

February 2017

# Bitcoin Regulation: Global Impact, National Lawmaking



Australia, Great Britain, Hong Kong, European Union, Canada, China, Latin America, Russian Federation, United States of America, Ukraine, and Japan

Lawyers from Axon Partners together with experts from ForkLog Research, a cryptocurrency consulting company, prepared this report on the legal regulation of Bitcoin businesses in Australia, Great Britain, Hong Kong, European Union, Canada, China, Latin America, Russia, USA, Ukraine, and Japan.

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This report provides the analyses of jurisdictions popular among Bitcoin businesses in the context of cryptocurrency regulation by national governments.

Structure:

- \* Jurisdiction
- \* Summary – brief outline on of a the section
- \* Background – timeline of cryptocurrency regulation for the period between 2014 and 2014 (in certain cases, the timeline covers 2012 and 2013)
- \* Regulatory Framework – analysis of the legal status of cryptocurrencies and regulatory requirements for theto Bitcoin businesses
- \* Tax Treatment – analysis of tax regulations for special tax rules that apply to cryptocurrency transactions and statements issued by regulators on general tax rules application
- \* Liability – study of national legislation, including court rulings, for partial or full bans on Bitcoin businesses

*Readership:*

*This report is designed for businesses dealing with, or intending to deal with, cryptocurrencies, regulators and banking authorities. Lawyers and other interested parties, can use the document as a source of the latest information on cryptocurrency businesses regulations in the said report jurisdictions.*



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## INTRODUCTION

The difference between fiat money and digital currencies is that fiat money is issued by central banks, while issuers of digital currencies are decentralized. We have to decide what we want our future to be like:

1. A variety of jurisdictions. In this case, things will be more or less like they are now.
2. A globalized world without countries and borders. In this case, we will have a single global government and one decentralized currency.
3. A totally decentralized world. Decentralized money fits this purpose.

*The first and second and versions would be possible if they do not create any inconveniences for governments. Governments may control the whole process of turning the idea of decentralization into fiction, since every centralized regulation of a decentralized system is an oxymoron.*



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## INTRODUCTION

*Cryptocurrencies are one of the key drivers of global social and political reform.*

*The level of citizens' trust in governments falls from year to year all over the world. The most forward-looking members of society are determined either to liquidate the state in its current form, or to replace it with a group of service companies operating on a competitive basis.*

*In this context, major changes will be shaped not only by the so-called public contract, but also by the international legal system as a whole. Decentralized systems are among of the key tools of these changes. This summary covers the problems faced by governments around the world trying to create the most appropriate legal frameworks for cryptocurrency businesses.*

*Due to their historical background, most countries cannot truly embrace innovation and technological progress. In this context, this summary may be considered as a kind of chronicle of regulatory entropy. And, most importantly, the situation with cryptocurrencies correlates with unsystematic attempts to regulate numerous other innovative phenomena.*



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## INTRODUCTION

*What is cryptocurrency? Is it a currency or a commodity? Is it subject to VAT? Are cryptocurrency exchanges required to obtain licenses? Actually, there is no unified approach to dealing with cryptocurrencies: regulators' opinions differ from jurisdiction to jurisdiction (local authorities within one jurisdiction may even disagree on the matter). The key questions remain unanswered, causing additional law enforcement issues. Without specifying the legal status of digital money, it is difficult to even determine tax treatment rules for income (or profits) obtained in cryptocurrency. In fact, cryptocurrency is in a legal vacuum. It is hard to tell whether it is for good or for bad: the answer depends on the specific situation.*

*One can endlessly argue about the nature of cryptocurrencies and their legal status. However, it looks like in 2017, as before, regulators in most jurisdictions will continue to keep a watch on the development of the cryptocurrency industry and warn about the risks associated with the use of digital currencies.*

*In this summary, we provide analysis of certain jurisdictions for the cryptocurrency business in the context of its regulation by governments. The purpose of this document is to provide as much information as possible on the legal requirements for cryptocurrency activities and changing trends in legal regulation.*



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## INTRODUCTION

*Throughout history, when people felt the need to use money, they used all kinds of different, materials including shells, domestic animals, corn, and tobacco. Ancient Spartans used iron money that looked like a bunch of sticks. It wasn't easy to use these sticks, and they were meant to discourage Spartans from theft, corruption or even accumulating wealth. Another example is Russian Alaska, where walrus hide was used for notes.*

*Throughout the ages, mankind has been trying to take a new look at the form and role of money. Our generation's task is to finally turn conventional currencies into digital money.*



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# B

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**Bitcoin** Either a peer-to-peer payment system or the world's first cryptocurrency (as the context may determine)

**Blockchain** Distributed database based on consensus between the participants of a Bitcoin distributed system

# C

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**Cryptocurrency** Cryptographically secured decentralized digital currency. Information about cryptocurrency transactions is collected and stored on Blockchain. In this document, the terms 'digital money', 'cryptocurrency', 'virtual currency', and 'digital currency' are used interchangeably

**Cryptocurrency Exchange** A platform that provides services allowing to exchange one cryptocurrency for another and, in certain cases, exchange cryptocurrencies for fiat money. Cryptocurrency exchanges may also provide services like margin trading

**Cryptocurrency Activities** Activities directly or indirectly related to cryptocurrencies (for example, mining or use of cryptocurrencies as a medium of payment or exchange). These activities may be both commercial and noncommercial (for example, research)

**Cryptocurrency Relations** Commercial and noncommercial relations involving cryptocurrencies (for example, cryptocurrency exchange)

|                                   |  |
|-----------------------------------|--|
| <b>Cryptocurrency Transaction</b> | A transaction confirmed by digital signature intended to transmit digital tokens, information on which is stored on Blockchain   |
| <b>Cryptocurrency Operation</b>   | Operation involving cryptocurrencies   |
| <b>Cryptocurrency Company</b>     | A company carrying out cryptocurrency activities, as a rule, for commercial purposes   |
| <b>Cryptocurrency Wallet</b>      | Specialized software or platform allowing to store cryptocurrencies and conduct cryptocurrency transactions. In some cases, cryptocurrency wallets allow to exchange cryptocurrencies for fiat money   |
| <b>Cryptocurrency Trading</b>     | Systematic activities carried out by cryptocurrency exchanges intended to make profits. In the context of this document, these are regular operations involving the exchange of one cryptocurrency for another   |
| <b>Cryptocurrency Community</b>   | A group of people based all over the world involved in cryptocurrency activities and contributing to the development of cryptocurrencies. The crypto community's activities are primarily non-commercial and voluntary. The international cryptocurrency community has no coordination center and every individual or group act at their sole discretion |
| <b>Cryptocurrency Industry</b>    | Companies and individuals dealing in cryptocurrencies and/or participating in cryptocurrency relations   |

# M

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## **Mining**

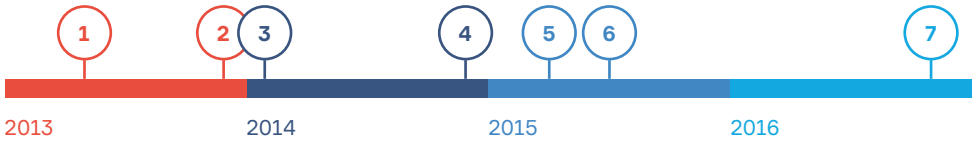
Resolving cryptographic puzzles using computing capacity or special devices. Mining is used to process transactions and issue new tokens in the Bitcoin network. It is decentralized and protected from any attacks



**Australia**

The Australian government is seeking to provide a favorable environment to develop tech companies and create local fintech centers. The government apparently intends to become one of the most progressive jurisdictions and to use Blockchain for public administration (for example, in overland transport management). Australia Post is also looking into using Blockchain. Non-governmental projects with the a focus on digital money and decentralized technologies are also actively developing.

Digital currency is not defined as a finance product, and consequently, cryptocurrency activities are not subject to licensing (except for activities involving fiat money or other finance products). The Australian Digital Currency & Commerce Association launched the Digital Currency Industry Code of Conduct that established best practice standards of conduct for businesses operating in the Australian digital currency industry. However, this document applies only to Association members. In addition, Australian lawmakers are actively developing anti-money laundering and counter terrorism financing regulations that would apply to digital currencies. Operations involving cryptocurrencies are taxed under general rules, i.e. income tax and corporate tax. However, there is a double taxation problem in Australia: goods and services tax is levied when fiat money is exchanged for cryptocurrencies, and when cryptocurrencies are used to pay for goods and services. At the same time, when cryptocurrencies are used for investment, capital gains tax is not levied.



- 1 May 2013**

Reserve Bank of Australia defined Bitcoin as an alternative to national currencies and a payment system
- 2 December 2013**

The governor of the Reserve Bank of Australia indicated that “there would be nothing to stop people in this country deciding to transact in some other currency in a shop if they wanted to”
- 3 February 2014**

The Australian Taxation Office to work out the approaches to tax treatment of cryptocurrency transactions

Australian Securities and Investments Commission (ASIC) states intention to regulate activities involving cryptocurrencies
- 4 December 2014**

According to the Australian Securities and Investments Commission, digital currencies may not be defined as financial products
- 5 April 2015**

Reserve Bank of Australia: says any potential benefit of cryptocurrency regulation will exceed the cost
- 6 August 2015**

Economics References Committee: cryptocurrencies to be treated as money for the purposes of goods and services tax
- 7 November 2016**

Australian Accounting Standards Board: says it is necessary to work out accounting standards for digital currencies

<sup>1</sup> Information Paper for the Payments System Board [Electronic resource] // Reserve Bank of Australia. — May 2013. — [Mode of access](#)

<sup>2</sup> Glenn Stevens says Bitcoins show promise, but so did tulips [Electronic resource] // The Australian Financial Review. — 12/13/2013. — [Mode of access](#)

<sup>3</sup> ATO weighs Bitcoin rules [Electronic resource] // The Australian Financial Review. — 2/9/2014. — [Mode of access](#)

<sup>4</sup> Australian Government Tracks All Bitcoin to AUD Conversions [Electronic resource] // CoinDesk. — 2/24/2014. — [Mode of access](#)

<sup>5</sup> ATO weighs Bitcoin rules [Electronic resource] // The Australian Financial Review. — 2/9/2014. — [Mode of access](#)

Cryptocurrencies have been under discussion since 2013, when the Reserve Bank of Australia defined Bitcoin as an alternative to national currencies and a payment system.<sup>1</sup>

In late 2013, when speaking about Bitcoin, Glenn Stevens, the Reserve Bank governor said that US dollars, Euros or any other currency can be held freely in Australia and there is no law prohibiting people from transacting in any currency if they want to.<sup>2</sup>

In February 2014, Michael Hardy from the Australian Taxation Office said that the tax office was working out approaches to tax treatment of cryptocurrencies.<sup>3</sup>

In February 2014, John Schmidt, CEO at Australian Transaction Reports and Analysis Center said that Bitcoin could possibly attract criminal organizations. However, according to Mr. Schmidt, such a threat was not a major issue for Australia.<sup>4</sup>

At the same time, a representative of the Australian Securities and Investments Commission (ASIC) said that they were looking into the possibilities to regulate activities involving cryptocurrencies.<sup>5</sup>

In 2014, the Australian Securities and Investments Commission informed that digital currencies were not a financial product. Consequently, operators did not need licenses to purchase, trade, and hold digital currencies, as well as to carry out other transactions, except those involving fiat money and other legally defined financial products.<sup>6</sup>

