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Dana,

Thank you for taking the time to discuss this with me. As I mentioned, Walmart is concerned that the proposed language, as written, could be construed to capture gift cards.

The proposed language that gives them concern is:

(m) Virtual Currency means any type of digital unit that is used as a medium of exchange or a form of digitally stored value or that is incorporated into payment system technology. Virtual Currency shall be broadly construed to include digital units of exchange that (i) have a centralized repository or administrator; (ii) are decentralized and have no centralized repository or administrator; or (iii) may be created or obtained by computing or manufacturing effort. Virtual Currency shall not be construed to include digital units that are used solely within online gaming platforms with no market or application outside of those gaming platforms, nor shall Virtual Currency be construed to include digital units that are used exclusively as part of a customer affinity or rewards program, and can be applied solely as payment for purchases with the issuer and/or other designated merchants, but cannot be converted into, or redeemed for, Fiat Currency;

Walmart ideally would like to see something that clearly says gift cards aren't included – like referencing state statute that defines gift cards – which I have included below:

-- N.Y. Abandoned Property Law §103

"Gift certificate" shall mean a written promise or electronic payment device that: (i) is usable at a single merchant or an affiliated group of merchants that share the same name, mark, or logo, or is usable at multiple, unaffiliated merchants or service providers; and (ii) is issued in a specified amount; and (iii) may or may not be increased in value or reloaded; and (iv) is purchased and/or loaded on a prepaid basis for the future purchase or delivery of any goods or services; and (v) is honored upon presentation.

So maybe a simple statement that "gift certificates as that term is defined in NY Abandoned Property Law §103 are not considered to be Virtual Currency" tacked on to the part where they call out "affinity or rewards" programs would be perfect.

I would be interested in hearing your thoughts. If you need additional information as to how Walmart gift cards work, I would be happy to put you in touch with someone from the company.

Thank you,

Diana

Diana A. Ehrlich
Ostroff Associates, Inc.

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