



FEDERAL ELECTION COMMISSION
Washington, DC 20463

AGENDA DOCUMENT NO. 14-24
AGENDA ITEM
For meeting of April 23, 2014

April 16, 2014

MEMORANDUM

TO: The Commission

FROM: Lisa J. Stevenson *LJS by AN*
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Subject: AO 2014-02 (Make Your Laws PAC) – Draft A

Attached is a proposed draft of the subject advisory opinion.

Members of the public may submit written comments on the draft advisory opinion. We are making this draft available for comment until 12:00 pm (Eastern Time) on April 22, 2014.

Members of the public may also attend the Commission meeting at which the draft will be considered. The advisory opinion requestor may appear before the Commission at this meeting to answer questions.

For more information about how to submit comments or attend the Commission meeting, go to <http://www.fec.gov/law/draftaos.shtml>.

Attachment

1 ADVISORY OPINION 2014-02

2

3 Sai

DRAFT A

4 Make Your Laws PAC, Inc.

5 122 Pinecrest Rd.

6 Durham, NC 27705

7

8 Dear Sai:

9 We are responding to the advisory opinion request you submitted on behalf of
10 Make Your Laws PAC, Inc. (“MYL”) concerning MYL’s proposed acceptance, purchase,
11 and disbursement of bitcoins under the Federal Election Campaign Act of 1971, as
12 amended (the “Act”), and Commission regulations. The Commission concludes that
13 MYL may accept bitcoins as in-kind contributions under valuation procedures described
14 below. MYL may also purchase bitcoins, as described below. The Commission further
15 concludes that MYL may acquire goods and services with bitcoins it receives as
16 contributions, but not with the bitcoins it purchases. MYL must sell the bitcoins it
17 purchases and deposit the proceeds into its campaign depository before using those funds.

18 ***Background***

19 The facts presented in this advisory opinion are based on your advisory opinion
20 request dated February 10, 2014 (“AOR”), email dated February 21, 2014 (“AOR
21 Supplement”), and public disclosure reports filed with the Commission.

22 MYL is a nonconnected political committee that registered with the Commission
23 in September 2012. MYL has notified the Commission that it maintains a non-
24 contribution account.¹ MYL wishes to accept contributions in bitcoins for both its
25 contribution and non-contribution accounts.

¹ See Press Release, FEC Statement on *Carey v. FEC*: Reporting Guidance for Political Committees that Maintain a Non-Contribution Account (Oct. 5, 2011), <http://www.fec.gov/press/press2011/20111006postcarey.shtml>.

1 Bitcoin is a privately issued currency that was created in 2009.² Bitcoins are
2 purely digital, “exist[ing] only as a long string of numbers and letters in a user’s
3 computer file.”³ Bitcoins “act as real world currency in that users pay for real goods and
4 services . . . with bitcoins as opposed to U.S. dollars or other government issued
5 currencies.”⁴ A user transfers bitcoins from the user’s online bitcoin “wallet”
6 (essentially, an encrypted computer file) either to other users, to merchants who accept
7 bitcoins as payment, or through “[t]hird-party exchanges [that] allow bitcoin users to
8 exchange their bitcoins back to government-issued currencies.”⁵ The value of bitcoins is
9 established by exchanging them for goods or services or for U.S. dollars or other
10 currency. There are numerous online exchanges on which potential buyers and sellers of
11 bitcoins post “bid” and “ask” prices akin to those on securities or commodities
12 exchanges.

13 Each bitcoin transaction is public in that it is added to a “block chain,” which is a
14 public ledger of all bitcoin transactions ever made. *See* AOR at 2. Although bitcoin
15 transactions, identified by the addresses to and from which bitcoins are transferred, are
16 public in the block chain, the transactors are not identified. *Id.* Indeed, a bitcoin user’s
17 real-life identity, IP address, and even country of operation “cannot be reliably traced to a
18 real human by an auditor of ordinary technical skill.” *Id.* at 3-4 & n.5. Moreover, a

² U.S. Gov’t Accountability Office, GAO-13-516, Virtual Economies and Currencies 5 (2013),
available at <http://www.gao.gov/assets/660/654620.pdf> (“GAO Report”).

³ *Id.*

⁴ *Id.*

⁵ *Id.*; *see also* Fed. Reserve of Chicago, Chicago Fed Letter 317, Bitcoin: A Primer 2 (Dec. 2013),
available at [http://www.chicagofed.org/digital_assets/publications/chicago_fed_letter/2013/cfldecember2013_317.p](http://www.chicagofed.org/digital_assets/publications/chicago_fed_letter/2013/cfldecember2013_317.pdf)
[df](http://www.chicagofed.org/digital_assets/publications/chicago_fed_letter/2013/cfldecember2013_317.pdf) (“Fed Letter”) (describing bitcoin wallets).

1 bitcoin user may control any number of bitcoin addresses. *Id.* at 3. The requestor
2 indicates that “[k]nowing that a given [b]itcoin transaction comes from a specific person
3 depends primarily on asking them and just trusting their response.” *Id.* at 4.