In March 2015, the Department of the Treasury released



<sup>6</sup> Australian Regulator: Bitcoin is Not a Financial Product [Electronic resource] // CoinDesk. — 12/16/2014. — [Mode of access](#)

<sup>7</sup> Re:think — Better tax, better Australia [Electronic resource] // Australian Government. — March 2015. — [Mode of access](#)

<sup>8</sup> Opening Statement to the Senate Economics References Committee Inquiry into Digital Currency [Electronic resource] // Reserve Bank of Australia. — 4/7/2015. — [Mode of access](#)

<sup>9</sup> Digital currency—game changer or bit player [Electronic resource] // Parliament of Australia. — 8/4/2015 — [Mode of access](#)

<sup>10</sup> Australian Government Pushes for Bitcoin Accounting Standards [Electronic resource] // CoinDesk. — 11/21/2016. — [Mode of access](#)

<sup>11</sup> Government response to the Senate Economics References Committee report: Digital currency—game changer or bit player [Electronic resource] // The Treasury. — 5/5/2016. — [Mode of access](#)

the a tax discussion paper indicating that digital currencies had not been contemplated when the current tax system was had been designed.<sup>7</sup>

In April 2015, the Reserve Bank of Australia stated that benefits of cryptocurrency activities regulation would not outweigh the potential costs.<sup>8</sup>

In August 2015, the Senate Economics References Committee released a report indicating that cryptocurrencies had to be treated as money for the purposes of goods and services tax. In addition, tax regulations have to be amended to free cryptocurrency exchange operations from tax, and to levy tax when cryptocurrencies are used to pay for goods and services.<sup>9</sup>

In November 2016, the Australian Accounting Standards Board released a position paper, stating the necessity to work out accounting standards for digital currency and other intangibles assets.<sup>10</sup>

In May 2016, the government agreed with the Senate Economics References Committee that anti-money laundering and counter terrorism financing regulations should be applied to local cryptocurrency exchanges.<sup>11</sup>

In October 2016, the government started to work out the amendments to anti-money laundering laws to include digital currency exchanges. The governments is planning to begin finalizing the legislation in 2018.<sup>12</sup>

<sup>12</sup> Australia Will Regulate Bitcoin Exchanges Under AML Laws // CoinDesk. — 8/8/2014. — [Mode of access](#)

<sup>13</sup> Australian Regulator: Bitcoin is Not a Financial Product [Electronic resource] // CoinDesk. — 12/16/2014. — [Mode of access](#)

<sup>14</sup> Australian Digital Currency Industry Code of Conduct [Electronic resource] // Australian Digital Currency business association — 02.12.2016. — [Mode of access](#)

In Australia, cryptocurrency is not defined as a financial product. Consequently, cryptocurrency transactions, including purchase, sale, holding, etc., are not subject to licensing. This rule does not apply to cryptocurrency operations related to fiat money and other financial products, including the exchange of cryptocurrencies for fiat money.<sup>13</sup>

In addition, in December 2016, the Australian Digital Currency Industry Code of Conduct (hereinafter referred to as “Code”) came into force, developed by the Australian Digital Currency & Commerce Association (hereinafter referred to as the “Association”).<sup>14</sup>

The Code is binding only for Association members who undertake to:

- \* Comply with anti-money laundering requirements and counter terrorist financing legislation

- \* Verify information concerning company directors, top managers and shareholders

- \* Comply with ‘Know Your Customer’ policies

- \* Ensure that customers are able to seek indemnification in good faith in case services have been provided improperly

<sup>15</sup> Id.

In addition, to ensure compliance with the Code’s requirements, annual audits and certification of Association members have been introduced. In case any member has failed to comply with the Code’s requirements, the Association may impose penalties<sup>15</sup>.

<sup>16</sup> Australian Tax Office Explains Bitcoin, Intends to Tax it [Electronic resource] // CoinDesk. — 3/14/2014. — [Mode of access](#)

<sup>17</sup> Tax treatment of crypto-currencies in Australia — specifically bitcoin [Electronic resource] // Australian Taxation Office. — 12/18/2014. — [Mode of access](#)

<sup>18</sup> Id.

<sup>19</sup> Government response to Australia's FinTech priorities [Electronic resource] // The Treasury. — [Mode of access](#)

<sup>20</sup> Tax treatment of crypto-currencies in Australia — specifically bitcoin [Electronic resource] // Australian Taxation Office. — 12/18/2014. — [Mode of access](#)

<sup>21</sup> Id

In March 2014, the Australian Taxation Office notified Bitcoin businesses that profits obtained from digital currency activities are subject to income tax and corporate tax.<sup>16</sup>

According to the guidance paper on the tax treatment of cryptocurrencies, for the purpose of goods and services tax, cryptocurrency transactions are treated as barter agreements.<sup>17</sup>

In fact, this means that Australia has issues with double tax applied to digital currencies, since goods and services tax is levied twice: when fiat money is exchanged for digital currencies and when digital currencies are used to pay for goods and services.

However, double tax is applied only to Bitcoin businesses, since users are not required to pay double tax, provided that the total amount of cryptocurrency does not exceed 10,000 Australian dollars.<sup>18</sup>

In addition, the government intends to revoke double tax treatment of cryptocurrency operations.<sup>19</sup>

If a digital currency is used for investment, capital gains tax is not due.<sup>20</sup> In addition, wages to employees may be paid in cryptocurrency, provided that there is an agreement between the employer and employee.<sup>21</sup>

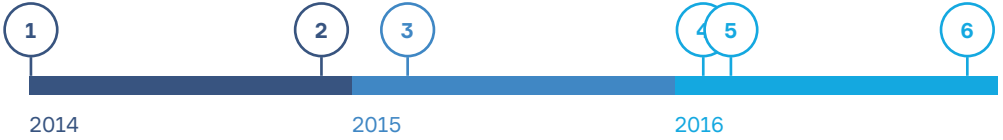


**Great Britain**

Great Britain is a leader of cryptocurrency integration and one of the most favorable and convenient jurisdictions for Bitcoin businesses. In addition, the British government provides support to cryptocurrency startups.

However, the government has not yet worked out a clear-cut regulatory framework for crypto activities. In fact, cryptocurrencies are in a gray zone (legal vacuum). At the same time, the government intends to regulate cryptocurrencies in order to prevent the use of digital currencies for money laundering, financing terrorism, and other illegal activities, and as well to support innovations in this sphere.

The revenues of Bitcoin businesses are subject to capital gains tax, corporation tax, and income tax.



- 1 2014**  
The Bank of England released its first statement concerning Bitcoin.
- 2 November 2014**  
HM Treasury issued a Call for Information on digital currencies.
- 3 March, 2015**  
Her Majesty's Government agreed that digital currencies pose insignificant risks to financial and monetary systems
- 4 February 2016**  
The Commonwealth Working Group on Virtual Currencies published a report on the legal status of digital currencies and regulation of transactions involving digital currencies
- 5 March 2016**  
The Bank of England to create digital currency RSCoin
- 6 November 2016**  
Nine companies involved in cryptocurrency activities joined the regulatory sandbox.

<sup>22</sup> The economics of digital currencies [Electronic resource] / R.Ali, J. Barrdear, R. Clews, J. Southgate // Bank of England. — 2014. — [Mode of access](#)

<sup>23</sup> UK Treasury Issues 'Call for Information' on Digital Currencies [Electronic resource] // CoinDesk. — 04.11.2014. — [Mode of access](#)

<sup>24</sup> Digital currencies: call for information [Electronic resource] // The UK Government. — 03.11.2014. — [Mode of access](#)

In 2014, the Bank of England first addressed the public about Bitcoin by publishing an article titled “The economics of digital currencies” in the Bank’s quarterly bulletin.

According to experts, the greatest hypothetical risk to the monetary system that might be posed by digital currencies is if the economy were to become ‘Bitcoinised’ — where ‘Bitcoinised’ means the use of the cryptocurrency as a major means of payment. This would affect the government’s ability to influence price-setting and regulate the economic system. Though the economy is extremely unlikely to become Bitcoinised, Bitcoin may be possibly used alongside sterling.<sup>22</sup>

In November 2014, Her Majesty’s Treasury (hereinafter referred to as the “Treasury”) issued a Call for Information on digital currencies with the purpose to look into the potential barriers that Bitcoin businesses face and the potential benefits and risks of cryptocurrencies. Experts in digital currencies and decentralized technologies responded to 13 key questions posed by the Treasury.<sup>23</sup>

The call for information received over 120 responses, and in 2015, the Treasury published a Response to the Call for Information.<sup>24</sup> The UK government agreed with the majority of respondents and the Bank of England assessment that the use of digital currencies poses minimal risks to the financial stability and the British monetary system.<sup>25</sup> It was also noted that the regulation of cryptocurrencies would not only prevent criminal use, but also support innovation.<sup>26</sup>

In October 2016, the Commonwealth Working Group on

<sup>25</sup> Digital currencies: response to the call for information [Electronic resource] // The UK Government. — March 2015. — [Mode of access](#)

<sup>26</sup> Id.

<sup>27</sup> Working Group Report [Electronic resource] // The Commonwealth. — October 2016  
[Mode of access](#)

<sup>28</sup> Broadbent B. Central banks and digital currencies [Electronic resource] / Ben Broadbent // Bank of England. — 3/2/2016. — [Mode of access](#)

<sup>29</sup> Central banks beat Bitcoin at own game with rival supercurrency [Electronic resource] // The Telegraph. — 3/3/2016. — [Mode of access](#)

<sup>30</sup> Project Innovate and Innovation Hub // Financial Conduct Authority. — 11/1/2016. — [Mode of access](#)

<sup>31</sup> The United States is Falling Behind in Bitcoin Regulation / Kyle Torpey // Bitcoin Magazine. — 4/25/2016. — [Mode of access](#)

Virtual Currencies published a report on the legal status of digital currencies and regulation of transactions involving digital currencies.<sup>27</sup>

In March 2016, Mr. Ben Broadbent, Deputy Governor for Monetary Policy at the Bank of England gave a speech at the London School of Economics. According to Mr. Broadbent, innovation is extremely important for digital currencies.<sup>28</sup>

Reportedly, a scientist from University College London helped the Bank of England to create the digital currency known as RSCoin.<sup>29</sup>

In May 2016, the Financial Conduct Authority (hereinafter referred to as the “FCA”) published detailed information on its official website about Project Innovate (Innovation Hub).<sup>30</sup> Its participants are new businesses involved in electronic commerce, including cryptocurrency exchange companies, can receive advice regarding the legal regulation of their business activities.<sup>31</sup>

The regulatory sandbox is a special environment that allows fintech businesses to test their products and communicate with customers (users) without any risk of breaching the law. The sandbox participants don’t have to obtain any licenses or register with any public authorities.<sup>32</sup> In November 2016, it was announced that 22 startups were involved in the regulatory sandbox, including nine companies involved in cryptocurrency activities: Epiphyte, Luno, SETL and others.<sup>33</sup>



<sup>32</sup> Regulatory sandbox [Electronic resource] // Financial Conduct Authority. — 11/21/2016. — [Mode of access](#)

<sup>33</sup> UK Regulator Adds 9 Blockchain Startups to Fintech 'Sand-box' / CoinDesk. — 11/7/2016. — [Mode of access](#)

<sup>34</sup> Bitcoins and the law: what's the position?. (2014). Lawyer 2B, 4.

