



STATE OF CALIFORNIA

Department of Financial Protection and Innovation

GOVERNOR **Gavin Newsom** • COMMISSIONER **Manuel P. Alvarez**

IN REPLY REFER TO:

FILE NO: _____

October 27, 2020

VIA EMAIL ONLY

Re: _____ – Opinion Request

Dear _____:

Thank you for your letter dated October 2, 2020 to the Department of Financial Protection and Innovation (“Department”). You request confirmation that _____ (“_____”) is not required to obtain a license under the California Money Transmission Act in connection with its proposed business activities in California.

_____ is a Delaware corporation headquartered in _____, Florida and registered as a money services business with the U.S. Department of Treasury’s Financial Crimes Enforcement Network (“FinCEN”). _____ plans to operate kiosks in California which sell Bitcoin to the public in exchange for U.S. Dollars. Operationally, transactions at the kiosks will occur in the following manner: A customer walks up to a kiosk located at an indoor third-party retail location in California. Using a touch screen, the customer selects the amount of Bitcoin the customer would like to purchase in U.S. Dollars. The kiosk will require the customer to provide various identifying information based on FinCEN regulatory requirements. Once customer information and verification requirements are met, the customer may proceed with the transaction. The customer uses a virtual currency wallet application on a mobile phone to generate a QR code containing the wallet address. Once the QR code is scanned at the kiosk, the customer inserts U.S. Dollars into the kiosk and confirms the amount of the purchase. The appropriate amount of Bitcoin is sent to the customer’s virtual currency wallet and the kiosk delivers a receipt via email or text message. The Bitcoin sold to customers at the kiosks will come from _____’ own inventory.

A kiosk that sells Bitcoin and does not support any other types of transactions does not meet the definition of “receiving money for transmission.”¹ Therefore, _____’s activities in connection with its kiosks are not subject to licensing under the MTA.

While not the subject of your inquiry, if in the future _____ offers customers the ability to purchase or sell cryptocurrencies other than Bitcoin, to the extent that any of those other cryptocurrencies are securities, _____ may have obligations under California’s broker-dealer laws. The Department reserves the right to take administrative action against _____ if it is later determined that _____ is trading securities in violation of California law.

The Department’s determination is limited to the activities described herein and does not extend to any other activities in which _____ may engage. Any change in the facts and circumstances or the products or services that _____ provides could lead to a different determination.

Nothing in this letter should be interpreted to relieve _____ from any obligations under the laws administered by FinCEN or any other agency of the federal government.

Please contact me at _____ or _____ if you have any questions.

Sincerely,

Manuel P. Alvarez
Commissioner
Department of Financial Protection and Innovation

By

/s/

Counsel

¹ Fin. Code, § 2003, subd. (u) (defining “receiving money for transmission” to mean receiving money or monetary value in the United States for transmission within or outside of the United States).