

Because we've been asked a time or two what's new in AML & digital currency in Canada...

The following are a compilation of FINTRAC's policy positions ¹in relation to digital currency. This document is current as of July 25, 2017.

We have not charged anyone for access to this information, and if you have downloaded this document, our only condition of its use is that you do not do so either.

If you feel inclined to tip, we won't argue. Tips will be shared among the team members that collaborated to put this memo together.

bitcoin	ethereum
1KGxGUos6PCuAzJEmzHAhflPeiiEZePZE4	0x03CDF23a2Eb070F2c79De5B2E6FB90671D3c70fE
	

If you have any questions or concerns about how these may apply to you and your business, please feel free to get in touch.

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¹ <http://www.fintrac.gc.ca/guidance-directives/overview-apercu/FINS/1-eng.asp>



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Part 1: Money Services Business (MSB) Registration:

Question: Is a Crypto Currency Exchange Considered an MSB?

Are we considered as a Money Services Business?

Although the company focuses on crypto-to-fiat and crypto-to-crypto transactions, one would be effectively able to achieve fiat-to-fiat conversions by combining trades. E.g. the client could be depositing \$CAD in his account, convert the funds into a crypto-currency and then sell back that currency in exchange of \$USD. The \$USD proceeds, shall they be requested for withdrawal would effectively be the result of a \$CAD to \$USD currency exchange. Henceforth, the company is committed to respect the intent and essence of the Proceeds of Crime (Money Laundering) and Terrorist Financing Act by treating those transactions as foreign exchange deals.

At this time the company doesn't allow people to transmit fiat currency to another person or entity. Payment methods used for withdrawals and deposits will be done by either checks, wires or electronic funds transfers under which the client identity is verified and matched with the client account information.

Answer:

Based on the explanation you have provided, namely that “the client could be depositing \$CAD in his account, convert the funds into a crypto-currency and then sell back that currency in exchange of \$USD,” we would agree that it appears that your company will be providing a foreign exchange dealing service, and will, therefore, be engaged as an MSB in Canada.

As an MSB in Canada, you have legal obligations under Canada's Proceeds of Crime (Money Laundering) and Terrorist Financing Act . This includes registering your business with us, reporting to us, keeping records, identifying your clients, and having a compliance regime. Our publication, Your Money Services Business in Canada: What you need to know, gives a short summary of your obligations and responsibilities. All of these are described in greater detail on our Web site. It is important that you understand these obligations and meet them to be in full compliance with this law.

Reference:

Date answered: 2014-09-30

PI Number: PI-6244

Activity Sector(s): Money services businesses

Obligation(s): Money services businesses

Guidance: FIN-1

Regulations: 1(2)

Act: 5(h)



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Question: Bitcoin Exchange Between Different Fiat Currencies- Covered?

I am seeking advice about launching a regulated Bitcoin Exchange business in Canada.

A recent article suggested that while FinTRAC does not consider Bitcoins to be funds, conducting a transaction:

1. between two fiat currencies with Bitcoin as an intermediate step; or
2. between Bitcoin and non-Canadian fiat currency

would be counted as foreign exchange and therefore require a Bitcoin Exchange to be regulated.

Would you be able to confirm whether this interpretation is correct and could you confirm which regulatory body within Canada would be responsible for regulating such an Exchange?

Answer:

To be considered a money services business, an individual or entity must be engaged in the business of any of the following activities in Canada:

- Foreign exchange dealing;
- Remitting or transmitting funds by any means or through any person, entity or electronic funds transfer network; or
- Issuing or redeeming money orders, traveller's cheques or other similar negotiable instruments (except for cheques payable to a named person or entity).

It appears that your company will be offering its clients "Bitcoin/ fiat currency transactions". Your documentation explains how an Exchange user could perform this type of transaction in the following example:

1. Log into Exchange account and selects add CAD100 credit
2. Transfers CAD100 from personal bank account into Exchange's bank account, quoting one-off payment reference
3. Buys CAD100 of BTC from the Exchange at a quoted rate based on the Exchange's bid/ ask spread
4. Uses BTC balance to buy GBP from the Exchange at a quoted rate based on the Exchange's bid/ ask spread
5. Withdraws GBP from the Exchange to personal GBP bank account

Your documentation also indicates that, "Even where users think they are making a straight conversion from, for instance, CAD to GBP, the actual Back-office transaction will include Bitcoin as a mid-way currency [...]," and that, "The Exchange will hold bank accounts with a



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major bank in each jurisdiction in whose currency we trade – e.g. CAD bank account in Canada & GBP bank in the UK.”