<sup>35</sup> Bitcoin Start-Up Gets an Electronic Money License in Britain [Electronic resource] // The New York Times. — 4/6/2016. — [Mode of access](#)

<sup>36</sup> Action Plan for anti-money laundering and counter-terrorist finance [Electronic resource] // Gov.uk. — April 2016. — [Mode of access](#)

In 2014, the FCA confirmed that bitcoin is neither currency nor money, so it falls outside the scope of the UK financial services regulatory framework. Therefore, a digital currency is still regarded as a unique digit combination generated through complex mathematical calculations and algorithms. Consequently, bitcoins also fall outside the British Money Laundering Regulations 2007.<sup>34</sup>

In April 2016, the FCA granted the first electronic money license to Circle. The license made it possible for Circle to establish a banking relationship with Barclays, the British bank. It is the first time that a large global bank has agreed to work with a cryptocurrency company.

The Economic Secretary to the Treasury said that the license and Barclays' relationship with Circle "prove our decision to introduce the most progressive, forward-looking regulatory regime is paying off".<sup>35</sup>

In April, the Treasury published an Action Plan for anti-money laundering and counter-terrorist finance. In this document, the Treasury proposed to use anti-money laundering legislation for cryptocurrency exchanges and other companies involved in cryptocurrency exchange activities. However, such legislation is not to be applied to companies that provide cryptocurrency wallets to users, but do not provide digital currency exchange services.<sup>36</sup>

## TAX TREATMENT

In 2014, Her Majesty's Revenue and Customs (hereinafter referred to as "HMRC") released a policy paper on the tax

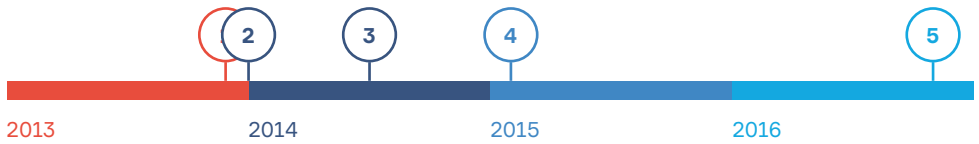
<sup>37</sup> Revenue and Customs Brief 9 (2014): Bitcoin and other cryptocurrencies [Electronic resource] // Gov.uk. — 3/3/2014. — [Mode of access](#)

treatment of digital currencies, according to which any income received from mining activities will generally be outside the scope of value-added tax (hereinafter referred to as “VAT”), and when digital currencies are exchanged for Sterling or foreign currencies, no VAT will be due.

However, VAT will be due from suppliers of any goods or services sold in exchange for any cryptocurrency. The value of the supply of goods or services on which VAT is due will be the sterling value of the cryptocurrency at the point the transaction takes place. In addition, activities involving cryptocurrencies will be subject to corporation tax, income tax, or capital gains tax, depending on the activities and the parties involved.<sup>37</sup>



**Hong Kong**



- 1 November 2013**  
The Hong Kong Monetary Authority labeled Bitcoin a virtual commodity and informed that it had no intention to regulate it.
- 2 January 2014**  
The Secretary for Financial Services and the Treasury issued a statement warning the public that Bitcoin is a highly speculative commodity
- 3 July 2014**  
The Hong Kong Police Force warned about the risks of Bitcoin trading and investing.
- 4 February 2015**  
Hong Kong Bitcoin exchange closed, taking with it about 387 million USD in investor funds.
- 5 November 2016**  
The Hong Kong Monetary Authority warned that overall implementation of Blockchain technology may increase the risk of its use for criminal purposes.

<sup>38</sup> Legal System in Hong Kong [Electronic resource] // Department of Justice of the Hong Kong Special Administrative Region. — 3/11/2016. — [Mode of access](#)

<sup>39</sup> Bitcoin not regulated by the Hong Kong Monetary Authority (HKMA) [Electronic resource] // Medium. — 11/17/2013. — [Mode of access](#)

<sup>40</sup> Hong Kong Treasury Official Issues Bitcoin Warning [Electronic resource] // CoinDesk. — 1/9/2014. — [Mode of access](#)

<sup>41</sup> Virtual Commodities Trading (Bitcoin) [Electronic resource] // Hong Kong Police Force. December 2016. — [Mode of access](#)

Hong Kong gained its independence from Great Britain and became a special Chinese administrative region in 1997. Therefore, Hong Kong has a peculiar legal system. Up to 2047, local Hong Kong legislation adopted before 1997 (influenced by Great Britain) will be applicable, together with the laws of China that apply to defense issues and foreign affairs.<sup>38</sup> Like in the UK, cryptocurrencies fall outside legal regulation, and no special tax treatment is provided under tax regulations.

In November 2013, Norman Chan, Chief Executive of the Hong Kong Monetary Authority (hereinafter referred to as “HKMA”) said that Bitcoin is a virtual commodity, and the regulator does not intend to regulate it.<sup>39</sup>

In January 2014, the Secretary for Financial Services and the Treasury warned that Bitcoin was a highly speculative commodity which posed numerous risks to anyone who might decide to trade, exchange or hold digital currencies.<sup>40</sup>

In July 2014, the Hong Kong Police Force warned about the risks of cryptocurrency trading and investing. Again, Bitcoin was labeled a highly speculative commodity.<sup>41</sup>

In February 2015, Hong Kong bitcoin exchange shut its doors (claimed bankruptcy), taking with it about 387 million USD in investor funds.<sup>42</sup>

The HKMA reminded that given the highly speculative nature of Bitcoin, transactions with cryptocurrencies require extra precautions.<sup>43</sup>

In March 2015, the Secretary for Financial Services and

<sup>42</sup> Hong Kong's My Coin Disappears With Up To \$387 Million, Reports Claim [Electronic resource] // CoinDesk. — 2/9/2015. — [Mode of access](#)

<sup>43</sup> The HKMA reminds the public to be aware of the risks associated with Bitcoin [Electronic resource] // Hong Kong Monetary Authority. — 2/11/2015. — [Mode of access](#)

<sup>44</sup> Hong Kong Official: Bitcoin Legislation Not Necessary [Electronic resource] // Coin Desk. — 3/25/2015. — [Mode of access](#)

<sup>45</sup> Центробанк Гонконга предупредил о возможном использовании блокчейн-платформ в преступных целях [Электронный ресурс] // ForkLog. — 11/11/2016. — [Mode of access](#)

the Treasury indicated that the government does not see the need for legislation to regulate or ban cryptocurrency activities..<sup>44</sup>

In November 2016, the HKMA warned that overall implementation of Blockchain technology may increase the risk of its use for criminal purposes.<sup>45</sup>

Tax regulations do not contain special tax rules for cryptocurrencies and cryptocurrency transactions, and regulators did not release any statements on the matter.



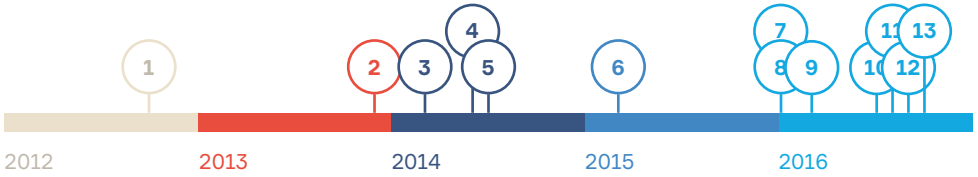
**European Union**

The European Union includes 28 countries, each of which has its national regulations on both traditional and Bitcoin businesses. Still, EU member states are considered favorable jurisdictions for Bitcoin businesses.

As of today, no EU regulator has enacted any special regulations for cryptocurrency activities. In 2016, the European Commission suggested to establish additional regulations for cryptocurrency exchanges and companies providing cryptocurrency wallets to users. In particular, to introduce the requirements for mandatory registration or licensing for cryptocurrency exchanges exchanging cryptocurrencies for fiat money and vice versa and companies providing cryptocurrency wallets to users.

Up to the end of 2016, cryptocurrencies and crypto operations were regulated within the scope of anti-money laundering and counter terrorist financing policies. For tax purposes, cryptocurrencies and cryptocurrency operations are treated according to local regulations of EU member states, with the exception of value-added tax as in November 2015 the European Court of Justice ruled that no value-added tax is due when Bitcoin is sold or purchased for fiat money.





- 1** **October 2012**

The European Central Bank defined Bitcoin as convertible decentralized virtual currency
- 2** **December 2013**

The European Banking Authority warned that users were not protected from financial losses in case an exchanger went out of business
- 3** **March–May 2014**

A European Central Bank official said that digital currencies pose certain risks to users
- 4** **June 2014**

According to the Organization for Economic Cooperation and Development, though there are certain risks related to Bitcoin, its protocol may be very important for the financial system
- 5** **July 2014**

The European Banking Authority advised that financial institutions should not buy, hold or sell cryptocurrencies until regulations for digital currencies would be enacted
- 6** **March 2015**

The European Central Bank issued a summary where digital currencies were outlined as unstable currencies that nevertheless could change payment systems.
- 7** **January 2016**

The European Commission announced that it was going to toughen reporting rules applied to exchanges and cryptocurrency wallet providers
- 8** **January 2016**

Public hearings took place in the European Parliament dedicated to cryptocurrencies. An official from the European Parliament budget committee stated that the European Parliament was going to keep watch over cryptocurrencies. He also noted that there is no hurry in regulation of financial products

- 9 February 2016**  
The European Parliament's Committee on Economic and Monetary Affairs released a draft report on virtual currencies, according to which no direct regulation for Bitcoin and other virtual currencies was required
- A European Council conclusion was published calling to amend the existing EU anti-money laundering and counter terrorist financing regulations in particular, in the context of cryptocurrencies
- 10 July 2016**  
The European Commission proposed to adopt a directive that would require cryptocurrency wallet providers to comply with EU Directive 2015/849.
- 11 August 2016**  
The European Banking Authority published an Opinion on the proposed Directive, saying provisions on the collection of personal data should be more strict
- 12 September 2016**  
Europol announced the establishment of a working group in cooperation with the International Police Organization (Interpol) and the Basel Institute of Management aimed at combating money laundering involving cryptocurrency
- 13 October 2016**  
The European Central Bank supported the regulation of cryptocurrency exchanges, pointing out that digital currency was neither money, nor currency, and warned that the wide use of virtual currencies could affect central banks' powers to control the money supply

<sup>46</sup> Virtual currency schemes  
[Electronic resource] // European  
Central Bank. — October 2012. —  
[Mode of access](#)

<sup>47</sup> EU Banking Regulator Issues  
Warning on Virtual Currencies  
[Electronic resource] // Coin-  
Desk. — 12/13/2013. — [Mode of  
access](#)

<sup>48</sup> European Central Bank: Bitcoin  
Shouldn't be Ignored or Dismissed  
[Electronic resource] // Coin-  
Desk. — 3/25/2014. — [Mode of  
access](#)

<sup>49</sup> European Central Bank: Bitcoin  
a Risky Alternative to Euro [Elec-  
tronic resource] // CoinDesk. —  
5/21/2014. — [Mode of access](#)

<sup>50</sup> The Bitcoin Question [Elec-  
tronic resource] // Organisation  
for Economic Co-operation and  
Development. — 6/16/2014. —  
[Mode of access](#)

Back in 2012, the European Central Bank (hereinafter referred to as the “ECB”) released a report stating that traditional financial regulation may not be applicable to Bitcoin. Bitcoin was defined as a convertible decentralized virtual currency.<sup>46</sup>

