde Decl. ¶¶ 24-29.) These damages to plaintiffs’ business
6 interests and contractual relationships are not merely economic; they are intangible injuries that
7 defy calculation and are thus irreparable.

8 Wells Fargo’s actions leave plaintiffs with no adequate remedy at law. The risk of
9 reputational harm to plaintiffs’ standing as trusted and diligence-oriented digital currency
10 platforms is great. Because this kind of damage to a company’s standing in a market is precisely
11 the sort of harm that is impossible to quantify, courts recognize that such an erosion of
12 reputational standing is sufficient to show irreparable harm. *See Ticor Title Ins. Co. v. Cohen*,
13 173 F.3d 63, 68 (2d Cir. 1999) (citing *Cavanaugh v. Looney*, 248 U.S. 453, 456 (1919)) (“An
14 injunction should be granted when the intervention of a court of equity is essential to protect a
15 party’s property rights against injuries that would otherwise be irremediable.”). The Court
16 should issue a temporary restraining order to stop this immediate and irreparable harm.

17 **II. PLAINTIFFS WILL LIKELY PREVAIL ON THE MERITS OF THEIR CLAIM**
18 **THAT WELLS FARGO TORTIOUSLY INTERFERED WITH THEIR**
19 **CONTRACTUAL RELATIONSHIPS WITH THEIR CUSTOMERS**

20 To obtain injunctive relief, a plaintiff need not show that its likelihood of prevailing is
21 “absolutely certain.” *Cty. of Alameda v. Weinberger*, 520 F.2d 344, 349 n.12 (9th Cir. 1975).
22 Rather, a plaintiff need only show “a fair chance of success on the merits.” *San Antonio Cmty.*
23 *Hosp. v. S. Cal. Dist. Council of Carpenters*, 125 F.3d 1230, 1234 (9th Cir. 1997). Plaintiff
24 readily meets this standard. To sustain an action for intentional interference with contractual
25 relations, a plaintiff must establish (1) the existence of a valid contract between plaintiff and a
26 third party; (2) defendant’s knowledge of the contract; (3) defendant’s intentional acts designed
27 to induce a breach or disruption of the contractual relationship; (4) actual breach or disruption of
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1 the contractual relationship; and (5) resulting damage. *See Pac. Gas & Elec. Co. v. Bear Stearns*
2 *& Co.*, 791 P.2d 587, 589-90 (Cal. 1990).

3 The first two elements are easily met. Plaintiffs’ provision of digital currency services to
4 their customers is governed by contracts that are publicly available on plaintiffs’ websites. (*See*
5 *van der Velde Decl.* ¶ 9.) As part of its due diligence process with the Taiwan-Based Banks,
6 Wells Fargo knew, or should have known, that the Taiwan-Based Banks were conducting wire
7 transfers from accounts held by plaintiffs. (*Compl.* ¶ 38.) Wells Fargo also knew, or should
8 have known, that the nature of plaintiffs’ business involved wire transfers to receive or remit
9 U.S. dollars for the purpose of providing customers with the means to purchase Virtual Currency
10 or tethers. (*Id.*) In addition, Wells Fargo regularly processed outgoing wire transfers to and for
11 the benefit of plaintiffs and their customers through the same correspondent accounts currently
12 suspended for outgoing transfers, and Wells Fargo has continued to process incoming wire
13 transfers on these same correspondent accounts. (*van der Decl.* ¶¶ 24-25.) Given these facts,
14 plaintiffs will be able to establish that Wells Fargo had knowledge of plaintiffs’ contracts with its
15 customers. *See Bank of N.Y. v. Fremont Gen. Corp.*, 523 F.3d 902, 910-11 (9th Cir. 2008)
16 (finding knowledge of contract where defendant indemnity company was responsible for
17 managing funds deposited into custodial account pursuant to contract between plaintiff and third
18 party).

19 As for Well Fargo’s intent to disrupt plaintiffs’ contractual relations, under California
20 law, direct evidence of intent to interfere is not required; intent “may be established by inference
21 as well as by direct proof.” *Bank of N.Y.*, 523 F.3d at 911 (quoting *Savage v. Pac. Gas & Elec.*
22 *Co.*, 26 Cal. Rptr. 2d 305, 314 (Cal. Ct. App. 1993) (internal citation omitted)). A defendant
23 may be found to have acted with intent to induce a breach or disruption of a contractual
24 relationship based solely on facts showing defendant had “knowledge that the interference was
25 certain or substantially certain to occur as a result of his or her action.” *Reeves v. Hanlon*, 95
26 P.3d 513, 517 (Cal. 2004) (“[P]laintiff need not prove that a defendant acted with the primary
27 purpose of disrupting the contract.”). Wells Fargo’s abrupt refusal to process outgoing wires for
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1 plaintiffs' correspondent accounts provides both direct and indirect evidence of Wells Fargo's
2 intent to cause a breach or disruption in plaintiffs' contractual relations with their customers.

