

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
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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 [redacted] I am part of a [redacted] 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