Based on the above information, it appears that your entity will be engaged in foreign exchange dealing and as such, will be a money services business in Canada as per our Act and its associated Regulations.

Reference:

Date answered: 2013-08-19

PI Number: PI-5598

Activity Sector(s): Money services businesses

Obligation(s): Money services businesses

Guidance: FIN 1

Regulations: 1(2)

Act: 5(h)

Question: Funds Transfers as Corollary - Not Covered?

Can you confirm that a Bitcoin exchange that transfers funds as a corollary of its actual service of buying and selling virtual currency does not provide the services of remitting and/or transferring funds for the sake of the service, and therefore is not required to register with FINTRAC as a money services business?

Answer:

Money services businesses have the obligation to register with FINTRAC. To be considered as an MSB in Canada, the entity must be engaged in the business of any of the following activities:

- Foreign exchange dealing;
- Remitting or transmitting funds by any means or through any person, entity or electronic funds transfer network; or
- Issuing or redeeming money orders, traveller's cheques or other similar negotiable instruments (except for cheques payable to a named person or entity).

The trade of digital tokens, including Bitcoins, is not recognized under the PCMLTFA as one of the three MSB activities listed above. While the remitting or transmitting of funds is an MSB activity, in this specific scenario, the remitting or transmitting of funds that occurs is incidental and only happens as the business carries out its core activity of trading digital tokens.

The remitting and transmitting of funds is the method used by this business to provide its service of trading digital tokens.



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In addition, handling Bitcoins, or defining a business as a Bitcoin Exchange, does not automatically make the business exempt from registering as an MSB. The business may perform other activities, which may or may not involve Bitcoins, which would make it subject to the PCMLTFA.

While the PCMLTFA applies to businesses engaged in “foreign exchange dealing,” this does not apply to Bitcoin as it is not a national currency of any country.

Reference:

Date answered: 2013-06-04

PI Number: PI-5561

Activity Sector(s): Money services businesses

Obligation(s): Money services businesses

Guidance: FIN 1

Regulations: 1(2)

Act: 5(h)

Question: Bitcoin Exchange Using Debit- Not Covered?

Company ABC provides real time purchasing of small amounts of crypto-currency using an INTERAC debit card. It also facilitates online checkouts where merchants accept Bitcoin while consumers hold debit card balances. Company ABC offers a familiar checkout experience for consumers.

Does Company ABC need to register as an MSB?

Answer:

To be considered a Money Services Business (MSB), an individual or entity must be engaged in the business of any of the following activities in Canada:

- Foreign exchange dealing;
- Remitting or transmitting funds by any means or through any person, entity or electronic funds transfer network; or
- Issuing or redeeming money orders, traveller's cheques or other similar negotiable instruments (except for cheques payable to a named person or entity).

Strictly based on the information you have provided, namely that, “Company ABC provides real time purchasing of small amounts of crypto-currency using an INTERAC debit card,” and that it, “facilitates online checkouts where merchants accept Bitcoin while consumers hold debit card balances,” it does not appear that your business is engaged as an MSB in Canada as per the



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Proceeds of Crime (Money Laundering) and Terrorist Financing Act and its associated Regulations. Therefore, you cannot register your entity with us. Should your business model change in the future to expand beyond selling crypto currency and facilitating online purchases using Bitcoin, we would appreciate you contacting us in order for us to review and reassess our interpretation to reflect these new facts.

Reference:

Date answered: 2013-08-22

PI Number: PI-5601

Activity Sector(s): Money services businesses

Obligation(s): Money services businesses

Guidance: FIN 1

Regulations: 1(2)

Act: 5(h)

Question: MSB registration - virtual currency business model covered

Does my Bitcoin business need to be registered as a money services business (MSB) with FINTRAC?

Answer:

MSBs have the obligation to register with FINTRAC, and you are an MSB if you are engaged in the business of any of the following activities:

- Foreign exchange dealing;
- Remitting or transmitting funds by any means or through any person, entity or electronic funds transfer network; or
- Issuing or redeeming money orders, traveller's cheques or other similar negotiable instruments (except for cheques payable to a named person or entity).

In addition, the Government of Canada has made changes to what services make an individual or an entity an MSB in Canada to include virtual currency services; however, these changes are not yet in force. Individuals and entities engaged in the business of dealing solely in virtual currency services will be MSBs, but cannot yet register with FINTRAC. Before these individuals and entities will be subject to the Proceeds of Crime (Money Laundering) and Terrorist Financing Act (PCMLTFA), regulations need to be written to define what it means to be engaged in the business of providing services such as dealing in virtual currency.