4 MYL wishes to accept bitcoins as in-kind contributions to its contribution and
5 non-contribution accounts pursuant to a detailed proposal, the relevant portions of which
6 are discussed herein. MYL proposes to accept bitcoins only through an online form on
7 which each bitcoin contributor, regardless of the proposed contribution amount, will have
8 to provide her name, address, occupation, and employer. Additionally, MYL intends to
9 require each bitcoin contributor to affirm that she owns the bitcoins (individually, or
10 jointly with a spouse) that she will contribute. MYL represents that only after a bitcoin
11 contributor has provided this identifying information and affirmation will MYL send that
12 contributor a one-time-only “linked address” — a bitcoin address that identifies the
13 individual transaction — to use to send the bitcoins.⁶ MYL proposes to accept only \$100
14 worth of bitcoin per election per contributor (as identified using the practices just
15 described and valuation methods approved by the Commission). *See* AOR Supplement.

16 MYL also proposes to purchase bitcoins on open, high-volume bitcoin exchanges.
17 Once MYL has acquired bitcoins (whether by contributions received or by purchase), it
18 proposes to either sell them for dollars, hold them for later sale, or disburse them in
19 bitcoin form to pay administrative expenses such as salary, server and website costs,

⁶ MYL represents that it will retain records of: its own bitcoin addresses, including each linked address; the contributor to which each linked address is linked; the bitcoin addresses of those with whom it has made transactions; and MYL’s bitcoin transactions in the block chain. MYL represents that it will hold such records, and make them available to the Commission, as it would other records.

1 food, office supplies, and travel.⁷ In the receipt, purchase, and sale of bitcoins, MYL
2 represents that it may use a bitcoin transaction intermediary, such as Coinbase or BitPay.
3 AOR at 7, 9. In conducting its bitcoin transactions, MYL intends to pay normal
4 transaction fees to its processors. For those bitcoins MYL sells for dollars, MYL
5 represents that it intends to deposit the proceeds into its campaign depository account
6 within 10 days of liquidation.

7 *Questions Presented*

8 Based on the facts presented above, the requestor asks questions concerning:
9 (1) the receipt of bitcoins as in-kind contributions; (2) the purchase of bitcoins; (3) the
10 sale and disbursement of bitcoins; and (4) the reporting of bitcoin receipts and
11 transactions.

12 *Legal Analysis and Conclusions*

13 The Commission concludes that the requestor may generally accept bitcoins as in-
14 kind contributions under valuation, deposit, and reporting procedures similar to those that
15 the Commission has previously approved for other in-kind contributions. In addition, the
16 requestor may purchase goods or services with bitcoins it receives as contributions, as
17 described below. While the requestor may also purchase bitcoins with funds from its
18 campaign depository, it may not make disbursements using those purchased bitcoins,
19 because Commission regulations require such funds to be returned to a campaign
20 depository before they are used to make disbursements.

⁷ MYL states that it does not intend to disburse bitcoins for independent expenditures, solicitation costs, contributions to other committees, or other non-administrative expenses. AOR at 9. When using bitcoins to purchase goods or services, MYL indicates that it wishes to take advantage of discounted rates that some vendors may offer on an equal basis to political and non-political entities. *Id.*; see *infra* n.18.

1 **A. Receipt of Bitcoins as In-Kind Contributions**⁸

2 The Act defines a “contribution” to include “any gift, subscription, loan, advance,
3 or deposit of money or anything of value made by any person for the purpose of
4 influencing any election for Federal office.” 2 U.S.C. § 431(8)(A)(i); *see also* 11 C.F.R.
5 § 100.52(a). “Anything of value” includes “all in-kind contributions.” *See* 11 C.F.R.
6 § 100.52(d)(1).⁹

7 Nothing in the Act or Commission regulations prohibits a political committee
8 from accepting bitcoins as in-kind contributions.¹⁰ In fact, the Commission has issued
9 numerous advisory opinions addressing permissible contributions of items of value, such
10 as public stocks, private stocks, commodities, and computer equipment. *See, e.g.,*
11 Advisory Opinion 1996-29 (Cannon) (computer equipment); Advisory Opinion 2000-30
12 (pac.com) (stock); Advisory Opinion 1980-125 (Cogswell) (commodities). Thus, MYL
13 may accept bitcoins as in-kind contributions pursuant to the procedures described below.

14 **1. Contributor Eligibility, Bitcoin Deposits, and Refunds**

15 A committee treasurer is “responsible for examining all contributions received for
16 evidence of illegality and for ascertaining whether contributions received, when
17 aggregated with other contributions from the same contributor, exceed the contribution

⁸ This section addresses MYL’s question 1 (“May MYL PAC receive Bitcoins as an in-kind contribution” assuming that MYL “acts in accordance with [its] proposed framework?”).

⁹ *See also* Fed. Election Comm’n, Explanation and Justification for Amendments to Federal Election Campaign Act of 1971, H.R. Doc. No. 95-44, at 46 (1977), *available at* http://www.fec.gov/law/cfr/ej_compilation/1977/95-44.pdf (characterizing “in-kind contributions” as “contributions other than cash or check”).

¹⁰ In some respects, such as reporting, Commission regulations treat contributions differently depending on whether they are “money” or “in-kind.” *See infra* Part D. Because MYL does not propose to treat bitcoins it receives as “money,” the Commission need not determine whether bitcoins fit within the definition of “money” as set forth in Commission regulations.

