

COMMONWEALTH OF MASSACHUSETTS

Office of Consumer Affairs and Business Regulation

DIVISION OF BANKS

1000 Washington Street, 10TH Floor, Boston, MA 02118-6200

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GOVERNOR

KARYN E. POLITO
LIEUTENANT GOVERNOR

October 24, 2017

Ruben Sanchez
BSA Compliance Solutions

Via Electronic Mail
bsacompliancesolutions@gmail.com

Dear Mr. Sanchez:

This letter is in response to your correspondence dated September 12, 2017 on behalf of your client, SandP Solutions, Inc., dba Bitcoin of America ("BOA") in which you request an opinion that the listed activities of BOA do not require a license under Massachusetts law.

Your correspondence explains that BOA is an Illinois corporation offering certain virtual currency exchange services. As noted in your letter, BOA facilitates virtual currency transactions by providing kiosks for customers to both purchase and sell virtual currencies, in addition to permitting customers to purchase virtual currency from BOA through BOA's website. Your description also provides additional factual details regarding BOA's operations.

The Division appreciates your inquiry regarding BOA's business model and its efforts to comply with Massachusetts law. Based upon the information provided in your correspondence, however, the Division is unable to issue a formal legal opinion without receiving further analysis of BOA's operations under Massachusetts law and the Division's relevant opinions on this topic. For your reference, the Division has issued a limited number of opinions regarding cryptocurrency and the licensing requirements relative to the business of buying and selling bitcoins within the Commonwealth. Enclosed please find the referenced opinions for your review. If these opinions do not address your questions with regard to BOA's operations and you would like to request a legal opinion from the Division, kindly refer to the Division's Regulatory Bulletin 1.1-103, which provides helpful guidance on the Division's requirements.

Sincerely,

Merrily S. Gerrish
Deputy Commissioner of Banks
and General Counsel

Enclosures

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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
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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.

Mr. Adam Atlas
May 12, 2014
Page 2

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.

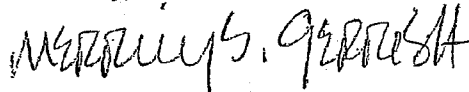
Mr. Adam Atlas
May 12, 2014
Page 3

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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THE COMMONWEALTH OF MASSACHUSETTS
DIVISION OF BANKS

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DEVAL L. PATRICK
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UNDERSECRETARY, OFFICE OF
CONSUMER AFFAIRS AND
BUSINESS REGULATION

DAVID J. COTNEY
COMMISSIONER OF BANKS

May 20, 2014

Mr. Peter Klamka
President
Cephas Holding Corporation
215 Dino Drive
Ann Arbor, MI 48103

Dear Mr. Klamka:

This letter is in response to your correspondence dated March 25, 2014 on behalf of Cephas Holding Corporation (Cephas) to the Division of Banks (Division) in which you request the approval of the Division to operate bitcoin vending machines in Massachusetts.

In your letter you state that Cephas is planning to own and operate bitcoin vending machines in various locations in the United States and Canada. The machines are owned by Cephas which stores its own bitcoin in the vending machines and the vending machines do not exchange bitcoin for currency. A service fee for the purchase of bitcoins would be posted and disclosed on the screen prior to completing the transaction. Cephas limits the maximum transaction to \$500.00 per customer per day. You request that the Division approve the operation of Cephas' bitcoin vending machines in Massachusetts.

Please find enclosed for your review a recently issued opinion by the Division addressing a similar inquiry regarding the registration and approval requirements to operate bitcoin kiosks in the Commonwealth. To the extent that the enclosed opinion does not entirely address your questions relative to establishing bitcoin vending machines in Massachusetts, please refer to Regulatory Bulletin 1.1-103 when requesting any further legal opinion on this matter. A request for a legal opinion should include consideration and analysis of applicable statutes and regulations as well as identify any material, factual distinctions from the enclosed opinion.

