



700 S. W. Jackson  
Suite 300  
Topeka, KS 66603-3796

Office of the State  
Bank Commissioner

Phone: (785) 380-3939  
Fax: (785) 371-1229  
[www.osbckansas.org](http://www.osbckansas.org)

David L. Herndon, Bank Commissioner

Laura Kelly, Governor

CML Guidance MT 2014-01  
Cryptocurrency Guidance Document  
Date: June 6, 2014, Updated May 18, 2021 and January 2, 2025.

## **Regulatory Treatment of Virtual Currencies Under the Kansas Money Transmission Act-Purpose**

The purpose of this guidance document is to clarify the applicability of the Kansas Money Transmission Act (KMTA) to persons<sup>1</sup> or entities engaging in the use and/or transmission of virtual currencies.<sup>2</sup> This guidance document provides the policy of the Office of the State Bank Commissioner (OSBC) regarding the regulatory treatment of virtual currencies pursuant to the statutory definitions of the KMTA.

### **Types of Virtual Currency**

In broad terms, a virtual currency is an electronic medium of exchange typically used to purchase goods and services from certain merchants or to exchange for other currencies, either virtual or sovereign.<sup>3</sup> Although some central bank digital currencies exist, this medium of exchange continues to be in the experimental phase and not yet ubiquitous on the world stage.<sup>4</sup> As such, virtual currencies exist outside established financial institution systems.<sup>5</sup> There are many different virtual currency structures, and it is

---

<sup>1</sup> This guidance document was originally issued under the Kansas Money Transmitter Act, K.S.A. 9-508 *et seq.*, which was repealed and replaced with the Kansas Money Transmission Act, K.S.A. 9-555 *et seq.* on January 1, 2025. This guidance has been reviewed and determined to still be applicable under the new law.

<sup>2</sup> Much of this document is modeled after guidance issued by the Texas Department of Banking in Supervisory Memorandum 1037 and is adapted for use in Kansas.

<sup>3</sup> As used in this document, sovereign currency refers to government-issued currency with legal tender status in the country of issuance, such as U.S. Dollars or Euros. This includes both government-issued fiat currency and commodity-backed currency that is designated as legal tender. An example of a commodity-backed currency is the U.S. Dollar prior to 1971 when an individual could trade gold for U.S. Dollars for an established fixed price.

<sup>4</sup> In 2020, the Central Bank of the Bahamas launched the Sand Dollar making the first digital currency issued by a central government. In the same year, China became the first major government to issue a central bank digital currency pegged to the renminbi or Yuan. Many have followed suit since (<https://cbdetracker.org>).

<sup>5</sup> In 2021, El Salvador became the first government that has adopted a virtual currency as legal tender when it adopted Bitcoin as legal tender.

not easy to classify all of them, but for purposes of this document, they can generally be divided into two basic types: centralized and decentralized.

Centralized virtual currencies are created and issued by a specified source. They rely on an entity with some form of authority or control over the currency. Typically, the authority behind a centralized virtual currency is also the creator. Centralized virtual currencies can be further divided into subclassifications that quickly become too complex to apply a universal policy. Some can be purchased with sovereign currency but cannot be exchanged back to sovereign currency; some can be converted back to sovereign currency; some are used only for purchase of goods and services from a closed universe of merchants, while others may have a theoretically open universe of merchants. Some centralized virtual currencies are backed by the issuer with sovereign currency or precious metals, and therefore derive intrinsic value.

In contrast, decentralized virtual currencies are not created or issued by a particular person or entity, have no administrator, and have no central repository. The two best known decentralized virtual currencies are Bitcoin and Ethereum. Transfers of cryptocurrency are made directly from wallet to wallet without any intermediary because users' wallets act as the connection points of the cryptocurrency's peer-to-peer network.<sup>6</sup> Transmissions of sovereign currencies must be made through one or more intermediaries such as a financial institution or money transmitter.