1 limitations.”¹¹ 11 C.F.R. § 103.3(b); *see also* 2 U.S.C. § 432(c)(1)-(3). Within 10 days
2 of receipt of a contribution, a treasurer may return the contribution to the contributor
3 without having deposited it; otherwise, a treasurer must deposit the contribution into a
4 campaign depository. 11 C.F.R. § 103.3(a); *see also* 2 U.S.C. § 432(h). A campaign
5 depository is an account at a state bank, a federally chartered depository institution
6 (including a national bank), or a depository institution with accounts insured by certain
7 federal agencies. 2 U.S.C. § 432(h); 11 C.F.R. § 103.2. If, after deposit, the contribution
8 cannot be determined to be from a legal source, the treasurer must refund the contribution
9 within 30 days of the receipt of the deposit or the discovery of the illegality (if not
10 initially apparent). 11 C.F.R. § 103.3(b)(1)-(2).

11 In its request, MYL recognizes its obligation to determine its contributors’
12 eligibility and the legality of contributions it receives. MYL indicates that it will provide
13 a unique linked address by which an individual may make a bitcoin contribution only
14 after that contributor provides her name, address, and employer and affirms that the
15 contributed bitcoins are owned by her. In this way, MYL’s proposal is similar to those
16 the Commission recognized in previous advisory opinions. *See* Advisory Opinion 1995-
17 09 (NewtWatch); Advisory Opinion 2012-17 (Red Blue T LLC, ArmourMedia, Inc., and
18 m-Qube, Inc.).

¹¹ A committee treasurer must also keep account of, among other things, all contributions the committee receives, the name and address of any person who makes any contribution in excess of \$50 along with the date and amount of such contribution, and certain additional information regarding any person who makes contributions aggregating to more than \$200 during a calendar year. *See* 2 U.S.C. § 432(c)(1)-(3); 11 C.F.R. § 110.4(c).

1 Accordingly, the Commission concludes that MYL’s proposal adequately
2 addresses MYL’s obligation to examine contributions as required by the Act and
3 Commission regulations.

4 Once MYL provides its contributor with a linked address to which to send the
5 bitcoin contribution, MYL proposes to receive the contribution in its bitcoin wallet.
6 Because a bitcoin wallet is not held at a state or federal bank and is not insured by any
7 government agency, it does not meet the criteria of a “campaign depository.” *See* 2
8 U.S.C. § 432(h).¹² Notwithstanding the requirement that a committee deposit all receipts
9 in a campaign depository, section 104.13(b) of the Commission’s regulations establishes
10 procedures for political committees to receive and report contributions of “stocks, bonds,
11 art objects, and other similar items to be liquidated” at a later date. The Commission has
12 concluded that this provision implicitly allows a committee to accept such assets as
13 contributions and hold those assets until later sale (for more than 10 days) as investments
14 outside campaign depositories. Advisory Opinion 2000-30 (pac.com) at 8 (citing
15 Advisory Opinions 1989-06 (Boehlert) and 1980-125 (Cogswell)). For example, when a
16 committee receives stock as a contribution, the Commission does “not require the
17 liquidation of the stock within any set time period after its receipt by the committee; nor
18 [does] it require the deposit of the proceeds in the committee’s depository account within
19 any prescribed period.” *Id.* at 5 (discussing Advisory Opinion 1989-06 (Boehlert)).

20 As noted above, bitcoins’ value can appreciate or depreciate over time. In this
21 key respect, bitcoins are “similar items” to the “stocks, bonds, [and] art objects”

¹² The Commission has concluded that securities accounts and similar brokerage accounts do not qualify as campaign depositories, even if the account-holder can disburse funds directly from them. *See* Advisory Opinion 2000-30 (pac.com) (securities account); Advisory Opinion 1986-18 (Bevill) (“cash management account”).

1 described in 11 C.F.R. § 104.13(b). Thus, the Commission concludes that in-kind
2 contributions of bitcoins, like other in-kind contributions discussed in section 104.13(b),
3 need not be deposited in a campaign depository within 10 days of receipt. Like securities
4 that a political committee may receive into and hold in a brokerage account, bitcoins may
5 be received into and held in a bitcoin wallet until the committee liquidates or disburses
6 them.¹³

7 Holding bitcoins in a bitcoin wallet does not relieve MYL of its obligations to
8 return or refund a bitcoin contribution that is from a prohibited source, that exceeds the
9 contributor's annual contribution limit, or that is otherwise not legal. *See* 2 U.S.C.
10 § 441a(a)(1)(C); *see also* 11 C.F.R. §§ 103.3(a), 110.1(d), 110.2(d). The Commission
11 has previously determined that a committee may return an excessive in-kind contribution
12 "either in the form given," or in a dollar amount "equal to the excess" of the in-kind
13 contribution when it was received. Advisory Opinion 1980-125 (Cogswell); *see also* 11
14 C.F.R. § 103.3(b)(3). Accordingly, MYL's proposal (AOR at 7) to refund the dollar
15 equivalent of a bitcoin contribution, when required by law to make a refund or return,
16 satisfies this requirement. The refund amount, including for any excessive portion of the
17 contribution, should be calculated by the valuation methods discussed below.

18 2. *Bitcoin Valuation*

19 Bitcoin contributions should be valued as in-kind contributions. The amount of
20 an in-kind contribution is the usual and normal value of the contribution on the date

¹³ This conclusion does not depend on whether the bitcoins are received into a contribution account or a non-contribution account. Provided that the bitcoin contributions are not from prohibited sources or in excess of the relevant contribution limits, MYL may divide its bitcoin receipts between its contribution and non-contribution accounts as it may other contributions. If, however, MYL opts to receive and hold bitcoins, it must maintain separate bitcoin wallets for its contribution and non-contribution accounts.