In December 2013, the European Banking Authority (hereinafter referred to as the “EBA”) warned that cryptocurrencies were not bank assets, and cryptocurrency business fell outside of the regulatory framework, and therefore, users were not protected from financial losses in case an exchange went out of business.<sup>47</sup>

In March 2014, ECB official Yves Mersch said that despite their relatively small impact on the economy, digital currencies pose certain risks to users. He also stated that digital currencies should not be ignored.<sup>48</sup> In May 2014, Mersch said that users had problems with understanding what was going on in the cryptocurrency market, in particular due to the lack of regulations.<sup>49</sup>

In June 2014, the Organization for Economic Cooperation and Development (hereinafter referred to as the “OECD”) stated that though there are certain risks related to Bitcoin, its protocol may be very important for the financial system.<sup>50</sup>

In July 2014, the EBA published an opinion addressed to the European Council, European Commission and European Parliament and advised that financial institutions should not buy, hold or sell cryptocurrencies until regulations for digital currencies would be enacted.<sup>51</sup>

<sup>51</sup> EBA proposes potential regulatory regime for virtual currencies, but also advises that financial institutions should not buy, hold or sell them whilst no such regime is in place [Electronic resource] // European Banking Authority. — 7/4/2014. — [Mode of access](#)

<sup>52</sup> Virtual currency schemes — a further analysis [Electronic resource] // European Central Bank. — February 2015. — [Mode of access](#)

<sup>53</sup> Questions and Answers: Action Plan to strengthen the fight against terrorist financing [Electronic resource] // European Commission. — 2/2/2016. — [Mode of access](#)

<sup>54</sup> EU is not going to ban cryptocurrencies [Electronic resource] // ForkLog. — 1/26/2016 — [Mode of access](#)

<sup>55</sup> Draft report on virtual currency — a further analysis [Electronic resource] // European Parliament. — 2/23/2016. — [Mode of access](#)

In March 2015, the ECB issued a summary where digital currencies were labeled as unstable currencies that nevertheless could change payment systems.<sup>52</sup>

In early January 2016, the European Commission announced that it was going to toughen reporting rules applied to exchanges and companies providing cryptocurrency wallets to users (cryptocurrency wallet providers). In particular, the European Commission was going to require European cryptocurrency exchanges and cryptocurrency wallet providers to verify the identities of their users.<sup>53</sup>

In January 2016, a public hearing took place in the European Parliament dedicated to cryptocurrencies. An official from the European Parliament budget committee stated that the European Parliament was going to keep watch over cryptocurrencies. He also noted that there is no hurry in regulation financial products.<sup>54</sup> In late February, the European Parliament's Committee on Economic and Monetary Affairs (hereinafter referred to as "ECON") released a draft report.

On virtual currencies, according to which no direct regulation for Bitcoin and other virtual currencies is required. ECON also suggested to adjust Bitcoin regulations in accordance with existing anti-money laundering and counter terrorist financing regulations. In addition, the authors of the report proposed to create a special taskforce to deal with cryptocurrency-related issues.<sup>55</sup> In May, the European Parliament approved the proposal for the taskforce.<sup>56</sup>

In February 2016, a European Council conclusion was

<sup>56</sup> EU Parliament Approves Proposal for Digital Currency Task Force [Electronic resource] // CoinDesk. — 5/26/2016. — [Mode of access](#)

<sup>57</sup> Council conclusions on the fight against the financing of terrorism [Electronic resource] // European Council. — 7/5/2016. — [Mode of access](#)

<sup>58</sup> Commission strengthens transparency rules to tackle terrorism financing, tax avoidance and money laundering [Electronic resource] // European Commission. — 7/5/2016. — [Mode of access](#)

<sup>59</sup> Proposal for a Directive of the European Parliament and of the Council 2016/0208 (COD) [Electronic resource] // European Commission. — 7/5/2016. — [Mode of access](#)

<sup>60</sup> European Union Adopts Tighter Bitcoin Controls Amid Terrorism Crackdown [Electronic resource] // CoinDesk. — 7/5/2016. — [Mode of access](#)

published calling to amend the existing regulations.<sup>57</sup>

In July, 2016 the European Commission proposed to adopt a directive that would require cryptocurrency wallet providers to comply with the Directive (EU) 2015/849.<sup>58</sup> The European Commission proposed to introduce mandatory registration and licensing for cryptocurrency exchange operators exchanging cryptocurrencies for fiat money and vice versa, as well as cryptocurrency wallet providers. The draft Directive made provisions for the establishment of central databases of digital currency users.<sup>59</sup> The proposal was submitted to the European Parliament.<sup>60</sup> The proposed Directive will apply only to cryptocurrency wallet providers storing at least one personal key on their servers.<sup>61</sup>

In August 2016, the EBA published an Opinion on the proposed Directive. According to the Opinion, the provisions on the collection of personal data should be more strict, and European regulators should be able to impose sanctions on cryptocurrency exchanges and cryptocurrency wallet providers failing to comply with the rules.<sup>62</sup>

In September 2016, Europol announced the establishment of a working group in cooperation with the International Police Organization (Interpol) and the The Basel Institute on Governance aimed at combating money laundering.<sup>63</sup> In October 2016, the ECB published its Opinion on the European Commission's proposal.<sup>64</sup>

In its Opinion, the EBA:

\* Supported the mandatory registration or licensing of

<sup>61</sup> E.U. Representatives Clarify the Proposed Anti-Money Laundering Directive [Electronic resource] // Bitcoin Magazine. — 8/3/2016. — [Mode of access](#)

<sup>62</sup> Opinion of the European Banking Authority on the EU Commission's proposal to bring Virtual Currencies into the scope of Directive (EU) 2015/849 (4AMLD) [Electronic resource] // European Banking Authority. — 8/11/2016. — [Mode of access](#)

cryptocurrency exchanges exchanging cryptocurrencies for fiat money and vice versa, and as well for cryptocurrency wallet providers.

\* Indicated that it would be more accurate to treat virtual currencies as a means of exchange, rather than as a means of payment.

\* Pointed out that virtual currency is neither money nor currency

\* Warned that the wide use of virtual currencies may affect central banks' powers to control the money supply.

## REGULATORY FRAMEWORK

<sup>63</sup> Money Laundering with Digital Currencies: Working Group Established [Electronic resource] // Europol. — 9/9/2016. — [Mode of access](#)

<sup>64</sup> Opinion of the European Central Bank CON/2016/49 [Electronic resource] // European Central Bank. — 10/12/2016. — [Mode of access](#)

EU regulators use the term 'virtual currency' instead of the term 'cryptocurrency'.

Virtual currency is treated as a means of payment. In particular, this is evidenced by the European Commission's proposal to establish an additional regulation for virtual currency exchanges and virtual currency wallet providers by adopting a Directive.<sup>65</sup>

However, the ECB criticized this approach. According to the regulator, the definition of a cryptocurrency as a virtual currency is inaccurate. In addition, according to the ECB Opinion, virtual currencies are a means of exchange, not a means of payment, and is neither money, nor currency.<sup>66</sup>

<sup>65</sup> Proposal for a Directive of the European Parliament and of the Council 2016/0208 (COD) [Electronic resource] // European Commission. — 7/5/2016. — [Mode of access](#)

<sup>66</sup> Opinion of the European Central Bank CON/2016/49 [Electronic resource] // European Central Bank. — 10/12/2016. — [Mode of access](#)

At the same time, the directive proposed by the European Commission provides for the mandatory registration or licensing of cryptocurrency exchanges exchanging cryptocurrencies for fiat money and vice versa, and cryptocurrency wallet providers. In addition, it provides for the establishment of a central database containing information about digital currency users.<sup>67</sup>

By the end of 2016, no specific rules had been enacted that would regulate cryptocurrency activities by EU regulators (agencies).

## TAX TREATMENT

<sup>67</sup> Proposal for a Directive of the European Parliament and of the Council 2016/0208 (COD) [Electronic resource] // European Commission. — 7/5/2016. — [Mode of access](#)

<sup>68</sup> Judgement of the court in case C-264/14 [Electronic resource] // European Court of Justice. — 10/22/2015. — [Mode of access](#)

<sup>69</sup> Bit Coins: Decrypting the Currency (Updated) [Electronic resource] // Lexology. — 5/30/2016. — [Mode of access](#)

In November 2015, the European Court of Justice ruled that Bitcoin should be treated as currency (a means of payment), not as a commodity, at least for tax purposes. Therefore, when Bitcoin is sold or purchased for fiat money, no value-added tax is due.<sup>68</sup> Earlier, local regulators used different approaches to value-added tax treatment of cryptocurrencies.

Other tax rules that apply to cryptocurrency transactions are defined under local regulations of member states, depending on the nature of the transactions. As a rule, for tax purposes a digital currency is treated as an intangible asset or commodity, but not as currency or money.

In Norway, Finland and Germany, cryptocurrency is subject to capital gains tax and wealth tax. In Bulgaria,

<sup>70</sup> The brave new world of Bitcoin  
- Austria [Electronic resource] //  
Lexology. — 26.06.2016. — [Mode  
of access](#)

digital currency is treated as a financial tool and consequently, tax rules for financial tools apply to digital currencies.<sup>69</sup> In Austria, tax authorities treat cryptocurrency as an intangible asset, and mining is defined as an operating activity. Therefore, income gained from the sale of cryptocurrency is subject to income tax.<sup>70</sup>



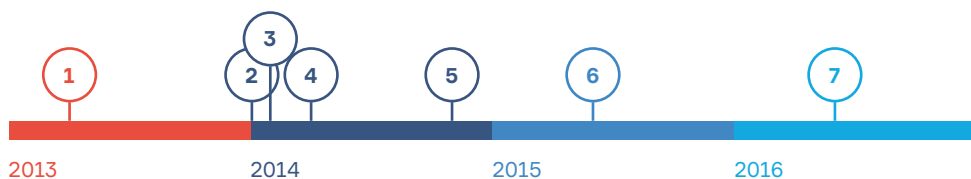


**Canada**

Canada ranks #2 for the number of Bitcoin ATMs after the USA. To better understand Blockchain technology, the government is developing a digital version of the Canadian dollar. Regulators continue to keep watch over the development of digital currencies and distributed technologies, and regulates cryptocurrencies when required.

The activities of cryptocurrency exchanges were regulated in 2014: the Governor General of Canada approved a bill, according to which digital currency exchanges were required to register with the Financial Transactions and Reports Analysis Centre of Canada and comply with anti-money laundering regulations. Cryptocurrency exchanges which failed to register with the Financial Transactions and Reports Analysis Centre of Canada, were unable to open bank accounts. Apart from that, Bitcoin businesses are not regulated.

