



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



Jorge L. Perez
 Commissioner

February 1, 2019

VIA EMAIL ONLY

Dear _____ and _____ :

This is in response to your correspondence with the Department of Banking (“Department”) requesting official guidance as to whether your company, _____, must apply to this Department for a money transmission license if establishes and operates “bitcoin ATMs” in this state.

The facts presented to this Department for consideration are as follows: _____ is a _____ that is considering establishing and operating bitcoin ATMs in the state of Connecticut. Each bitcoin ATM will act as a vending machine through which a customer can purchase bitcoins with cash. No financial institution will be involved in any part of the transaction. Each bitcoin ATM will have its own virtual wallet that holds the bitcoins and from which wallet the bitcoins will be dispensed. _____ will fund a virtual wallet by purchasing bitcoins from one of the popular exchanges, and each bitcoin ATM will have access to _____’s virtual wallet through _____’s software. The bitcoins will be transferred from each bitcoin ATM’s virtual wallet to the customer’s wallet in exchange for cash. The cash will be picked up weekly by an armored car service and transferred to a bank at which _____ maintains an account. In order for a customer to use one of _____’s bitcoin ATMs, a customer must first register by providing a valid picture ID. The transaction will then involve (1) the customer inserting cash into the bitcoin ATM and presenting the customer’s individually assigned Quick Response Code (“QR code”) with the customer’s bitcoin wallet information, and (2) the bitcoin ATM reading the QR code and electronically transmitting bitcoin from the bitcoin ATM’s own bitcoin wallet to the customer’s bitcoin wallet. There is no delay in the exchange, as the bitcoin will be transferred immediately upon the entry of cash by the consumer. No transactions other than the above-described are available to customers at the bitcoin ATMs.

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. Therefore, the Department must first consider whether the bitcoin ATMs, as described by _____ are “automated teller machines”, and subject to that limitation. Section 36a-2(3) of the Connecticut General Statutes 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

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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 bitcoin ATM that _____ proposes to establish in Connecticut will essentially 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 transaction as you have represented, no bank or financial institution is involved in any part of the transaction. Furthermore, transactions through the bitcoin ATM are limited to a customer depositing cash into the machine and receiving bitcoin in return. The bitcoin ATM 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 in the transaction, nor is any payment system accessed in order to process the transaction. Therefore, it is the opinion of this Department that the bitcoin ATM 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 of the Connecticut General Statutes, Sections 36a-595 to 36a-612, inclusive, the “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 . . . 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: . . . (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), 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), as amended, defines “monetary value” to mean “a medium of exchange, whether or not redeemable in money”. Section 36a-596(18), as amended, defines “virtual currency”, 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”.

Under the Money Transmission Act, because bitcoin is “stored value” within the meaning of Section 36a-596(15), as amended, _____ 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), as amended, 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 blockchain that records all bitcoin transactions and virtual wallets that contain a record of bitcoins owned by individual users.²

However, virtual currency is treated similar to fiat currency under Connecticut's money transmission scheme. As previously stated, "virtual currency" is defined in Section 36-596(18), as amended, 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. Bitcoin has been treated as a type of fiat currency by this state under the governing statutes. Cash is also fiat currency. It has been this Department's position that, unless otherwise exempted by Section 36a-609 of the Connecticut General Statutes, if 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, if the exchanges simply 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 transmission license in Connecticut. Based on the facts presented on behalf of _____, a Connecticut consumer would insert cash into a _____-owned bitcoin ATM and receive bitcoin of an equal value, less fees, in a direct and immediate exchange with the inventory contained within that bitcoin ATM's virtual wallet.

Although it could be technically true that _____'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), as amended, and, accordingly, would not be required to obtain a license under the Money Transmission Act in order to establish a bitcoin ATM 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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¹See "Why do bitcoins have value?" <https://bitcoin.org/en/faq>

²See "How does Bitcoin work?" *Id.*