

RHODE ISLAND CURRENCY TRANSMISSION LAW **FREQUENTLY ASKED QUESTIONS (FAQ)**

Please review the questions and answers below to determine if your company may qualify for exemption from RI Currency Transmission laws.

Questions regarding this material can be emailed to:

DBR.BankInquiry@dbr.ri.gov

Where do I find the relevant laws regarding RI Currency Transmission?

The relevant laws are found primarily within Chapters 19-14.3 and 19-14 (linked below).

<http://webserver.rilin.state.ri.us/Statutes/TITLE19/19-14.3/INDEX.HTM>

<http://webserver.rilin.state.ri.us/Statutes/TITLE19/19-14/INDEX.HTM>

What business activities require a RI Currency Transmission License?

Businesses that require a RI Currency Transmission license include those transmitting money for its customers, including traditional wire transfers (like Western Union) and electronic transfers (like PayPal). Relatedly, holding funds for customers for purposes of later transmission also requires a license. § 19-14-1(4).

Sellers and issuers of “stored value” products must also have a RI Currency Transmission License. Stored value is digitally stored monetary value which can be used as a means of redemption for money or payment for goods and services. § 19-14-1(36). Rhode Island law distinguishes “stored value” cards that trigger the licensing requirement from “gift cards” that do not.

Certain activity with respect to virtual currency is also subject to licensing. Specifically, licensure is required for “maintaining control of virtual currency or transactions in virtual currency” “on behalf of others.” § 19-14-1(4)(ii).

Do banks need to obtain currency transmitter license? What is the RI law on an “agent” of a bank?

Under 19-14.3-1, a federal or state-chartered bank itself is exempt from getting a currency transmission license. Typically, a company or person other than the bank itself or its employees would NOT be considered an "agent" exempt from the licensing requirement. A contractual relationship with the bank does not make a company or person an "agent" under this Rhode Island law.

Can a fintech startup contract with a licensed currency transmitter in order to avoid having to get its own license?

In most cases, a business cannot transmit money, sell or load stored value cards, or conduct covered virtual currency activity without getting its own currency transmission license. In very rare cases, a fintech business may not need its own currency transmission license if (and only if) the fintech is registered as a true "agent" of the Rhode Island licensed currency transmitter in NMLS, and money transmission is not the core profit-making business of the fintech (i.e. if the fintech does not conduct any actual money transmission itself and does not receive any profit/commission from the transmission of money).

Is a RI Currency Transmission License required for cryptocurrency wallet business?

Yes. Cryptocurrency wallets (and the like) squarely fall within the definition of "maintaining control of virtual currency" "on behalf of others" when the business has custody of funds in the wallets. § 19-14-1(4)(ii).

Is a RI Currency Transmission License required for cryptocurrency exchanger operating an exchange platform or brokering exchanges?

Yes. R.I. Gen. Laws § 19-14-1(4)(ii) requires a Currency Transmission License to cover the activity of "maintaining control of... transactions in virtual currency" "on behalf of others." This includes businesses that control virtual currency transactions between customers. Such businesses may be commonly referred to as crypto-currency exchange platforms and/ or peer-to-peer exchangers.

Is a RI Currency Transmission License required for a company that buys and sells virtual currency from its own inventory (not facilitating transactions between third parties)?

R.I. Gen. Laws § 19-14-1(4) sets forth the several categories of business activities that fall into the definition of "currency transmission." Specific to "virtual currency," § 19-14-1(4)(ii) provides licensure is required for "maintaining control of virtual currency or transactions in virtual currency" "on behalf of others." If a business is participating as one party in a two-party transaction with its customer to buy and sell VC, it is not considered to be controlling a transaction on behalf of others. RI currency transmission licensure would NOT be required for a business that sells or buys VC in customer transactions in exchange for fiat consideration.

What is the RI law around bitcoin ATMs/kiosks?

If a business is participating as one party in a two-party transaction with its customer to buy and sell VC, it is not considered to be controlling a transaction on behalf of others under § 19-14-

1(4)(ii). This applies whether the two-party transaction is conducted online, through a bitcoin ATM, virtual currency kiosk, etc. so long as the bitcoin ATM does not connect to a virtual currency “exchange” but operates such that the CVC is pulled directly from company’s reserve wallet. IF the bitcoin ATM has connectivity to a customer’s bank account, it may trigger additional compliance obligations such as proper fee disclosures and transaction receipts.

What is the RI law around gift cards and rewards programs?

The statutory definition of “stored value” EXCLUDES cards/digital value “redeemable exclusively in goods or services... limited to transactions involving a defined merchant or location or set of locations, such as a specific retailer or retail chain, college campus, or program points, miles, or other units used in connection with a customer affinity or rewards program, even if there is a secondary market for stored value.” §19-14-1(36).

The statutory definition of “virtual currency” also EXCLUDES “a gift certificate, store gift card, general-use prepaid card, or loyalty, award or promotional gift card” and any stored value given in “a transaction in which a merchant grants, as part of an affinity or rewards program, value that cannot be taken from or exchanged with the merchant for legal tender, bank credit, or virtual currency.” § 19-14-1(40)(ii)(D)(citing Regulation E, title 12 C.F.R. 1005.20(a)); § 19-14-1(40)(ii)(A).

What is the RI law around online game tokens?

The definition of “virtual currency” EXCLUDES online game tokens, “a digital representation of value issued by or on behalf of a publisher and used solely within an online game, game platform, or family of games sold by the same publisher or offered on the same game platform” (§ 19-14-1(40)(ii)(B)). In other words, game businesses do not need a RI Currency Transmission license if the only activity is sale/issuance/transmission of “in-game” non-convertible virtual currencies that are specific to a particular virtual game and which can be purchased with real currency (fiat), but cannot be sold for real currency (typically used to buy virtual items like game characters, weapons, etc., sometimes referred to “assets” or “skins.”

After consideration of the above information, if you wish to request a determination regarding exemption from the RI Currency Transmission laws, please include pertinent information from this Q & A document in your written request to the RI Department of Business Regulation (“DBR”).