

Jim Burns

From:
Sent: Tuesday, December 31, 2013 9:33 PM
To: Jim Burns
Cc:
Subject: Re:

Dear Mr. Burns,

Thank you kindly for your preliminary note concerning our client .

As you complete your review of our letter concerning this client, we wish to emphasize that the sender of money or virtual currency never knows the identity of the ultimate recipient thereof. Traditional money transmission involves the intermediary sending money from a known sender to a specific and known recipient. The model, in contrast, de-couples senders and recipients each of whom deal only with . It is for this reason, and those detailed in our letter, that we believe is distinguished from traditional money transmission.

Thank you again for kindly reviewing our letter.

Very best wishes for the New Year,

Attorney at Law

On Wed, Dec 18, 2013 at 2:10 PM, Jim Burns <jim.burns@finance.idaho.gov> wrote:

Dear M

It may take some time to fully process your letter of December 3, 2013 which was received by us on December 17, 2013. However, the Department has issued a bit of guidance in this area.

If your firm accepts U.S. Funds from Idaho customers and holds those funds to later pay for a virtual currency purchase, it seems intuitive that when a transaction is completed that then forwards or otherwise transfers funds to the seller of the virtual currency. Although delays between receipt and delivery (due to order entry and matching) occur, funds are ultimately transmitted to a 3rd party.

It has been our formative view that the activity described above is money transmission and regulated pursuant to the Idaho Money Transmitters Act.

I hope this helps with your planning. Information on licensing in Idaho can be found at <http://finance.idaho.gov>

I am happy to discuss this with you in further detail if you would like.

Ultimately, it will be sometime during January 2014 that we hope to provide additional clarification on other issues associated with your business model. For example, is a depositor and ultimately seller of a virtual currency regulated under the Idaho Money Transmitters Act.

Regards,

Jim Burns, MBA, CFE, CRCP

Securities Investigations Chief / Money Transmitter Program Mgr.

Idaho Dept. of Finance

P.O. Box 83720

Boise, ID 83720-0031

(208) 332-8080

Jim Burns

From: Jim Burns
Sent: Wednesday, August 21, 2013 7:59 AM
To:
Subject: RE: Money Transmittal and Bitcoin

Dear M,

Thank you for your email inquiry of August 19, 2013 regarding BitCoin and your proposed business activities in Idaho. In connection with your communication, we provide the following.

Your email provides a somewhat limited fact set, thus making our analysis somewhat difficult. However, in a general context, we are providing our broad views as it pertains to your inquiry.

The Idaho Money Transmitters Act defines money transmission to include "the sale or issuance of payment instruments or engaging in the business of receiving money for transmission or the business of transmitting money...by any and all means." (see Idaho Code Section 26-2902). For a number of years, we have interpreted the now routine, open-loop stored value and prepaid access instruments to be payment instruments under the Idaho Money Transmitters Act.

As it pertains to digital currencies, we believe that they are perceived and used as stores of value. They may be purchased, held, transferred and used in commercial/consumer transactions...not unlike old-school money orders, travelers checks, and in some respects money remittances. As such, our present view is that they are a form of payment instrument and fall within the ambit of the Idaho Money Transmitters Act. We also believe that deferred currency delivery mechanisms (exchangers) might also fall under the Idaho Money Transmitters Act.

For your information, the applicability of the Idaho Money Transmitters Act is not influenced by the existence of compensation to the service provider. Hence, a no direct compensation business model does not guide whether licensure would be required. Additionally, we have historically opined that it is not necessary for a licensee to have a physical location in this state for our money remitter law to be of effect. Rather, if one is engaged in an MSB activity (but for check cashing) on behalf of Idaho residents, then a money transmitter license is nearly always required.

We expect that a money transmitters license would be necessary for you to engage in digital currency transactions on behalf of Idaho residents. If you would like more information on licensing in Idaho, we are happy to forward licensing information to you.

If you have questions, comments or need to discuss this matter more directly, please feel free to contact me directly.

Regards,

Jim Burns, Investigations Chief
MBA, CFE, CRCP
Idaho Dept. of Finance
P.O. Box 83720

Boise, ID 83720-0031
(208) 332-8080

From:

Sent: Monday, August 19, 2013 2:39 PM

To: Finance Internet Mail

Subject: Money Transmittal and Bitcoin

Good Afternoon,

My name is _____ I am part of a _____ Bitcoin startup. The first phase of our startup is a Digital Currency Exchange. It will only deal with distributed digital currencies such as bitcoin. No 'real' currencies are involved and this is a free service. The only income we are expecting for the foreseeable future is selling ad space on the web site. There are no user fees. Users will be able to send digital currencies to our site, exchange their digital currency for another digital currency and download their traded for digital currency. We are just a platform for users to have a secure transaction.