1 received. 11 C.F.R. § 104.13(a); Advisory Opinion 1989-06 (Boehlert) (applying this
2 method of valuation to contribution of stock).

3 Like foreign currencies and some public stocks, bitcoins can be exchanged for
4 U.S. dollars on multiple public exchanges. Although bitcoins do not have closing times
5 or prices — because bitcoin exchanges operate 24 hours per day — the going rate for
6 bitcoins can be determined on a specific exchange at any given moment. The availability
7 of public exchange rates provides an objective method of determining the usual and
8 normal value of bitcoin contributions. Thus, the Commission concludes that a political
9 committee that receives a contribution in bitcoins should value that contribution based on
10 the market value of bitcoins at the time the contribution is received. To determine this
11 market value, the committee should first rely on any contemporaneous determination
12 provided by the entity that processes the bitcoin contribution. If that processor provides
13 an exchange rate for the specific transaction in question — or if the committee opts to
14 receive a bitcoin contribution from its processor in the form of dollars — the committee
15 should use this rate or dollar amount to value the contribution.

16 If, however, a contributor makes a contribution through an entity that does not
17 provide an exchange rate for that contribution, then the recipient committee may value
18 the contribution using another reasonable exchange rate of bitcoins for dollars. For an
19 exchange rate to be reasonable, it should be a publicly available rate of bitcoins traded for
20 dollars on a high-volume public bitcoin exchange that is open to transactions within the
21 United States. For each bitcoin transaction, the committee should use the rate established
22 by the chosen exchange closest in time to receipt of the in-kind contribution for the
23 transaction being valued.

1 **B. Bitcoin Purchases**¹⁴

2 MYL also proposes to purchase bitcoins, either on open, high-volume exchanges
3 or through bitcoin payment processors.¹⁵ Under Commission regulations, “funds may be
4 transferred from the [committee’s campaign] depository for investment purposes, but
5 shall be returned to the depository before such funds are used to make expenditures.” 11
6 C.F.R. § 103.3(a). In several prior advisory opinions, the Commission concluded that a
7 committee could invest its funds in a variety of liquid investment vehicles. *See, e.g.*,
8 Advisory Opinion 1999-08 (Specter) (mutual and bond funds), Advisory Opinion 1986-
9 18 (Bevill) (cash management account), 1980-39 (Fluor PAC) (investment trust).
10 Consistent with the prior advisory opinions, and section 103.3(a), the Commission
11 concludes that MYL may use funds in its campaign depository to purchase bitcoins for
12 investment purposes.

13 **C. Bitcoin Sales and Disbursements**¹⁶

14 MYL proposes to either sell its bitcoins or disburse bitcoins to purchase goods
15 and services. MYL represents that when it sells bitcoins, it will deposit the dollar
16 proceeds in its campaign depository within 10 days of liquidation. As discussed above,
17 the Commission concludes that such sale and deposit would satisfy the campaign
18 depository requirement at 11 C.F.R. § 103.3(a). As discussed below, the question of
19 whether MYL may disburse bitcoins to purchase goods and services depends on whether

¹⁴ This section, in conjunction with Part C below, addresses MYL’s question 2 (“May MYL PAC purchase and sell Bitcoins?”).

¹⁵ Although MYL does not specify the source of funds for such purchases, the Commission presumes that such purchases will be made with funds from MYL’s campaign depository.

¹⁶ This section addresses MYL’s question 2 (“May MYL PAC purchase and sell Bitcoins?”), 3 (“May MYL PAC disburse Bitcoins?”), 3a (“May it do so with Bitcoins it received as contributions as well as purchased Bitcoins?”), and 3b (“May it accept ordinary discounts offered by providers?”).

1 the bitcoins were received by MYL as contributions or whether they were purchased by
2 MYL as an investment.

3 *1. Disbursements from Purchased Bitcoins*

4 The Commission's regulations provide that funds transferred from the
5 committee's campaign depository for investment purposes "shall be returned to the
6 depository before such funds are used to make expenditures." 11 C.F.R. § 103.3(a). The
7 Commission has previously concluded that 11 C.F.R. § 103.3(a) prohibits a political
8 committee from making expenditures with liquid assets it has purchased with funds from
9 its campaign depositories. For example, in Advisory Opinion 1986-18 (Bevill), the
10 Commission concluded that, pursuant to 11 C.F.R. § 103.3(a), committee funds could be
11 removed from a campaign depository and placed in an investment account only for
12 investment purposes and not to make disbursements. Before the funds could be used to
13 make disbursements, they would have to be transferred back to a campaign depository.
14 Advisory Opinion 1986-18 (Bevill) at 2; *see also* Advisory Opinion 1999-08 (Specter).

15 Consistent with these prior determinations, the Commission concludes that
16 MYL's proposal to purchase goods or services directly from a bitcoin wallet is not
17 permitted under Commission regulations if those bitcoins have been purchased with
18 funds removed from MYL's campaign depository. MYL must sell those purchased
19 bitcoins and deposit the proceeds in its campaign depositories before using the funds to
20 make disbursements for goods and services.

21 *2. Disbursements from Bitcoins Received as In-Kind Contributions*

22 The Act and Commission regulations require that all political committee
23 disbursements (except for petty cash disbursements) be made by check or similar drafts

1 drawn on a campaign depository. *See* 2 U.S.C. § 432(h); 11 C.F.R. §§ 102.10, 103.3(a);
2 *see also* Advisory Opinion 1993-04 (Cox) (approving electronic bill payment service
3 from a campaign depository as “similar draft”). However, just as the Commission has
4 implicitly allowed a committee to receive and hold some in-kind contributions outside
5 campaign depositories, *see supra* p. 10, the Commission has implicitly allowed the
6 disbursement of those assets from outside campaign depositories.

