



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



Jorge L. Perez
Commissioner

VIA EMAIL ONLY

May 15, 2019 #2

Re: Licensure Requirements for Virtual Currency Exchange through Kiosk, Internet, and Brick and-Mortar Locations

Dear _____ :

This is in response to your letter dated December 23, 2017, to Anne Cappelli this Department, requesting official guidance as to whether _____, a client of _____, must acquire and maintain a money transmission 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 engage in the purchase and sale of virtual currency in Connecticut on its existing virtual currency exchange.

The facts presented to this Department by _____ for consideration are as follows: _____, an Illinois corporation, offers two types of services, the purchase and sale of virtual currency at a _____ kiosk and the purchase-only of virtual currency over the Internet. In a kiosk-based transaction, a customer can purchase virtual currency by verifying their identity, selecting the desired amount of virtual currency to be purchased and inserting fiat currency into the kiosk. _____ simultaneously accepts the fiat currency and transfers the purchased virtual currency from _____'s virtual wallet to the customer's virtual wallet. A customer can also sell virtual currency at a kiosk by selecting the desired amount of virtual currency to be sold. _____ then simultaneously transfers that amount from the customer's virtual wallet to _____'s virtual wallet, and dispenses the fiat currency to the customer in exchange.

In an Internet-based transaction, a customer logs into the _____ website and is prompted to verify their account and identity, after which the customer can then initiate a purchase of virtual currency. The customer confirms the desired amount of virtual currency to be purchased and then initiates payment in one of two ways. First, the customer can initiate a wire transfer by entering the address of their digital wallet, and confirming the amount entered. The funds for that purchase are then transferred from the customer's bank account to the _____ bank account. Once _____ receives the customer's wire, it deposits the virtual currency into the customer's digital wallet. _____ assesses a two percent (2%) fee over the then-current exchange rate for bitcoin and settles the account the same day that the wire transfer is received. Second, customers can make their payment at a store location. The customer creates the order, enters their digital wallet data and then goes to the payment location to make payment. It is unclear how the remainder of the transaction occurs: presumably, the payment at the physical location is recorded by _____ and the funds are transferred to _____'s account. Thereafter, the virtual currency is transferred to the

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customer's virtual wallet. Under both payment methods, the Department interprets 's representations to mean that the virtual currency is transferred to the customer simultaneously with the payment from the customer to and the analysis of licensing requirements is based upon this interpretation. Any change in the facts, and particularly in that specific fact, would likely affect the outcome of the following analysis.

Your correspondence first raises the issue of whether 's virtual currency kiosk 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:

[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[.]

Here, 's virtual currency kiosk will essentially act as a vending machine and, therefore, would be a stationary, unattended device within the definition of "automated teller machine". However, no bank or financial institution is involved in any part of the transaction. Furthermore, transactions through the kiosk are limited to a customer depositing cash into the machine and receiving bitcoin in return and vice versa; no payment system is accessed in order to process the transaction. Therefore, it is the opinion of this Department that the kiosk 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 would need to obtain a license to engage in the business of money transmission pursuant to the Money Transmission Act. 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”.

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.

Because bitcoin is stored value within the meaning of Section 36a-596(15), [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 owned by individual users.²

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 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, a Connecticut customer would insert cash into a [redacted] 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. Although [redacted]’s kiosk 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), and, accordingly, [redacted] would not be required to obtain a license under the Money Transmission Act in order to establish such bitcoin kiosks in Connecticut.³

The analysis next turns to the Internet-based transactions, wherein the Connecticut customer purchases virtual currency through [redacted]’s website. If the transaction is in fact simultaneous, involving solely the direct exchange of currency, without [redacted] holding or transmitting virtual or fiat currency on behalf of the customer, it would not require a money transmission license as it would not fall within the scope of the Money Transmission Act. If there exists any delay in the transmission of virtual currency to the customer’s digital wallet following the customer’s wire transfer or physical payment, [redacted] would

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

²See “How does Bitcoin work?” *Id.*

³See attached redacted opinion letter issued November 1, 2018 regarding bitcoin kiosks.

likely be deemed to be engaged in the business of money transmission and licensure would therefore be required.

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

By: 

Jeffrey T. Schuyler
Staff Attorney

By: 

Matthew Saunig
Staff Attorney

JTS/MS/ebb
Enclosure