3 Wells Fargo was aware of the nature of plaintiffs' businesses, including their need for
4 Wells Fargo to process incoming wire transfers from plaintiffs' customers to make deposits in
5 exchange for Virtual Currency or tethers and to transmit outgoing wire transfers to remit U.S.
6 dollars to plaintiffs' customers. (van der Velde Decl. ¶ 25.) Interestingly, without explanation,
7 Wells Fargo has continued to accept incoming wire transfers, at least nine in total, to plaintiffs'
8 correspondent accounts since March 31, 2017, suggesting Wells Fargo recognizes the legitimacy
9 of plaintiffs' business dealings and is helping them facilitate part of their commitment to
10 customers. (*Id.* ¶ 24.) Wells Fargo also should understand the significant effect its decision will
11 have on plaintiffs' ability to meet its obligations to its worldwide customers. Regardless of any
12 independent purpose and desire Wells Fargo may assert regarding its suspension of processing
13 the wire transfers, Wells Fargo still acted with "intent" within the meaning of this tort because it
14 knew the resulting disruptions to plaintiffs' contractual relations would be a necessary
15 consequence. *See Quelimane Co. v. Stewart Title Guar. Co.*, 960 P.2d 513, 531 (Cal. 1998)
16 (citing Restatement (Second) of Torts § 766 (1979)).

17 As to the final elements of intentional interference with contractual relations – actual
18 breach or disruption and damage – California courts use the broad "substantial factor" test. *See*
19 *Bank of N.Y.*, 523 F.3d at 909 (citing *Franklin v. Dynamic Details, Inc.*, 10 Cal. Rptr. 3d 429,
20 441 (2004) ("California employs the 'substantial factor' test for determining causation in
21 intentional torts cases.")); *see also Bear Stearns & Co.*, 791 P.2d at 592 592 (recognizing that
22 "interference with the plaintiff's performance may give rise to a claim for interference with
23 contractual relations [even absent an actual or inevitable breach] if plaintiff's performance is
24 made more costly or more burdensome"). Applying this test, Wells Fargo's action very likely
25 will be found to have caused serious disruptions to plaintiffs' contractual relationships with its
26 customers and their ability to pay their employees and suppliers. (*See van der Velde Decl.* ¶¶ 20,
27 27-29 .)

1 Wells Fargo was fully aware of the nature of plaintiffs' business, including their need for
 2 Wells Fargo to transmit outgoing wire transfers to fulfill plaintiffs' customers' requests for the
 3 U.S. dollars they had deposited with plaintiffs. (van der Velde ¶ 25, Compl. ¶ 38.) There can be
 4 little dispute that Wells Fargo knew, or should have known, that its decision was substantially
 5 certain to result in disruption of plaintiffs' contractual relationships, just as the inability of debit
 6 and credit card users to obtain cash from ATMs would disrupt relationships between a bank and
 7 its customers. (van der Velde ¶ 15.) In addition, by continuing to accept and process incoming
 8 wire transfers while suspending plaintiffs' outgoing wire transfers, Wells Fargo is placing
 9 plaintiffs in the tenuous position of accepting customers' funds without being able to process
 10 efficiently outgoing requests. (*Id.* ¶¶ 27-28.) Wells Fargo's decision almost certainly will cause
 11 customers to become alarmed that plaintiffs are not able to remit funds customers deposited with
 12 plaintiffs or that plaintiffs are otherwise implicated in some wrongdoing. (*Id.* ¶ 29.) If Wells
 13 Fargo had not made its decision to suspend outgoing wire transfers, plaintiffs' business would
 14 have continued as usual.

15 **III. THE BALANCE OF HARDSHIPS WEIGHS HEAVILY IN PLAINTIFFS'**
 16 **FAVOR**

17 The irreparable injury plaintiffs will suffer absent injunctive relief, including substantial
 18 disruption to its ability to serve their customers and immeasurable reputational harm, clearly
 19 outweighs any possible hardship Wells Fargo might suffer by continuing to serve as a
 20 correspondent bank for plaintiffs' lawful remittance of U.S. dollars to and from their customers
 21 through their Taiwan-Based Banks. (*Id.* ¶¶ 27-29.) Issuance of injunctive relief will restore the
 22 *status quo ante*, allowing plaintiffs to continue to meet their obligations to their customers while
 23 the Court has an opportunity to adjudicate the merits of plaintiffs' claims. *See Chalk v. United*
 24 *States Dist. Ct.*, 840 F.2d 701, 704 (9th Cir. 1988) (observing that preservation of the status quo
 25 is the basic function of an interim injunction).

26 By contrast, there appears to be no risk of harm to Wells Fargo, which until just two
 27 weeks ago regularly conducted business with the Taiwan-Based Banks on plaintiffs' behalf
 28 without any known injury or basis for liability. To the extent Wells Fargo has any concerns

STEPTOE & JOHNSON LLP
1891 Page Mill Road, Suite 200
Palo Alto, CA 94304

1 about processing wires from plaintiffs’ correspondent accounts, plaintiffs repeatedly have made
2 themselves available to provide any information necessary to alleviate any concerns Wells Fargo
3 may have about these transactions. (See van der Velde Decl. ¶¶ 31-32.)