One important characteristic of decentralized cryptocurrency is its lack of intrinsic value.<sup>7</sup> In most instances, a unit of cryptocurrency does not represent a claim on a commodity and is not convertible by law. And unlike fiat currencies, there is no governmental authority or central bank establishing its value through law or regulation other than the exceptions previously mentioned.<sup>8</sup> Its value is only what a buyer is willing to pay for it. Most cryptocurrencies are traded on third party exchange sites, where the exchange rates with sovereign currencies are determined by averaging the transactions that occur. Some experts consider cryptocurrency to be a new asset class that is neither currency nor commodity, but possessing characteristics of both, as well as characteristics of neither.

## **Application of Kansas Money Transmission Act to Virtual Currency**

### *Currency Exchange*

The act of two-party currency exchange itself is not covered by the KMTA regardless of whether it is sovereign currency being exchanged or virtual currency. The OSBC does not regulate these exchanges. However, the presence of a third party involved in a currency exchange transaction will likely subject the transaction to the KMTA as "money transmission."

---

<sup>6</sup> A "wallet" refers to a digital program or physical device that stores your private keys. The private keys are the passwords that give you access to your cryptocurrency allowing you to send and receive your digital assets.

<sup>7</sup> The term cryptocurrency is used interchangeably with virtual currency in this guidance document.

<sup>8</sup> Fiat currency is government-issued legal tender, such as the U.S. Dollar. It has no intrinsic value and does not represent a claim on a commodity; its value is established by law.

## Money Transmission

Whether or not a Kansas money transmission license is required for an entity to engage in the transmission of cryptocurrency (either centralized or decentralized) turns on the question of whether cryptocurrency is considered “money” or “monetary value” under the KMTA. Money transmission is defined in statute and means any of the following “(i) Selling or issuing payment instruments to a person located in Kansas; (ii) selling or issuing stored value to a person located in Kansas; (iii) receiving money for transmission from a person located in Kansas; or (iv) payroll processing services.”<sup>9</sup> Money means “a medium of exchange that is authorized or adopted by the United States or a foreign government.”<sup>10</sup> Although a few governments have authorized or adopted cryptocurrency as part of their currency, cryptocurrency is not “money” for the purposes of the KMTA.

Monetary value is defined in statute as “a medium of exchange, whether or not redeemable in money.”<sup>11</sup> Medium of exchange is not defined by statute, but Black’s Law Dictionary defines “medium of exchange” as “anything generally accepted as payment in a transaction and recognized as a standard of value.” Cryptocurrencies are not generally accepted as payment in the current economy. While there may be a few retailers who are accepting cryptocurrencies, it is not generally accepted throughout the entire economy and does not even approach the extent to which U.S. Dollars (or other sovereign currencies) are accepted. Also, decentralized cryptocurrency does not have a recognized standard of value. There is no set value for a single unit of cryptocurrency. As stated above, the value of a unit of cryptocurrency is only what a buyer is willing to pay for it and what a seller is willing to accept in order to part with it. There is no intrinsic or set value for a unit of decentralized cryptocurrency.

Therefore, cryptocurrencies are not covered by the KMTA because they are not considered “money” or “monetary value.” Since the KMTA does not apply to transmission of decentralized cryptocurrencies, an entity engaged solely in the transmission of such currency would not be required to obtain a license in the State of Kansas. However, a cryptocurrency transaction may be considered money transmission depending on how such a transaction is organized should the transmission of virtual currency include the involvement of sovereign currency in a transaction.

To provide further guidance, the regulatory treatments of some common types of transactions involving cryptocurrency are as follows:

- Exchange of cryptocurrency for sovereign currency between two parties is not money transmission under the KMTA. This is essentially a sale of goods between two parties. The seller gives units of cryptocurrency to the buyer, who pays the seller directly with sovereign currency. The seller does not receive the sovereign currency with the intent to transmit to another entity.

---

<sup>9</sup> K.S.A. 9-555(18).

<sup>10</sup> K.S.A. 9-555(16).

<sup>11</sup> K.S.A. 9-508(17).