Sincerely,

Merrily S. Gerrish
Deputy Commissioner of Banks
and General Counsel

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THE COMMONWEALTH OF MASSACHUSETTS
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GREGORY BIALECKI
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ECONOMIC DEVELOPMENT

DAVID J. COTNEY
COMMISSIONER OF BANKS

May 30, 2014

Marco A. Santori, Esq.
Nesenoff & Miltenberg, LLP
Attorneys at Law
363 Seventh Avenue
Fifth Floor
New York, New York 10001-3904

Dear Mr. Santori:

This letter is in response to your correspondence dated March 10, 2014 to the Division of Banks (Division) in which you request an opinion relative to the registration and licensing requirements for your client, Vis Nova Ventures LLC (Vis Nova) and its bitcoin kiosks in the Commonwealth.

Vis Nova plans to operate automated bitcoin kiosks in indoor locations within Massachusetts. 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 at the kiosk will be purchased directly by Vis Nova as opposed to a third party.

Bitcoin is a peer-to-peer payment system and a digital currency. 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. No bank, money transmitter or credit card processor is required to stand between the parties transacting using bitcoin.

All users of Vis Nova's kiosks are required to complete an initial registration process at the kiosk. According to Vis Nova's anti-money laundering and "know your customer" protocols, the Vis Nova kiosk will collect and verify from the user certain information by requiring the customer to scan a government-issued identification using the built-in camera. Vis Nova will then report the information to the federal government or record that information for the appropriate time period.

Users of the kiosk may buy bitcoins from Vis Nova or sell bitcoins to Vis Nova. When buying bitcoins, users enter the dollar value of the bitcoin they wish to purchase. The transaction is facilitated by the kiosk's generation of a Quick Response code (QR Code) for a Bitcoin address which is printed for the user. Once the customer inserts the requested cash amount for the bitcoin to be purchased, the kiosk sends the appropriate number of bitcoins to the bitcoin address contained in the QR Code. Vis Nova will

Marco A. Santori, Esq.
May 30, 2014
Page 2

purchase its inventory of bitcoin in bulk from multiple sources and will sell them to kiosk users for a higher price than Vis Nova paid to acquire the bitcoins.

Users who wish to sell bitcoins to Vis Nova will enter the amount of bitcoin to be sold. The kiosk will generate a QR Code containing a bitcoin address associated with the electronic wallet address of Vis Nova. The user sends the agreed number of bitcoins via their mobile device to Vis Nova's 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 and the dollar value of the bitcoin is dispensed to the user in cash.

You request that the Division confirm your conclusion that Vis Nova's 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 Vis Nova does not require any of the following in order to operate its bitcoin kiosks in the Commonwealth: (1) a foreign transmittal agency license under Massachusetts General Laws chapter 169; (2) a check seller license under Massachusetts General Laws chapter 167F, section 4; or (3) a check casher license under chapter 169A.

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.

Vis Nova's 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, Vis Nova's 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 Vis Nova's 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.

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 of the funds received by Vis Nova through the kiosk is not for transmission to a foreign country, but rather for the purchase of bitcoins from Vis Nova by the user. Vis Nova will be selling its own bitcoins to the user at

Marco A. Santori, Esq.
May 30, 2014
Page 3

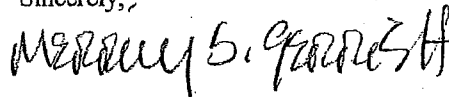
the kiosk. All bitcoin transactions with users will take place entirely in Massachusetts. Based on the facts presented, Vis Nova is not required to be licensed as a foreign transmittal agency by the Division.

