

THE COMMONWEALTH OF MASSACHUSETTS
DIVISION OF BANKS

1000 Washington Street, 10th Floor, Boston, Massachusetts 02118

DEVAL L. PATRICK
GOVERNOR

GREGORY BIALECKI
SECRETARY OF HOUSING AND
ECONOMIC DEVELOPMENT

BARBARA ANTHONY
UNDERSECRETARY, OFFICE OF
CONSUMER AFFAIRS AND
BUSINESS REGULATION

DAVID J. COTNEY
COMMISSIONER OF BANKS

May 12, 2014

Adam Atlas
Attorney at Law
5585 Monkland Avenue
Suite 150
Montreal, Quebec, Canada H4A 1E1

Dear Mr. Atlas:

This letter is in response to your correspondence dated February 19, 2014 to the Division of Banks (Division) in which you request an opinion relative to the registration and licensing requirements for your client, Coindeavors, LLC (Coindeavors) and its bitcoin kiosks in the Commonwealth.

Coindeavors is a Massachusetts limited liability company that has purchased two RoboCoin Technologies (RoboCoin) bitcoin kiosks and plans to install them in this state. These machines provide users with the ability to buy and sell bitcoins by accepting or dispensing United States dollars. All bitcoins sold by a user to the kiosk will be purchased directly by Coindeavors as opposed to a third party. None of the purchase or sale transactions will be dependent on each other nor shall they be dependent on Coindeavors carrying out any transactions with third parties. Coindeavors will be trading with consumers that approach the kiosk for their own account and pricing such transactions based on Coindeavors' own investment decisions and not under the control of a third party.

Bitcoin is a peer-to-peer payment system and a digital currency. When the term is capitalized (Bitcoin), it refers to the technology and network, whereas lowercase bitcoin (bitcoin) refers to the digital currency itself. Bitcoin uses public-key cryptography, in which pairs of cryptographic keys, one public and one private, are generated. The virtual repository is represented by the public key. The private key is known only to the bitcoin owner and it acts as a safeguard allowing bitcoins to be spent or traded by the owner only.

All users of Coindeavors' kiosks are required to complete an initial registration process at the kiosk. Coindeavors has engaged RoboCoin as its agent to conduct a rigorous "know your customer process." The RoboCoin kiosk will collect from the user the following information: name, email address, physical address, date of birth, telephone number and electronic scan of the driver's license including photo or other government-issued photo ID. RoboCoin matches the image on the photo ID to the picture taken by the kiosk's camera.

Users of the kiosk may buy bitcoins from Coindeavors or sell bitcoins to Coindeavors. When buying bitcoins, users request an amount of bitcoin they want to purchase measured in dollars. The kiosk presents the user with confirmation of the cost based on the then current price determined by Coindeavors at its discretion and the exact amount of a posted transaction fee. If the user agrees to the cost of the purchase and the fee, he/she inserts physical cash into the kiosk and the bills are verified as legal tender equivalent to the agreed total transaction cost. At this point, the kiosk software moves the purchased bitcoins from Coindeavors' electronic wallet to the user's electronic wallet. Once the transaction is validated by the public Bitcoin network, the user has possession of the bitcoins purchased.

Users who wish to sell bitcoins to Coindeavors propose an amount to be sold measured in dollars. The kiosk presents the user with a confirmation of the amount the user will be selling, based on the current price that Coindeavors is willing to pay, and the exact amount of the posted transaction fee. If the user decides to proceed, he/she is given a code associated with the electronic wallet address of Coindeavors. The user sends the agreed number of bitcoins via their mobile device to Coindeavors' wallet address and a printed receipt is generated. Once the transfer is confirmed by the public Bitcoin network, the user scans the printed receipt into the kiosk, which confirms the user's identity, and dispenses the agreed upon dollar amount to the user.

You request that the Division confirm your conclusion that Coindeavors' bitcoin kiosks do not meet the definition of "electronic branch" as defined in Massachusetts General Laws chapter 167B, section 1 and, therefore, are not required to be approved by or registered with the Division. In addition, you ask the Division to confirm that Coindeavors does not require a foreign transmittal agency license under Massachusetts General Laws chapter 169 in order to operate its bitcoin kiosks in the Commonwealth.

Massachusetts General Laws chapter 167B, section 1 defines an electronic branch as an electronic device, other than a telephone operated by a consumer, through which a consumer may initiate "an electronic fund transfer." An electronic fund transfer is defined as any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic branch telephone instrument, or computer or magnetic tape or point of sale terminal so as to order, instruct, or authorize a financial institution to debit or credit an account. A "financial institution" is defined in Chapter 167B as a bank, federal bank, federal credit union, foreign bank, out-of-state federal bank or any other person who a) directly or indirectly holds an account belonging to a consumer, or b) issues an access device and agrees with a consumer to provide electronic fund transfer services.

Coindeavors' bitcoin kiosks are electronic devices but they do not provide the user with a means of initiating an electronic funds transfer because the kiosk does not, in any way, order, instruct or authorize a financial institution to debit or credit an account. The bitcoin kiosk where the transaction takes place does not meet that part of the definition of "financial institution" which references "any other person who directly or indirectly holds an account belonging to a consumer" because it does not hold an account of the consumer. The bitcoin transaction is conducted on a bitcoin exchange where the consumer buys and sells bitcoins in a bitcoin wallet which is owned by the consumer and secured with an encrypted private key of the consumer.

Based on the facts as presented in your letter, Coindeavors' bitcoin kiosks do not constitute an electronic branch under Massachusetts General Laws chapter 167B, section 1 and bitcoin transactions conducted at the kiosks do not constitute an electronic fund transfer under said statute. Therefore, it is the position of the Division that Coindeavors' bitcoin kiosks are not non-bank ATMs which would require the approval of the Division pursuant to section 3 of chapter 167B of the General Laws.

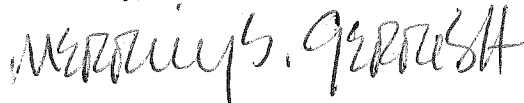
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Massachusetts General Laws chapter 169 requires that all persons who engage or are financially interested in the business of receiving deposits of money for the purpose of transmitting the same or equivalents thereof to foreign countries obtain a foreign transmittal agency license from the Division. In a bitcoin transaction, the kiosk either receives funds or receives bitcoins. The purpose is not for transmission to a foreign country but rather the purchase of bitcoins from Coindeavors by the user. Coindeavors will be selling its own bitcoins to the user-buyer at the kiosk. The company is physically located in Massachusetts as will be its kiosks. All bitcoin transactions with users will take place entirely in Massachusetts. Based on the facts presented, Coindeavors is not required to be licensed as a foreign transmittal agency by the Division.

The conclusions reached in this letter are based solely on the facts presented. Fact patterns which vary from those stated above may result in a different position statement by the Division.

The Division continues to monitor the development of these evolving payment systems such as bitcoin and there may be regulatory changes in the future governing these digital currencies.

Sincerely,



Merrily S. Gerrish
Deputy Commissioner of Banks
and General Counsel

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