

New FinCEN Guidance Affirms its Longstanding Regulatory Framework for Virtual Currencies and a New FinCEN Advisory Warns of Threats Posed by Virtual Currency Misuse

May 10, 2019

WASHINGTON—To provide regulatory certainty for businesses and individuals engaged in expanding fields of financial activity, the Financial Crimes Enforcement Network (FinCEN) today issued the following guidance, Application of FinCEN’s Regulations to Certain Business Models Involving Convertible Virtual Currencies (CVC). The guidance is in response to questions raised by financial institutions, law enforcement, and regulators concerning the regulatory treatment of multiple variations of businesses dealing in CVCs.

FinCEN today also issued an Advisory on Illicit Activity Involving Convertible Virtual Currency to assist financial institutions in identifying and reporting suspicious activity related to criminal exploitation of CVCs for money laundering, sanctions evasion, and other illicit financing purposes. The advisory highlights prominent typologies, associated “red flags,” and also identifies information that would be most valuable to law enforcement if contained in suspicious activity reports.

“Treasury is committed to helping financial institutions better detect and prevent bad actors from exploiting convertible virtual currencies for money laundering, sanctions evasion, and other illicit activities.” said Sigal Mandelker, Under Secretary of the Treasury for Terrorism and Financial Intelligence. “The comprehensive advisory FinCEN issued today highlights the risks associated with darknet marketplaces, peer-to-peer exchangers, unregistered money services businesses, and CVC kiosks and identifies typologies and red flags to help the virtual currency industry protect its businesses from exploitation.”

“FinCEN was the first financial regulator to address virtual currency and the first to assign obligations to related businesses to guard against financial crime,” said FinCEN Director Kenneth A. Blanco. “The money transmitter definition we published in 2011 and the guidance we issued in 2013 clarifying how that definition applies to transactions involving virtual currency have proven to be exceptionally durable. Our regulatory approach has been consistent and despite dynamic waves of new financial technologies, products, and services, our original

concepts continue to hold true. Simply stated, those who accept and transfer value, by any means, must comply with our regulations and the criminal misuse of any methodology remains our fundamental concern.”

Today’s guidance does not establish any new regulatory expectations. It consolidates current FinCEN regulations, guidance and administrative rulings that relate to money transmission involving virtual currency, and applies the same interpretive criteria to other common business models involving CVC. FinCEN's rules define certain businesses or individuals involved with CVCs as money transmitters subject to the same registration requirements and a range of anti-money laundering, program, recordkeeping, and reporting responsibilities as other money services businesses.

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The mission of the Financial Crimes Enforcement Network is to safeguard the financial system from illicit use, combat money laundering, and promote national security through the strategic use of financial authorities and the collection, analysis, and dissemination of financial intelligence.