7 In two advisory opinions, the Commission approved a committee’s procurement
8 of goods or services using in-kind contributions it had received and held outside a
9 campaign depository. In Advisory Opinion 1980-125 (Cogswell), the Commission
10 approved a committee’s payment of an employee’s salary via silver coins received as a
11 contribution. In approving this disbursement, the Commission noted that the
12 disbursement could be made from outside a campaign depository if the coins were valued
13 as commodities. In Advisory Opinion 1982-08 (Barter PAC), the Commission examined
14 a proposal by a political committee to use “credit units” — which could be redeemed for
15 goods and services on a “barter basis” — to make contributions to candidates and to
16 procure goods and services from vendors. The Commission approved these transactions,
17 concluding that “nothing in the Act or the Commission’s regulations would prohibit the
18 making of contributions in the form of credit units.” *Id.* Thus, MYL may use the
19 bitcoins it receives as contributions to purchase goods and services from vendors who
20 accept bitcoins as payment, as it proposes. MYL may do so directly from its bitcoin

1 wallet, provided that such purchases comply with the recordkeeping requirements of the
2 Act and Commission regulations.¹⁷

3 To determine the value of purchases made by MYL with bitcoins, MYL should
4 apply the same valuation methodology described above for the receipt of bitcoins. That
5 is, MYL should rely on any contemporaneous determination provided by the entity that
6 processes the bitcoin payment, or, if no such determination is provided, MYL should use
7 a reasonable exchange rate of bitcoins for dollars closest in time to the payment being
8 valued. For purchases made with bitcoins, this valuation method will be used to
9 determine whether MYL paid the vendor a usual and normal charge.¹⁸

10 ***D. Reporting***¹⁹

11 *1. Bitcoins Purchased by MYL*

12 The earnings (or losses) realized upon the sale of any bitcoins purchased from
13 funds transferred from a campaign depository must be reported like other investment
14 earnings or losses. *See* 2 U.S.C. § 434(b)(3)(G); 11 C.F.R. §§ 104.3(a)(3),

¹⁷ To the extent that Advisory Opinion 2000-30 (pac.com) could be construed to disallow the disbursement of assets received as in-kind contributions, it is superseded in part.

¹⁸ In some circumstances, a vendor makes a contribution to a committee if it provides goods or services at less than the usual and normal charge, *i.e.*, the price of those goods or services in the market from which they ordinarily would have been purchased at the time of the contribution. *See* 11 C.F.R. § 100.52(d)(1), (2). If MYL uses the valuation method described here when it purchases goods or services from a vendor via bitcoins, no subsequent fluctuation in the value of bitcoins will be deemed to alter the “usual and normal charge” calculation. Additionally, if MYL purchases goods or services at a discount offered in the ordinary course of business to any purchaser who pays with bitcoins, the value of that discount will not constitute a contribution from the vendor. On numerous occasions, the Commission has concluded that the purchase of goods or services at a discount does not result in a contribution from the vendor when the discounted items are made available in the ordinary course of business and on the same terms and conditions to the vendor's other customers that are not political committees. *See* Advisory Opinion 2011-19 (GivingSphere); Advisory Opinion 2004-18 (Lieberman) (collecting earlier advisory opinions).

¹⁹ This section addresses MYL’s question 4 (“How should MYL PAC report all of the above?”).

1 104.3(a)(4)(vi); Advisory Opinion 1999-08 (Specter); Advisory Opinion 1986-18
2 (Bevill). Such earnings and losses should be valued as discussed above and should be
3 reported on Form 3X, Schedule A, Line 17 (with losses as a negative entry).

4 *2. Bitcoins Received by MYL as In-Kind Contributions*

5 At the time MYL PAC receives bitcoins as in-kind contributions, the committee
6 might not know how it will ultimately dispose of them. That is, the committee might not
7 know whether it will liquidate the bitcoins or whether it will disburse some or all of its
8 bitcoins to purchase goods or services. The committee also might not know whether it
9 will do so in the same reporting period as the bitcoins are received or in a later period. In
10 these respects, bitcoins have characteristics of in-kind contributions governed by two
11 different regulatory reporting provisions: 11 C.F.R. § 104.13(a), which addresses the
12 reporting of most in-kind contributions, and 11 C.F.R. § 104.13(b), which addresses the
13 specific reporting of in-kind contributions that the committee receives to liquidate in a
14 later reporting period. Because bitcoins can be either type of in-kind contribution, the
15 Commission concludes that a practical approach that takes into account aspects of both
16 reporting provisions is appropriate.²⁰

17 The initial receipt of bitcoins as in-kind contributions, regardless of subsequent
18 disposition, should be reported like in-kind contributions described in 11 C.F.R.
19 § 104.13(a). Attachment 1 to this advisory opinion provides an example of this reporting.
20 Attachment 1 shows, on the first page, the reporting of the receipt of \$100 in bitcoin as a
21 contribution (aggregating with \$325 of prior contributions from this contributor) and, on

²⁰ The reporting approach described here modifies the approach taken in two earlier advisory opinions that addressed the reporting of stock to be liquidated. *See* Advisory Opinion 2000-30 (pac.com); Advisory Opinion 1989-06 (Boehlert).

