



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

September 2, 2021

**VIA EMAIL ONLY**

Re: Request for Interpretive Opinion

Dear \_\_\_\_\_:

Thank you for your letter to the Department of Financial Protection and Innovation sent by email on August 16, 2021. In your letter, you request confirmation that your client, \_\_\_\_\_, would not be required to obtain a license under the Money Transmission Act (“MTA”).<sup>1</sup>

**Background**

In your letter, you explain that \_\_\_\_\_ operates Bitcoin ATM kiosks in California. To purchase Bitcoin using the kiosk, a customer would provide identifying information, insert the appropriate amount of U.S. Dollars into the kiosk, and specify the customer wallet to which the Bitcoin should be sent. \_\_\_\_\_ immediately sends the purchased Bitcoin from its wallet to the specified wallet.

You clarify that the transaction is only between \_\_\_\_\_ and the customer, that the transaction is completed immediately, and that no third parties are involved in the transmission. You also clarify that \_\_\_\_\_ never holds digital wallets on behalf of customers.

For purposes of this opinion, the Department presumes that \_\_\_\_\_ is selling Bitcoin from its own inventory and that this is the only type of transaction that the kiosks support.

**Analysis**

The MTA provides that a person shall not engage in the business of money transmission in California unless the person is licensed or exempt from licensure under the MTA, or is an agent

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

of a person licensed or 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.

\_\_\_\_\_ activities are limited to selling Bitcoin. This does not require an MTA license because it does not involve the sale or issuance of a payment instrument, the sale or issuance of stored value, or receiving money for transmission.<sup>3</sup>

This opinion is based solely on the facts presented in your correspondence. Any changes in the facts or circumstances, as we understand them, could lead to a different conclusion. Furthermore, 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.

If you have any questions, please feel free to contact me at \_\_\_\_\_ or \_\_\_\_\_.

Sincerely,

Christopher S. Shultz  
Acting Commissioner  
Department of Financial Protection and Innovation

By

\_\_\_\_\_  
Senior Counsel

cc: \_\_\_\_\_ Robert Venchiarutti, Deputy Commissioner, DFPI

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

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