



## State of Nevada Department of Business & Industry

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### **Nevada Financial Institutions Division issues consumer and investor guidance on virtual currency**

**Las Vegas, NV-** Due to increased interest in virtual currency and other payment innovation which has led to the rapid emergence of different types of currencies and payment mechanisms, the Nevada Financial Institutions Division is issuing guidance for consumers and investors. The information is intended to educate consumers about virtual currency and risk factors associated with transacting or investing in 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.

The following guidance was developed in coordination with the Conference of State Bank Supervisors (CSBS), through its Emerging Payments Task Force, and the North American Securities Administrators Association (NASAA).

#### **What Should a Consumer Consider?**

Prior to buying, selling, transacting with, or investing in a virtual currency, consumers 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 may affect investors as well as consumers using virtual currencies as a means of payment. Virtual currency volatility also 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 consumers to incur financial losses if an account is not maintained in a secure manner. Currently, most virtual accounts or “wallets” – unlike funds held in U.S. banks or credit unions – are not insured against loss. 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.
  - 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 regulations<sup>1</sup> 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.** Consumers 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:
  - Consumers should check the Nevada Financial Institutions website <http://fid.state.nv.us/> and other state agencies' websites for information about authorized money transmitters. For a comprehensive list of state regulatory agencies, go to <http://www.csbs.org/about/what/Pages/StateBankingDepartmentLinks.aspx>.
  - Investors should check with the Nevada Securities Division website <http://nvsos.gov/index.aspx?page=6> for information about investments involving digital currency. For a complete list of state 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](http://www.fincen.gov/financial_institutions/msb/msbstateselector.html).

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<sup>1</sup> 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](http://fincen.gov/statutes_regs/guidance/html/FIN-2013-G001.html).

**About NFID.** The Nevada Financial Institutions Division, a division of the Department of Business and Industry is mandated to maintain a financial institutions system for the citizens of Nevada that is safe and sound, protects consumers and defends the overall public interest. The Division also promotes economic development through the efficient, effective and equitable licensing, examination and supervision of depository, fiduciary, and non-depository financial institutions.

**About CSBS.** The Conference of State Bank Supervisors (CSBS) is the nationwide organization of banking regulators from all 50 states, the District of Columbia, Guam, Puerto Rico, and the U.S. Virgin Islands. In February 2014, CSBS launched its Emerging Payments Task Force to take a comprehensive look at the changing payments landscape. The Task Force seeks to identify opportunities for a coordinated state approach to payments issues as well as promote compliance, security and protection for consumers.

**About NASAA.** The North American Securities Administrators Association (NASAA) is the oldest international organization devoted to investor protection. NASAA's membership consists of 67 state, provincial, and territorial securities administrators in the 50 states, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, Canada, and Mexico. In the United States, NASAA is the voice of state securities agencies responsible for efficient capital formation and grass-roots investor protection. For more information, visit [www.nasaa.org](http://www.nasaa.org).

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