



STATE OF CONNECTICUT
DEPARTMENT OF BANKING
260 CONSTITUTION PLAZA • HARTFORD, CT 06103-1800



Jorge L. Perez
Commissioner

November 1, 2018

VIA EMAIL ONLY

Dear :

This is in response to your July 16, 2018, letter to Commissioner Perez of the Connecticut Department of Banking requesting official guidance as to whether your company, (“ ”) must acquire and maintain a license with this department to establish and operate kiosks in this state for the purposes of exchanging fiat money for bitcoin and vice versa.

The facts presented to this department for consideration are as follows: is a corporation formed under the laws of Georgia that operates kiosks for the purpose of selling cryptocurrency, primarily bitcoin, to consumers in exchange for cash and vice versa. It is unclear whether is currently operating any of these kiosks in this state already, but, due to the following analysis, that issue is moot. As stated by , each bitcoin kiosk will act as a vending machine through which a customer can purchase bitcoins with cash. Those same consumers can also sell bitcoin in exchange for fiat currency, in which case the bitcoin goes directly into ’s inventory. No bank or financial institution will be involved in any part of the transaction. There is no delay in the exchange associated with either of the transactions. If the consumer is purchasing bitcoin, the bitcoin is transferred immediately from ’s inventory to the consumer’s virtual wallet upon the entry of cash by the consumer. If the consumer is selling bitcoin, then the kiosk transfers the bitcoin from the consumer’s virtual wallet to ’s inventory contemporaneously with the issuance of cash to the consumer. No other transactions other than the ones described above are available to consumers at the kiosks under review.

Your correspondence raises the issue as to whether a bitcoin kiosk as described is an “automated teller machine” as defined in Section 36a-2(3) of the Connecticut General Statutes. Under Section 36a-155 of the Connecticut General Statutes, only certain banks, Connecticut credit unions and federal credit unions are authorized to establish automated teller machines in Connecticut. Section 36a-2(3) defines “automated teller machine” to mean:

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[A] stationary or mobile device that is unattended or equipped with a telephone or televideo device that allows contact with bank personnel, including a satellite device but excluding a point of sale terminal, at which banking transactions, including, but not limited to, deposits, withdrawals, advances, payments or transfers, may be conducted[.]

According to the facts presented to this department, the kiosks that _____ operates will act as a vending machine and, therefore, would likely be a stationary, unattended device within the definition of “automated teller machine”. However, upon review of the transactions as you have represented, no bank or financial institution is involved in any part of a transaction. Furthermore, transactions through the kiosks are limited to a customer depositing cash into the machine and receiving bitcoin in return, or vice versa. The kiosks will not accept deposits to or allow withdrawals, advances, payments or transfers from a customer’s account with a bank or financial institution. No bitcoin exchange or other exchange is utilized, nor is any payment system accessed in order to process the transaction. Therefore, it is the opinion of this department that the kiosks you have described would not be used to conduct banking transactions and, accordingly, would not be considered an “automated teller machine” subject to the restrictions of Section 36a-155.

Your correspondence also raises the issue as to whether _____ would need to obtain a license to engage in the business of money transmission pursuant to Part V of Chapter 668, Sections 36a-595 to 36a-612, inclusive, of the Connecticut General Statutes, “Money Transmission Act”.

Section 36a-597(a) of the Connecticut General Statutes, as amended by Public Act 18-173, provides, in pertinent part, that:

No person shall engage in the business of money transmission in this state, or advertise or solicit such services, without a main office license issued by the commissioner as provided in sections 36a-595 to 36a-612, inclusive, . . . except as an authorized delegate of a person that has been issued a license by the commissioner and in accordance with section 36a-607. . . . Any activity subject to licensure pursuant to sections 36a-595 to 36a-612, inclusive, . . . shall be conducted from an office located in a state, as defined in section 36a-2. A person engaged in the business of money transmission is acting in this state under this section if such person: (1) Has a place of business located in this state, (2) receives money or monetary value in this state or from a person located in this state, (3) transmits money or monetary value from a location in this state or to a person located in this state, (4) issues stored value or payment instruments that are sold in this state, or (5) sells stored value or payment instruments in this state.

Section 36a-596(9) of the 2018 Supplement to the General Statutes, as amended by Public Act 18-173, defines the term “money transmission” to include “engaging in the business of issuing or selling payment instruments or stored value . . .”. Section 36a-596(15) of the 2018 Supplement to the General Statutes, as amended, defines the term “stored value” to mean “monetary value that is evidenced by an electronic record. For the purposes of this subdivision, ‘electronic record’ means information that is stored in an electronic medium and is retrievable in perceivable form”. Section 36a-596(8) of the 2018

Supplement to the General Statutes, as amended, defines “monetary value” to mean “a medium of exchange, whether or not redeemable in money”.

Under the above-referenced statutory construction and application, [redacted] would technically be either issuing or selling stored value in this state within the meaning of subdivisions (4) and (5) of Section 36a-597(a), respectively. Bitcoin has monetary value because it is a medium of exchange in the form of digital money that functions like cash.¹ Moreover, its value is evidenced by an electronic record in the form of the block chain that records all bitcoin transactions and wallets that contain a record of bitcoins owned by individual users.² Therefore, bitcoin is “stored value” within the meaning of Section 36a-596(15), as amended, and [redacted], accordingly, would be either issuing or selling stored value in this state via the kiosks as described.

However, “virtual currency”, as defined by Section 36a-596(18) of the 2018 Supplement to the General Statutes, as amended, is treated similar to fiat currency under Connecticut’s money transmission scheme. Section 36a-596(18), as amended, defines “virtual currency” to mean, in pertinent part, as “any type of digital unit that is used as a medium of exchange or a form of digitally stored value or that is incorporated into payment system technology”. Fiat money is currency that a government has declared to be legal tender, but it is not backed by a physical commodity and value is therefore derived from the relationship between supply and demand. It has been this department’s position that, unless otherwise exempted by Section 36a-609 of the Connecticut General Statutes, if these digital currency exchanges hold or transmit fiat or virtual currency on behalf of Connecticut residents, they would be engaging in money transmission in this state and require licensure. However, in the alternative, if the exchanges simply match buyers and sellers of virtual currency or *exchange the currency directly without holding or transmitting any virtual or fiat currency on behalf of other persons*, said exchange would not require a money transmitter license. Based on the facts presented on behalf of [redacted], a Connecticut consumer would insert cash into a [redacted]-owned kiosk and receive bitcoin of an equal value, less fees, in a direct and immediate exchange with the inventory contained within that kiosk’s virtual wallet. In the alternative, the consumer could also receive cash from the kiosk in direct exchange for bitcoin held in the consumer’s virtual wallet. In either case, the transaction is a direct and immediate exchange to and/or from the inventory of [redacted] to and/or from the consumer.

Although it could be technically true that [redacted]’s activities would be considered issuing or selling stored value in this state, it is this department’s position that [redacted] would not be engaged in the business of money transmission pursuant to Section 36a-597(a), as amended, and, accordingly, [redacted] would not be required to obtain a license under the Money Transmission Act in order to establish and operate cryptocurrency kiosks in Connecticut.

¹See “Why do bitcoins have value?” <https://bitcoin.org/en/faq>

²See “How does Bitcoin work? *Id.*

Please note that any variance in the facts described above may change this department's analysis as to how Section 36a-155 and the Money Transmission Act apply to _____'s activities and whether any other provision under the jurisdiction of this department would apply.

Very truly yours

JORGE L. PEREZ
BANKING COMMISSIONER

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JTS/MS/td