1 the second page, the simultaneous reporting of the bitcoins as a disbursement. These
2 offsetting entries allow the committee's reported cash-on-hand to remain unchanged
3 while holding bitcoins outside a campaign depository.

4 Any usual and normal fees deducted by the bitcoin processor from an in-kind
5 contribution made using bitcoins prior to its transfer to the recipient committee should
6 not be deducted from the reported value of the contribution. That is, "the Committee
7 must treat the full amount of the donor's contribution as the contributed amount for
8 purposes of the limits and reporting provisions of the Act, even though the Committee
9 will receive a lesser amount because of [the] fees." Advisory Opinion 1995-09
10 (NewtWatch) at 3. The committee should report the usual and normal fees and
11 commissions that it pays an online processor as operating expenditures pursuant to 2
12 U.S.C. §§ 432(c)(5), 434(b)(5)(A) and 11 C.F.R. §§ 102.9(b), 104.3(b)(3), (4). *See*
13 Advisory Opinion 1995-09 (NewtWatch) at 3.

14 The reporting of the subsequent disposition of the bitcoins received as in-kind
15 contributions depends on whether the Committee liquidates them or disburses them to
16 purchase goods or services. Attachments 2(A) and (B) to this advisory opinion provide
17 examples for reporting the liquidation of bitcoins. Attachment 3 provides an example for
18 reporting the disbursement of bitcoins to purchase goods or services.

19 If the Committee liquidates the bitcoins, the reporting depends on whether the
20 purchaser is known or unknown to the committee. If the committee sells the bitcoins
21 directly to a purchaser, and therefore knows the identity of that purchaser, the purchase is
22 itself considered to be a contribution. *See* 11 C.F.R. § 104.13(b)(2); Advisory Opinion
23 1989-06 (Boehlert) at 2; Advisory Opinion 2000-30 (pac.com) at 8-9. Attachment 2(A)

1 illustrates how a committee should report the sale of bitcoins to a known purchaser. If
2 the committee sells the bitcoins through an established market mechanism where the
3 purchaser is not known, the purchaser is not considered to have made a contribution to
4 the committee. *See* Advisory Opinion 1989-06 (Boehlert) at 2; 11 C.F.R. § 104.13(b)(2).
5 Attachment 2(B) illustrates how a committee should report the sale of bitcoins to an
6 unknown purchaser.²¹

7 If the committee disburses the bitcoins to obtain goods or services from a vendor,
8 the committee should report the disbursement as an operating expenditure as indicated in
9 Attachment 3.

10 This response constitutes an advisory opinion concerning the application of the
11 Act and Commission regulations to the specific transaction or activity set forth in your
12 request. *See* 2 U.S.C. § 437f. The Commission emphasizes that, if there is a change in
13 any of the facts or assumptions presented, and such facts or assumptions are material to a
14 conclusion presented in this advisory opinion, then the requestor may not rely on that
15 conclusion as support for its proposed activity. Any person involved in any specific
16 transaction or activity which is indistinguishable in all its material aspects from the
17 transaction or activity with respect to which this advisory opinion is rendered may rely on
18 this advisory opinion. *See* 2 U.S.C. § 437f(c)(1)(B). Please note the analysis or
19 conclusions in this advisory opinion may be affected by subsequent developments in the

²¹ If the committee opts to immediately liquidate the bitcoin contribution and receive its equivalent in dollars from the processor at the time of receipt, the committee should report the initial receipt as indicated in Attachment 1 and should also report the liquidation as indicated in Attachment 2(B), substituting the name of the bitcoin processor for the name of the exchange. Note also that in the case of an immediate liquidation, the dates and amounts on lines A and B on Attachment 2(B) would be identical because the conversion from bitcoin to dollars would be simultaneous with receipt.

1 law including, but not limited to, statutes, regulations, advisory opinions, and case law.

2 The cited advisory opinions are available from the Commission's website.

3

On behalf of the Commission,

4

5

6

7

Lee E. Goodman

8

Chairman

9

SCHEDULE A (FEC Form 3X)

ITEMIZED RECEIPTS

Use separate schedule(s) for each category of the Detailed Summary Page	FOR LINE NUMBER: (check only one)	PAGE	OF
	<input checked="" type="checkbox"/> 11a <input type="checkbox"/> 13	<input type="checkbox"/> 11b <input type="checkbox"/> 14	<input type="checkbox"/> 11c <input type="checkbox"/> 15
		<input type="checkbox"/> 17	

Any information copied from such Reports and Statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee.

NAME OF COMMITTEE (In Full)
XYZ Action Fund

Full Name (Last, First, Middle Initial) A. John Contributor		Date of Receipt MM / DD / YYYY 02 / 15 / 2014
Mailing Address 123 First Street		Amount of Each Receipt this Period 100.00
City Alexandria	State Zip Code VA 22314	
FEC ID number of contributing federal political committee. C	In-kind: 0.2 Bitcoins not liquidated/disbursed	
Name of Employer First Bank	Occupation Teller	Aggregate Year-to-Date ▼ 425.00
Receipt For: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify) ▼		

Full Name (Last, First, Middle Initial) B.		Date of Receipt MM / DD / YYYY
Mailing Address		Amount of Each Receipt this Period
City	State Zip Code	
FEC ID number of contributing federal political committee. C		
Name of Employer	Occupation	Aggregate Year-to-Date ▼
Receipt For: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify) ▼		