4 **IV. INJUNCTIVE RELIEF SERVES THE PUBLIC INTEREST**

5 The public interest is an important factor to be considered in the balancing of hardships.
6 See *Dep’t of Parks and Rec. of the State of Cal. v. Bazaar del Mundo, Inc.*, 448 F.3d 1118, 1124
7 (9th Cir. 2006). Critically, the law recognizes the need to protect plaintiffs’ contractual relations
8 with and obligations to their clients. See *Quelimane*, 960 P.2d at 530, *as modified* (Sept. 23,
9 1998) (“[T]he exchange of promises which cements an economic relationship as a contract is
10 worthy of protection from a stranger to the contract.”).

11 By unilaterally cutting off plaintiffs’ ability to transact business in U.S. dollars without
12 warning, Wells Fargo’s action likely will cripple plaintiffs’ businesses and threaten participant
13 confidence in the global digital currency markets.

14 **CONCLUSION**

15 For the foregoing reasons, the Court should enter an order temporarily restraining and
16 enjoying Wells Fargo from suspending wire transfers of U.S. dollars from plaintiffs’
17 correspondent accounts, without further order of the Court or plaintiffs’ written consent.

18 Respectfully submitted,

19

20 Dated: April 5, 2017

STEPTOE & JOHNSON LLP

21

22 By: /s/ Laurie Edelstein
Laurie Edelstein
23 Michael Baratz (*pro hac vice*
application submitted concurrently)
24 Seth R. Sias

22

23

24

25

26

27

28

*Attorneys for Plaintiffs iFinex Inc.,
BFXNA Inc., BFXWW Inc., and
Tether Ltd.*

Exhibit 1

DTI_LS1

From: West, Philip
Sent: Friday, March 31, 2017 2:05 PM
To: Paschall Carly
Subject: Any chance you can help with a time sensitive request to speak to your chief compliance officer?

We have a client with a matter threatening its corporate existence and we'd like to appeal to your CCO about a decision Wells is making.

Many thanks.

Philip R. West
Chair

Step toe

PWest@step toe.com

[+1 202 429 6247](tel:+12024296247)direct
[+1 202 247 7068](tel:+12022477068)mobile
[+1 202 261 0522](tel:+12022610522)fax

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Exhibit 12

DTI_LS1

From: Hayes, Jack
Sent: Tuesday, April 04, 2017 12:00 PM
To: Yvette.Hollingsworth@wellsfargo.com
Cc: Baratz, Michael
Subject: RE: Any chance you can help with a time sensitive request to speak to your chief compliance officer?

Dear Yvette,

I've seen no response from you to my email below sent at 6:25 PM EDT yesterday. If we do not hear back, we intend to go to court tomorrow in the Northern District of California. We will keep you updated regarding status, or, if you prefer, you can put us into direct contact with someone in Wells Fargo's law department or outside counsel, and we would be pleased to communicate directly with that person. We would be happy if Wells Fargo appears with us before the judge. Again, we would be grateful for an opportunity to present information about Bitfinex and undertake immediately a short term arrangement to resume in and out USD wire transfer activity at the relevant banks in Taiwan.

Regards,

Jack

Jack R. Hayes
JHayes@steptoe.com

Steptoe

+1 202 429 6491 direct **Steptoe & Johnson LLP**
+1 202 460 0501 mobile 1330 Connecticut Avenue, NW
+1 202 429 3902 fax Washington, DC 20036
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From: Hayes, Jack
Sent: Monday, April 03, 2017 6:25 PM
To: Yvette.Hollingsworth@wellsfargo.com
Cc: Baratz, Michael
Subject: RE: Any chance you can help with a time sensitive request to speak to your chief compliance officer?

Yvette,

Thank you for your email. With regard to Wells Fargo only wishing to communicate with its customer on this matter, we assume you are referring to our client's bank and not to Bitfinex itself. Please let us know if we are mistaken in that assumption. While we are attempting to work with our banks to resolve this matter, the situation has become complicated due to the banking holiday in Taiwan Monday (today) and Tuesday.

As we understand the situation, Wells Fargo's due diligence concerns regard Bitfinex - your customer's customer. Given the banking holiday in Taiwan and the serious threat this situation presents to the continuation of our client's business, we believe this matter can be resolved most efficiently if we are able to work with Wells Fargo to provide all necessary

information and address any due diligence concerns.

Because of the nature of our client's business, the decision to communicate only with your customer will have significant ramifications for Bitfinex. Continued delay in resolving this matter will create a substantial interference with our client's ability to operate their business and presents an existential threat to the company.

We are more than willing to assist Wells Fargo in conducting enhanced counter-party due diligence and we are confident that with the right decisions makers in the room we can resolve this matter quickly. However, due to the grave threat this situation presents to our client's business we may need to pursue all available remedies. Again, our strong preference is to work collaboratively with Wells Fargo to resolve this matter so that our client can continue operating its business.

We would appreciate the opportunity to speak with the appropriate Wells Fargo official and to provide your organization any additional information required to resolve this matter.

Regards,

Jack

From: Yvette.Hollingsworth@wellsfargo.com [<mailto:Yvette.Hollingsworth@wellsfargo.com>]

Sent: Monday, April 03, 2017 12:39 PM

To: Hayes, Jack

Cc: Baratz, Michael

Subject: RE: Any chance you can help with a time sensitive request to speak to your chief compliance officer?