We fully expect to have to be a licensed MSB at some time in the future, but at this time, has Idaho determined how Bitcoin and related digital currencies will be handled, or is there someone that I should contact that is determining the status of these digital currencies in Idaho?

Our purpose is to establish ourselves in the marketplace with limited licensing for startup costs purposes with the determination to be fully compliant as it is needed. We have registered with FinCEN and are implementing AML and KYC processes. The states of Texas, Florida and New York have taken different view of Bitcoin as of today. For what we are doing Texas does not require licensing (as of now), Florida appears to have passed laws making it illegal as a gambling device and New York has not yet determined what the status is, but are leaning towards full Money Services compliance.

If a resident of Idaho set up an account on our site, do we need to be a licensed money transmitter (or other licensed entity) before we could offer our services? As of today? What I am hoping for is either a "No" or a determination that says residents of Idaho can use our services until official digital currency policies are in place. At which point, we will need to become licensed.

Thank you for any assistance you can provide.

President/CEO



IDAHO
DEPARTMENT OF FINANCE

C. L. "BUTCH" OTTER
Governor

GAVIN M. GEE
Director

August 14, 2013

Re: Money Transfer Opinion Request

Dear M

Thank you for your recent communications and your inquiry regarding whether the needs to obtain a money transmitters license. We have reviewed the July 29, 2013 letter provided to you by the Texas Department of Banking and other materials presented in connection with your exemption request. In connection with your request, we provide the following.

Is It Money Transmission? - Consistent with your concerns and as enumerated by the State of Texas, the system does involve the transmission of funds from license applicants to various state licensing authorities. As a money transmitter activity is being conducted, the remaining question is whether a license will be required¹.

Are There Any Applicable Exemptions? - As you are aware, the Idaho Money Transmitters Act provides various exemptions from compliance with this statute. More directly, Idaho Code § 26-2904 generally exempts the federal government, as well as the states and their political subdivisions from compliance with the statute. Additionally and with some conditions, federal or state chartered financial institutions are also exempt. Properly appointed agents of licensed money transmitters are also exempt, but subject to examination and review by the Idaho Department of Finance. It is our formative view that does not qualify for any of the exemptions enumerated under the Idaho Money Transmitters Act.

Licensing & Prospective "No Action" Position - It is my understanding that is a limited purpose entity that only accepts and forwards licensing fees to participating regulatory agencies from individuals or entities that seek to become licensed in various capacities with these regulatory agencies.

In Idaho, I have confirmed that the Department of Finance would honor an application fee paid through the even in an instance where failed to forward such a payment. In this respect, a payment to has the equivalent outcome of a payment made directly to the Department of Finance. Such a circumstance obviates any monetary risk to the user of ². Since risk to the system user has been eliminated (at least in Idaho) there would appear to be little benefit to requiring to become licensed as a money transmitter in Idaho.

¹ Under the Idaho Money Transmitters Act, money transmission is a regulated activity, whether or not the provider (e.g., is compensated in connection with the transaction.

² I am not aware of any current plans to expand to other Idaho agencies, and our review of this matter presumes that the Idaho Department of Finance will remain the only Idaho user of the for the foreseeable future.

SECURITIES BUREAU
800 Park Blvd., Suite 200, Boise, ID 83712
Mail To: P.O. Box 83720, Boise ID 83720-0031
Phone: (208) 332-8004 Fax: (208) 332-8099
<http://finance.idaho.gov>

Based on the facts as presented herein, the Department will take a no-action position as it pertains to the licensing provisions of the Idaho Money Transmitters Act. Please be advised that any alteration in the fact set presented or the clientele served by _____ may result in a different conclusion than the one expressed herein.

We hope that this communication resolves the issue that you have brought to our attention. Should you have any questions or wish to discuss this matter directly, please feel free to contact the undersigned directly at (208) 332-8080.

Sincerely,

James A. Burns



IDAHO
DEPARTMENT OF FINANCE

C. L. "BUTCH" OTTER
Governor

GAVIN M. GEE
Director

April 9, 2013

Re: Money Transmitter Licensing Question

Dear M

Your April 5, 2013 letter addressed to Mike Larson of our Consumer Finance Bureau has been referred to the Department of Finance Securities Bureau for review and response. The Securities Bureau is the bureau responsible for the licensing and oversight of money transmitters in the state of Idaho.

Background - You have indicated that _____ services business entities such as corporations, partnerships, sole proprietorships and associations in meeting their needs for foreign exchange services. You have further represented that _____ does not have any physical locations in the state of Idaho.

As you note, there is some question regarding the applicability of the Idaho Money Transmitters Act (IMTA) to the type of business _____ conducts. To address your question regarding licensure, we provide the following.

