



Interpretive Guidance 2022-01

This guidance document supersedes and replaces Interpretive Guidance 2020-01

Subject: Licensing of Cryptocurrency Businesses Pursuant to the Ohio Money
Transmitters Act

Definition of money transmission under the OMTA

Under the Ohio Money Transmitters Act (“OMTA”) the term “transmit money” means to receive, directly or indirectly and by any means, money or its equivalent from a person and to deliver, pay, or make accessible, by any means, method, manner, or device, whether or not a payment instrument is used, the money received or its equivalent to the same or another person, at the same or another time, and at the same or another place, but does not include transactions in which the recipient of the money or its equivalent is the principal or authorized representative of the principal in a transaction for which the money or its equivalent is received, other than the transmission of money or its equivalent. See R.C. 1315.01(G). For purposes of the OMTA, the Division considers cryptocurrencies, like Bitcoin, to be money or its equivalent.

Licensing requirements for cryptocurrency businesses

Under Ohio law, money transmission encompasses receiving and transmitting money or its equivalent from one person to the same or another person, at the same at or another time, and at the same or another place. Therefore, in general a person engaged in the buying or selling of cryptocurrency as a business qualifies as a money transmitter for the purposes of the OMTA and must obtain an Ohio money transmitter license before the person provides services to Ohioans. Examples of cryptocurrency service providers who must obtain a money transmitter license pursuant to the OMTA include:

- **Persons operating cryptocurrency kiosks or cryptocurrency ATMs.** A person who operates a cryptocurrency kiosk or ATM to facilitate the exchange of cryptocurrency for fiat currency or another type of cryptocurrency, or fiat currency to cryptocurrency, is a money transmitter under the OMTA unless the company operating the kiosk or ATM can conclusively verify in all instances that the individual conducting the transaction is the

owner of the wallet receiving the funds. It does not matter whether the kiosk/ATM operator draws upon its own cryptocurrency in its possession or whether the operator connects to a cryptocurrency exchanger to effectuate the transaction.

- **Persons operating an exchange platform who facilitate the transfer of fiat or virtual currencies.** A person that facilitates transfers of one type of cryptocurrency to another type of cryptocurrency, or cryptocurrency for fiat currency (or vice versa) is a money transmitter.
- **Persons providing cryptocurrency storage via a hosted wallet.** A person that acts as an intermediary or provides an account to receive, store, and transmit virtual currency on behalf of another is a money transmitter. If the person interacts with the payment system on behalf of the owner of the virtual currency or has total independent control over the value of the virtual currency, the person is a money transmitter. A person that facilitates the creation of a wallet (by creating software) but does not interact with the payment system of have independent control over the value is generally not a money transmitter. Similarly, a person that creates a wallet that requires more than one private key for the wallet owner(s) to effect transactions (multiple-signature wallets) and restricts its role to maintaining possession of one key for additional validation is generally not a money transmitter.
- **Persons providing payment processing services involving virtual currency.** A person that acts as an intermediary to enable merchants to accept virtual currency from customers in exchange for goods and services is a money transmitter. Although the OMTA has an exclusion for traditional payment processors, payment processors that transmit virtual currency do not satisfy the exclusion as they do not operate entirely through clearing and settlement systems that only admit BSA-regulated financial institutions as members.