Jack,

Going forward, Wells Fargo will only communicate directly with its customer on this matter. The customer should contact their Relationship Manager. I trust you understand.

Regards,

Yvette

From: Hayes, Jack [<mailto:JHayes@steptoe.com>]

Sent: Monday, April 03, 2017 7:55 AM

To: Hollingsworth Clark, Yvette (RCRM)

Cc: Baratz, Michael

Subject: FW: Any chance you can help with a time sensitive request to speak to your chief compliance officer?

Dear Yvette,

Can we please schedule a call as soon as possible **today**? We want to confirm that we understand your request correctly (as below and attached) and provide further information about this matter. Thank you for your consideration. Regards,

Jack

Jack R. Hayes

JHayes@steptoe.com

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communication in error, please do not read, distribute, or use it and notify me immediately by return email at jhayes@step toe.com, and destroy this communication and all copies thereof, including any attachment(s). Thank you

From: Hayes, Jack
Sent: Sunday, April 02, 2017 10:36 PM
To: Yvette.Hollingsworth@wellsfargo.com
Cc: Baratz, Michael; West, Philip
Subject: RE: Any chance you can help with a time sensitive request to speak to your chief compliance officer?

Dear Yvette,

Further to my email below, please see attached Power of Attorney authorizing us to act as counsel for Bitfinex (IFINEX Inc, BFNXA Inc, and BFXWW Inc) and Tether (Tether Ltd).

In accordance with your request, we are providing contact information for the following three banks in Taiwan where our clients have accounts for paying, receiving, and transferring funds.

Hwatai Commercial bank

Swift Code: HTBKTWTP

Add: 1F., No. 33, Jingye 4th Rd.,

Zhongshan Dist,

Taipei City 10466, Taiwan.

Contact person: Miss Sandy Lou / Vice President / International Banking Department

Tel: +886-2- 2752 5252 ext. 7768 / +886-2- 2532 6080

Htb5458@hwataibank.com.tw

KGI BANK

Swift code: CDIBTWTP

Add: 3F, NO. 125., SEC. 5, NANGING EAST RD.,

SONGSHAN DISTRICT, TAIPEI CITY 10504,

TAIWAN, R.O.C.

Contact person: Miss Gina Lin / Vice President / International Banking Department

Tel: +886-2- 2171 1088 ext. 7602 / +886-2-2171 7602 (direct)

ginalin027688@kgi.com

FIRST COMMERCIAL BANK, TAIPEI, TAIWAN

Swift code: FCBKTWTPXXX

Add: No. 30, Sec. 1, Chung King S. Rd.,

TAIPEI 1005, TAIWAN, R.O.C.

Contact person: Mr. John Lee / S.V.P. & Division Chief / International Banking Division

Tel: +886-2- 2348 1300 (direct)

i80116@firstbankcom.tw

Thank you for your consideration. Best regards,

Jack

Jack R. Hayes

JHayes@step toe.com

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+1 202 429 3902 fax

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From: Hayes, Jack
Sent: Sunday, April 02, 2017 4:30 PM
To: Yvette.Hollingsworth@wellsfargo.com; West, Philip
Cc: Baratz, Michael
Subject: RE: Any chance you can help with a time sensitive request to speak to your chief compliance officer?

Dear Yvette,

We very much appreciate your prompt response. We can certainly provide the contact information for the correspondent bank(s) in Taiwan, but please be aware that due to holidays there, financial institutions are closed on Monday and Tuesday. This matter is urgent because if correspondent account operations remain suspended on Wednesday (Asia time), then Bitfinex and its affiliates will be significantly affected. We would only discuss Wells Fargo-related activities as they relate to our client. Consequently, we would be grateful for an opportunity to address this issue with the appropriate official within Wells Fargo. If there is a time we can speak on Monday with you or another designated official at Wells Fargo about this case, then that may be the most expeditious way to proceed. Thank you in advance for your consideration.

Regards,

Jack

Jack R. Hayes
JHayes@steptoe.com

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From: Yvette.Hollingsworth@wellsfargo.com [<mailto:Yvette.Hollingsworth@wellsfargo.com>]
Sent: Sunday, April 02, 2017 2:23 PM
To: Hayes, Jack; West, Philip
Cc: Baratz, Michael
Subject: RE: Any chance you can help with a time sensitive request to speak to your chief compliance officer?

Phil and Jack, thank you for your correspondence. We can only engage in discussions with the client regarding their activities with Wells Fargo. Do you wish to provide me with an appropriate contact and I'll be happy to research this matter further.

Thanks,
Yvette

From: Hayes, Jack [<mailto:JHayes@steptoe.com>]
Sent: Saturday, April 01, 2017 10:23 AM
To: West, Philip; Hollingsworth Clark, Yvette (RCRM)
Cc: Baratz, Michael
Subject: RE: Any chance you can help with a time sensitive request to speak to your chief compliance officer?

Thank you Phil.

Yvette, as an addendum, we understand that the bank in Taipei, Taiwan receiving the communication(s) from Wells Fargo about Bitfinex and its affiliates is called Hwatai Bank. Thank you for your consideration. Regards,

Jack

From: West, Philip
Sent: Saturday, April 01, 2017 12:30 PM
To: Yvette.Hollingsworth@wellsfargo.com
Cc: Baratz, Michael; Hayes, Jack
Subject: Re: Any chance you can help with a time sensitive request to speak to your chief compliance officer?