Based on the information you provided in your business model, namely that “funds will be exchanged at a local Bitcoin exchange and sent to a foreign Bitcoin exchange to be converted



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back to fiat currency”, it appears that your entity is providing fiat to fiat currency remittal services and therefore appears to be, at this time, engaged as an MSB, as per the PCMLTFA and its associated Regulations.

As an MSB in Canada, you have legal obligations under Canada's PCMLTFA. This includes registering your business with us, reporting to us, keeping records, identifying your clients, and having a compliance regime. Our publication, Your Money Services Business in Canada: What you need to know, gives a short summary of your obligations and responsibilities. All of these are described in greater detail on our website. It is important that you understand these obligations and meet them to be in full compliance with this law.

Reference:

Date answered: 2014-12-10

PI Number: PI-6268

Activity Sector(s): Money services businesses

Obligation(s): Money services businesses

Guidance: 4, FIN 1

Regulations: 1(2)

Act: 5(h), 11.1

Question: MSB registration - Virtual currency business model covered

We would like to receive your opinion in order to determine, with respect to our services involving virtual currency, whether or not our business needs to be registered as a money services business (MSB) with FINTRAC.

Answer:

The Government of Canada has made changes to what services make an individual or an entity an MSB in Canada to include virtual currency services; however, these changes are not yet in force. Individuals and entities engaged in the business of dealing in virtual currency services will be MSBs, but cannot yet register with FINTRAC. Before these individuals and entities will be subject to the Proceeds of Crime (Money Laundering) and Terrorist Financing Act, regulations need to be written to define what it means to be engaged in the business of providing services such as dealing in virtual currency.

Until these regulations are drafted and in force you are an MSB, and required to register with FINTRAC, if you are engaged in the business of providing any of the following services:

- Foreign exchange dealing (conducting transactions where you exchange one type of fiat currency for another fiat currency);



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- Remitting or transmitting funds by any means or through any person, entity or electronic funds transfer network; or
- Issuing or redeeming money orders, traveller's cheques or other similar negotiable instruments (except for cheques payable to a named person or entity).

Unless you are carrying out any of the services listed above, you cannot, at this time, be registered with us as an MSB.

That said, you reference the ability for clients to use "Bitcoin as the underlying internal transfer technology that allows users to send remittances online" and indicate that "User accounts that hold Canadian Dollars send funds through Bitcoin's payment protocol only as a method of simplified monetary movement." This suggests that, while users are using Bitcoin to simplify monetary movement, a user could ultimately request the beneficiary of a remittance receive a fiat currency. For example, a user wishes to send funds to a relative in Venezuela, so the user sends ABC INC. an amount in Canadian Dollars and requests that the beneficiary in Venezuela receive either Canadian Dollars or Venezuela Bolivar. To remit the funds to Venezuela, ABC INC. converts the Canadian Dollars to Bitcoin to "simplify monetary movement," but the beneficiary receives the fiat currency equivalent at the other end. Should this be the case, that is a user can request the remittance of fiat currency to another individual or entity, then ABC INC. will be considered as engaged as an MSB in Canada, with all of the associated obligations.

Reference:

Date answered: 2014-10-01
PI Number: PI-6246
Activity Sector(s): Money services businesses
Obligation(s): Money services businesses
Guidance: 4, FIN 1
Regulations: 1(2)
Act: 5(h), 11.1

Question: Company selling Bitcoins - Needs to register as a MSB or not?

Are Bitcoin exchanges considered MSBs under the PCMLTFA?

Answer:

It is a question of fact to be able to determine if an entity needs to be registered as a Money Services Business (MSB) with FINTRAC.

It would be easier to respond to this question after reviewing the business model of the entity you are referring to.



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However, here are some comments:

MSBs have the obligation to register with FINTRAC. MSBs must be engaged in the business of any of the following activities:

- Foreign exchange dealing;
- Remitting or transmitting funds by any means or through any person, entity or electronic funds transfer network; or
- Issuing or redeeming money orders, traveller's cheques or other similar negotiable instruments (except for cheques payable to a named person or entity).

At this time, if the entity buys and sells Bitcoins directly from customers, it appears that this entity is not engaged as an MSB in Canada as per the Proceeds of Crime (Money Laundering) and Terrorist Financing Act and its associated Regulations. In fact, this kind of entity doesn't provide the services of remitting and/or transferring funds for the sake of the service. The transfer of funds is simply a corollary of their actual service of buying and selling virtual currency.

If this is the only service offered by this entity, it does not have to register with us.