When digital currency is used to pay for goods or services, tax rules for barter transactions are applied. When digital currency is sold, such transactions are subject to income tax, corporation income tax, or capital gains tax.<sup>83, 84</sup>



- 1 April-May 2013**

Canadian banks start closing the accounts of cryptocurrency exchanges. The Bank of Canada informs on its website that cryptocurrency may not be defined as money
- 2 January 2014**

Information emerges that the Department of Finance Canada does not consider Bitcoin to be legal tender. According to a Bank of Canada official, payment systems, like Bitcoin, should not be subject to excessive control and regulation
- 3 February 2014**

Bitcoin was mentioned in the federal budget 2014 in the context of anti-money laundering and counter terrorist financing
- 4 April 2014**

The Bank of Canada says it cannot forecast how digital currencies will develop, but continues to monitor the cryptocurrency industry
- 5 November 2014**

According to a representative of the Bank of Canada, the regulator was carefully monitoring the risks connected to new forms of digital money
- 6 June 2015**

The Standing Senate Committee on Banking, Trade and Commerce says regulation of cryptocurrencies should be minimized
- 7 June 2016**

The Bank of Canada informed that it was developing a digital version of the Canadian dollar based on Blockchain technology

<sup>71</sup> Canadian banks tell BTC exchanges, "Take off" [Electronic resource] // CoinDesk. — 4/29/2013. — [Mode of access](#)

<sup>72</sup> Canadian bank drops BTC exchange [Electronic resource] // CoinDesk. — 5/2/2013. — [Mode of access](#)

<sup>73</sup> Canada Says Bitcoin Isn't Legal Tender [Electronic resource] // The Wall Street Journal. — 1/16/2014. — [Mode of access](#)

<sup>74</sup> Budget 2014 - The Road to Balance: Creating Jobs and Opportunities [Electronic resource] // Government of Canada. — 2/11/2014. — [Mode of access](#)

<sup>75</sup> Briefing on Digital Currencies [Electronic resource] // Bank of Canada. — 4/2/2014. — [Mode of access](#)

<sup>76</sup> Decentralized E-Money (Bitcoin) [Electronic resource] // Bank of Canada. — April 2014. — [Mode of access](#)

In April 2013, Canada's leading banks started to close the accounts of cryptocurrency exchanges. Possibly, accounts were closed because cryptocurrency exchanges did not have licenses required to operate as money services businesses.<sup>71,72</sup>

In January 2014, information emerged that the Department of Finance Canada did not consider bitcoin to be legal tender. However, according to a Bank of Canada official, small independent payment systems, like Bitcoin, should be neither controlled, nor regulated too strictly, since they do not pose any major threats to Canada's financial system.<sup>73</sup>

In February, the Department of Finance Canada published the federal budget 2014, where Bitcoin was mentioned in the context of anti-money laundering and counter terrorist financing.<sup>74</sup>

In April, a briefing on digital currencies before the Senate of Canada took place. According to a Bank of Canada official, the Bank of Canada cannot forecast how digital currencies will be developing, but continues to monitor the cryptocurrency industry.<sup>75</sup>

The same month, the Bank of Canada published a notice on its website indicating that cryptocurrency doesn't fall under today's definition of money.<sup>76</sup> In November, remarks were released made by Carolyn A. Wilkins, Senior Deputy Governor of the Bank of Canada. According to Ms. Wilkins, the regulator was carefully monitoring the risks connected to new forms of digital money.<sup>77</sup>

In June 2015, a report prepared by the Standing Senate

<sup>77</sup> Bank of Canada is Keeping a Close Eye on E-Money, Says Senior Deputy Governor Carolyn Wilkins [Electronic resource] // Bank of Canada. — 11/13/2014. — [Mode of access](#)

<sup>78</sup> Digital Currency: You Can't Flip This Coin! [Electronic resource] // Senate of Canada. — June 2015. — [Mode of access](#)

<sup>79</sup> Innovation, Central-Bank Style [Electronic resource] // Bank of Canada. — 11/13/2015. — [Mode of access](#)

Committee on Banking, Trade and Commerce was issued. According to it, when it comes to cryptocurrency, the best strategy is to monitor the development of technologies, while the government should not overwhelm cryptocurrencies and decentralized technologies with excessive regulation.<sup>78</sup>

In November 2015, Carolyn A. Wilkins, Senior Deputy Governor of the Bank of Canada, said that the government had to accept the reality that more and more people are using digital money, including those that were not denominated in national currency.<sup>79</sup>

In June 2016, the Bank of Canada informed that it was developing a digital version of the Canadian dollar based on Blockchain technology to get a better insight into this technology's nature.<sup>80</sup>

## REGULATORY FRAMEWORK

<sup>80</sup> Canada Has Been Experimenting With A Digital Fiat Currency Called CAD-COIN [Electronic resource] // Forbes. — 6/16/2016. — [Mode of access](#)

<sup>81</sup> Dealing in virtual currencies subject to anti-money laundering safeguards in Canada [Electronic resource] // [Out-Law.com](#) — 6/24/2014.

In June 2014, the Governor General of Canada approved a bill intended to provide that<sup>81</sup>:

\* Cryptocurrency exchanges are required to register with the Financial Transactions and Reports Analysis Centre of Canada (hereinafter referred to as “FINTRAC”) as money service businesses;

\* Companies dealing with cryptocurrencies are subject to anti-money laundering regulations and must report all suspicious transactions to the regulator, verify user identities, etc.;

<sup>82</sup> Id.

\* Banks may not open accounts for cryptocurrency exchanges that failed to register with FINTRAC.

<sup>83</sup> Tax issues relating to Bitcoins [Electronic resource] // Canada Revenue Agency. — 12/23/2013. — [Mode of access](#)

The act applies to Bitcoin businesses incorporated in Canada, and as well those services in Canada, but incorporated in foreign jurisdictions.<sup>82</sup>

## TAX TREATMENT

<sup>84</sup> What you should know about digital currency [Electronic resource] // Canada Revenue Agency. — 12/3/2014. — [Mode of access](#)

When digital currency is used to pay for goods or services, tax rules for barter transactions are applied. When digital currency is sold, such transactions are subject to income tax, corporation income tax, or capital gains tax.<sup>83, 84</sup>

<sup>85</sup> More Guidance from the CRA on Bitcoin Activities and Transactions [Electronic resource] // Tax litigation. — 4/24/2015. — [Mode of access](#)

Cryptocurrency mined for commercial purposes is subject to income tax. The commercial component is defined for each case. Wages paid to employees in cryptocurrency are also taxable.<sup>85</sup>



**China**

China hosts one the world's most rapidly growing fintech markets. In addition, most mining pools are based in China (for example, F2Pool, AntPool, BTCC, etc.). The number of Bitcoin businesses incorporated in China is growing from year to year.

However, the government in China has not yet worked out an approach to regulate cryptocurrencies. The regulator treats cryptocurrency as a commodity, and cryptocurrency exchanges (and other cryptocurrency-related websites) must be registered with the Telecommunications Bureau.

Taxes are levied in accordance with general rules for commodities: cryptocurrency transactions are subject to corporate tax, individual income tax and capital gains tax. When cryptocurrency is sold, value-added tax is due.





- 1 November 2013**

Deputy Governor of the People's Bank of China said Bitcoin will not be defined as a legal tender in the near future. However, cryptocurrency transactions are not prohibited
- 2 March 2014**

The People's Bank of China strongly recommended Chinese banks and third party payment processors to close accounts of fifteen websites trading Bitcoin
- 3 April 11, 2014**

The Deputy Governor of the People's Bank of China said that the regulator is not going to ban Bitcoin and defined Bitcoin as kind of tradable and collectible asset, not as currency
- 4 In late April, 2014**

Banks and payment processors continued to close accounts of clients who were trading Bitcoin
- 5 January 2016**

The People's Bank of China announced its plans to launch its own cryptocurrency
- 6 June 2016**

Information emerged that 70% of Bitcoin transactions are carried out by China-based mining pools. Cryptocurrencies may be defined as a basic human right

<sup>86</sup> Bitcoin Gets a Cautious Nod From China's Central Bank [Electronic resource] // The New York Times. — 11/22/2013. — [Mode of access](#)

<sup>87</sup> PBOC Orders All Chinese Banks And Third Party Payment Processors To Close Accounts Of Chinese Bitcoin Exchanges by 4/15 [Electronic resource] // CCN.LA. — 3/27/2014. — [Mode of access](#)

<sup>88</sup> China's Central Bank Governor: PBOC Won't Ban Bitcoin [Electronic resource] // Coin Desk. — 4/11/2014. — [Mode of access](#)

<sup>89</sup> Bank of China Issues New Warnings, Bitcoin Price Drops [Electronic resource] // Coin Report. — 4/25/2014. — [Mode of access](#)

<sup>90</sup> PBOC Crack down Continues, Two More Banks Shut down BTC Trading Accounts [Electronic resource] // Coin Report. — 5/8/2014. — [Mode of access](#)

In November 2013, the Deputy Governor of the People's Bank of China (hereinafter referred to as "PBOC") Yi Gang said that Bitcoin would not be defined as legal tender in the near future. However, Mr. Gang noted that operations associated with cryptocurrencies were not prohibited.<sup>86</sup>

In late March 2014, information emerged that the PBOC strongly recommended Chinese banks and third party payment processors to close accounts of fifteen websites trading Bitcoin by April 15.<sup>87</sup> On April 11, 2014 the governor of the PBOC said that the regulator was not going to ban Bitcoin and defined Bitcoin as an asset-like value, not as currency.<sup>88</sup>

However, in April 2014, a meeting of PBOC representatives took place, where certain payment systems and a large Chinese merchant bank were criticized, since they had not stop trading Bitcoin.<sup>89</sup> banks and payment systems continued to close the accounts of clients trading Bitcoin.<sup>90</sup>

In January 2016, information came out that the PBOC discussed the possible launch of a cryptocurrency.<sup>91</sup>

In late 2016, referring to Chainalysis, the New York Times informed that as of 2016, over 70 percent of the transactions on the Bitcoin network were going through Chinese mining pools. That gives them the power to dictate the conditions where there is a need to change Bitcoin source code. Also, 40% of all Bitcoin transactions are carried out on China-based exchanges.<sup>92</sup>

In late June, information came out that virtual property, including digital currencies, may soon be defined as a basic human right in China according to a definition contained in a new draft Civil Code.<sup>93</sup>

<sup>91</sup> China's Central Bank Discusses Digital Currency Launch [Electronic resource] // Coin Desk. — 1/20/2016. — [Mode of access](#)

<sup>92</sup> How China Took Center Stage in Bitcoin's Civil War [Electronic resource] // The New York Times. — 6/29/2016. — [Mode of access](#)

<sup>93</sup> China to define Bitcoin as basic human right [Electronic resource] // ForkLog. — 6/28/2016. — [Mode of access](#)

China has not yet developed a unified approach to regulate cryptocurrency operations.

In late 2013, the PBOC together with other regulators released a notice providing that:<sup>94</sup>

\* Financial institutions may not engage in Bitcoin operations

\* Bitcoin is defined as a virtual commodity, not a currency

\* Websites associated with Bitcoin (for example, cryptocurrency exchanges) must be registered with the Telecommunications Bureau

## TAX TREATMENT

<sup>94</sup> The People's Bank of China and Five Associated Ministries Notice: «Prevention of Risks Associated with Bitcoin» [Electronic resource] // BTCC. — 12/3/2013. — [Mode of access](#)

<sup>95</sup> China Releases First Regulatory Report on Bitcoin Businesses [Electronic resource] // Bitcoin Magazine. — 12/5/2013. — [Mode of access](#)

Current Chinese legislation does not contain any special tax rules for digital currencies or operations involving digital currencies.

