



STATE OF CALIFORNIA

Department of Financial Protection and Innovation

GOVERNOR **Gavin Newsom** • ACTING COMMISSIONER **Christopher S. Shultz**

IN REPLY REFER TO:

FILE NO: _____

October 26, 2021

VIA EMAIL AND U.S. MAIL

Re: Request for Interpretive Opinion

Dear _____:

Thank you for your request for an interpretive opinion to the Department of Financial Protection and Innovation (“Department”) received July 9, 2021, and emails dated August 27, 2021 and October 8, 2021. You request an interpretive opinion from the Department confirming that _____, doing business as _____ (“_____”), is not required to obtain a license under the California Money Transmission Act.

Background

In your correspondence, you explain that _____ offers its clients an opportunity to buy Bitcoin, Litecoin, and Ethereum directly from _____ in exchange for fiat currency.¹ If a client wishes to purchase cryptocurrency from _____, it requests a quote for the requested cryptocurrency. If the client accepts the quote, the client will receive an invoice and provide the information of a bank-issued credit or debit card in the customer’s name. Once that payment is authorized, the requested inventory of cryptocurrency is released to the client’s external wallet.

You also explain that because all client transactions are directly with _____, there is no transmission of the Bitcoin, Litecoin, or Ethereum to third parties, and that _____ does not offer money transmission services.

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

¹ Your email dated October 8, 2021 states that _____ does not have plans to sell any other cryptocurrency to California residents at this time.

of a person licensed or exempt from licensure.² 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 directly selling Bitcoin, Litecoin, and Ethereum to clients. 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.³

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, Money Transmitter Division

² Fin. Code, § 2030, subd. (a).

³ Fin. Code, § 2003, subds. (s), (x), and (u).