Do _____ proposed Idaho activities fall within the scope of the IMTA – While _____ does not apparently initiate ACH transfers from client accounts, _____ does accept client funds. As noted in your letter, a client wishing to conduct a transaction “must request that their financial institution send us their funds...” for further payment, likely in a foreign currency, to a third party.

We note that the IMTA does not provide any exclusion from licensure for money remitter activities that are commercial in nature. While you argue that your services are essentially only foreign exchange services, we note that most, if not all licensed money transmitters conducting an international business are essentially providing foreign exchange services as an ancillary part of the money transmission transaction. In this regard, we believe it is clear that _____ proposed commercial transactions involve money transmission.

Will Not Have Any Physical Presence in Idaho - While the IMTA mandates additional bonding for licensees with Idaho locations, The IMTA is essentially silent on the issue of whether a physical location is needed in order for remittance transactions to be regulated. In this regard, the Department has a longstanding view that remittances involving Idaho located individuals and entities are covered under the IMTA regardless of how the transaction is initiated or completed. As you may

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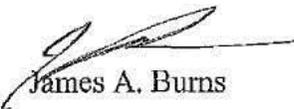
PROTECTING THE INTEGRITY OF IDAHO FINANCIAL MARKETS

see from the list of money transmitters licensed and published on our website, many are internet-based entities that conduct their remittance business solely through their web portals.

As you may surmise from the information provided above, the Department is of the opinion that should obtain a money transmitter license in Idaho in advance of offering remittance services to individuals or entities located in or operating from Idaho.

Should you have any additional questions or wish to discuss this matter directly, please feel free to contact the undersigned directly at (208) 332-8080. We will be happy to provide you with a licensing packet upon request, or you may want to consider licensing through the National NMLS licensing system that provides a platform for money remitter licensing in multiple states¹.

Sincerely,



James A. Burns

¹ <http://mortgage.nationwidelicencingsystem.org>

April 5, 2013

CONFIDENTIAL TREATMENT REQUESTED

Mike Larsen
Consumer Finance Bureau Chief
Idaho Department of Finance
800 Park Blvd., Suite 200
Boise, ID 83712

Sent via email to: mlarsen@finance.idaho.gov

Re: Licensing Status under the Idaho Money Transmitters Act

Dear Mr. Larsen:

We are writing to request confirmation that _____ proposed foreign currency exchange activities are outside the scope of the licensing requirements of the Idaho Money Transmitters Act (the "Act").

Background Regarding

_____ is a foreign exchange and money transmission company based in Toronto, Canada. Our clientele is largely restricted to business entities: such as corporations, partnerships, sole proprietorships and associations. Of these business entities, we only serve businesses that need foreign exchange services as an operational element of their business. We do not accept clients that engage in foreign exchange for speculative or investment purposes, even if it is not their primary objective. We offer services to consumers on a restricted basis only.

We have a single physical location, in Toronto. We do not use agents. We maintain a low risk profile by performing due diligence on all our business customers, and by strictly controlling whom we accept as clients and the types of transactions we engage in, as described above.

Our clients are typically small to medium size manufacturers or importers/exporters. They require foreign exchange and money transmittal services to pay for supplies and inputs, and to receive and convert payment for finished products or sales.

Our transactions are effected primarily through wire transfer. To conduct a transaction, our clients must request that their financial institution send us their funds via wire or ACH; we do not initiate ACH debits of our clients' accounts. To further reduce our risk profile, we never send or receive cash.

At this time, _____ does business in a very small number of states (with appropriate approvals), but not in the state of Idaho. In order to ensure compliance with US federal anti-money laundering laws _____ has registered with FinCEN as a "money transmitter" and as a "dealer in foreign exchange." Our employees are trained in the Bank Secrecy Act requirements and their knowledge of anti-money laundering and counter-terrorist financing has been tested. _____ policies and procedures for compliance with the Bank Secrecy Act have been reviewed by an outside party.

We wish to test expanding further in the US marketplace by potentially offering our services to businesses in Idaho through our website. We would like to support Idaho businesses in their foreign exchange and money transmission needs, and facilitate such payments and transactions to contribute to a vibrant economy in the state. We will not be establishing a physical location anywhere in the US but would continue to operate from our single location in Canada, without the use of any agents. We seek to leverage the strength and security of Canadian financial system to the benefit of Idaho businesses.

The Idaho Money Transmitters Act

The Act provides that "no person ... shall engage in the business of money transmission without a license as provided in accordance with the provisions of this chapter." (Idaho Code § 26-2903(1).) The term money transmission is defined as "the sale or issuance of payment instruments or engaging in the business of receiving money for transmission or the business of transmitting money within the United States or to locations outside the United States by any and all means including, but not limited to, payment instrument, wire, facsimile or electronic transfer." (Idaho Code § 26-2902(11).)

The Act does not address foreign exchange services (or currency exchange).

