



IS BITCOIN LEGAL?

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As the market capitalization of the cryptocurrency market shoots up, through price movements and a surge in new tokens, regulators around the world are stepping up the debate on oversight into the use and trading of digital assets.

This affects all cryptocurrencies, but especially bitcoin, given its market leadership and integration into the global startup ecosystem.

Very few countries have gone as far as to declare bitcoin illegal. That does not, however, mean that bitcoin is “legal tender” - so far, only Japan has gone as far as to give bitcoin that designation. However, just because something isn’t legal tender, does not mean that it cannot be used for payment - it just means that there are no protections for either the consumer or the merchant, and that its use as payment is completely discretionary.

Other jurisdictions are still mulling what steps to take. The approaches vary: some smaller nations such as Zimbabwe have few qualms about making brash pronouncements casting doubts on bitcoin’s legality. Larger institutions, such as the European Commission, recognize the need for dialogue and deliberation, while the European Central Bank (ECB) believes that cryptocurrencies are not yet mature enough for regulation (although with bitcoin almost 10 years old, one is left wondering when we will know it has reached sufficient maturity). In the United States, the issue is complicated further by the fractured regulatory map - who would do the legislating, the federal government or individual states?

A related question in other countries, to which there is not yet a clear answer, is: should central banks keep an eye on cryptocurrencies, or financial regulators? In some countries they are one and the same thing, but in most developed nations, they are separate institutions with distinct remits.



**COUNTRIES WHERE
BITCOIN IS
LEGAL/ILLEGAL AND
HOW THEY ARE BEING
REGULATED**

Australia



In October 2017, the Australian Senate began debating a bill that would apply anti-money laundering statutes to the country's cryptocurrency exchanges, as well as mandate criminal charges for exchanges that operate without a license.

That same month, the tax authorities removed the "double taxation" of bitcoin, which was a result of a decision in 2014 to treat the cryptocurrency as a "bartered good" rather than a currency or asset.

Canada



Canada was one of the first countries to draw up what could be considered "bitcoin legislation," with the passage of Bill C-31 in 2014, which designated "virtual currency businesses" as "money service businesses," compelling them to comply with anti-money laundering and know-your-client requirements.

The government has specified that bitcoin is not legal tender, and the country's tax authority has deemed bitcoin transactions taxable, depending on the type of activity

Argentina



In spite of a strong bitcoin ecosystem, Argentina has not yet drawn up regulations for the cryptocurrency, although the central bank has issued official warnings of the risks involved.

China



While China has not banned bitcoin (and insists it has no plans to do so), it has cracked down on bitcoin exchanges and appears to be withdrawing preferential treatment (tax deductions and cheap electricity) for bitcoin miners.

Europe



The European Central Bank (ECB), however, is pushing for tighter control over movements of digital currencies as part of a broader crackdown on money laundering, while recognizing the jurisdictional complexities in regulating an asset with no boundaries. In late in 2017, an ECB official stated that the institution did not see bitcoin as a threat, and president Mario Draghi recently confirmed that, in the eyes of the ECB, bitcoin was not "mature enough" for regulation.

Ecuador



In 2014, the National Assembly of Ecuador banned bitcoin and decentralized digital currencies while establishing guidelines for the creation of a new, state-run currency.

Bolivia



In 2014, the central bank of Bolivia officially banned the use of any currency or tokens not issued by the government.

Bangladesh



In 2015, Bangladesh expressly declared that using cryptocurrencies was a "punishable offence."

India



The Indian central bank has issued a couple of official warnings on bitcoin, and at the end of 2017 the country's finance minister clarified in an interview that bitcoin is not legal tender. The government does not yet have any regulations that cover cryptocurrencies, although it is looking at recommendations.

Japan



Japan was the first country to expressly declare bitcoin "legal tender," passing a law in early 2017 that also brought bitcoin exchanges under anti-money laundering and know-your-customer rules.

Malaysia



Malaysia's Securities Commission is working together with the country's central bank on a cryptocurrency regulation framework.

Mexico



In 2014, Mexico's central bank issued a statement blocking banks from dealing in virtual currencies. The following year, the finance ministry clarified that, although bitcoin was not "legal tender," it could be used as payment and therefore was subject to the same anti-money laundering restrictions as cash and precious metals.

At the end of 2017, Mexico's national legislature approved a bill that would bring local bitcoin exchanges under the oversight of the central bank.

Morocco



Towards the end of 2017, Morocco's foreign exchange authority declared that the use of cryptocurrencies within the country violated foreign exchange regulations and would be met with penalties.

Namibia



Namibia is one of the few countries to have expressly declared that purchases with bitcoin are "illegal."

Nigeria



While Nigerian banks are prohibited from handling virtual currencies, the central bank is working on a white paper which will draft its official stance on use of cryptocurrencies as a payment method.

Russia



Draft cryptocurrency legislation from the State Duma's financial regulator is expected in March 2018. The focus appears to be on protecting citizens from scams, while allowing individuals and businesses to work legally with cryptocurrencies.

South Korea



In early 2018, South Korea banned anonymous virtual currency accounts. And in an effort to curb cryptocurrency speculation, the authorities are contemplating a crackdown on exchanges.

In an interesting shift in strategy, a recent report in the South Korean press indicated that the country's financial authorities are in talks with similar agencies in Japan and China over joint oversight of cryptocurrency investment.

Singapore



Singapore has no plans to regulate cryptocurrencies for now, but has reassured the market that it will be keeping an eye on the risks. The central bank, however, is working on a regulatory framework for bitcoin payments, and has issued warnings on bitcoin investments.

Thailand



After allegedly declaring bitcoin illegal, the Bank of Thailand issued a backtracking statement in 2014, clarifying that it is not legal tender (but not technically illegal), and warning of the risks.

For now, cryptocurrency exchanges are not regulated.

United States of America



The U.S. is plagued by a fragmented regulatory system, with legislators at both the state and the federal level responsible for layered jurisdictions and a complex separation of powers.

Some states are more advanced than others in cryptocurrency oversight. New York, for instance, unveiled the controversial BitLicense in 2015, granting bitcoin businesses the official go-ahead to operate in the state (many startups pulled out of the state altogether rather than comply with the expensive requirements). In mid-2017, Washington passed a bill that applied money transmitter laws to bitcoin exchanges.

United Kingdom



Britain's Financial Conduct Authority (FCA) sees bitcoin as a "commodity," and therefore does plan to regulate it. It has hinted, however, that it will step in to oversee bitcoin-related derivatives. This lack of consumer protection has been behind recent FCA warnings on the risks inherent in cryptocurrencies.

Ukraine



The government of Ukraine has created a working group composed of regulators from various branches to draft cryptocurrency regulation proposals, including the determination of which agencies will have oversight and access. Also, a bill already before the legislature would bring cryptocurrency exchanges under the jurisdiction of the central bank.

Zimbabwe



Late in 2017, a senior official from Zimbabwe's central bank stated that bitcoin was not "actually legal." While the extent to which it can and cannot be used is not yet clear, the central bank is apparently undertaking research to determine the risks.