

HD Regulating the outlaw: The Bitcoin bandit

BY James North

WC 1,091 words

PD 8 April 2014

SN Mondaq Business Briefing

SC BBPUB

LA English

CY (c) 2014 Mondaq Ltd

LP

After only three years in existence the web-generated currency, Bitcoin, can pay for you to fly to space, shop on eBay, **buy** a luxury electric car, pay for a house deposit or order pizza. But the mainstream uptake of Bitcoin has left regulators wondering if governments should help or hinder this financial phenomenon.

The US Congressional Law Library recently reviewed how more than 40 governments are dealing with digital currencies like Bitcoin. Governments are scrambling to regulate, while still keeping in mind the potential for digital currencies to restore faith in the global economy and allow savvy countries to help businesses engage more securely and cost-effectively with global markets.

TD

Bitcoins can no longer be dismissed as a faddish fast form of payment: more than 12.4 million Bitcoins worth almost US\$8 billion are in circulation and each day there are US\$100 million Bitcoin online **transactions**. But the market size and scandals -- like the use of Bitcoins by online drug traffickers and the US\$500 million theft that crashed the world's largest Bitcoin exchange -- have put regulators on alert.

WHAT IS BITCOIN?

Bitcoin, a web-generated currency, allows online **transactions** without credit cards, direct debits or other traditional forms of payment.

See our cheat sheet of the Top Ten Bitcoin Basics.

Bitcoin is currently in the spotlight but there are more than 150 digital currencies in the market. Bitcoin is a "cryptographic currency" or "cryptocurrency" because it uses computers to solve complex algorithms from which limited numbers of coins can be 'mined'. Other cryptocurrencies include:

LTCBitcoin's largest competitor, Litecoin (). Limited to 84 million coin (four times Bitcoin's 21 million coin limit). Value US\$10 to US\$20 per coin.

PPCPeercoin (). Infinite coin supply. Value US\$2 to US\$10 per coin.

NMCNamecoin (). Limited to 21 million coins. Value US\$2 to US\$10.

DGCDogecoin (pronounced 'doggy coin') (). Most notable market entrant. Value US 0.0007 to 50 cents per coin.

The subtle differences between each cryptocurrency— particularly in how each is 'mined'—will continue to challenge regulators who are also grappling with the question of whether too much regulation too soon could stymie future cryptocurrency related innovation.

ARE WE ON THE PATH TO INNOVATION??

Businesses like Overstock.com, Virgin Galactic, Wordpress, Reddit, PayPal, eBay, Tesla Motors and Domino's Pizza (in the U.S. via a third party) are using Bitcoin's low **transaction** fees, daily cash outs, lack of payment reversals and merchant tools to cut costs and engage consumers in new ways. Bitcoin is also touted as a future 'micro-**transaction**' platform for online **transactions** that now incur bank fees higher than the cost of goods or services offered.

Bitcoin's online **transactions** do not require the provision of personal or financial information so they are likely to improve consumer confidence undermined by the inadvertent online releases of personal information by businesses including recent data security breaches by Telstra and, in the US, Target.

OR ARE WE ON THE PATH TO ANNIHILATION?

The biggest threat to Bitcoin is volatility. Most businesses find it difficult to adopt a currency whose value can move several hundred dollars in a day because of the unregulated philosophy underlying the Bitcoin protocol.

The Silk Road drug trafficking website boosted Bitcoin until the FBI shut it down and Bitcoin's value plummeted from US\$240 per coin to less than US\$80 in a day. However, six months later Bitcoin was worth \$1200. A Silicon Valley venture capitalist recently predicted it could rise to US\$100,000 per coin.

Bitcoin's value also dropped and then recovered after hackers stole \$500 million that led to the crash of the largest Bitcoin dealing **site**, Mt. Gox. Its closure fed concerns about the lack of security of Bitcoin trading platforms dominated by small tech start-ups.

In such a rapidly changing environment, governments are updating their responses to cryptocurrencies almost daily. The information below, drawn partly from the US Congressional Law Library's cryptocurrency report and recent media coverage, is our snapshot of regulation at the time of writing.

Bitcoin is subject to the same taxation requirements as commercial **transactions**, including GST. The Australian Tax Office advises Bitcoin traders to keep detailed records of their transactions as they are subject to tax. It is not clear how the ATO will link series of anonymous **transactions** to an individual TaxFile Number without the individual self-reporting, so future enforcement is likely to be an issue. Brazil

Brazil is one of only two countries to enact cryptocurrency-specific laws. Law No. 12,865 applies to transactions of 'electronic currencies' and gives the Brazilian Central Bank regulatory power over electronic currencies. The Bank has until 7 April 2014 to establish the regulations. Canada

The Bank of Canada says Bitcoin should have less intensive oversight and regulation than traditional payment systems. In 2013 FINTRAC (Canada's financial intelligence department) told Canada's major Bitcoin exchange operators that they were not 'money services businesses' under the Proceeds of Crime (Money Laundering) and Terrorist Financing Act. Therefore they do not subject to FINTRAC registration or rules. **China Chinese** banks and payment institutions have been prohibited from Bitcoin dealing since 3 December 2013. - be that Bitcoin pricing, buying or selling, providing Bitcoin services to customers or trading Bitcoin with other currencies. European Union

Bitcoin does not fall within either of the major EU payment directives (Electronic Money Directive 2009/110/EC and Payment Services Directive 2007/64/E) but, the European Banking Authority warns that consumers using cryptocurrencies still need to pay tax. United Kingdom

Bitcoin trading is not subject to VAT but any Bitcoin transactions for goods and services will still be taxed at between 10 and 20 percent, depending on the goods or services. USA

Internal Revenue Service guidelines stipulate that Bitcoin will be treated (at least for tax purposes) as '**property**' rather than 'currency' -- like stocks, bonds or real **estate** that are subject to capital gains tax when **sold** at a profit or loss.

The content of this article is intended to provide a general guide to the subject matter. Specialist advice should be sought about your specific circumstances.

Most awarded

firm and Australian deal of the year Employer of Choice for Women

Australasian Legal Business Awards
Equal Opportunity for Women
in the Workplace (EOWA)

Mr James North

Corrs Chambers Westgarth

Level 32, Governor Phillip Tower

1 Farrer Place

Sydney

2000

AUSTRALIA

Tel: 29210 6500

Fax: 29210 6611

E-mail: Savannah.Bassant@corrs.com.au

URL: www.corrs.com.au/thinking

[Click Here for related articles](#)

(c) Mondaq Ltd, 2014 - Tel. +44 (0)20 8544 8300 - <http://www.mondaq.com>

CO ebayus : eBay Incorporated

IN i35104 : Electric/Gas/Biofuel Vehicles | ivicu : Virtual Currencies | i351 : Motor Vehicles | iaut : Automotive
| ibnk : Banking/Credit | ifinal : Financial Services | i64 : Retail/Wholesale | i656000301 : Etailing (B2C) |
ionlauc : Online Auctions | iretail : Retail

NS ccat : Corporate/Industrial News | c13 : Regulation/Government Policy | reqrbc : Suggested Reading
Banking/Credit | ncat : Content Types | nfact : Factiva Filters | nfcpin : FC&E Industry News Filter | redit :
Selection of Top Stories/Trends/Analysis | reqr : Suggested Reading Industry News

RE austr : Australia | apacz : Asia Pacific | ausnz : Australia/Oceania

IPD Media

PUB Mondaq Limited

AN Document BBPUB00020140408ea48000e0