At the same time, the above-mentioned notice defined cryptocurrency as a virtual commodity, not a currency. Therefore, when digital money is sold, value-added tax may be due, while income and profits gained in cryptocurrency are subject to corporate tax, individual income tax, and capital gains tax.<sup>95</sup>



# Latin America

<sup>96</sup> What Greece can learn from Bitcoin adoption in Latin America // IBT. — 16.07.2015. — [Mode of access](#)

<sup>97</sup> IMF Sees Venezuela Inflation Rocketing to 720 Percent in 2016 // Bloomberg. — 22.01.2016. — [Mode of access](#)

<sup>98</sup> Congratulations To Venezuela - IMF Predicts Inflation Of 1,600% In 2017 // Forbes. — 19.07.2016. — [Mode of access](#)

<sup>99</sup> Биткоин в Венесуэле: простое настоящее и туманное будущее [Электронный ресурс] // ForkLog. — 18.08.2016. — [Режим доступа к ресурсу](#)

<sup>100</sup> Hyperinflation Leads the Number of Venezuelan Bitcoin Users to Double // CoinTelegraph. — 12.06.2015. — [Mode of access](#)

<sup>101</sup> Venezuela Will Need a Bigger Chart for Its BTC Trading Volume. — August 10, 2016. — [Mode of access](#)

Cryptocurrencies are popular in Latin America ([in 2015](#), a report was issued indicating an increase in cryptocurrency transactions in Latin America by 510%<sup>96</sup>), and cryptocurrency businesses continue to do well. Primarily, this is due to unfavorable economic conditions in numerous South American countries.

Venezuela is a vivid example. [In January 2016](#), the International Monetary Fund (hereinafter referred to as the “IMF”) issued a report according to which consumer price inflation was over 700%.<sup>97</sup> In 2017, according to the IMF, the inflation index will be 1,600%.<sup>98</sup> In the first week of August 2016, the number of Bitcoin transactions carried out through Venezuelan LocalBitcoins reached a record of \$14.2 million.<sup>99</sup> [In 2015](#), the number of Bitcoin users doubled compared to 2014.<sup>100</sup> In Venezuela, Bitcoin is treated as property, not as currency.<sup>101</sup>

[In 2014](#), the Central Bank of Argentina (Banco Central de la República Argentina) warned citizens about the risks related to the use of cryptocurrencies.<sup>102</sup> However, the same year, Bitex.la cryptocurrency exchange was launched in Buenos Aires that attracted investments amounting to \$2 million.<sup>103</sup> [In 2015](#), Mauricio Macri was elected president of Argentina. Mr. Macri is considered one of the most forward-looking presidents in Latin America. He supported the idea of Bitcoin implementation in Argentina.<sup>104</sup> [In 2016](#), Uber joined forces with Xapo (cryptocurrency debit card provider) to escape bans on foreign credit cards and accounts in foreign currencies.

[Starting from 2016](#), Bitcoin can be used to pay for taxi services in Argentina.<sup>105</sup> According to the laws of Argentina, cryptocurrencies do not qualify as national

<sup>102</sup> Bitcoin in Argentina. If it can't make it there // The Economist. — 6/12/2014. — [Mode of access](#)

<sup>102</sup> Bitcoin in Argentina. If it can't make it there // The Economist. — 6/12/2014. — [Mode of access](#)

<sup>103</sup> Латиноамериканская биржа Bitex.la запущена с \$2 млн инвестиций // CoinSpot. — 6/3/2014. — [Режим доступа](#)

<sup>104</sup> Why Latin American economies are turning to bitcoin // TechCrunch. — 3/16/2016. — [Mode of access](#)

<sup>105</sup> Xapo Steps in to Help Argentine Citizens Use Uber // Bitcoin.com. — 7/9/2016. — [Mode of access](#)

<sup>106</sup> Regulation of Bitcoin in Selected Jurisdiction // Library of Congress. — 2014. — [Mode of access](#)

<sup>107</sup> Brazilian Central Bank Outlines Digital Currency Risks // CoinDesk. — 2/20/2014. — [Mode of access](#)

<sup>108</sup> Brazil to Tax Bitcoin Investors, Not Everyday Users // CoinDesk. — 4/8/2014. — [Mode of access](#)

<sup>109</sup> Central Bank of Colombia Says 'Bitcoin is Not a Currency' // CoinDesk. — 4/1/2014. — [Mode of access](#)

<sup>110</sup> Ecuador Reveals National Digital Currency Plans Following Bitcoin Ban. — 9/1/2014. — [Mode of access](#)

<sup>111</sup> Resolucion De Directorio 044/2014 // Central Bank of Bolivia. — May 2014. — [Mode of access](#)

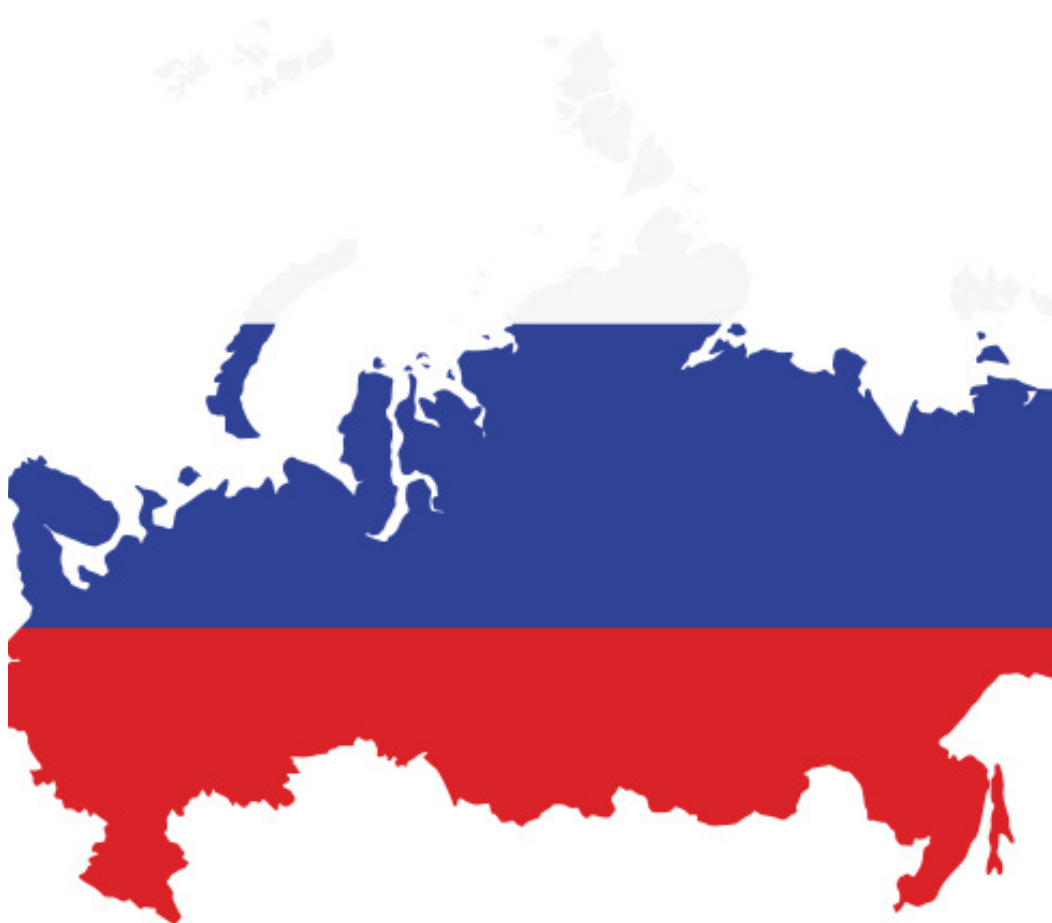
<sup>112</sup> Riesgos de las operaciones realizadas con "Monedas Virtuales" // Superintendencia Financiera de Colombia. — 3/26/2014. — [Mode of access](#)

currency, but may be treated as money. Digital currencies may also be treated as a commodity under the Civil Code of Argentina.<sup>106</sup>

In February 2014, the Central Bank of Brazil (Banco Central do Brasil) warned about the risks related to the use of cryptocurrencies.<sup>107</sup> According to the Federal Tax Office (Receita Federal), digital money is treated as financial assets for tax purposes.<sup>108</sup>

In April 2014, the Central Bank of Colombia (Banco de la República) issued a statement on digital currencies, according to which cryptocurrency was labeled neither legal tender, nor a means of payment.<sup>109</sup>

In Ecuador<sup>110</sup> and Bolivia<sup>111</sup>, cryptocurrencies are officially banned.



# **Russian Federation**

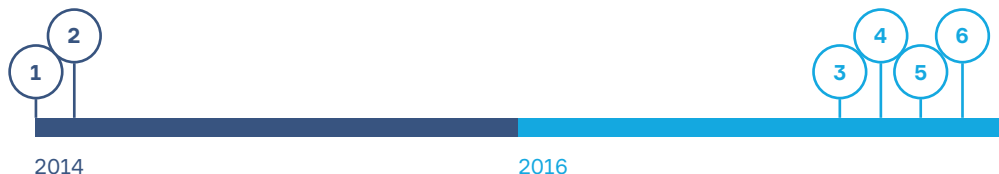
Over the past three years, a ban on cryptocurrencies has been under discussion in the Russian Federation. According to the National Agency for Financial Research (NAFI), in 2015, 40% of respondents supported the idea of a ban. Despite this, the bill prohibiting digital currencies and transactions involving digital currencies was never introduced to the State Duma. Instead of prohibiting digital currencies, the government decided to regulate them. People's attitudes changed as well: according to NAFI, in 2016, only 20% of respondents supported the imposition of a ban on digital money. At the same time, Russia may become the first state to introduce legislation for the legal regulation of cryptocurrencies and transactions with them.

The relevant legal regulation has not yet been developed, and all regulators' messages are no more than advisory. The stance of the Federal Tax Service of the Russian Federation may be considered quite forward-looking. In a letter, the regulator noted that no applicable laws prohibited transactions involving cryptocurrencies.

At the same time, tax treatment of digital currencies has not been regulated, including regarding value-added tax. In general, the standard rules and tax rates are applied, since there is no law to provide special conditions for tax treatment of cryptocurrency transactions.

In 2014 – 2016, the Federal Service for Supervision of Communications, Information Technologies and Mass Media (Roskomnadzor) blocked a number of websites on cryptocurrencies and distributed technologies.