Full Name (Last, First, Middle Initial) C.		Date of Receipt MM / DD / YYYY
Mailing Address		Amount of Each Receipt this Period
City	State Zip Code	
FEC ID number of contributing federal political committee. C		
Name of Employer	Occupation	Aggregate Year-to-Date ▼
Receipt For: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify) ▼		

SUBTOTAL of Receipts This Page (optional).....▶	100.00
TOTAL This Period (last page this line number only).....▶	

Attachment 1: Receiving in-kind contributions of Bitcoins (page 2 of 2)

SCHEDULE B (FEC Form 3X)
ITEMIZED DISBURSEMENTS

Use separate schedule(s) for each category of the Detailed Summary Page

FOR LINE NUMBER:
(check only one)

PAGE OF

<input checked="" type="checkbox"/> 21b	<input type="checkbox"/> 22	<input type="checkbox"/> 23	<input type="checkbox"/> 24	<input type="checkbox"/> 25	<input type="checkbox"/> 26
<input type="checkbox"/> 27	<input type="checkbox"/> 28a	<input type="checkbox"/> 28b	<input type="checkbox"/> 28c	<input type="checkbox"/> 29	<input type="checkbox"/> 30b

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NAME OF COMMITTEE (In Full)

XYZ Action Fund

Full Name (Last, First, Middle Initial)

A. John Contributor

Mailing Address

123 First Street

City

Alexandria

State

VA

Zip Code

22314

Purpose of Disbursement

In-kind: 0.2 Bitcoins

Candidate Name

Category/
Type

Date of Disbursement

MM / DD / YYYY
02 / 15 / 2014

Amount of Each Disbursement this Period

100.00

In-kind: 0.2 Bitcoins
not liquidated/disbursed

Office Sought:

House
 Senate
 President

Disbursement For:

Primary General
 Other (specify) ▼

State:

District:

Full Name (Last, First, Middle Initial)

B.

Mailing Address

City

State

Zip Code

Purpose of Disbursement

Candidate Name

Category/
Type

Date of Disbursement

MM / DD / YYYY

Amount of Each Disbursement this Period

Office Sought:

House
 Senate
 President

Disbursement For:

Primary General
 Other (specify) ▼

State:

District:

Full Name (Last, First, Middle Initial)

C.

Mailing Address

City

State

Zip Code

Purpose of Disbursement

Candidate Name

Category/
Type

Date of Disbursement

MM / DD / YYYY

Amount of Each Disbursement this Period

Office Sought:

House
 Senate
 President

Disbursement For:

Primary General
 Other (specify) ▼

State:

District:

SUBTOTAL of Disbursements This Page (optional)..... ▶

100.00

TOTAL This Period (last page this line number only)..... ▶

Attachment 2(A) - Bitcoins sold during reporting period to known purchaser (appreciated value)

SCHEDULE A (FEC Form 3X)

ITEMIZED RECEIPTS

Use separate schedule(s) for each category of the Detailed Summary Page	FOR LINE NUMBER: (check only one)	PAGE	OF
	<input checked="" type="checkbox"/> 11a <input type="checkbox"/> 13	<input type="checkbox"/> 11b <input type="checkbox"/> 14	<input type="checkbox"/> 11c <input type="checkbox"/> 15

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NAME OF COMMITTEE (In Full)
XYZ Action Fund

Full Name (Last, First, Middle Initial) A. Jane Purchaser		Date of Receipt MM / DD / YYYY 04 / 15 / 2014
Mailing Address 456 Main Street		Amount of Each Receipt this Period 2,500.00 Purchase of 0.2 Bitcoins
City Arlington	State Zip Code TX 76006	
FEC ID number of contributing federal political committee. C		Aggregate Year-to-Date ▼ 2,500.00
Name of Employer Memorial Hospital	Occupation Physician	
Receipt For: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify) ▼		

Full Name (Last, First, Middle Initial) B. John Contributor		Date of Receipt MM / DD / YYYY 02 / 15 / 2014
Mailing Address 123 First Street		Amount of Each Receipt this Period 100.00 In-kind: 0.2 Bitcoins, contribution previously disclosed [MEMO ITEM]*
City Alexandria	State Zip Code VA 22314	
FEC ID number of contributing federal political committee. C		Aggregate Year-to-Date ▼
Name of Employer First Bank	Occupation Teller	
Receipt For: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify) ▼		

Full Name (Last, First, Middle Initial) C.		Date of Receipt MM / DD / YYYY
Mailing Address		Amount of Each Receipt this Period
City	State Zip Code	
FEC ID number of contributing federal political committee. C		Aggregate Year-to-Date ▼
Name of Employer	Occupation	
Receipt For: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify) ▼		

SUBTOTAL of Receipts This Page (optional).....▶	2,500.00
TOTAL This Period (last page this line number only).....▶	

Attachment 2(B) - Bitcoins sold during reporting period to unknown purchaser (appreciated value)

SCHEDULE A (FEC Form 3X)

ITEMIZED RECEIPTS

Use separate schedule(s) for each category of the Detailed Summary Page	FOR LINE NUMBER: (check only one)	PAGE	OF
	<input checked="" type="checkbox"/> 11a <input type="checkbox"/> 13	<input type="checkbox"/> 11b <input type="checkbox"/> 14	<input type="checkbox"/> 11c <input type="checkbox"/> 15

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NAME OF COMMITTEE (In Full)
XYZ Action Fund