Massachusetts General Laws chapter 167F, section 4 requires entities engaged in the business of selling, issuing or registering checks or money orders, directly or indirectly, to obtain a check seller's license from the Division. Massachusetts General Laws chapter 169A requires that any person or entity cashing checks, drafts or money orders for consideration in excess of \$1.00 per item obtain a check casher license from the Division. Although the terms "check", "draft", and "money order" are not defined in either chapter 167F, section 4 or chapter 169A, it is understood and accepted in a commercial or consumer context that these instruments are paper instruments which create an obligation by their issuer to pay a third party at some point in the future. Vis Nova's kiosks sell bitcoins, a virtual currency, not paper checks or money orders and, since they are not written instruments, they create no obligation by Vis Nova or anyone else to pay anyone in the future. Once the transaction at the bitcoin kiosk is complete, the relationship between Vis Nova and the customer is complete. Based on the facts stated above, Vis Nova is not required to be licensed as a check seller or check casher 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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THE COMMONWEALTH OF MASSACHUSETTS
DIVISION OF BANKS

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

CHARLES D. BAKER
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JOHN C. CHAPMAN
UNDERSECRETARY

DAVID J. COTNEY
COMMISSIONER OF BANKS

September 29, 2015

Chris Daniel, Esq.
Paul Hastings LLP
1170 Peachtree Street, N.E.
Atlanta, GA 30309

Dear Mr. Daniel:

This letter is in response to your correspondence dated July 10, 2015 to the Division of Banks (Division) in which you request an opinion relative to the licensing requirements applicable to your client, Bitnet Technologies Corporation (Bitnet), and its proposed activities within the Commonwealth.

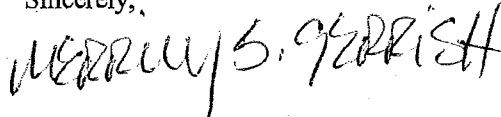
According to your correspondence, Bitnet provides a payment platform that enables payment transactions between customers and merchants. Under its business model, Bitnet enters into agreements with merchants who intend to accept virtual currencies from their customers as a method of payment. Bitnet offers no consumer-facing services, and therefore consumers cannot utilize Bitnet to transmit bitcoins to a particular creditor of the consumer's choosing, remit bitcoins on behalf of a consumer to a particular address, or store the consumer's bitcoin in a hosted wallet. Bitnet does not receive any fiat currency from consumers. Likewise, Bitnet does not act as a currency exchange. Rather, Bitnet utilizes a third-party virtual currency exchange to exchange the bitcoin that it receives on behalf of its merchant clients into fiat currency. More specifically, each merchant who has entered into an agreement with Bitnet integrates its online payment platform with Bitnet's application programming interface (API) in which a customer is given the option to "Pay with Bitcoin" at checkout. Upon selection of this option, the merchant's system provides the order information to the Bitnet API, which receives real-time bitcoin price quotes from various virtual currency exchanges. Bitnet then creates an invoice for the merchant to present to its customer with the bitcoin price, along with a code or link to effect the transfer of bitcoin from the customer's bitcoin wallet to Bitnet's bitcoin wallet. Thereafter, Bitnet initiates a trade with the third-party virtual currency exchange whereby the relevant amount of bitcoin from Bitnet's wallet is transferred to a wallet held by the third-party exchange. The third-party exchange then transfers Bitnet's equivalent fiat currency balance to Bitnet's bank each day. On a daily basis, Bitnet then effects an ACH transfer of fiat currency from its bank account to the account held by the merchant. You ask if Bitnet's activities would trigger the licensing requirement under Massachusetts General Laws chapter 169.

Because Massachusetts does not presently have a domestic money transmission statute, your request must be analyzed under Massachusetts General Laws chapter 169, the Foreign Transmittal Agency statute. 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. Based upon the information contained in your correspondence, Bitnet does not receive deposits of money for transmission to foreign countries and therefore is not subject to the licensing requirements of chapter 169.

Mr. Chris Daniel
September 29, 2015
Page 2

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.

Sincerely,

A handwritten signature in black ink that reads "Merrily S. Gerrish". The signature is written in a cursive style with some capitalization and is positioned above the printed name.

Merrily S. Gerrish
Deputy Commissioner of Banks
and General Counsel

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