



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



Jorge L. Perez
Commissioner

February 22, 2019 #2

Re:

Dear :

This is in response to your January 3, 2018, letter to Carmine Costa, Director of the Consumer Credit Division of the Department of Banking (“Department” or “CTDOB”), requesting no-action relief regarding the money transmission licensure requirement under Part V of Chapter 668, Sections 36a-595 to 36a-612, inclusive, of the Connecticut General Statutes, “Money Transmission Act”, for the activities in which proposes to engage.

The facts presented to this Department for consideration are as follows: offers custody and related transaction services for institutional clients and their digital assets. represents that the digital assets include virtual tokens as securities as well as virtual currencies, which invokes the Money Transmission Act in Connecticut. Practically speaking, the intended business involves ’s transfer of digital assets to and from its customers. Upon receipt of the digital assets, holds them in individual customer accounts in cold storage exclusively for those customers. Cold storage means that digital assets are stored offline and disconnected from the Internet. The digital assets are stored on individual hardware devices within the cold storage facility. ’s cold storage facility is a secure data center, which is guarded, bulletproof and secure for the purposes of maintaining the security of the digital assets. Customers may access the stored digital assets on demand and transmits them back to the customer. Digital assets are not transferred to third parties, nor do any other money transmission activities take place. is not linked to any financial institution and does not maintain any inventory of digital assets of its own or engage in mining activities related to digital assets.

recognizes that the activities in which it intends to engage within this state fit within the definition of “money transmission,” particularly that it is in the business of receiving money or monetary value for current or future transmission, holding and storing the digital assets and transmitting them to and from its customers. These activities trigger the money transmission licensure requirement under the Money Transmission Act. represents, however, that it is currently pursuing an application for registration as a broker-dealer with the Securities and Exchange Commission (“SEC”) and the CTDOB.

represents that it is also subject to further federal regulation by virtue of its pending membership in the Financial Industry Regulatory Authority, Inc. (“FINRA”). takes the position that, due to the regulatory oversight of broker-dealers already in place with these agencies, licensure and compliance with Connecticut’s money transmission statutory requirements are unnecessary. Therefore, has sought a no-action position from this Department, stating that the Department will not take enforcement action against for its lack of a money transmission license once it engages in money transmission activities within this state. For the reasons more fully set forth herein, this Department concludes that a money transmission license is required under the facts presented.

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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”.

Under the Money Transmission Act, [redacted] would be receiving and/or transmitting stored valued in this state within the meaning of subdivisions (2) and (3) of Section 36a-597(a), respectively. Specifically, [redacted] represents that it will engage in such activities to receive digital assets from customers, transfer the digital assets to a cold storage facility, store the digital assets on behalf of the customers and then issue the digital assets to the customers upon the demand of the same. 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 are engaging in money transmission in this state and require licensure. Therefore, if [redacted] were to receive or transmit virtual currency in this state or from a person located in this state, [redacted] would be acting as a money transmitter and licensure is statutorily required. The entities exempt under Section 36a-609 include federal insured banks, credit unions, the United States Postal Service and any person whose activity is limited to the electronic funds transfer of governmental benefits for or on behalf of a governmental agency. It is clear that [redacted] does not fall under any of these exemptions allowed in the Connecticut.

As [redacted] has represented, it is in the process of registering as a broker-dealer with the SEC and CTDOB, and is seeking membership in FINRA. Therefore, it would be subject to regulations that either mirror, expand on or are otherwise comparable to the money transmission statutes in this state. First, as previously stated, Connecticut does not include an applicable exemption or exclusion in the Money Transmission Act. Licensure is required unless [redacted] can show that the activities do not fit the definition of money transmission, thereby making licensure inapplicable. Because the activities constitute

“money transmission”, licensure is required. Second, upon this Department’s review, there are at least 12 states that exempt or exclude from money transmission licensure requirements entities registered as broker-dealers under federal or state securities laws. It is notable that each of these exemptions or exclusions include the 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 as to those activities that constitute money transmission. Based upon that qualifying language, it appears that the registered broker-dealer is only exempt or excluded from money transmission licensure in connection with broker-dealer activities, and is not intended to be a blanket exemption or exclusion from the licensure requirement for all of the entity’s business activity, including money transmission. The broker-dealer would arguably still be subject to the money transmission licensure requirement in these states as applied to the broker-dealer’s actual money transmission activity. Nonetheless, that discussion and analysis is not applicable to activity within Connecticut as Connecticut does not include the broker-dealer exemption or exclusion in the Money Transmission Act.

This Department is of the opinion that the activities in which _____ proposes to engage constitute “money transmission” under Connecticut’s Money Transmission Act, and that there is no exemption or exclusion from the licensure requirement. There has been no persuasive evidence presented to alter Connecticut’s long-standing position and, therefore, it is the Department’s opinion that a money transmission license must be obtained and maintained by _____ in order to engage in the aforementioned activities within this state.

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

If you should have any further questions, please do not hesitate to contact the undersigned at (860) 240-8141.

Very truly yours

JORGE L. PEREZ
BANKING COMMISSIONER

By _____

Jeffrey T. Schuyler
Staff Attorney

JTS/ebb