Reference:

Date answered: 2013-05-16

PI Number: PI-5554

Activity Sector(s): Money services businesses

Obligation(s): Money services businesses

Guidance: FIN 1

Regulations: 1(2)

Act: 5(h)

Question: Face-to-face Sales of Bitcoin - Not Covered?

1. Buy and Sell Bitcoins directly from customers.
 - Offer Bitcoins at a fixed rate
 - All sales and purchases are directly with the company
2. Bitcoin payment provider
 - Create software for business to accept Bitcoin payments and either keep Bitcoins or automatically convert to CAD
 - In this situation a customer would go to the digital or physical store and pay the merchant with Bitcoins ? from any number of Bitcoin services



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- The merchant would have an agreement with to automatically sell those Bitcoins to the company at the posted rate and receive CAD ? alternatively they can keep the Bitcoins
3. Start an exchange
- Create an order book where people can put in an order at x price and hope it gets filled.
 - In this case the users are buying and selling from each other with the facilitation of the exchange which takes a fee.

Answer:

MSBs have the obligation to register with FINTRAC. You are an MSB if you are engaged in the business of any of the following activities:

- Foreign exchange dealing;
- Remitting or transmitting funds by any means or through any person, entity or electronic funds transfer network; or
- Issuing or redeeming money orders, traveller's cheques or other similar negotiable instruments (except for cheques payable to a named person or entity).

Based on the information you provided, namely that your entity “Buy and Sell Bitcoins directly from customers”, it appears that your entity is not, at this time, engaged as an MSB in Canada as per the Proceeds of Crime (Money Laundering) and Terrorist Financing Act and its associated Regulations. In fact, your entity doesn't provide the services of remitting and/or transferring funds for the sake of the service. The transfer of funds is simply a corollary of your actual service of buying and selling virtual currency. Also, the creation of a “software for business to accept Bitcoin payments and either keep Bitcoins or automatically convert to CAD” and an “order book where people can put in an order at x price and hope it gets filled” does not make your entity, at this time, engaged as an MSB in Canada since your entity provides a platform allowing businesses to accept or trade virtual currency.

Therefore, you do not have to register your entity with us.

Reference:

Date answered: 2013-05-09

PI Number: PI-5550

Activity Sector(s): Money services businesses

Obligation(s): Money services businesses

Guidance: FIN 1

Regulations: 1(2)

Act: 5(h)



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Question: Crypto-to-Crypto Sales to Individuals - Not Covered?

Our business is engaged in the trade of digital tokens, particularly Bitcoin and Litecoin. A summary of our current business model is as follows:

- We work with suppliers of these digital goods who wish to sell them online. They send us their tokens and we in turn sell them to our customers. After selling, we then pay these suppliers a commission of the sales for their goods. These commissions are paid through direct deposit or wire transfer.
- Customers fund their accounts with us and purchase the goods for sale on our platform. Payments are sent to us electronically.
- For large purchases (over \$2,000/day), we require photo identification and proof of address as a measure against fraud.
- Our future implementation is looking to also accept cash in physical locations. However, we are unsure whether doing so would require us to take extra steps to become an MSB, or implement other anti-money laundering procedures.

We are hoping to clarify whether or not our business is considered an MSB.

Answer:

Money services businesses (MSBs) have the obligation to register with FINTRAC. You are an MSB if you are engaged in the business of any of the following activities:

- Foreign exchange dealing;
- Remitting or transmitting funds by any means or through any person, entity or electronic funds transfer network; or
- Issuing or redeeming money orders, traveller's cheques or other similar negotiable instruments (except for cheques payable to a named person or entity).

Based on the information you provided, namely that your "business is engaged in the trade of digital tokens, particularly Bitcoin and Litecoin", it appears that your entity is not, at this time, engaged as an MSB in Canada as per the Proceeds of Crime (Money Laundering) and Terrorist Financing Act and its associated Regulations. In fact, your business doesn't provide the services of remitting and/or transferring funds for the sake of the service. The transfer of funds is simply a corollary of your actual service of trading virtual currency. Therefore, you do not have to register your entity with us.

Reference:

Date answered: 2013-05-09



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PI Number: PI-5549
Activity Sector(s): Money services businesses
Obligation(s): Money services businesses
Guidance: FIN 1
Regulations: 1(2)
Act: 5(h)

Question: Debit to Crypto Function for Payment to Retailer

Company ABC provides real time purchasing of small amounts of crypto-currency using an INTERAC debit card. It also facilitates online checkouts where merchants accept Bitcoin while consumers hold debit card balances. Company ABC offers a familiar checkout experience for consumers.

Does Company ABC need to register as an MSB?