Thank you so much, Jimmie. I am dropping you to BCC so you don't need to see more of these emails on vacation.

Yvette,

Our client Bitfinex is a virtual currency exchange and also a leading member of the Blockchain Alliance that works closing with US and global law enforcement. We understand that our client's primary financial institution in Taiwan, KGI Bank, recently advised that Wells Fargo will no longer service US correspondent accounts for the benefit of our client and its affiliated entities. This decision could significantly affect our client's ability to operate in USD by [next Tuesday](#). We are contacting you urgently because we would like to submit information directly to Wells Fargo about the situation, and if possible, obtain an audience early next week to explain Bitfinex's case and address any questions Wells Fargo may have. On Friday we also called Jon Rausch about the matter, and we asked whether he could help identify the best person at Wells Fargo regarding the issue.

I am copying my colleagues, Michael Baratz and Jack Hayes, who are leading this matter and can provide further details and take this forward with you. Many, many thanks in advance for your time and consideration.

Philip R. West
Chair

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PWest@steptoe.com

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On Apr 1, 2017, at 6:58 AM, "Jimmie.Paschall@wellsfargo.com" <Jimmie.Paschall@wellsfargo.com> wrote:

GM Phil-

I am following up to connect you with our CCO Yvette Hollingsworth who is copied here.

All the best-

Jimmie

-----Original Message-----

From: West, Philip [PWest@steptoe.com]

Sent: Friday, March 31, 2017 02:06 PM Eastern Standard Time

To: Paschall, Jimmie

Subject: Any chance you can help with a time sensitive request to speak to your chief compliance officer?

We have a client with a matter threatening its corporate existence and we'd like to appeal to your CCO about a decision Wells is making.

Many thanks.

Philip R. West
Chair

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PWest@steptoe.com

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[+1 202 247 7068](tel:+12022477068)mobile

[+1 202 261 0522](tel:+12022610522)fax

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Palo Alto, CA 94304

1 Laurie Edelstein (Bar No. 164466)
Seth R. Sias (Bar No. 260674)
2 STEPTOE & JOHNSON LLP
1891 Page Mill Road, Suite 200
3 Palo Alto, California 94304
Telephone: (650) 687-9500
4 Facsimile: (650) 687-9499
ledelstein@steptoe.com
5 ssias@steptoe.com

6 Michael Baratz (application for *pro hac vice*
admission submitted concurrently)
7 STEPTOE & JOHNSON LLP
1330 Connecticut Avenue, NW
8 Washington, DC 20036
Telephone: (202) 429-3000
9 Facsimile: (202) 429-3902
mbaratz@steptoe.com

10 *Attorneys for Plaintiffs iFinex Inc., BFXNA*
11 *Inc., BFXWW Inc., and Tether Limited*

12 **UNITED STATES DISTRICT COURT**
13 **NORTHERN DISTRICT OF CALIFORNIA**
14 **SAN FRANCISCO DIVISION**

16 iFINEX, INC., BFXNA, INC., BFXWW, INC,)
17 and TETHER LTD.,)

18 Plaintiffs,)

19 v.)

20 WELLS FARGO & COMPANY and WELLS)
21 FARGO BANK, N.A.,)

22 Defendants.)
23)
24)
25)
26)
27)
28)

No. 17 Civ. 1882

**[PROPOSED] TEMPORARY
RESTRAINING ORDER AND ORDER
TO SHOW CAUSE WHY A
PRELIMINARY INJUNCTION
SHOULD NOT ISSUE**

1 The Court has considered the Ex Parte Application for a Temporary Restraining Order
 2 and an Order to Show Cause Why a Preliminary Injunction Should Not Issue filed by plaintiffs
 3 iFinex Inc. (“iFinex”), BFXNA Inc. (“BFXNA”), and BFXWW Inc. (“BFXWW”) (collectively,
 4 “Bitfinex”), and Tether Limited (“Tether”) (collectively, “plaintiffs”) and the papers filed in
 5 support.

6 After considering (1) whether plaintiffs have a strong likelihood of success on the merits,
 7 (2) whether there is a possibility of irreparable injury to plaintiffs if injunctive relief is not
 8 granted, (3) whether the balance of hardships favors the plaintiffs, and (4) whether injunctive
 9 relief will advance the public interest, the Court finds that plaintiffs have a strong likelihood of
 10 success on the merits. There also is a possibility of irreparable injury to the plaintiffs if a
 11 temporary restraining order is not granted. In addition, the balance of hardships favors the
 12 plaintiffs. Issuing a temporary restraining order will advance the public interest.

13 DEFENDANTS WELLS FARGO & COMPANY and WELLS FARGO BANK, N.A.
 14 ARE HEREBY ORDERED TO SHOW CAUSE at _____ on _____, or as
 15 soon thereafter as counsel may be heard in the courtroom of the Honorable
 16 _____, located at 450 Golden Gate Ave, San Francisco, California, 94102, why
 17 defendants Wells Fargo & Company, Wells Fargo Bank, N.A., their officers, agents, servants,
 18 employees and attorneys, and those in active concert or participation with them or defendants
 19 should not be restrained and enjoined pending trial of this action from suspending, rejecting, or
 20 refusing to process wire transfers of U.S. dollars from plaintiffs’ correspondent accounts, without
 21 further order of the Court or plaintiffs’ written consent.

