



State of Washington

DEPARTMENT OF FINANCIAL INSTITUTIONS  
DIVISION OF CONSUMER SERVICES

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**UNIFORM MONEY SERVICES ACT**

**INTERIM REGULATORY GUIDANCE**

**DATE:** December 8, 2014

**TO:** Virtual Currency Companies Operating or Wishing to Operate in Washington State

**FROM:** Deborah Bortner, Director, Division of Consumer Services (DCS)

**RE:** Interim Regulatory Guidance on Virtual Currency Activities

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**Purpose**

This Interim Guidance expresses the DCS interpretation of the Washington Uniform Money Services Act, chapter 19.230 RCW (Act)<sup>1</sup>, as it applies to various business activities involving virtual currency (also known as digital currency), including Bitcoin.

This Interim Guidance does not amend chapter 19.230 RCW or chapter 208-690 WAC. This Interim Guidance is subject to change or withdrawal.

**Definitions**

**Virtual Currency.** Virtual currency is an electronic medium of value that can be exchanged for real money or virtual currencies. Bitcoin is a cryptocurrency, a type of virtual currency. Virtual currencies can be used to transmit value or purchase goods and services. Virtual currencies are also referred to as digital currencies.

**Wallet.** Virtual currency users may manage their virtual value by using a virtual wallet. Virtual wallets allow users to send and receive virtual currencies. Virtual wallets may

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<sup>1</sup> <http://apps.leg.wa.gov/rcw/default.aspx?cite=19.230&full=true>  
Interim Guidance on Virtual Currency Transactions

operate as stand-alone software applications, web applications, or as private and public key pairs printed on paper.

**Exchange or Exchanger.** For purposes of this Regulatory Guidance exchange or exchanger refers to a business buying or selling virtual currency. A business buying or selling sovereign currency would be a “currency exchanger” under the Act but that specific definition does not apply to transactions with virtual currency.

**Sovereign Currency.** Also called fiat or real currency, the money of a government.

## **The Act**

Persons engaged in the business of buying or selling virtual currency fall under the definition of money transmission in the Act:

"Money transmission" means receiving money or its equivalent value to transmit, deliver, or instruct to be delivered the money or its equivalent value to another location, inside or outside the United States, by any means including but not limited to by wire, facsimile, or electronic transfer. "Money transmission" does not include the provision solely of connection services to the internet, telecommunications services, or network access. "Money transmission" includes selling, issuing, or acting as an intermediary for open loop stored value devices and payment instruments, but not closed loop stored value devices.<sup>2</sup>

## **Federal Guidance**

### **FinCEN**

FinCEN’s initial guidance on virtual currency issued March 18, 2013, defines the parties in various virtual currency transactions<sup>3</sup>. Persons engaged in the business of buying or selling virtual currency for any reason are called administrators or exchangers and are money service businesses required to register with FinCEN. Individuals and some business entities who obtain and use virtual currencies only for their own use (called users) are not money services businesses and need not register.

FinCEN’s additional guidance documents on virtual currency issued January 30, 2014, describe the application of FinCEN’s regulations to mining activities<sup>4</sup> and software development for investment purposes<sup>5</sup>.

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<sup>2</sup> See RCW 19.230.010(18).

<sup>3</sup> [http://www.fincen.gov/statutes\\_regs/guidance/html/FIN-2013-G001.html](http://www.fincen.gov/statutes_regs/guidance/html/FIN-2013-G001.html)

<sup>4</sup> [http://www.fincen.gov/news\\_room/rp/rulings/pdf/FIN-2014-R001.pdf](http://www.fincen.gov/news_room/rp/rulings/pdf/FIN-2014-R001.pdf)

<sup>5</sup> [http://www.fincen.gov/news\\_room/rp/rulings/pdf/FIN-2014-R002.pdf](http://www.fincen.gov/news_room/rp/rulings/pdf/FIN-2014-R002.pdf)

## IRS

The IRS issued Notice 2014-21 on March 25, 2014<sup>6</sup>. The IRS notice provides that virtual currency is treated as property for U.S. federal tax purposes. General tax principles that apply to property transactions apply to transactions using virtual currency.

### DCS Guidance

In order to assist industry in regulatory planning, the DCS issues the following guidance:

1. Exchanging sovereign currency for virtual currency, or vice versa. In a typical transaction, the buyer of virtual currency provides sovereign currency to a business that either holds value in the form of a desired virtual currency or who upon receipt of sovereign currency executes a purchase of the virtual currency from another source. In either case the business ultimately transmits virtual currency value to the buyer. The value is transmitted to a wallet location either designated by the buyer or generated by the business. In the reverse transaction, the consumer provides virtual currency value to the business and the business provides sovereign currency to the consumer. These transactions may be completed using a kiosk or “Bitcoin ATM.”

These transactions are money transmission and the business must hold a Washington money transmitter license when providing the service to Washington residents.

2. Exchanging virtual currency for virtual currency. In a typical transaction, the virtual currency purchaser provides virtual currency to a business that holds value in various types of virtual currency. Upon receipt of one type of virtual currency the business transmits another type of virtual currency to the buyer. The value is transmitted from one location to a wallet location either designated by the buyer or generated by the business.

These transactions are money transmission and the business must hold a Washington money transmitter license when providing the service to Washington residents.

3. Offering virtual currency wallets for storing value. These companies usually also provide an exchange of value service with sovereign or virtual currencies. If the wallet service includes the transfer of value from one location to another, that activity requires a license.

Receiving and transmitting money or its equivalent value from one location to another is money transmission and the business must hold a Washington money transmitter license when providing services to Washington residents.

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<sup>6</sup> <http://www.irs.gov/uac/Newsroom/IRS-Virtual-Currency-Guidance>

4. Exchanging sovereign or virtual currencies between privately held wallets. The DCS does not consider the transmitting of value between two individuals not engaged in business to fall within the definition of money transmission.

No license is required for an individual to send virtual currency value from his or her wallet directly to another individual.

In addition to complying with all provisions of the Act, a virtual currency business must comply with the following:

1. The minimum tangible net worth required at license application for a company hosting virtual currency wallets for storing value is \$100,000.
2. Virtual currency value is not a permissible investment under RCW 19.230.210. Licensees must hold virtual currency of the same type and value as that held by the licensee but which is obligated to consumers.
3. Companies providing wallet services must submit a third party security audit of their computer system acceptable to the Director. The audit must demonstrate that all virtual currency is secure while controlled by the company.

Prepared by: Cindy Fazio, Financial Legal Examiner. Contact Cindy at 360-902-8800 or [cfazio@dfi.wa.gov](mailto:cfazio@dfi.wa.gov) if you have questions.

Statutes and rules relied upon: Chapter 19.230 RCW and chapter 208-690 WAC.