Answer:

To be considered a Money Services Business (MSB), an individual or entity must be engaged in the business of any of the following activities in Canada:

- Foreign exchange dealing;
- Remitting or transmitting funds by any means or through any person, entity or electronic funds transfer network; or
- Issuing or redeeming money orders, traveller's cheques or other similar negotiable instruments (except for cheques payable to a named person or entity).

Strictly based on the information you have provided, namely that, "Company ABC provides real time purchasing of small amounts of crypto-currency using an INTERAC debit card," and that it, "facilitates online checkouts where merchants accept Bitcoin while consumers hold debit card balances," it does not appear that your business is engaged as an MSB in Canada as per the Proceeds of Crime (Money Laundering) and Terrorist Financing Act and its associated Regulations. Therefore, you cannot register your entity with us. Should your business model change in the future to expand beyond selling crypto currency and facilitating online purchases using Bitcoin, we would appreciate you contacting us in order for us to review and reassess our interpretation to reflect these new facts.

Reference:

Date answered: 2013-08-22
PI Number: PI-5601
Activity Sector(s): Money services businesses



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Obligation(s): Money services businesses

Guidance: FIN 1

Regulations: 1(2)

Act: 5(h)

Question: Virtual Currency Sales in Physical Locations

Does Company ABC, that purchases virtual currency such as bitcoins, litecoins, facebook credits, world of warcraft coins at bulk discount rates and sells it at physical locations across the country as well as online through cash deposits in banks needs to be registered as a Money Services Business (MSB) with FINTRAC?

Answer:

Money services businesses have the obligation to register with FINTRAC. You are an MSB if you are engaged in the business of any of the following activities:

- Foreign exchange dealing;
- Remitting or transmitting funds by any means or through any person, entity or electronic funds transfer network; or
- Issuing or redeeming money orders, traveller's cheques or other similar negotiable instruments (except for cheques payable to a named person or entity).

Based on the information you provided, namely that "Company ABC purchases virtual currency such as bitcoins, litecoins, facebook credits, world of warcraft coins at bulk discount rates and sells it at physical locations across the country as well as online through cash deposits in banks. In our physical stores we will collect the money from buyers first before sending them the virtual credits", it appears that your entity is not, at this time, engaged as a money services business in Canada as per the Proceeds of Crime (Money Laundering) and Terrorist Financing and its associated Regulations. In fact, your entity doesn't provide the services of remitting and/or transferring funds for the sake of the service. The transfer of funds is simply a corollary of your actual service of buying and selling virtual currency. Therefore, you do not have to register your entity with us.

Reference:

Date answered: 2013-05-09

PI Number: PI-5551

Activity Sector(s): Money services businesses

Obligation(s): Money services businesses

Guidance: FIN 1

Regulations: 1(2)



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Act: 5(h)

Question: Are BTMs Covered Under AML Legislation?

Just wanted to touch base regarding Bitcoin and FINTRAC registration. I am in the process of registering as an Money Services Businesses with ABC Bank and hope there is some clarification coming in the near future as to the FINTRAC regulations our company faces. To refresh your memory, we have an automated Bitcoin exchange in DEF Mall that collects government ID, biometric hand scan, phone number, and HD picture of each user of the machine. It exchanges CAD for Bitcoin and Bitcoin for CAD. My question is, are there any items we can begin working on to keep ahead of the approaching regulations that the government will be implementing

Answer:

Thank you for your interest in any potential legislative developments concerning digital currency. However, FINTRAC's mandate extends only to the administration of the Proceeds of Crime (Money Laundering) and Terrorist Financing Act and its associated Regulations, in their current form. It is the Department of Finance Canada who has the legislative and regulatory lead for Canada's anti-money laundering and anti-terrorist financing regime and as such is responsible for any future legislative, regulatory or policy developments. You may wish to contact the Department of Finance Canada.

Reference:

Date answered: 2014-03-19

PI Number: PI-6123

Activity Sector(s): Money services businesses

Obligation(s): Money services businesses

Guidance: FIN-1

Regulations: 1(2)

Act: 5(h)

Question: Bitcoin Company (Alberta) - Not covered

Does the company ABC (Alberta) need to be registered as an MSB with FINTRAC?

Consumers can buy and sell Bitcoins using ATMs that Company ABC has solely for this purpose. For the consumer to sell Bitcoins to Company ABC, a consumer will scan a digital wallet and specify the amount being sold to the ATM. The ATM will then calculate the market price of Bitcoin and subtract the transaction fee (a pre-set percentage) from the total amount to be received in fiat. The Bitcoins purchased from the consumer will then be transferred to Company ABC's online exchange account and an amount in Canadian dollars will be dispensed to the



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consumer. For a consumer to purchase Bitcoins from Company ABC, the business' inventory of current Bitcoins will be used. The consumer will be charged an amount in Canadian dollars, plus a transaction fee (a pre-set percentage) to receive Bitcoins to the consumer's digital wallet.