22 Pending hearing on the above Order to Show Cause, defendants Wells Fargo &
 23 Company, Wells Fargo Bank, N.A., their officers, agents, servants, employees and attorneys, and
 24 all those in active concert or participation with them or defendants ARE HEREBY
 25 TEMPORARILY RESTRAINED AND ENJOINED from suspending, rejecting, or refusing to
 26 process wire transfers of U.S. dollars from plaintiffs’ correspondent accounts, without further
 27 order of the Court or plaintiffs’ written consent.
 28

1 This Order to Show Cause and Temporary Restraining Order must be served on
2 defendants no later than ____ days before the date set for hearing, and proof of service shall be
3 filed no later than ____ court days before the hearing. Any papers filed by defendants in
4 response to this Order to Show Cause must be filed and served on plaintiffs through ECF by no
5 later than ____ a.m./p.m. on _____, 2017. Any reply papers that plaintiffs
6 elect to file must be filed and served on defendants through ECF or before __ a.m./ p.m. on
7 _____, 2017.

8
9 **IT IS SO ORDERED.**

10 DATED: April 5, 2017

11 _____
The Honorable _____
United States District Judge

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STEP TOE & JOHNSON LLP
1891 Page Mill Road, Suite 200
Palo Alto, CA 94304

Exhibit 7

DTI_LS1

From: Hayes, Jack
Sent: Monday, April 03, 2017 10:55 AM
To: Yvette.Hollingsworth@wellsfargo.com
Cc: Baratz, Michael
Subject: FW: Any chance you can help with a time sensitive request to speak to your chief compliance officer?
Attachments: Bitfinex SPECIAL POWER OF ATTORNEY (2).pdf

Dear Yvette,

Can we please schedule a call as soon as possible today? We want to confirm that we understand your request correctly (as below and attached) and provide further information about this matter. Thank you for your consideration. Regards,

Jack

Jack R. Hayes
JHayes@step toe.com

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From: Hayes, Jack
Sent: Sunday, April 02, 2017 10:36 PM
To: Yvette.Hollingsworth@wellsfargo.com
Cc: Baratz, Michael; West, Philip
Subject: RE: Any chance you can help with a time sensitive request to speak to your chief compliance officer?

Dear Yvette,

Further to my email below, please see attached Power of Attorney authorizing us to act as counsel for Bitfinex (IFINEX Inc, BFNXA Inc, and BFXWW Inc) and Tether (Tether Ltd).

In accordance with your request, we are providing contact information for the following three banks in Taiwan where our clients have accounts for paying, receiving, and transferring funds.

[Hwatai Commercial bank](#)
Swift Code: HTBKTWTP
Add: 1F., No. 33, Jingye 4th Rd.,
Zhongshan Dist,
Taipei City 10466, Taiwan.
Contact person: Miss Sandy Lou / Vice President / International Banking Department
Tel: +886-2- 2752 5252 ext. 7768 / +886-2- 2532 6080
Htb5458@hwataibank.com.tw

KGI BANK

Swift code: CDIBTWTP

Add: 3F, NO. 125., SEC. 5, NANGING EAST RD.,
SONGSHAN DISTRICT, TAIPEI CITY 10504,
TAIWAN, R.O.C.

Contact person: Miss Gina Lin / Vice President / International Banking Department

Tel: +886-2- 2171 1088 ext. 7602 / +886-2-2171 7602 (direct)

ginalin027688@kgi.com

FIRST COMMERCIAL BANK, TAIPEI, TAIWAN

Swift code: FCBKTWTPXXX

Add: No. 30, Sec. 1, Chung King S. Rd.,
TAIPEI 1005, TAIWAN, R.O.C.

Contact person: Mr. John Lee / S.V.P. & Division Chief / International Banking Division

Tel: +886-2- 2348 1300 (direct)

i80116@firstbankcom.tw

Thank you for your consideration. Best regards,

Jack

Jack R. Hayes

JHayes@steptoe.com

Steptoe

+1 202 429 6491 direct
+1 202 460 0501 mobile
+1 202 429 3902 fax

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1330 Connecticut Avenue, NW
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From: Hayes, Jack

Sent: Sunday, April 02, 2017 4:30 PM

To: Yvette.Hollingsworth@wellsfargo.com; West, Philip

Cc: Baratz, Michael

Subject: RE: Any chance you can help with a time sensitive request to speak to your chief compliance officer?

Dear Yvette,

We very much appreciate your prompt response. We can certainly provide the contact information for the correspondent bank(s) in Taiwan, but please be aware that due to holidays there, financial institutions are closed on Monday and Tuesday. This matter is urgent because if correspondent account operations remain suspended on Wednesday (Asia time), then Bitfinex and its affiliates will be significantly affected. We would only discuss Wells Fargo-related activities as they relate to our client. Consequently, we would be grateful for an opportunity to address this issue with the appropriate official within Wells Fargo. If there is a time we can speak on Monday with you or another designated official at Wells Fargo about this case, then that may be the most expeditious way to proceed. Thank you in advance for your consideration.