- Exchange of one cryptocurrency for another cryptocurrency is not money transmission. Regardless of how many parties are involved, since cryptocurrency is not considered “money” under the KMTA, no money transmission occurs.
- Transfer of cryptocurrency by itself is not money transmission. Because cryptocurrency is not money or monetary value, the receipt of it with the intent to transmit it to another entity is not money transmission. This includes intermediaries who receive cryptocurrency for transfer to a third party, and entities that, akin to depositories, hold cryptocurrencies on behalf of customers.
- Exchange of cryptocurrency for sovereign currency through a third-party exchanger is generally considered money transmission. For example, most Bitcoin exchange sites facilitate exchanges by acting as an escrow-like intermediary. In a typical transaction, the buyer of cryptocurrency sends sovereign currency to the exchanger who holds the funds until it determines that the terms of the sale have been satisfied before remitting the funds to the seller. Irrespective of its handling of the cryptocurrency, the exchanger conducts money transmission by receiving the buyer’s sovereign currency in exchange for a promise to make it available to the seller.

Exchange of cryptocurrency for sovereign currency through an automated machine may or may not be money transmission depending on the facts and circumstances of its operation and the flow of funds between the operator of the automated machine and the customer. For example, several companies have begun selling automated machines commonly called “Bitcoin ATMs” that facilitate contemporaneous exchanges of bitcoins for sovereign currency. Most such machines currently available act as an intermediary between a buyer and a seller when operating in their default mode, typically connecting through one of the established exchange sites. When a customer buys or sells bitcoins through a machine configured in this way, the operator of the machine receives the buyer’s sovereign currency with the intent to transfer it to the seller. This would be considered money transmission under the KMTA and would require licensure. However, at least some Bitcoin ATMs can be configured to conduct transactions only between the customer and the operator or owner of the machine, with no third parties involved. If the machine never involves a third party, and only facilitates a sale or purchase of bitcoins by the machine’s operator directly with the customer, there is no money transmission because at no time is sovereign money received by the owner or operator of the machine with the intent to transfer it to another entity.

### **Additional Issues with Virtual Currency**

- A cryptocurrency business that conducts money transmission, as outlined above, must comply with all applicable licensing, reporting, net worth, and other relevant requirements of the Kansas Money Transmission Act under K.S.A 9-555 *et seq.*
- Any entity engaged in money transmission must comply with the permissible investment requirements of K.S.A 9-588 and as listed in K.S.A. 9-589. For purposes of allowed permissible investments, no virtual currency has been approved for use under this section by the Commissioner. Therefore, if a licensed money transmitter is seeking to comply with the permissible investment requirement, it must have adequate U.S. currency or other approved investments to cover its outstanding payment instruments.

- For any entity intending to obtain licensing as a money transmitter, the OSBC will require any applicant who regularly handles virtual currencies in the course of its activities to submit a current third-party security audit of all relevant computer and information systems. Because of the increased risk that Kansas customers may face when using the services of a money transmitter involved with virtual currencies, it is incumbent upon any license applicant to demonstrate that all of a customer's sovereign and virtual currencies are secure while controlled by the transmitter.

### **Disclaimer to Readers to Independently Review Relevant Law**

This guidance was issued to interpret state law and does not modify federal money service business registration and reporting requirements with the Financial Crimes Enforcement Network. Thus, any person engaged in cryptocurrency transmission may have federal registration and reporting requirements even for transactions that are exempt in Kansas.

This guidance document was originally issued on June 6, 2014, pursuant to K.S.A. 77-438. The Licensing Department has determined this guidance document has answered most virtual currency licensing questions since its issuance. However, this guidance document is only intended as general guidance. Any person engaged in virtual currency transmission may request that the Licensing Department determine if their business model requires a license by submitting the following: a business plan, a diagram showing how sovereign/fiat currency and/or virtual currency flows between persons, and a copy of any applicable contract.

The OSBC reserves the right to exercise its discretion in the application of this guidance document and it may edit, modify, or retract its interpretation at any time. Issued June 6, 2014; updated May 18, 2021, and January 2, 2025.