Answer:

MSBs have the obligation to register with FINTRAC. You are an MSB if you are engaged in the business of any of the following activities:

- Foreign exchange dealing;
- Remitting or transmitting funds by any means or through any person, entity or electronic funds transfer network; or
- Issuing or redeeming money orders, traveller's cheques or other similar negotiable instruments (except for cheques payable to a named person or entity).

Based on the summary of Company ABC, it appears that your entity is not, at this time, engaged as an MSB in Canada as per the Proceeds of Crime (Money Laundering) and Terrorist Financing Act and its associated Regulations.

Therefore, you do not have to register your entity with us.

Should your business model change in the future to expand beyond offering services such as buying and selling virtual currency, we would appreciate you contacting us in order for us to review and reassess our interpretation to reflect these new facts.

Reference:

Date answered: 2013-12-23

PI Number: PI-5672

Activity Sector(s): Money services businesses

Obligation(s): Money services businesses

Guidance: FIN-1, 6C

Regulations: 1(2)

Act: 5(h)

Question: Closed Loop Payment Platform Using Digital Cash- Covered or Not?

Background

We have developed a digital cash payments platform. Our solution is a legitimate payments business that aspires to reduce the number of cash transactions by offering retailers a cheaper, faster, more secure alternative. Our digital cash platform mints high-encrypted single use digital



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coins that can be validated and settled in real time. We are working with some of the best cryptographers globally, to build a cheaper, more secure payments platform.

Since we are a legitimate business that has every intention of complying with all regulation, we thought we should err on the side of caution, by discussing our intention to do a trial in advance.

Digital Cash

Has all the benefits of cash - intrinsic value, no recourse, immediate settlement and anonymity, but all of the advantages of an electronic payment - ability to transact remotely, a transaction record and security.

Our Platform

We are currently focused in the Canadian marketplace, although believe that once successful in Canada there are many opportunities to expand abroad. Our clients could be any merchant, either bricks & mortar or on-line. Our solution will start with P2B payments, but will expand to P2P, B2B and P2C payments. (P=Person, B=Business, C=Charity).

We are effectively building a cloud based software only closed loop payments platform that will extend across many merchants. In the medium term, we will open up the environment to allow additional mints/validator (Issuers/Acquirers). In the long term we will make the platform multi-currency including rewards, coupons and marketing.

We would like to know if we have to register with FINTRAC as an MSB.

Answer:

To be considered a Money Services Business (MSB), an individual or entity must be engaged in the business of any of the following activities in Canada:

- Foreign exchange dealing;
- Remitting or transmitting funds by any means or through any person, entity or electronic funds transfer network; or
- Issuing or redeeming money orders, traveller's cheques or other similar negotiable instruments (except for cheques payable to a named person or entity).

If your entity is remitting and/or transmitting funds of merchants and/or consumers for the purpose of carrying out "electronic payments," or more specifically, "P2B payments" or person to business payments, it would seem that your entity is, at this time, engaged as an MSB in Canada as per our Act and its associated Regulations. If your entity is engaged in this activity, you will need to register your entity with us.



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I am providing you with a link to the FINTRAC Interpretation Notice, FIN 1, which provides guidance regarding who is an MSB for purposes of Part 1 of the Proceeds of Crime (Money Laundering) and Terrorist Financing Act (PCMLTFA).

As an MSB in Canada, you have legal obligations under Canada's PCMLTFA. This includes registering your business with us, reporting to us, keeping records, identifying your clients, and having a compliance regime. Our publication, Your Money Services Business in Canada: What you need to know, gives a short summary of your obligations and responsibilities. All of these are described in greater detail on our website. It is important that you understand these obligations and meet them to be in full compliance with this law.

Reference:

Date answered: 2013-07-16
PI Number: PI-5573
Activity Sector(s): Money services businesses
Obligation(s): Money services businesses
Guidance: FIN 1
Regulations: 1(2)
Act: 5(h)

Question: Virtual Currency Legislation

We recently learned that the Canadian Government is planning to introduce further regulations later this year for virtual currencies, such as Bitcoin. Since our previous communication, do you have any further insight into this matter?

Will there be an online resource that we can reference to learn more about registration requirements?