- 1** **January 2014**  
The press office of the Central Bank of the Russian Federation released a statement on the use of virtual currencies including Bitcoin, in transactions
- 2** **February 2, 2014**  
The General Prosecutor's Office of the Russian Federation defined cryptocurrency as quasi money. According to the State Drug Control Service, the Russian mafia was using Bitcoin for payments in drug trafficking.
- 3** **September 3, 2016**  
The Deputy Director of the Federal Financial Monitoring Agency stated that "businesses connecting virtual and real turnover of payment tools are required by obtain silences"
- 4** **October 2016**  
The Ministry of Finance abandoned a draft law intended to impose a ban on cryptocurrencies
- 5** **November 2016**  
The Federal Tax Office published a statement on cryptocurrencies' turnover control
- 6** **December 2016**  
Reportedly, the draft law regulating cryptocurrency activities may be introduced after autumn 2017

<sup>113</sup> On the use of virtual currencies in transactions, including Bitcoin [Electronic resource] // Central Bank of the Russian Federation. — 1/27/2014. — [Mode of access](#)

<sup>114</sup> Bitcoin Backed by Sberbank's Gref as Russia Plans Curbs [Electronic resource] // Bloomberg. — 1/24/2014. — [Mode of access](#)

<sup>115</sup> Central Bank does not rule out the use of Bitcoin in Russia [Electronic resource] // Prime. — 7/2/2014. — [Mode of access](#)

<sup>116</sup> General Prosecutor's Office of the Russian Federation discussed the legitimacy of anonymous payment systems and cryptocurrencies [Electronic resource] // The Office of the Prosecutor General of the Russian Federation. — 2/6/2014. — [Mode of access](#) (Available in Russian)

### *Regulators' statements*

In January 2014, the press office of the Central Bank of the Russian Federation released a statement on the use of virtual currencies in transactions, including Bitcoin. The press office indicated that legal entities providing services for exchange of digital currencies for rubles and foreign currencies and trade goods (works, services) will be considered as potentially involved in dubious transactions under anti-money laundering and counterterrorism legislation. In fact, this statement defined cryptocurrencies as quasi money, although this was not directly indicated.<sup>113</sup>

The same month, state-owned banking giant Sberbank CEO Herman Gref gave an interview to Bloomberg during the World Economic Forum in Davos and said that he had sent letters asking the President of the Russian Federation, the Central Bank and the Finance Ministry to avert possible restrictions on the use of virtual currencies and digital payment systems. Herman Gref also noted that although such technologies were developing, Russian lawmakers were trying to ban them.<sup>114</sup> In addition, Georgy Lutovsky, deputy governor of the Central Bank said that Bitcoin shouldn't be banned, since it was likely to be a wave of the future.<sup>115</sup>

In February, the General Prosecutor's Office defined cryptocurrency as quasi money that may not be used by physical and legal entities under the laws of the Russian Federation. This statement was made after a meeting of representatives of the Prosecutor General Office, Central Bank and the Ministry of Interior.<sup>116</sup>

After that, the Federal Financial Monitoring Agency stated

<sup>117</sup> Notice on the Use of Cryptocurrencies [Electronic resource] // Federal Financial Monitoring Agency. — 2/6/2014. — [Mode of access](#) (Available in Russian)

<sup>118</sup> Director of the State Drug Control Service: Russian drug mafia is using Bitcoin [Electronic resource] // Vedomosti. — 2/25/2014. — [Mode of access](#) (Available in Russian)

<sup>119</sup> Putin greenlights Bitcoin in Russia [Electronic resource] // CNews. — 7/14/2015. — [Mode of access](#) (Available in Russian)

<sup>120</sup> Federal Financial Monitoring Agency: Cryptocurrency businesses require licenses [Electronic resource] // ForkLog. — 9/21/2016. — [Mode of access](#) (Available in Russian)

<sup>121</sup> Official Position of the Russian Federation Tax Office on Cryptocurrencies [Electronic resource] // ForkLog. — 11/30/2016. — [Mode of access](#) (Available in Russian)

that “transactions involving the use of cryptocurrencies may be qualified as transactions used for money laundering and financing of terrorism”.

Cryptocurrencies, including Bitcoin, were defined as quasi money, banned in Russia.<sup>117</sup> In February 2014, another statement was made by the State Drug Control Service indicating that the mafia was using Bitcoin for drug trafficking payments.<sup>118</sup>

In July 2015, Vladimir Putin spoke at the All-Russian Educational Youth Forum and said that Bitcoin could be used as a means of payment in certain cases. However, just a few hours later, his spokesman explained that the president was talking about some form of nominal settlements and noted that Putin’s words should not be interpreted as if he particularly supported Bitcoin.<sup>119</sup>

In September 2016, Pavel Livadny, Deputy Director of the Federal Financial Monitoring Agency stated that businesses connecting virtual and real turnover of payment instruments, including cryptocurrency exchange points, require licenses.<sup>120</sup>

In late November 2016, the Federal Tax Office released a statement on cryptocurrency turnover control.<sup>121</sup> The statement was the first official document determining the legal status of digital currencies and transactions involving digital currencies.

### *Proposed Legislation*

Back in August 2014, state-run Regulation.gov.ru, a website

<sup>122</sup> Public discussion of a draft law intended to ban cryptocurrencies in Russia comes to an end [Electronic resource] // Coinfox. — 3/9/2015. — [Mode of access](#) (Available in Russian)

<sup>123</sup> Will Bitcoin be banned this fall in the Russian Federation? [Electronic resource] // Habrahabr. — 3/27/2015. — [Mode of access](#) (Available in Russian)

<sup>124</sup> Draft law intended to legalize Bitcoin introduced to the State Duma [Electronic resource] // ForkLog. — 12/20/2015. — [Mode of access](#) (Available in Russian)

<sup>125</sup> The State Duma to discuss a ban on quasi money [Electronic resource] // Tolkachev & Partners. — 12/23/2015. — [Mode of access](#) (Available in Russian)

<sup>126</sup> Law to ban cryptocurrencies to be submitted to the State Duma in June [Electronic resource] // ForkLog. — 2/25/2016. — [Mode of access](#) (Available in Russian)

for public discussions, informed of the development of a bill intended to prohibit cryptocurrencies. In February 2015, public discussion of a bill developed by the Ministry of Finance started, which had been intended to introduce amendments to a number of legal acts. The authors of the draft law proposed to impose fines not only for the use of quasi money, but also to create and distribute software for their issue and as well as distribute any information allowing such issue and/or transactions involving quasi money.<sup>122</sup> The draft law was criticized by the Ministry of Economic Development, but after the bill had been amended, the Ministry spoke in favor of the bill.<sup>123</sup> The draft law was not submitted to the parliament, the State Duma, for consideration. However, in December 2015, the draft Code of Administrative Offenses was introduced to the State Duma. The draft code proposed to impose a ban on issuing quasi money. In addition, it was proposed to introduce legal responsibility for the distribution of information required and sufficient for the issuance of quasi money.<sup>124</sup> At the same time, the draft contained provisions, according to which cryptocurrencies issued outside Russia might not be considered as quasi money. Moreover, neither Bitcoin nor any other digital currency falls within the definition of quasi money contained in the draft Code of Administrative Offenses.<sup>125</sup>

In 2016, it was reported that the Ministry of Finance was preparing a new bill to ban cryptocurrencies that envisaged criminal responsibility for issuing and circulation of digital money.<sup>126</sup> Initially, the ministry planned to introduce a bill in the State Duma in June 2016, but its introduction was repeatedly delayed.<sup>127</sup> At last, in late April 2016, Pavel Livadny, Deputy Director of the Federal Financial Monitoring Service said that the bill required review. He

<sup>127</sup> Cryptocurrency banning bill tabled [Electronic resource] // ForkLog. — 4/21/2016. — [Mode of access](#) (Available in Russian)

<sup>128</sup> Federal Financial Monitoring Service: bill imposing a ban on cryptocurrencies to be revised [Electronic resource] // ForkLog. — 4/26/2016. — [Mode of access](#) (Available in Russian)

<sup>129</sup> Russia's government to develop regulation to ban cryptocurrencies [Electronic resource] // ForkLog. — 5/30/2016. — [Mode of access](#) (Available in Russian)

<sup>130</sup> Russia's Ministry of Finance spoke against the direct ban on Bitcoin [Electronic resource] // ForkLog. — 8/26/2016. — [Mode of access](#) (Available in Russian)

<sup>131</sup> Ministry of Finance tabled a bill imposing a ban on Bitcoin [Electronic resource] // Lenta.ru. — 11/10/2016. — [Mode of access](#) (Available in Russian)

also noted that cryptocurrencies should not be prohibited, but regulated, since they had been developing all over the world.<sup>128</sup> **In late May**, Deputy Finance Minister Alexei Moiseyev noted the drawbacks of the draft law and named new terms for its submission to the State Duma, i.e. **in the end of 2016**.<sup>129</sup> In August, Mr. Moiseyev said that “as technologies develop, the ban does not seem to be a very good idea”.<sup>130</sup> **In October**, he also told that before making any decision, the Ministry of Finance decided to take some time and see how cryptocurrencies would develop globally. Therefore, the draft law was tabled.<sup>131</sup>

**In October 2016**, Andrei Lugovoi, Deputy Chairman of the State Duma Security and Anti-Corruption Committee commented that “the new law, on the one hand, should not allow Russia to be outside of the general trend in the development of financial technologies and allow capital outflow, and on the other hand, [Russia must] prevent the risks of using virtual currencies for money laundering and terrorist financing. At the same time, he confirmed that the authorities were aware that banning cryptocurrencies would affect Blockchain development and Russia’s technological progress.”<sup>132</sup>

Later on, information emerged that a cryptocurrency law would be enacted **in autumn 2017** at the earliest.<sup>133</sup>

### *Miscellaneous*

**In April 2015**, ProResearch and the National Agency for Financial Studies (NAFS) conducted a survey indicating that most Russians knew nothing about Bitcoin: only 19% knew something about this cryptocurrency.<sup>134</sup> However, in

<sup>132</sup> Russia plans to be the first to enact cryptocurrency legislation [Electronic resource] // ForkLog. — 10/14/2016. — [Mode of access](#) (Available in Russian)

<sup>133</sup> Ministry of Finance: Cryptocurrency law to be adopted in Autumn 2017 at the earliest [Electronic resource] // RNS. — 12/6/2016. — [Mode of access](#) (Available in Russian)

<sup>134</sup> Most Russians know nothing about Bitcoin [Electronic resource] // RBK. — 5/13/2015. — [Mode of access](#) (Available in Russian)

<sup>135</sup> Is Bitcoin ban really necessary? [Electronic resource] // НАФИ. — 11/10/2016. — [Mode of access](#) (Available in Russian)

<sup>136</sup> Qiwi to launch its own cryptocurrency [Electronic resource] // Slon.ru. — 9/16/2015. — [Mode of access](#) (Available in Russian)

<sup>137</sup> Russia to invent its own cryptocurrency [Electronic resource] // Kommersant.ru. — 5/27/2016. — [Mode of access](#) (Available in Russian)

2015, 40% of Russians supported banning Bitcoin. Things changed in 2016 – only 20% supported banning digital currencies, while 34% of respondents were opposed.<sup>135</sup> At the same time, chances are, Russia may issue its own cryptocurrency. Qiwi, a Russia-based payment system, was the first to announce this step<sup>136</sup>. Later, Deputy director of Russia's Federal Service for Financial Monitoring Pavel Livadny supported this idea. He said that such a currency would be regulated and issuers would be required to obtain licenses and exchange rules would be defined. In addition, in his opinion, anonymity should be minimized.<sup>137</sup> However, according to the presidential press secretary, such ideas have not been discussed in the Kremlin.<sup>138</sup>

In early June 2016, Sberbank's CEO Herman Gref informed of the development of a Blockchain-based IT platform and said that introduction of criminal liability in Russia for the use and turnover of cryptocurrencies would affect the development of Blockchain technology in Russia.<sup>139</sup> The same year in June, the State Duma organized an international conference on cryptocurrencies and the development of Blockchain technology in Russia. Following the event, a decision was made to give recommendations on the evaluation of the possibilities for introducing technologies in Russia to the State Duma, the Central Bank, and other public agencies.<sup>140</sup>

<sup>138</sup> Kremlin commented on the idea to create Russian cryptocurrency [Electronic resource] // RBK. — 5/27/2016. — [Mode of access](#) (Available in Russian)

<sup>139</sup> Russian Sberbank is working at Blockchain-based IT platform [Electronic resource] // ForkLog. — 6/1/2016. — [Mode of access](#) (Available in Russian)

<sup>140</sup> Russian Parliamentary roundtable on cryptocurrencies – results and possible consequences [Electronic resource] // ForkLog. — 6/4/2016. — [Mode of access](#) (Available in Russian)

<sup>141</sup> Federal Tax Office commented on cryptocurrency status in Russia [Electronic resource] // ForkLog. — 11/30/2016. — [Mode of access](#) (Available in Russian)

<sup>142</sup> Russia's Federal Tax Office released a statement on cryptocurrencies [Electronic resource] // Deloitte. — 12/6/2016. — [Mode of access](#) (Available in Russian)

The legal status of cryptocurrencies has not been defined in Russia. The statements on cryptocurrencies made by the Central Bank, the Prosecutor General's Office, the Federal Financial Monitoring Service of the Russian Federation (Rosfinmonitoring) and the Federal Drug Control Service, as well as the statements made by their officers could be viewed as discussion rather than regulation.

