



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



**Jorge L. Perez**  
Commissioner

February 21, 2019

Re: Company. ("Company")

Dear :

This is in response to your October 17, 2018, letter to Anne Cappelli of the Department of Banking ("Department" or "CTDOB") requesting an opinion. The Company seeks a determination as to whether it is required to obtain a money transmission license pursuant to Part V of Chapter 668 of the Connecticut General Statutes, Sections 36a-595 to 36a-612, inclusive, "Money Transmission Act", for certain activities if it is registered as a broker-dealer and alternative trading system ("ATS") with both the U.S. Securities and Exchange Commission ("SEC") and the Financial Industry Regulatory Authority, Inc. ("FINRA"), and as a broker-dealer with the CTDOB. This Department is of the opinion that licensure as is required for the activities described herein under the Money Transmission Act, despite such broker-dealer registrations and corresponding regulatory requirements and oversight.

The facts presented to this Department for consideration are as follows: The Company is a limited liability company that intends to offer a global electronic platform to facilitate the purchase and sale of digital assets, including those assets deemed to be non-securities, securities, and other securities that are not registered under the Securities Act or the Securities Exchange Act of 1934 and that are not listed on a national securities exchange, including debt, equity, profit participation interests, investment contracts and limited partnership interests. Buyers and sellers of digital assets will subscribe to and be members of the platform. Subscribers will fund their accounts with fiat currency, and can transfer fiat currency to and from their accounts in multiple ways, which accounts are then held in a personal digital wallet at the Company. All funds traded over the platform, whether fiat currency or digital assets, will be held on behalf of the subscriber in the Company's digital wallet. The Company thus exercises and maintains control over those assets. Subscribers may also transfer their digital assets to a personal digital wallet not held by the Company or their fiat currency to a personal bank account on demand. The Company will monitor the platform, hold the funds, assert and maintain control over the assets and facilitate the transfer of digital assets between its subscribers.

The Company recognizes that the aforementioned activities would generally require money transmission licensure under the Money Transmission Act. The Company represents, however, that it has filed an application to be registered as a broker-dealer and ATS with the SEC and FINRA, and will also be registered as a broker-dealer with the CTDOB. The Company's position is that, by virtue of these registrations, it is subject to federal regulation and regulatory oversight which make licensure as a money transmitter in Connecticut unnecessary.

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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 include “engaging in the business of issuing or selling payment instruments or stored value . . .”. 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”.

It has been this Department’s position that digital currency exchanges which hold or transmit fiat or virtual currency on behalf of Connecticut residents, unless otherwise exempted by Section 36a-609 of the Connecticut General Statutes, are engaging in the business of money transmission in this state and require licensure. The entities exempt under Section 36a-609 include federally insured banks and credit unions, the United States Postal Service and any person whose activity is limited to transmission of electronic funds transfers of governmental benefits for or on behalf of a governmental agency. Here, it is clear that the Company would be engaged in money transmission activities, including, but not limited to, activities within the meaning of subdivisions (2), (3) and (4) of Section 36a-597(a), and that the Company is not an entity which is exempt pursuant to Section 36a-609.

As the Company has represented, it is in the process of registering as a broker-dealer with the SEC and CTDOB and shall maintain membership in FINRA and, therefore, shall be subject to regulations that either mirror, expand on or are otherwise comparable to the money transmission statutes in this state. Further, the Company has provided a list of states with explicit exemptions or exclusions to their money transmission statutes, which the Company asserts should apply in this case: Alabama, Alaska, Arkansas, California, Iowa, Michigan, New Mexico, North Carolina, Ohio, South Carolina, Vermont and Washington. Although Oklahoma was also included in the Company’s list of states with exemptions or exclusions, this Department has reviewed Oklahoma’s money transmission statutes and has determined that Oklahoma does not have an explicit exemption or exclusion relevant to this discussion. The exemption or exclusion language of those 12 states for state or federally registered broker-dealers is fairly uniform, generally stating that the money transmission licensure requirement does not apply to a person

registered as a securities broker-dealer under federal or state securities laws, to the extent of its operation as a broker-dealer.

As previously stated, Connecticut does not include this exemption or exclusion in its money transmission licensure requirement statutes. Notably, the 12 states that do include the exemptions or exclusions from licensure for entities registered as broker-dealers under federal or state securities laws also include the qualifying language "to the extent of its operation as a broker-dealer." The intent of the exemptions or exclusions appears to be limited to the activities of a broker-dealer and not to those activities that constitute money transmission. Based upon that qualifying language, it appears as though a registered broker-dealer is only exempt or excluded from licensure as applied to its broker-dealer activities and it is not intended to be a blanket exemption or exclusion from the licensure requirement for all of the entity's business activities. The broker-dealer would arguably still be subject to the money transmission licensure requirement in these 12 states as applied to the broker-dealer's actual money transmission activity. Nonetheless, that discussion and analysis is not applicable to Connecticut as Connecticut does not include a broker-dealer exemption or exclusion in its money transmission statutes.

This Department is of the opinion that the proposed activities the Company intends to engage in constitute "money transmission" under the Money Transmission Act, and that there exists no applicable exemption or exclusion from the licensure requirements. Further, there has been no persuasive evidence presented to alter Connecticut's long-standing position requiring licensure for money transmission activities and, therefore, it is the Department's opinion that a money transmission license must be obtained and maintained by the Company to engage in the aforementioned activities within this state.

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

If you should have any further questions, please feel free to contact the undersigned at (860) 240-8141.

Very truly yours

JORGE L. PEREZ  
BANKING COMMISSIONER



By:

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