Answer:

Thank you for your question about regulations regarding virtual currencies such as Bitcoin. The Department of Finance Canada is the legislative and regulatory lead for Canada's anti-money laundering and anti-terrorist financing regime and as such is responsible for any future legislative or regulatory amendments.

Reference:

Date answered: 2014-02-17
PI Number: PI-6096
Activity Sector(s): Money services businesses
Obligation(s): Money services businesses



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Guidance: FIN-1
Regulations: 1(2)
Act: 5(h)

Question: Prepaid Bitcoin Card - Covered or not?

We intend to sell Pre-paid bitcoin cards at retail locations. Those cards have activation codes on them. The activation codes can be redeemed only on our website for credit. The user then trades the credit for Bitcoins on our website. We will not allow clients to redeem over \$1000 a day. We plan on using a third party service to verify the person is who they say they are to comply with AML/KYC.

Would we be considered a Money Service Business?

Answer:

Money services businesses have the obligation to register with FINTRAC. You are an MSB if you are engaged in the business of any of the following activities:

- Foreign exchange dealing;
- Remitting or transmitting funds by any means or through any person, entity or electronic funds transfer network; or
- Issuing or redeeming money orders, traveller's cheques or other similar negotiable instruments (except for cheques payable to a named person or entity).

Based on the information you have provided, namely that you, "intend to sell Pre-paid bitcoin cards at retail locations" and that, "those cards have activation codes on them. The activation codes can be redeemed only on our website for credit," it appears that your entity is not, at this time, engaged as an MSB in Canada as per our Act and associated regulations. Therefore, you cannot be registered with us.

Should your business model change in the future to expand beyond offering pre-paid Bitcoin cards, we would appreciate you contacting us in order for us to review and reassess our interpretation to reflect these new facts.

Reference:

Date answered: 2014-01-21
PI Number: PI-5685
Activity Sector(s): Money services businesses
Obligation(s): Money services businesses
Guidance: FIN 1



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Regulations: 1(2)
Act: 5(h)

Part 2: Reporting:

Question: Reporting requirements for transactions solely in virtual currencies

Guidance regarding the reporting and client identification requirements of money services businesses (Money Services Businesses) when conducting virtual currency transactions has been requested. More specifically,

1. How to report outgoing and incoming EFTs when all the transactions are performed internally within the Money Services Businesses trading system? One user sends to another user 10,000\$ or one user exchanges 10,000\$ into a cryptocurrency. Are these transactions to be reported?
2. Do we need to report purely cryptocurrency transactions?
3. Do we need to perform PEP check for those transactions performed purely in cryptocurrency, for example, bitcoin, that do not involve fiat currency transfer?

Answer:

1. Pursuant to subsection 1(2) of the Proceeds of Crime (Money Laundering) and Terrorist Financing Regulations (PCMLTFR), an electronic funds transfer (EFT) is defined as “the transmission — through any electronic, magnetic or optical device, telephone instrument or computer — of instructions for the transfer of funds, other than the transfer of funds within Canada. In the case of SWIFT messages, only SWIFT MT 103 messages are included.”

Subsection 28(1) of the PCMLTFR further states that “subject to subsection 52(1), every money services business (Money Services Businesses) shall report the following transactions and information to the Centre:

- (b) the sending out of Canada, at the request of a client, of an electronic funds transfer of \$10,000 or more in the course of a single transaction, together with the information referred to in Schedule 2 or 5, as the case may be; and
- (c) the receipt from outside Canada of an electronic funds transfer, sent at the request of a client, of \$10,000 or more in the course of a single transaction, together with the information referred to in Schedule 3 or 6, as the case may be.

For this reason, we have said in the past that to be reportable an EFT must be:



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- client-initiated, and
- the transmission, across our border, of instructions to transfer funds (except instructions for the transfer of funds from one location in Canada to another location in Canada).

Whether a transaction constitutes a reportable EFT will always be a question of fact and will depend on the information relating to each given situation. The Money Services Businesses would be required to report an EFT to FINTRAC if it transmitted client-initiated instructions for the transfer of fiat funds to a beneficiary outside of Canada, or if it received the transmission of client-initiated instructions for the transfer of fiat funds to a beneficiary within Canada. This does not include transactions that deal solely in virtual currency.

2. It should be noted that, as previously mentioned, the Government of Canada has made changes to what services make an individual or an entity an Money Services Businesses in Canada to include virtual currency services; however, these changes are not yet in force. Before these individuals and entities will be subject to the Proceeds of Crime (Money Laundering) and Terrorist Financing Act (PCMLTFA), regulations need to be written to define what it means to be engaged in the business of providing services such as dealing in virtual currency.

