

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



Jorge L. Perez
Commissioner

December 19, 2019

VIA EMAIL ONLY

Dear _____ :

This is in response to your letter dated October 1, 2019, to Commissioner Jorge L. Perez of the Department of Banking (“Department”), requesting official guidance as to whether your company, _____, must acquire and maintain a license pursuant to Part V of Chapter 668, Sections 36a-595 to 36a-612, inclusive, of the Connecticut General Statutes, “Money Transmission Act”, in order to establish and operate kiosks in this state for the purpose of exchanging fiat money for virtual currency.

The facts presented to this Department for consideration are as follows:
_____ corporation, seeks to operate kiosks in this state for the purpose of selling virtual currency, primarily bitcoin, to consumers in exchange for cash. Each kiosk will act as a vending machine through which a consumer can purchase virtual currency with cash; there is no function for the consumer to sell virtual currency in exchange for cash. No bank or financial institution will be involved in any part of the transaction. There is no delay in the exchange associated with the transaction. When a consumer purchases virtual currency, the virtual currency is transferred immediately from _____’s inventory to the consumer’s virtual wallet upon the entry of the corresponding amount of cash. No other transactions are available to consumers at the kiosks.

Your correspondence first raises the issue of whether the kiosk described above 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 the term “automated teller machine” to mean:

[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, any kiosk 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 facts presented, no bank or financial institution is involved in any part of a transaction. Furthermore, transactions through the kiosks are limited to a consumer depositing cash into the machine and receiving virtual currency in return. The kiosks will not

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accept deposits to or allow withdrawals, advances, payments or transfers from a consumer'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 of whether [redacted] would need to obtain a license to engage in the business of money transmission pursuant to the Money Transmission Act for the activities described above. Section 36a-597(a) of the Connecticut General Statutes provides 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 Connecticut General Statutes defines the term "money transmission" to mean, in pertinent part, "engaging in the business of issuing or selling payment instruments or stored value, receiving money or monetary value for current or future transmission or the business of transmitting money or monetary value within the United States . . .". Section 36a-596(15) of the Connecticut General Statutes 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 Connecticut General Statutes defines "monetary value" to mean "a medium of exchange, whether or not redeemable in money".

Under the Money Transmission Act, [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) and accordingly, would be either issuing or selling stored value in this state via the kiosks as described.

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

²See "How does Bitcoin work?" *Id.*

“Virtual currency”, as defined by Section 36a-596(18) of the Connecticut General Statutes, is “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” and has been treated similar to fiat currency under Connecticut’s money transmission scheme. Fiat money, including cash, 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. Bitcoin has been treated as currency similar to fiat by this state under the governing statutes.

It has been this Department’s position that, unless otherwise exempted by Section 36a-609 of the Connecticut General Statutes, digital currency exchanges which *hold or transmit* fiat or virtual currency on behalf of Connecticut residents are engaging in money transmission in this state and require licensure. However, exchanges which simply match buyers and sellers of virtual currency or *exchange currency directly, without holding or transmitting any virtual or fiat currency on behalf of other persons*, would not require a money transmission license. Based on the facts presented by _____, a Connecticut consumer would insert cash into a _____-owned kiosk and receive virtual currency of an equal value, less fees, in a direct and immediate exchange with the inventory contained within that kiosk’s virtual wallet. The transaction is a direct and immediate exchange from the inventory of _____ to the consumer.

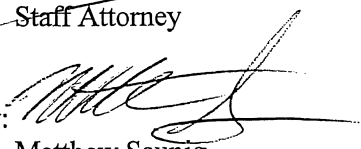
Although _____’s activities would be considered issuing or selling stored value in this state, it is this Department’s position that _____, would not be engaged in the business of money transmission pursuant to Section 36a-597(a), and, accordingly, _____ would not be required to obtain a license under the Money Transmission Act in order to establish and operate such virtual currency kiosks in Connecticut.

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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