



STATE OF CALIFORNIA

## Department of Financial Protection and Innovation

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

IN REPLY REFER TO:  
FILE NO: \_\_\_\_\_

January 4, 2021

SENT BY EMAIL

Re: Request for Interpretive Opinion re Bitcoin ATM/kiosks

Dear Mr. \_\_\_\_\_:

Thank you for your letter to the Department of Financial Protection and Innovation (Department) and subsequent email providing additional information. You inquire whether the sale and purchase of bitcoin through ATMs and kiosks in third-party retail locations is subject to the Money Transmission Act.<sup>1</sup>

### FACTS

\_\_\_\_\_ is a bitcoin ATM/kiosk (Kiosk) service provider incorporated in Wyoming. \_\_\_\_\_'s Kiosks allow customers to buy bitcoin in exchange for dollars and, at select locations, to sell bitcoin for dollars. \_\_\_\_\_ only deals in bitcoin and does not buy or sell any other virtual currencies. Kiosks are located at third-party retail locations.

Customers wishing to buy bitcoin insert dollars into the Kiosk and the purchased bitcoin is sent to the customer's virtual currency wallet. \_\_\_\_\_ provides the bitcoin sold at the Kiosks exclusively from its own inventory.

Customers wishing to sell bitcoin to \_\_\_\_\_ select the desired amount of dollars they want to receive. After the bitcoin is sent, the customer can withdraw the payment dollars.

### ANALYSIS

Under the MTA, a person may not engage in the business of money transmission in California unless the person is licensed, exempt from licensure, or an agent of a person licensed or

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<sup>1</sup> Fin. Code, § 2000 et seq.

exempt from licensure.<sup>2</sup> Financial Code section 2003, subdivision (q), defines “money transmission” as: (1) selling or issuing payment instruments, (2) selling or issuing stored value, or (3) receiving money for transmission.

The sale and purchase of bitcoin from \_\_\_\_\_’s own inventory through a Kiosk does not meet the definition of “money transmission.”<sup>3</sup> Therefore, \_\_\_\_\_’s activities through its Kiosks are not subject to licensing under the MTA.

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 or state government.

Please contact me at \_\_\_\_\_ if you have any questions.

Sincerely,  
Manuel P. Alvarez  
Commissioner  
Department of Financial Protection and Innovation

By

Senior Counsel

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<sup>2</sup> Fin. Code, § 2030, subd. (a).

<sup>3</sup> Fin. Code, § 2003, subds. (s), (x), and (u).