

NOTICE

24-BB-001-08/09/24

TO: ENTITIES THAT ENGAGE OR PLAN TO ENGAGE IN MONEY TRANSMISSION OF VIRTUAL CURRENCY BUSINESS IN THE DISTRICT OF COLUMBIA (District)

FROM: KARIMA M. WOODS, COMMISSIONER KW

DATE: August 9, 2024

SUBJECT: UPDATED DISB GUIDANCE TO BITCOIN ATMS (BTMs) OR VIRTUAL CURRENCY KIOSKS OPERATORS IN THE DISTRICT

The DC Department of Insurance, Securities and Banking (DISB) is issuing this updated notice (“Updated Notice”) to inform industry participants that a Money Transmission license is required of entities that are operating Bitcoin Teller Machines (BTMs) or virtual currency kiosks and that are engaging in, or planning to engage in, the transfer of money with Bitcoin or other virtual currency used as a medium of exchange, method of payment or store of value in the District.

The Updated Notice replaces prior notices **BULLETIN 22-BB-001-08/04** issued August 4, 2022, and **BULLETIN 23-BB-04-03/16/2023** issued March 16, 2023.

DISB’s Position on Entities Engaging in Bitcoin or Virtual Currency-Related Activity

DISB maintains its position that transactions involving Bitcoin and other virtual currencies are considered money transmission (See *United States v. Larry Dean Harmon*, 474 F.Supp.3d 76 (D.D.C. 2020)). Such transactions, whether conducted online or via kiosks (BTMs), involving Bitcoin and virtual currency are considered as engaging in “**money transmission**” and a money transmitter license is required to conduct these transactions in the District.

To further clarify DISB’s position, a Money Transmitter License is required based on the following key considerations:

- 1. Custody and Control:** Any retention of virtual currencies, even briefly, would typically categorize such operations as money transmission.
- 2. Direct Exchange Transactions:** Direct exchanges from cash to cryptocurrency, where transfers to the customer’s wallet are immediate and without retaining any control post-transaction, are considered money transmissions.
- 3. Kiosks and Teller Applications:** Analogous to ATMs, these platforms facilitate direct crypto or virtual currency transactions between the user of the BTM and a third party other than the

owner/operator of the BTM, even if they operate merely as points for immediate, direct transactions without holding cryptocurrencies or virtual currency funds. This activity is considered money transmission.

4. **Over-the-Counter Exchange:** This service likely involves more complex transactions that might hold or may in the future hold cryptocurrencies or virtual currency funds on behalf of users, which would be viewed as engaging in money transmission. Given these factors and the scope and nature of BTMs frequently used for fraudulent operations, a money transmitter license is required.

An entity seeking a money transmitter license is required to submit an application along with other required documents via the Nationwide Multistate Licensing System (NMLS). The application process is fact-driven and the determination to approve an application for a money transmitter license to operate in the District depends on the individual circumstances of each applicant including, but not limited to, the applicant's proposed business plan, proposed flow of funds and standing in other jurisdictions.

DISB is actively investigating and monitoring compliance with licensing requirements for money transmitters that operate BTMs and virtual currency kiosks in the District.

DISB is committed to monitoring BTM and virtual currency kiosk activities and is aware of illegal activity nationwide that involves the use of BTM's to engage in fraudulent activities. These fraudulent activities are intended to evade the money laundering laws and regulatory framework surrounding money transmission. In collaboration with our federal and state regulatory counterparts, DISB will continue to monitor the financial landscape to prevent such risks to all District residents.

A prospective licensee is encouraged to consult with legal counsel to determine whether its business activities require a money transmitter license. Any entity engaged in money transmission in the operation of a BTM and or virtual currency kiosk found not in compliance with the money transmitter law will be subject to fines and penalties.

Entities engaged in BTM or virtual currency kiosk activities in the District of Columbia without first obtaining a money transmission license are in violation of D.C. Official Code § 26-1002. Such company or individual will be subject to civil action and regulatory enforcement action for engaging in such violative conduct, and to criminal prosecution of a felony, which could result in a fine of not more than \$25,000, or imprisonment for not more than five years, or both in accordance with D.C. Official Code § 26-1023 (c). Such violators could also face federal criminal penalties under 18 U.S.C. § 1960.

Questions or concerns regarding this Notice or any questions regarding obtaining a money transmitter license may be directed to the DISB Banking Bureau by email at bankingbureau@dc.gov.

DISB's Mission: Our mission is three-fold: (1) cultivate a regulatory environment that protects consumers and attracts and retains financial services firms to the District; (2) empower and educate residents on financial matters; and (3) provide financing for District small businesses.