



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

April 8, 2022

**VIA EMAIL ONLY**

Re: Request for Interpretive Opinion – \_\_\_\_\_

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

Thank you for your request for an interpretive opinion to the Department of Financial Protection and Innovation (“Department”), dated March 9, 2022. You requested an interpretive opinion concerning whether your client, \_\_\_\_\_ (the “Company”), is required to obtain a license under the Money Transmission Act (“MTA”).

### **Factual Background**

The Company allows customers to deposit fiat currency to a Company account and then draw down that balance to purchase virtual currency from the Company. The purchased virtual currency is transferred to the customer’s virtual currency wallet issued by the Company, and can then be held there, transferred to an external wallet, or sold for fiat currency. The Company then purchases a corresponding amount of virtual currency from a third party.

If a customer wants to later sell the purchased virtual currency for fiat currency, that transaction occurs in a similar manner. The virtual currency is pulled from the customer’s virtual currency wallet hosted by the Company and transferred to the Company’s own virtual currency wallet. Then, the customer’s fiat account is credited. The customer can keep the fiat currency in their account, withdraw it to their external bank account, or use it for other virtual currency purchases. The Company then executes a sell order with a third party in exchange for fiat currency.

Your letter states that the virtual currency sales to customers are from the Company’s own inventory. For purposes of this opinion, the Department assumes these sales occur independently of the Company’s own transactions with third parties.

## **Analysis**

### Money Transmission Act

Financial Code section 2030 prohibits a person from engaging in the business of money transmission in this state unless the person is licensed or exempt from licensure or is an agent of a person licensed or exempt from licensure.

Financial Code section 2003, subdivision (q), defines “money transmission” to include receiving money for transmission and issuing stored value. Subdivision (x) defines “stored value” as “monetary value representing a claim against the issuer that is stored on an electronic or digital medium and evidenced by an electronic or digital record, and that is intended and accepted for use as a means of redemption for money or monetary value or payment for goods or services.” However, this term does not include stored value that is only redeemable by the issuer for goods or services provided by the issuer.

### The Company’s direct purchases and sales of digital assets with customers does not require licensure.

The Company’s purchase and sale of digital assets with customers do not require an MTA license because they do not involve the sale or issuance of stored value or receiving money for transmission. For purchases, the customer is purchasing a digital asset directly from the Company. Similarly, for sales, customers are directly selling their own digital assets to the Company.

The customer’s fiat currency balance in the Company account does not meet the definition of stored value. The funds in that account can only be used for virtual currency purchases from the Company or transferred out to the customer’s external bank account. As such, this stored value is closed loop does not constitute issuance of stored value that is regulated under the MTA.

The Department has not concluded whether the issuance of a wallet storing virtual currency is money transmission activity that is subject to regulation. Therefore, the Department does not currently require licensure under the MTA for the Company to provide customers with a virtual currency wallet.

## **Conclusion**

Based on these facts, the Department is not requiring the Company to be licensed under the MTA at this time. Please be aware, however, these conclusions are subject to change. At any time, the Department may determine these activities are subject to regulatory supervision. The Department may also adopt regulations or issue interpretive opinions that significantly restrict

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these business operations. If the Company chooses to operate in California, it would do so subject to these risks.

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

Sincerely,

Clothilde V. Hewlett  
Commissioner  
Department of Financial Protection and Innovation

By

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

\_\_\_\_\_  
cc: Robert Venchiarutti, Deputy Commissioner, Money Transmitter Division