Regards,

Jack

Jack R. Hayes
JHayes@steptoe.com

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From: Yvette.Hollingsworth@wellsfargo.com [<mailto:Yvette.Hollingsworth@wellsfargo.com>]

Sent: Sunday, April 02, 2017 2:23 PM

To: Hayes, Jack; West, Philip

Cc: Baratz, Michael

Subject: RE: Any chance you can help with a time sensitive request to speak to your chief compliance officer?

Phil and Jack, thank you for your correspondence. We can only engage in discussions with the client regarding their activities with Wells Fargo. Do you wish to provide me with an appropriate contact and I'll be happy to research this matter further.

Thanks,
Yvette

From: Hayes, Jack [<mailto:JHayes@steptoe.com>]

Sent: Saturday, April 01, 2017 10:23 AM

To: West, Philip; Hollingsworth Clark, Yvette (RCRM)

Cc: Baratz, Michael

Subject: RE: Any chance you can help with a time sensitive request to speak to your chief compliance officer?

Thank you Phil.

Yvette, as an addendum, we understand that the bank in Taipei, Taiwan receiving the communication(s) from Wells Fargo about Bitfinex and its affiliates is called Hwatai Bank. Thank you for your consideration. Regards,

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From: West, Philip

Sent: Saturday, April 01, 2017 12:30 PM

To: Yvette.Hollingsworth@wellsfargo.com

Cc: Baratz, Michael; Hayes, Jack

Subject: Re: Any chance you can help with a time sensitive request to speak to your chief compliance officer?

Thank you so much, Jimmie. I am dropping you to BCC so you don't need to see more of these emails on vacation.

Yvette,

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in Taiwan, KGI Bank, recently advised that Wells Fargo will no longer service US correspondent accounts for the benefit of our client and its affiliated entities. This decision could significantly affect our client's ability to operate in USD by [next Tuesday](#). We are contacting you urgently because we would like to submit information directly to Wells Fargo about the situation, and if possible, obtain an audience early next week to explain Bitfinex's case and address any questions Wells Fargo may have. On Friday we also called Jon Rausch about the matter, and we asked whether he could help identify the best person at Wells Fargo regarding the issue.

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On Apr 1, 2017, at 6:58 AM, "Jimmie.Paschall@wellsfargo.com" <Jimmie.Paschall@wellsfargo.com> wrote:

GM Phil-

I am following up to connect you with our CCO Yvette Hollingsworth who is copied here.

All the best-
Jimmie

-----Original Message-----

From: West, Philip [PWest@step toe.com]

Sent: Friday, March 31, 2017 02:06 PM Eastern Standard Time

To: Paschall, Jimmie

Subject: Any chance you can help with a time sensitive request to speak to your chief compliance officer?

We have a client with a matter threatening its corporate existence and we'd like to appeal to your CCO about a decision Wells is making.

Many thanks.

Philip R. West
Chair

Step toe

PWest@step toe.com

DTI_LS1

From: Hayes, Jack
Sent: Sunday, April 02, 2017 10:36 PM
To: Yvette.Hollingsworth@wellsfargo.com
Cc: Baratz, Michael; West, Philip
Subject: RE: Any chance you can help with a time sensitive request to speak to your chief compliance officer?
Attachments: Bitfinex SPECIAL POWER OF ATTORNEY (2).pdf

Dear Yvette,

Further to my email below, please see attached Power of Attorney authorizing us to act as counsel for Bitfinex (IFINEX Inc, BFNXA Inc, and BFXWW Inc) and Tether (Tether Ltd).

In accordance with your request, we are providing contact information for the following three banks in Taiwan where our clients have accounts for paying, receiving, and transferring funds.

Hwatai Commercial bank

Swift Code: HTBKTWTP

Add: 1F., No. 33, Jingye 4th Rd.,

Zhongshan Dist,

Taipei City 10466, Taiwan.

Contact person: Miss Sandy Lou / Vice President / International Banking Department

Tel: +886-2- 2752 5252 ext. 7768 / +886-2- 2532 6080

Htb5458@hwataibank.com.tw

KGI BANK

Swift code: CDIBTWTP

Add: 3F, NO. 125., SEC. 5, NANGING EAST RD.,

SONGSHAN DISTRICT, TAIPEI CITY 10504,

TAIWAN, R.O.C.

Contact person: Miss Gina Lin / Vice President / International Banking Department

Tel: +886-2- 2171 1088 ext. 7602 / +886-2-2171 7602 (direct)

ginalin027688@kgi.com

FIRST COMMERCIAL BANK, TAIPEI, TAIWAN

Swift code: FCBKTWTPXXX

Add: No. 30, Sec. 1, Chung King S. Rd.,

TAIPEI 1005, TAIWAN, R.O.C.

