

Jim Burns

From: Jim Burns
Sent: Friday, May 22, 2015 9:48 AM
To:
Cc: Coleen Hodson
Subject: RE: Digital Currency Licensing Question

Thanks for mentioning the non-financial uses of this technology. The prospects for non-monetary programmable virtual currencies are quite intriguing and will undoubtedly continue to morph over time.

Presently, I am comfortable saying that the Idaho Money Transmitters Act would not apply to an exchange that was not involved in the introduction or payout of fiat currencies. It would appear that you are arguably operating a network for the barter/exchange of property.

I am aware of a few states that might consider wallet hosting as a form of stored value subject to money remitter regulation. Idaho is not presently in that camp.

I hope this helps to provide you with some clarity regarding some of our views in this space.

Regards,

Jim Burns, MBA, CFE, CAMS, CRCP
Securities Bureau Chief
Idaho Dept. of Finance
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From:
Sent: Thursday, May 21, 2015 2:41 PM
To: Jim Burns
Subject: Re: Digital Currency Licensing Question

Hello Jim,

Thank you for the response. You are correct about what we are doing. At some point in the future we do expect to move to US Dollars, but that will require a Money transmitters license in most districts. That will be at least a year away and we will be applying for that license before we do.

By the way, this does not effect us directly, but if you are involved in the regulatory determinations, please try to differentiate between financial and non financial uses for this technology. For an example of a non financial use, look at a company called Factom. It is a very basic service that is about to be in use. They are helping the Honduran government with their proof of title documentation in their new economic free zones. It is an interesting project, but it is not a financial use of the technology. Just my two cents.

Thank you again for the response. If you ever have any questions that I can help with, please feel free to ask.

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On Thu, May 21, 2015 at 3:25 PM, Jim Burns <jim.burns@finance.idaho.gov> wrote:

Hi

I've been working towards a more broadly conceived approach to the virtual currency space, but find many questions and a still developing marketplace (and currencies for that matter). While we do not yet have a total policy approach, I did want to get you some feedback regarding your Digital Currency Exchange.

From what you provided, it looks like you have a marketplace that **will not** act as an on-ramp or off-ramp for the conversion of fiat currencies. Rather, it appears that your marketplace is solely a place to exchange and trade virtual currencies.

Can you confirm that I have property characterized your model?

Regards,

Jim Burns, MBA, CFE, CAMS, CRCP

Securities Bureau Chief

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From:]
Sent: Friday, April 17, 2015 1:57 PM
To: Jim Burns
Subject: Re: Digital Currency Licensing Question

Mr Burns,

I apologize for the length of time it has taken to send this. It is a process flow of how our system moves (and doesn't move) digital currencies. I hope it answers any questions that you may have. If not, please contact me.

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On Mon, Apr 6, 2015 at 3:21 PM,

> wrote:

Mr Burns,

I will send a more detailed description of the service we are providing and the structure of the transaction. For short, we are executing a two party transaction. An Idaho resident would send us one digital currency and we would respond with another from our inventory of digital currencies. We do price discovery in a digital currency arbitrage system, but those funds are separate. The public exchange containing an order book with ask and bids between two other parties is not part of the process anymore. I will send an official description with diagrams by the end of the week.

For now,

I have been receiving two responses to this question other than the need more information response. The first is that digital currency is not something that we regulate. The second is that I should get a lawyer to investigate these sort of questions. Yours is one of two asking for more information.

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On Mon, Apr 6, 2015 at 10:42 AM, Jim Burns <jim.burns@finance.idaho.gov> wrote:

Dear _____ :

Thank you for your email regarding the regulation of bitcoin transaction services here in Idaho. For your information, I have included our prior correspondence with you from 2013- it appears below your inquiry.

Before providing any guidance as to your most recent communication, we will need a detailed written explanation regarding your proposed business model. We did review your website, but it did not provide the information we need.

Given the state of technology and the speed associated with crypto-currency transactions, we would be interested in understanding the order / delivery process and the parties involved. Likewise, we would need a detailed flow of funds/currencies description as well. It would also be useful to know if you have received guidance from other jurisdictions regarding your business model.

Regards,

Jim Burns, MBA, CFE, CAMS, CRCP

Securities Bureau Chief

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From:
Sent: Thursday, April 02, 2015 3:19 PM
To: Finance Internet Mail
Subject: Digital Currency Licensing Question

Good Afternoon,

I believe we were in touch a little over a year ago about licensing requirements for a digital currency exchange. At that time our business model was to be a platform for two others to exchange digital currencies. It was a three party transaction and, to us, an easily identifiable case of money transmittal. Our current business has changed to a straight two party transaction between us and our user. We are accounting for kyc,bsa,ofac(etc) at the federal level and were wondering what licensing might be required in Idaho for a strictly two party trade only involving digital currencies. Our user sends us one digital currency and we respond with another from our inventory.

Any assistance would be greatly appreciated. Enjoy the Easter break.

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From:

Sent: Wednesday, August 21, 2013 8:18 AM

To: Jim Burns

Subject: Re: Money Transmittal and Bitcoin

Thank you Mr Burns,

Your response is reasoned response that I would expect from any state. From my inquiries to all of the other states, you are in the minority. I will restrict Idaho users until we are licensed in your state. I expect in the next 12-24 months that most states will come to the same conclusion in regards to licensing. We are already registered with FinCen. Our licensing at the state level will be ordered by consumer interest and regulatory cost.

If you ever have any Bitcoin or other digital currency questions, please feel free to contact me. If I do not know the answer myself I can certainly find someone who does.

On Wed, Aug 21, 2013 at 8:58 AM, Jim Burns <JBURNS@finance.idaho.gov> wrote:

Dear _____:

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

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From:
Sent: Monday, August 19, 2013 2:39 PM
To: Finance Internet Mail
Subject: Money Transmittal and Bitcoin

Good Afternoon,

My name is [REDACTED]. I am part of a Texas 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.