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Virtual Currency Kiosks – Guidance for Georgia Consumers

The Georgia Department of Banking and Finance issues this guidance to clarify its interpretation of Georgia law governing licensure of money transmitters as applied to operators of virtual currency kiosks (“VC kiosks”).

Georgia law defines “money transmission,” in pertinent part, as engaging in the business of receiving money or monetary value for transmission or transmitting money or monetary value within the United States or to locations abroad by any and all means, including, but not limited to, an order, wire, facsimile, or electronic transfer. O.C.G.A. § 7-1-680(14). The transmission of Bitcoin and other virtual currencies (commonly known as cryptocurrencies or simply “crypto”) also constitutes money transmission in Georgia pursuant to O.C.G.A. § 7-1-680(30), which defines “virtual currency,” relevantly, as a digital representation of monetary value that does not have legal tender status as recognized by the United States government.

A common way for consumers to buy and sell virtual currency is through the use of a VC kiosk (oftentimes referred to as a Bitcoin ATM or BTM even though such machines may offer virtual currencies other than Bitcoin). VC kiosks are stand-alone machines that provide consumers the ability to exchange fiat cash for Bitcoin or other forms of virtual currency. Some VC kiosks are unidirectional, meaning that the consumer can only purchase virtual currency, whereas other VC kiosks are bidirectional, enabling both the purchase and sale of virtual currency. Unlike traditional ATMs, VC kiosks do not connect to a consumer’s bank account but instead with the consumer’s virtual wallet. Transactions at unidirectional VC kiosks typically follow the same steps: (1) consumers typically enter in their personal information as per the VC kiosk’s requirements; (2) consumers insert cash or upload money from their bank accounts into the VC kiosk (3) consumers scan a QR code or manually enter their wallet address to connect to the VC kiosk to the consumer’s virtual wallet; and (4) the VC kiosk, after confirming the details of the transaction, deposits the amount of virtual currency purchased into the virtual wallet identified by the consumer. To sell virtual currency at bidirectional VC kiosks, consumers also scan their wallet or manually enter their wallet address to connect their virtual wallet to the VC kiosk, and then after confirming the details of the transaction, receive fiat cash from the VC kiosk in the agreed upon amount for the virtual currency sold. Consumers should be aware that VC kiosks may charge significant fees and/or higher than market prices for the virtual currencies purchased, and once the transaction is completed, it cannot be reversed.

The Department has historically taken the view that the exchange of cash for virtual currency at VC kiosks does not constitute money transmission, so long as each of following criteria are all established: (1) the virtual currency and fiat currency being exchanged by the VC kiosk comes from the VC kiosk operator's own currency reserves and is not acquired on an as-needed, per transaction basis; (2) the VC kiosk operator does not hold virtual or fiat currency on behalf of customers in a custodial capacity or otherwise; and (3) there is no transmission of virtual currency or fiat currency between a customer and a third party as part of the VC kiosk transaction. With regard to the last criteria, VC kiosk operators often assert that they only allow virtual currency to be deposited into a virtual wallet that is owned and controlled solely by the individual customer conducting the VC kiosk transaction in accordance with various KYC (Know Your Customer) policies and AML (Anti-Money Laundering) measures that the VC kiosk operator has in place. However, in practice, a VC kiosk operator typically cannot verify the identity of a virtual wallet's true owner on an individual transaction basis. Therefore, it is the view of the Department that most VC kiosk operators located in Georgia are required to obtain a money transmitter license. The Department's position that most VC kiosk operators are required to be licensed money transmitters is consistent with its historical interpretation but simply recognizes the reality of how VC kiosks actually operate in conjunction with anonymous virtual wallets.

Accordingly, the Georgia Department of Banking and Finance considers a VC kiosk operator to be engaging in money transmission if its VC kiosks permit virtual currency to be deposited into a wallet of a third party, i.e., a wallet that does not belong to the individual conducting the transaction at the VC kiosk. Therefore, the operator of any such VC kiosk in Georgia which allows, or could be utilized to make, deposits into third-party wallets must apply for and obtain a money transmitter license unless the VC kiosk operator qualifies for one of the exemptions from licensure provided at O.C.G.A. § 7-1-682. Please note that even when a VC kiosk requires the consumer to personally confirm in some way that the virtual wallet being used in the transaction belongs to that particular consumer as part of its KYC/AML process, unless the VC kiosk operator can independently establish the identity of that wallet's true owner and verify that the wallet does not belong to a third party, the operator of any such VC kiosk would still need to apply for and obtain a money transmitter license unless otherwise exempt from licensure.

The increased oversight of VC kiosk operators through money transmitter licensure is expected to reduce the likelihood and frequency that criminals use VC kiosks for illicit means, including money laundering, drug trafficking, and human trafficking. In 2021, the U.S. Government Accountability Office ("GAO") found that "[v]irtual currency is increasingly used illicitly to facilitate human and drug trafficking," and FBI officials interviewed for the report indicate that they expect to see an increase in the use of VC kiosks for human trafficking and other illicit purposes as market usage of VC kiosks expands. See [December 2021 Congressional Report](#). The U.S. Drug Enforcement Administration has also reported that transnational criminal organizations are increasingly using VC kiosks for money laundering purposes, specifically by converting large volumes of cash from illegal drug proceeds into virtual currency which can then be easily transferred to other individuals or organizations almost instantaneously. See [DEA's 2020 National Drug Threat Assessment](#). Thus, increased regulatory oversight of VC kiosk

operators through money transmitter licensure will serve to support the current statewide initiative of combatting and working to eliminate human trafficking in Georgia and will also aid law enforcement efforts in the fight against money laundering and drug trafficking.

As licensed money transmitters, VC kiosk operators must satisfy several requirements that are intended to provide increased protection to Georgia consumers, which include maintaining a positive tangible net worth of at least \$100,000, surety bond coverage in a principal sum of at least \$250,000, maintaining a certain level of permissive investments, and compliance with measures that serve to protect funds in transit for consumers. By requiring VC kiosk operators that are unable to prevent virtual currency from being deposited into a third-party wallet to become licensed money transmitters unless otherwise exempt as detailed above, the Department is protecting Georgia consumers from financial injury, supporting a healthy and vibrant economy for Georgia businesses, and restricting a potential source of funding for criminal activities.

The Department is not authorized to resolve disputes between consumers and businesses. However, the Department does use information provided by consumers in its regulatory process. If you wish to report an unlicensed VC kiosk operating in Georgia to the Department, please send a detailed email and supporting documentation to reportissue@dbf.state.ga.us.