Contact person: Mr. John Lee / S.V.P. & Division Chief / International Banking Division

Tel: +886-2- 2348 1300 (direct)

i80116@firstbankcom.tw

Thank you for your consideration. Best regards,

Jack

Jack R. Hayes

JHayes@steptoe.com

Steptoe

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From: Hayes, Jack
Sent: Sunday, April 02, 2017 4:30 PM
To: Yvette.Hollingsworth@wellsfargo.com; West, Philip
Cc: Baratz, Michael
Subject: RE: Any chance you can help with a time sensitive request to speak to your chief compliance officer?

Dear Yvette,

We very much appreciate your prompt response. We can certainly provide the contact information for the correspondent bank(s) in Taiwan, but please be aware that due to holidays there, financial institutions are closed on Monday and Tuesday. This matter is urgent because if correspondent account operations remain suspended on Wednesday (Asia time), then Bitfinex and its affiliates will be significantly affected. We would only discuss Wells Fargo-related activities as they relate to our client. Consequently, we would be grateful for an opportunity to address this issue with the appropriate official within Wells Fargo. If there is a time we can speak on Monday with you or another designated official at Wells Fargo about this case, then that may be the most expeditious way to proceed. Thank you in advance for your consideration.

Regards,

Jack

Jack R. Hayes
JHayes@step toe.com

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From: Yvette.Hollingsworth@wellsfargo.com [<mailto:Yvette.Hollingsworth@wellsfargo.com>]
Sent: Sunday, April 02, 2017 2:23 PM
To: Hayes, Jack; West, Philip
Cc: Baratz, Michael
Subject: RE: Any chance you can help with a time sensitive request to speak to your chief compliance officer?

Phil and Jack, thank you for your correspondence. We can only engage in discussions with the client regarding their activities with Wells Fargo. Do you wish to provide me with an appropriate contact and I'll be happy to research this matter further.

Thanks,
Yvette

From: Hayes, Jack [<mailto:JHayes@step toe.com>]
Sent: Saturday, April 01, 2017 10:23 AM
To: West, Philip; Hollingsworth Clark, Yvette (RCRM)
Cc: Baratz, Michael
Subject: RE: Any chance you can help with a time sensitive request to speak to your chief compliance officer?

Thank you Phil.

Yvette, as an addendum, we understand that the bank in Taipei, Taiwan receiving the communication(s) from Wells Fargo about Bitfinex and its affiliates is called Hwatai Bank. Thank you for your consideration. Regards,

Jack

From: West, Philip
Sent: Saturday, April 01, 2017 12:30 PM
To: Yvette.Hollingsworth@wellsfargo.com
Cc: Baratz, Michael; Hayes, Jack
Subject: Re: Any chance you can help with a time sensitive request to speak to your chief compliance officer?

Thank you so much, Jimmie. I am dropping you to BCC so you don't need to see more of these emails on vacation.

Yvette,

Our client Bitfinex is a virtual currency exchange and also a leading member of the Blockchain Alliance that works closing with US and global law enforcement. We understand that our client's primary financial institution in Taiwan, KGI Bank, recently advised that Wells Fargo will no longer service US correspondent accounts for the benefit of our client and its affiliated entities. This decision could significantly affect our client's ability to operate in USD by [next Tuesday](#). We are contacting you urgently because we would like to submit information directly to Wells Fargo about the situation, and if possible, obtain an audience early next week to explain Bitfinex's case and address any questions Wells Fargo may have. On Friday we also called Jon Rausch about the matter, and we asked whether he could help identify the best person at Wells Fargo regarding the issue.

I am copying my colleagues, Michael Baratz and Jack Hayes, who are leading this matter and can provide further details and take this forward with you. Many, many thanks in advance for your time and consideration.

Philip R. West
Chair

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On Apr 1, 2017, at 6:58 AM, "Jimmie.Paschall@wellsfargo.com" <Jimmie.Paschall@wellsfargo.com> wrote:

GM Phil-

I am following up to connect you with our CCO Yvette Hollingsworth who is copied here.

All the best-

Jimmie

-----Original Message-----

From: West, Philip [PWest@steptoe.com]

Sent: Friday, March 31, 2017 02:06 PM Eastern Standard Time

To: Paschall, Jimmie

Subject: Any chance you can help with a time sensitive request to speak to your chief compliance officer?

We have a client with a matter threatening its corporate existence and we'd like to appeal to your CCO about a decision Wells is making.

Many thanks.

Philip R. West
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SPECIAL POWER OF ATTORNEY

I, Stuart Hoenger, as General Counsel of iFinex Inc., BFXNA Inc., and BFXWW Inc. (collectively D/B/A “Bitfinex”), and Tether Holdings Limited and Tether Limited (collectively D/B/A “Tether”), corporations organized and existing under the laws of the British Virgin Islands and, with respect to Tether Limited only, Hong Kong, with operations in Hong Kong and Taiwan, hereby appoint and confirm Steptoe and Johnson LLP as counsel authorized to represent Bitfinex and Tether in all legal and compliance matters as beneficiaries of correspondent or payable through accounts with U.S. banks.

The authority of this Special Power of Attorney to exercise the foregoing powers granted shall commence on April 2, 2017, and shall remain in force and effect until December 31, 2017.

Dated: April 2, 2017

Signed:

Stuart Hoegner
General Counsel
Bitfinex and Tether