



COMMISSIONER OF FINANCIAL REGULATION ADVISORY NOTICE 14-01



ATTENTION MARYLAND RESIDENTS

CAUTION

VIRTUAL CURRENCIES: RISKS FOR BUYING, SELLING, TRANSACTING, AND INVESTING

April 24, 2014

The increased interest in virtual currency and other payments innovations has led to the rapid emergence of different types of currencies and payments mechanisms. As these are released into the marketplace, it is important for consumers and investors to educate themselves with accurate information to make informed decisions about this innovative and evolving industry.

What is Virtual Currency?

Virtual currency is an electronic medium of exchange that does not have all the attributes of real currencies. Virtual currencies include cryptocurrencies, such as bitcoin and litecoin, which are not legal tender, and are not issued or backed by any central bank or governmental authority. Virtual currencies have legitimate purposes, and can be purchased, sold, and exchanged with other types of virtual currencies or real currencies like the U.S. dollar. This can happen through various mechanisms such as exchangers, administrators, or merchants that are willing to accept virtual currencies in lieu of real currency.

What Should Residents Consider?

Prior to buying, selling, transacting with, or investing in a virtual currency, residents should consider the following:

- **Virtual currencies are volatile in value.** Virtual currencies are not backed by a central bank and are highly volatile with the potential for complete loss of value. This volatility may affect investors, as well as consumers using virtual currencies as a means of payment. Additionally, virtual currency volatility may make securities offerings tied to these currencies unsuitable for most investors.

- **Virtual currencies can be stolen or otherwise subject to loss.** There is the potential for residents to incur financial losses if an account is not maintained in a secure manner. Unlike funds held in U.S. banks or credit unions, **CURRENTLY MOST VIRTUAL ACCOUNTS OR “WALLETS” ARE NOT INSURED AGAINST LOSS.** Further, there is no way to reverse virtual currency transactions.
- **Virtual currencies have been connected to criminal activities.** Like other forms of payment, virtual currencies and virtual currency exchanges have been used to fund illicit activities. Legitimate customers of virtual currencies may be unable to access accounts if an exchange is shut down as part of a criminal investigation, or for any other reason.
- **Virtual currencies and companies dealing in virtual currencies may or may not be regulated.**
 - State and federal regulators are evaluating and developing approaches to regulating virtual currencies and companies that deal in virtual currencies. Any company that offers to exchange, administer, or maintain virtual currencies may be subject to state regulation and licensing, as well as federal regulation. **CURRENTLY, MARYLAND DOES NOT REGULATE VIRTUAL CURRENCIES.**
 - An administrator or exchanger that accepts and transmits a convertible virtual currency or buys or sells convertible virtual currency for any reason is a money transmitter under federal regulations¹ and therefore should be registered as a money services business (MSB).
- **Virtual currency transactions may be taxable.** For federal tax purposes, the IRS has announced that virtual currency is treated as property. General tax principles applicable to property transactions apply to transactions using virtual currency. This includes determining the fair market value of virtual currency in U.S. dollars as of the date of payment or receipt, as well as any gain or loss incurred. For more information, go to <http://www.irs.gov/uac/Newsroom/IRS-Virtual-Currency-Guidance>.
- **Do your homework.** Residents considering the use of virtual currencies should research any company offering services related to virtual currencies. This includes exchanges, platforms, administrators, sellers, or ATMs. There are a variety of sources of information available:

¹ Convertible virtual currency is virtual currency that either has an equivalent value in real currency or acts as a substitute for real currency. The FinCEN guidance can be located here: http://fincen.gov/statutes_regs/guidance/html/FIN-2013-G001.html.

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- Residents should check the NMLS Consumer Access website, nmlsconsumeraccess.org for a list of licensed money transmitters whose licenses expire after December 31, 2013, and the Department of Labor, Licensing and Regulation's website <http://www.dllr.state.md.us/finance/industry/licsearch.shtml> for a list of money transmitters whose licenses expired on or before December 31, 2013.
- Residents should check other states for information about out-of-state licensed money transmitters. For a comprehensive list of other state regulatory agencies, go to <http://www.csbs.org/about/what/Pages/StateBankingDepartmentLinks.aspx>. Additionally, the NMLS Consumer Access website, nmlsconsumeraccess.org, may assist with determining if an entity is licensed by another state.
- Investors should check with the Office of the Attorney General Securities Division website <http://www.oag.state.md.us/securities/>, and other states' securities regulator for information about investments involving digital currency. For a complete list of other states' securities regulators, go to <http://www.nasaa.org/about-us/contact-us/contact-your-regulator/>.
- To check if a virtual currency exchanger or administrator is registered with the Financial Crimes Enforcement Network (FinCEN), go to http://www.fincen.gov/financial_institutions/msb/msbstateselector.html.
