



Department of the Treasury Financial Crimes Enforcement Network

FIN-2014-R007

Issued: April 29, 2014

Subject: Application of Money Services Business regulations to the rental of computer systems for mining virtual currency

Dear []:

This responds to your letter mailed to us on February 26, 2014, seeking an administrative ruling from the Financial Crimes Enforcement Network (“FinCEN”) regarding the status of [] (the “Company”) as a money services business (“MSB”) under the Bank Secrecy Act (“BSA”). Specifically, you ask whether the rental of computer systems for mining virtual currency would make the Company an administrator of virtual currency or a money transmitter under the BSA. Based on the following analysis of the facts and circumstances described in your letter, FinCEN finds that the Company is not functioning as an administrator of virtual currency and that the Company’s renting of mining computer systems to third parties does not make the Company a money transmitter under BSA regulations.

You state that the Company has developed a computer system that mines crypto currencies. At times, the company rents this system to third parties in exchange for a payment based on the rental period, which may extend from 24 hours to 30 days. The third party will furnish the Company with limited information about its mining pool, which the Company will enter into the system so the third party benefits directly and exclusively from the mining work. All virtual currency mined by the third party remains the third party’s property, and the Company has no access to the third party wallet, nor receives or pays virtual currency on the third party’s behalf.

On July 21, 2011, FinCEN published a Final Rule amending definitions and other regulations relating to MSBs (the “Rule”).¹ The amended regulations define an MSB as “a person wherever located doing business, whether or not on a regular basis or as an organized business concern, wholly or in substantial part within the United States, in one or more of the capacities listed in paragraphs (ff)(1) through (ff)(6) of this section. This includes but is not limited to maintenance of any agent, agency, branch, or office within the United States.”²

BSA regulations, as amended, define the term “money transmitter” to include a person that provides money transmission services, or any other person engaged in the transfer of funds. The term “money transmission services” means the acceptance of

¹ Bank Secrecy Act Regulations – Definitions and Other Regulations Relating to Money Services Businesses, 76 FR 43585 (July 21, 2011).

² 31 CFR § 1010.100(ff).

currency, funds, or other value that substitutes for currency from one person *and* the transmission of currency, funds, or other value that substitutes for currency to another location or person by any means.³

On March 18, 2013, FinCEN issued guidance on the application of FinCEN's regulations to transactions in virtual currencies (the "guidance").⁴ FinCEN's regulations define currency (also referred to as "real" currency) as "the coin and paper money of the United States or of any other country that [i] is designated as legal tender and that [ii] circulates and [iii] is customarily used and accepted as a medium of exchange in the country of issuance."⁵ In contrast to real currency, "virtual" currency is a medium of exchange that operates like a currency in some environments, but does not have all the attributes of real currency. In particular, virtual currency does not have legal tender status in any jurisdiction. The guidance addresses "convertible" virtual currency. This type of virtual currency either has an equivalent value in real currency, or acts as a substitute for real currency.

For purposes of the guidance, FinCEN refers to the participants in generic virtual currency arrangements, using the terms "user," "exchanger," and "administrator." A *user* is a person that obtains virtual currency to purchase goods or services on the user's own behalf. FinCEN has determined that users are not money transmitters. An *exchanger* is a person engaged as a business in the exchange of virtual currency for real currency, funds, or other virtual currency. An *administrator* is a person engaged as a business in issuing (putting into circulation) a virtual currency, and who has the authority to redeem (to withdraw from circulation) such virtual currency. Both exchangers and administrators may operate as money transmitters depending on the specific facts and circumstances. According to your letter, the Company does not engage in the activities of an exchanger or administrator. Instead, the Company provides a rental service to those interested in using your computer system for mining virtual currencies administered by other entities. As such, FinCEN finds that the Company is not functioning as an administrator of virtual currency.

Further, FinCEN regulations stipulate that whether a person is a money transmitter is a matter of facts and circumstances, and identifies circumstances under which a person's activities would not make such person a money transmitter. The rental of computer systems to third parties is not an activity covered by FinCEN regulations. The regulations specifically exempt from money transmitter status a person that only provides the delivery, communication, or network data access services used by a money transmitter to supply money transmission services.⁶ Based on this exemption, and on the description of the service offered by the Company, we find that, even if the Company rents a computer system to third parties that will use it to obtain convertible virtual

³ 31 CFR § 1010.100(ff)(5)(i)(A) and (B).

⁴ FIN-2013-G001, "Application of FinCEN's Regulations to Persons Administering, Exchanging, or Using Virtual Currencies," March 18, 2013.

⁵ 31 CFR § 1010.100(m).

⁶ 31 CFR § 1010.100(ff)(5)(ii)(A).

currency to fund their activities as exchangers, such rental activity, in and of itself, would not make the Company a money transmitter subject to BSA regulation.⁷

This ruling is provided in accordance with the procedures set forth at 31 CFR Part 1010 Subpart G. In arriving at the conclusions in this administrative ruling, we have relied upon the accuracy and completeness of the representations you made in your communications with us. Nothing precludes FinCEN from arriving at a different conclusion or from taking other action should circumstances change or should any of the information you have provided prove inaccurate or incomplete. We reserve the right, after redacting your name and address, and similar identifying information for your clients, to publish this letter as guidance to financial institutions in accordance with our regulations.⁸ You have fourteen days from the date of this letter to identify any other information you believe should be redacted and the legal basis for redaction.

If you have questions about this ruling, please contact FinCEN's regulatory helpline at (703) 905-3591.

Sincerely,

//signed//

Jamal El-Hindi
Associate Director
Policy Division

⁷ A number of older FinCEN administrative rulings, although not directly on point because they interpret an older version of the regulatory definition of MSBs, explain the application of our definitions in comparable situations. *See, e.g.*, FIN-2009-R001, "Whether Certain Operations of a Service Provider to Prepaid Stored Value Program Participants is a Money Services Business," January 22, 2009, available at http://www.fincen.gov/statutes_regs/guidance/pdf/fin-2009-r001.pdf.

⁸ 31 CFR §§ 1010.711-717.