Until these regulations are drafted and in force, only the following services are considered Money Services Businesses activities:

- Foreign exchange dealing;
- Remitting or transmitting funds by any means or through any person, entity or electronic funds transfer network; or
- Issuing or redeeming money orders, traveller's cheques or other similar negotiable instruments (except for cheques payable to a named person or entity).

The Money Services Businesses explained previously that it will engage in the listed activities with the use of virtual currency as a vehicle between fiat currencies. As a result, these activities are subject to the obligations and requirements outlined in the PCMLTFA and its associated Regulations. If the Money Services Businesses engages in activities that deal solely in virtual currency, then these activities are not yet subject to the PCMLTFA and its associated Regulations. However, once an entity is engaged in Money Services Businesses activities, all of its activities become subject to the suspicious transaction reporting obligations of the PCMLTFA and its associated Regulations. Therefore, for transactions where the Money Services Businesses sells virtual currency only, these activities would need to be considered against the suspicious transaction obligations of the PCMLTFA and its associated Regulations.

3. Pursuant to subsection 59(5) of the PCMLTFR, an Money Services Businesses must, in accordance with subsection 67.2(3),
(a) take reasonable measures to determine whether the person who initiates an electronic



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funds transfer of \$100,000 or more is a politically exposed foreign person; and
(b) take reasonable measures to determine whether the person who is the beneficiary of an electronic funds transfer of \$100,000 or more is a politically exposed foreign person”.

As a result, the Money Services Businesses must conduct a PEFP determination when engaging in the specified transactions subject to the PCMLTFA and its associated Regulations.

Transactions that deal solely in virtual currency would not be subject to this requirement.

Reference:

Date answered: 2016-06-14

PI Number: PI-6426

Activity Sector(s): Money services businesses

Obligation(s): Reporting

Guidance: 8

Regulations: 1(2), 28(1), 59(5)

Act: 5(h)

Question: Transactions involving Digital Currency that are Reportable

I am registered as a money services business. I want to accept bitcoin currency besides regular currencies such as CAD or USD. How do I report each transaction if bitcoin, virtual currency.

Answer:

At this time, there are several transactions involving digital currency that are reportable under the Proceeds of Crime (Money Laundering) and Terrorist Financing Act (PCMLTFA). These include:

- Outgoing EFTs for which an MSB, at the request of a client, accepts funds from that client, and converts those funds to virtual currency for the purpose of sending out of Canada. Then, subsequently re-converts the virtual currency into funds for a beneficiary outside of Canada
- Incoming EFTs for which an MSB receives virtual currency from outside of Canada, sent at the request of a client, converted from funds for the purpose of being re-converted to funds once in Canada to be paid to the beneficiary.
- Foreign exchange occurs when funds are exchanged for virtual currency and are subsequently re-converted to foreign funds. In this transaction, the virtual currency is used as a vehicle between two national funds. FINTRAC has informed Canadian officials that they do not consider businesses providing virtual currency -related services covered as MSBs under the PCMLTFA.



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I note that performing a simple conversion of non-digital currency into digital currency or converting digital currency into non-digital currency is not, at this time, subject to the PCMLFTA. Similarly, the straight purchase and sale of digital currency is not, in and of itself, subject to the PCMLFTA.

However, when conducting transactions that fall under the three above-mentioned scenarios, and when the threshold is reached, you are required to report them in the same manner you would if they were conducted in non-digital currency. For example, if you are conducting an outgoing EFT (in the first scenario above) you are required to report it pursuant to paragraph 28(1)(b) of the Proceeds of Crime (Money Laundering) and Terrorist Financing Regulations (PCMLTFR) and to keep a record pursuant to subsection 30(e) of the PCMLTFR. Additionally, pursuant to section 7 of the PCMLFTA, MSBs are required to report every financial transaction that occurs or that is attempted in the course of their activities and in respect of which there are reasonable grounds to suspect that the transaction is related to the commission or the attempted commission of a money laundering offence or the transaction is related to the commission or the attempted commission of a terrorist activity financing offence. This obligation extends not only to MSB activities enumerated under paragraph 5(h) of the PCMLFTA but to all other activities of the MSB where there are reasonable grounds to suspect that the transaction is related to the commission or the attempted commission of a money laundering offence or the transaction is related to the commission or the attempted commission of a terrorist activity financing offence.

Reference:

Date answered: 2013-08-28

PI Number: PI-5607

Activity Sector(s): Money services businesses

Obligation(s): Reporting

Guidance: 8

Regulations: 28(1)(b), 30(e)

Act: 5(h), 7



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