Full Name (Last, First, Middle Initial) A. ABC Bitcoin Exchange, Inc.		Date of Receipt <table border="1"> <tr> <td>M M</td> <td>/</td> <td>D D</td> <td>/</td> <td>Y Y Y Y</td> </tr> <tr> <td>04</td> <td></td> <td>15</td> <td></td> <td>2014</td> </tr> </table>	M M	/	D D	/	Y Y Y Y	04		15		2014
M M	/	D D	/	Y Y Y Y								
04		15		2014								
Mailing Address 789 West Street		Amount of Each Receipt this Period <table border="1"> <tr> <td>2,500.00</td> </tr> </table>	2,500.00									
2,500.00												
City New York	State NY	0.2 Bitcoins sold via ABC Exchange - purchaser unknown										
Zip Code 10005	FEC ID number of contributing federal political committee. C											
Name of Employer	Occupation	Aggregate Year-to-Date ▼ <table border="1"> <tr> <td>2,500.00</td> </tr> </table>	2,500.00									
2,500.00												
Receipt For: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify) ▼												

Full Name (Last, First, Middle Initial) B. John Contributor		Date of Receipt <table border="1"> <tr> <td>M M</td> <td>/</td> <td>D D</td> <td>/</td> <td>Y Y Y Y</td> </tr> <tr> <td>02</td> <td></td> <td>15</td> <td></td> <td>2014</td> </tr> </table>	M M	/	D D	/	Y Y Y Y	02		15		2014
M M	/	D D	/	Y Y Y Y								
02		15		2014								
Mailing Address 123 First Street		Amount of Each Receipt this Period <table border="1"> <tr> <td>100.00</td> </tr> </table>	100.00									
100.00												
City Alexandria	State VA	In-kind: 0.2 Bitcoins, contribution previously disclosed [MEMO ITEM]*										
Zip Code 22314	FEC ID number of contributing federal political committee. C											
Name of Employer First Bank	Occupation Teller	Aggregate Year-to-Date ▼ <table border="1"> <tr> <td></td> </tr> </table>										
Receipt For: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify) ▼												

Full Name (Last, First, Middle Initial) C.		Date of Receipt <table border="1"> <tr> <td>M M</td> <td>/</td> <td>D D</td> <td>/</td> <td>Y Y Y Y</td> </tr> <tr> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> </table>	M M	/	D D	/	Y Y Y Y					
M M	/	D D	/	Y Y Y Y								
Mailing Address		Amount of Each Receipt this Period <table border="1"> <tr> <td></td> </tr> </table>										
City	State											
Zip Code	FEC ID number of contributing federal political committee. C											
Name of Employer	Occupation	Aggregate Year-to-Date ▼ <table border="1"> <tr> <td></td> </tr> </table>										
Receipt For: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify) ▼												

SUBTOTAL of Receipts This Page (optional).....▶	<table border="1"><tr><td>2,500.00</td></tr></table>	2,500.00
2,500.00		
TOTAL This Period (last page this line number only).....▶	<table border="1"><tr><td></td></tr></table>	

Attachment 3: Disbursement of Bitcoins for purchase of goods/services (appreciated value)

SCHEDULE B (FEC Form 3X)
ITEMIZED DISBURSEMENTS

Use separate schedule(s) for each category of the Detailed Summary Page

FOR LINE NUMBER:
(check only one)

PAGE OF

<input checked="" type="checkbox"/> 21b	<input type="checkbox"/> 22	<input type="checkbox"/> 23	<input type="checkbox"/> 24	<input type="checkbox"/> 25	<input type="checkbox"/> 26
<input type="checkbox"/> 27	<input type="checkbox"/> 28a	<input type="checkbox"/> 28b	<input type="checkbox"/> 28c	<input type="checkbox"/> 29	<input type="checkbox"/> 30b

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NAME OF COMMITTEE (In Full)
XYZ Action Fund

Full Name (Last, First, Middle Initial)

A.

Common Vendor, Inc.

Mailing Address

2224 Market Street

City

Boston

State

MA

Zip Code

02201

Purpose of Disbursement

Website Services - 2 Bitcoins

Candidate Name

Category/
Type

Date of Disbursement

04 / 15 / 2014

Amount of Each Disbursement this Period

1,000.00

Website services paid with 2 Bitcoins

Office Sought:

House
 Senate
 President

Disbursement For:

Primary General
 Other (specify) ▼

State:

District:

Full Name (Last, First, Middle Initial)

B.

Common Vendor, Inc.

Mailing Address

2224 Market Street

City

Boston

State

MA

Zip Code

02201

Purpose of Disbursement

Website Services - 2 Bitcoins, offsetting entry

Candidate Name

Category/
Type

Date of Disbursement

04 / 15 / 2014

Amount of Each Disbursement this Period

-1,000.00

Website services paid with 2 Bitcoins; offsetting entry, see above

Office Sought:

House
 Senate
 President

Disbursement For:

Primary General
 Other (specify) ▼

State:

District:

Full Name (Last, First, Middle Initial)

C.

Mailing Address

City

State

Zip Code

Purpose of Disbursement

Candidate Name

Category/
Type

Date of Disbursement

Amount of Each Disbursement this Period

Office Sought:

House
 Senate
 President

Disbursement For:

Primary General
 Other (specify) ▼

State:

District:

SUBTOTAL of Disbursements This Page (optional)..... ▶

0.00

TOTAL This Period (last page this line number only)..... ▶