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CYPTOCURRENCY, ATM'S, AND YOU

August 9, 2021

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Prior to 2018, the State of Florida Office of Financial Regulation, and partially in response to the rise in popularity of crypto currencies and curiously enough, ATM's to transact business, often required the crypto currency business to obtain a Money Transmitter License. Florida Law defines a "money transmitter," as "a corporation, limited liability company, limited liability partnership, or foreign entity qualified to do business in this state which receives currency, monetary value, or payment instruments for the purpose of transmitting the same by any means, including transmission by wire, facsimile, electronic transfer, courier, the Internet, or through bill payment services or other businesses that facilitate such transfer within this country, or to or from this country."

In 2018, and in response to an LLC's formal petition for declaratory statement, the Office of Financial Regulation issued an order wherein it was stated that based on that LLC's unique business model of inserting cash into the machine directly to obtain the crypto currency code, a money transmitter license would not be needed to operate the crypto currency ATM in the State of Florida.

Now, in 2021, the Office of Financial Regulation has modified its stance and in response to a case out of the Third District Court of Appeals (State v. Espinoza), has issued letters to known unlicensed crypto currency ATM businesses notifying them that any entity that is in the business of selling virtual currency will be required to obtain a money services business license in order to continue business operations in Florida. The Office has provided an "amnesty period" through December 31, 2021, for entities engaged in such business but are operating without a license. On January 1, 2022, the Office intends to enforce the licensure requirements and any entity conducting such business will be deemed to have engaged in unlicensed activity and will be subject to administrative fines or other penalties.

It should be noted that the agency has 90 days within which to review and approve applications from the date that the applications are deemed complete. These applications are lengthy and require a tremendous amount of information to be deemed complete by the agency.
Most licensed entities have engaged CPA's, attorneys and compliance firms to assist with them.

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