Exclusion Request

We hereby request a determination that _____ may commence offering its services in Idaho, limited to business customers as described above, without requiring a money transmitter license under the Act. We believe that the Act's money transmitter licensing requirements are not applicable to _____ proposed foreign exchange services, based on the following:

1. The Act does not address foreign exchange services (or currency exchange).
2. We will not be providing any retail foreign exchange or money transmission services; that is, we will not process transactions for consumers. Rather, as described above, our clientele is businesses that need foreign exchange and money transmission services as an operational element of their business.
3. _____ will not have a physical presence, nor any agents, in Idaho.

If you disagree with our conclusion, please let us know. We may decide to apply for licensing in Idaho, although given that our prospective business in Idaho is nascent and potentially quite limited, we may simply elect not to offer our services in Idaho.

Thank you for your time and consideration. Please do not hesitate to contact me at _____ or _____ if you have any questions or need any additional information.

Yours truly,

Chief Compliance Officer and General Counsel

Jim Burns

From: Jim Burns
Sent: Thursday, January 17, 2013 1:44 PM
To:
Subject: RE: Request for guidance regarding exemption from money transmission license requirement

Hi

Thank you for your patience and in taking time to discuss this matter yesterday.

Based solely upon the representations made in your email of January 6, 2013, The Department of Finance is willing to take a no action position relative to the licensing provisions of the Idaho Money Transmitters Act for the described activities. This means that none of the parties identified in your communication need to consider licensing as a money transmitter in Idaho.

Presently, we would prefer to defer on making a blanket statement regarding the applicability of the banking exemption for the described circumstances.

Please let me know if the preceding no action position is insufficient for your to advise your client properly.

Regards,

Jim Burns, Investigations Chief
MBA, CFE, CRCP
Idaho Dept. of Finance
P.O. Box 83720
Boise, ID 83720-0031
(208) 332-8080

From:
Sent: Sunday, January 06, 2013 5:57 PM
To: Jim Burns
Cc:
Subject: Request for guidance regarding exemption from money transmission license requirement

Dear Mr. Burns,

We would appreciate your input on whether an out-of-state bank-issued incentive card ("Card") for employees that is funded directly by an employer would qualify for the exemption from the money transmission license requirement set forth in the Idaho Money Transmitters Act ("Act").

Specifically, a well-known out-of-state chartered bank ("Bank") may facilitate an arrangement whereby employees ("Employees") of a nationwide employer ("Employer") will be given an option of receiving incentive payments they have earned or been granted via a Card. The Card will have a MasterCard (or other card association) logo and may be used to obtain cash withdrawals via ATMs, transfer up to \$200 per day to another U.S. bank account, or make purchases of goods and services at thousands of participating

merchants. The Employees will receive and activate the Card prior to use. An Employee who chooses to receive his incentive payment, in part or in full, via the Card will notify the Employer and the Bank of his choice; the Employer will then either electronically send the funds directly from the Employer's account to the Bank or the Bank will electronically pull the funds from the Employer's account. The Bank will hold such funds in an FDIC-insured custodial account held at the Bank in the Bank's name on behalf of the Employees until they are withdrawn or used by the Employee. In other words, the Employer will fund the Card account just as it funds its payroll account held at a bank. Only additional incentive payments earned by or granted to the Employee may be reloaded to the Card; no other reloads will be permitted by the Employee or anyone else.

The proposed contractual arrangements for such services are as follows: The Employer will enter into an agreement with a publicly traded company ("Company") for Company or its affiliate ("Affiliate") to coordinate such incentive payment services. The Affiliate will arrange for the services in accordance with an agreement the Affiliate has with the Bank. Neither the Company, the Affiliate, nor any other third party (other than the Employer or the Bank) will ever touch or handle the funds - again, the funds will go directly from the Employer's bank account to the custodial account held by the Bank for the benefit of the Employees. All loads and reloads will be done only by the Employer and only at the Bank. The Employees will receive Card terms and conditions from the Bank.

As the funds will flow directly from the Employer to the Bank, and no third party will otherwise handle the funds, we believe that this arrangement qualifies for the bank exemption from the money transmission license requirement under Section 26-2904(1)(d) of the Act, which states in pertinent part: "This chapter shall not apply to: ... (d) [b]anks, credit unions, savings and loan associations, savings banks or mutual banks organized under the laws of any state or the United States, provided that they do not issue or sell payment instruments through authorized delegates who are not banks, credit unions, savings and loan associations, savings banks or mutual banks."

We would greatly appreciate your input on whether we have properly interpreted your statutory exemption. As the parties would like to enter into this arrangement immediately, we would also very much appreciate your consideration of our inquiry as quickly as possible. Please feel free to contact me either by email or by phone at _____ if you have any questions. We ask that you treat this inquiry as confidential as it contains confidential information. Thank you,