The statement on cryptocurrency turnover control issued by the Federal Tax Office made things more clear<sup>141</sup> as the Office's statement is in fact the first official document that clarifies the government's position on digital money and cryptocurrency operations.

Although the statement, as well as statements made by other regulators, is non-binding in law, in practice tax authorities coordinate their actions with the position set forth by the Federal Tax Office <sup>142</sup>.

According to the statement<sup>143</sup>:

\* The laws of the Russian Federation do not contain any definitions of quasi money, cryptocurrency or digital currency

\* When cryptocurrencies are used in transactions, they may be defined as enabling money laundering and financing terrorism

\*The laws applicable in the Russian Federation do not prohibit using cryptocurrencies in transactions;

\*The draft legislation developed by the Ministry of Finance of the Russian Federation should be improved;

<sup>143</sup> Federal Tax Office statement dated October 3, 2016. N OA-18-17/1027 [Electronic resource] // Konsultant Plus. — 11/29/2016. — [Mode of access](#) (Available in Russian)

<sup>144</sup> Neviansky city court decision on blocking Bitcoin websites [Electronic resource] // Neviansky city court of Sverdlovsk region. — 10/5/2014. — [Mode of access](#) (Available in Russian)

<sup>145</sup> Neviansky city court decision on blocking Bitcoin websites revoked [Electronic resource] // Habrahabr. — 5/16/2015. — [Mode of access](#) (Available in Russian)

\*Transactions involving the acquisition of cryptocurrencies with the use of currency assets (foreign currency and foreign securities) and/or the currency of the Russian Federation, are defined as currency transactions.

In addition, issues were examined in the letter related to the right of currency control authorities to obtain information on digital currency sales and purchases by residents and non-residents. Currency control regulations contain no provisions enabling such authorities to obtain information on digital currency sales and purchases by residents and non-residents. However, such information may be obtained from the authorized anti-money laundering and counter terrorist financing authorities.

In addition, the current legislation enables the Federal Tax Office to obtain information from the Federal Financial Monitoring Service of the Russian Federation (Rosfinmonitoring) on identified financial schemes that bear signs of tax evasion, illegal value-added tax refunds from the budget, intentional bankruptcy, and breach of foreign exchange legislation of the Russian Federation.

## TAX TREATMENT

Tax treatment of cryptocurrency transactions falls outside the scope of tax regulations in the Russian Federation.

In addition, since no law specifies the legal status of cryptocurrencies in Russia (cryptocurrencies are neither currency nor securities), the rate of cryptocurrencies may not be adjusted due to the fluctuation of exchange rates, and tax treatment applied to securities is not applied to cryptocurrencies.



According to general tax rules, income gained by individuals is taxed at 13%, while profits gained by legal entities is taxed at 20%. Revenue received from mining is also subject to tax.

Value-added tax treatment is a controversial issue, since digital money is not defined as a commodity under Russian laws.

## LIABILITY

<sup>146</sup> Bitcoin websites blocked in Russia again [Electronic resource] // ForkLog. — 5/27/2015. — [Mode of access](#) (Available in Russian)

<sup>147</sup> Yet another cryptocurrency website blocked in Russia [Electronic resource] // ForkLog. — 9/5/2016. — [Electronic resource](#) (Available in Russian)

In September, 2014, Neviansky city court of Sverdlovsk region held that the distribution of information published on seven cryptocurrency websites was prohibited in Russia <sup>144</sup>. Therefore, in January 2015, the Federal Service for Supervision of Communications, Information Technologies and Mass Media (Roskomnadzor) blocked the said seven websites. However, in May, the decision was revoked by the Sverdlovsk Regional Court. The sites were excluded from the the Federal Service for Supervision of Communications, Information Technologies and Mass Media (Roskomnadzor) blocking list <sup>145</sup>.

Reportedly, bitnovosti.com was blocked in May, 2015<sup>146</sup>. In September 2016, the Federal Service for Supervision of Communications, Information Technologies and Mass Media (Roskomnadzor) blocked bitcoininfo.ru<sup>147</sup>.

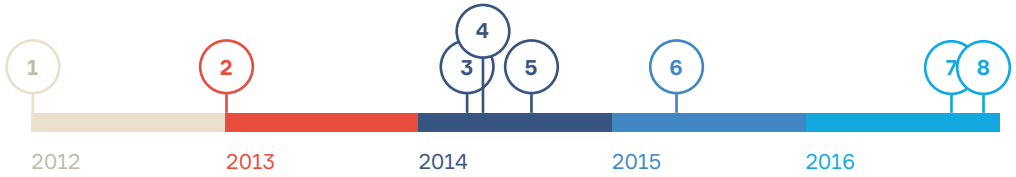


**The United States  
of America**

The United States of America is one of the most convenient jurisdictions for Bitcoin businesses. Numerous hedge funds, exchanges, and other companies involved in cryptocurrency activities are incorporated in the US, and many goods and services can be purchased not only with fiat and electronic money, but also with digital currencies. There are many ATMs in the USA exchanging fiduciary money and cryptocurrencies.

However, the legal framework for digital currencies is as complicated in the US as it is in Europe. This is primarily due to the peculiarities of the US legal system (federal law and state law) and lack of a unified approach regarding the status of cryptocurrencies among regulators. Therefore, digital currency is treated as money, property and stock commodity. At the federal level, some Bitcoin businesses (for example, exchanges) must be registered as Money Transmitters with the Financial Crimes Enforcement Network. And at the state level, such companies are required to obtain licenses (in every state).

Digital money is treated as property for tax purposes. Operations with cryptocurrencies are taxable. For example, wages paid to employees in Bitcoin are taxed with federal income tax withholding and payroll taxes.



- 1** **2012**  
The Federal Bureau of Investigation raised concerns about illicit activities within the Bitcoin payment system
- 2** **2013**  
The Federal Reserve System prepared two research works on Bitcoin
- 3** **April 2014**  
The United States House Committee on Small Business held a hearing to discuss the benefits and risks of Bitcoin as a payment instrument for small businesses
- 4** **May 2014**  
The Federal Advisory Council defined Bitcoin as a threat to the banking system, economic activities and financial stability, while the Government Accountability Office recommended to pay attention to the protection of consumers using cryptocurrencies
- 5** **August 2014**  
The Consumer Financial Protection Bureau examined the risks posed by virtual currencies
- 6** **May 2015**  
The New York Stock Exchange announced the launch of a Bitcoin price index that would represent the daily US dollar value of one Bitcoin; the United States Postal Service informed that it might possibly implement Blockchain technology in its operations
- 7** **October 2016**  
JPMorgan Chase announced the launch of a private Blockchain Quorum

## 8 December 2016

The Office of the Comptroller of the Currency informed about its plans to grant limited federal banking licenses to fintech companies

<sup>148</sup> Bitcoin Virtual Currency: Intelligence Unique Features Present Distinct Challenges for Detering Illicit Activity // Federal Bureau of Investigation. — 4/24/2012. — [Mode of access](#)

<sup>149</sup> Velde F. R. Bitcoin: A Primer [Electronic resource] / François R. Velde // Federal Reserve Board. — 12/2013. — [Mode of access](#)

<sup>150</sup> Lo S. Bitcoin as Money? [Electronic resource] / Stephanie Lo, J. Christina Wang // Federal Reserve Bank of Boston, Current Policy Perspectives. — 9/4/2014. — [Mode of access](#)

<sup>151</sup> Record of meeting Federal Advisory Council and Board of Governors // Federal Reserve Board. — 5/9/2014. — [Mode of access](#)

In 2012, the Federal Bureau of Investigation issued a report titled “Bitcoin Virtual Currency: Intelligence Unique Features Present Distinct Challenges for Detering Illicit Activity”. In this report, the FBI raised concerns about illicit activities in the anonymous Bitcoin payment system<sup>148</sup>. In 2013, representatives of the Federal Reserve System conducted research on Bitcoin<sup>149, 150</sup>.

In April 2014, the United States House Committee on Small Business (hereinafter referred to as “Committee” held a hearing to discuss the benefits and the risks of Bitcoin as a payment instrument for small businesses<sup>151</sup>.

In May 2014, the Federal Reserve System together with the Federal Advisory Council defined Bitcoin as a threat to the banking system, economic activities and financial stability<sup>152</sup>.

Committee Chairman Sam Graves noted that this hearing was important for small businesses.<sup>153</sup>

In May 2014, the Government Accountability Office published a report outlining the responsibilities of public authorities and agencies related to the use of cryptocurrencies and recommended to pay attention to the protection of consumers using cryptocurrencies.<sup>154</sup>

In August 2014, the Consumer Financial Protection Bureau

<sup>152</sup> Bitcoin: Examining the Benefits and Risks for Small Business // Committee on Small Business. — 4/2/2014. — [Mode of access](#)

<sup>153</sup> Congressional Hearing Explores Costs, Benefits of Small Business Bitcoin Use // CoinDesk. — 4/2/2014. — [Mode of access](#)

<sup>154</sup> Virtual Currencies: Emerging Regulatory, Law Enforcement, and Consumer Protection Challenges // U.S. Government Accountability Office — 5/29/2014. — [Mode of access](#)

<sup>155</sup> Risks to consumers posed by virtual currencies // Consumer Financial Protection Bureau — 8/11/2014. — [Mode of access](#)

<sup>156</sup> CFPB Warns Consumers About Bitcoin // Consumer Financial Protection Bureau. — 8/11/2014. — [Mode of access](#)

(hereinafter referred to as the “CFPB”) paid attention to the risks posed by virtual currencies, such as Bitcoin.<sup>155</sup> According to the CFPB Director, virtual currencies may have potential benefits; however, consumers have to be aware of the associated risks<sup>156</sup>.

In October, the Federal Reserve Board’s Divisions of Research and Statistics and Monetary Affairs prepared research on the technical background of Bitcoin<sup>157</sup>.

In May 2015, the New York Stock Exchange announced the launch of a Bitcoin price index that would represent the daily US dollar value of one Bitcoin, and such information would be published on a daily basis<sup>158</sup>.

The same month, the Department of Financial Services granted a banking charter to ItBit Trust cryptocurrency exchange which became the first officially regulated Bitcoin exchange<sup>159</sup>. In October, the Gemini Trust Company obtained a similar charter<sup>160</sup>.

In October 2015, the Congressional Research Service published a report titled “Bitcoin: Questions, Answers, and Analysis of Legal Issues” covering the pros and cons of Bitcoin use, legal regulation of digital currencies and other issues<sup>161</sup>.

In addition, in October 2015, the Coin Center studied the regulatory framework of a number of states and looked into the prospects for creating special laws to regulate cryptocurrency transactions. The results of this research were described in a report titled “State Digital Currency Principles and Framework”. The report covers the basic principles of state regulations on cryptocurrencies and

<sup>157</sup> Badev A. Bitcoin: Technical Background and Data Analysis [Electronic resource] / Anton Badev, Matthew Chen // Federal Reserve Board, Divisions of Research & Statistics and Monetary Affairs, Finance and Economics Discussion Series. — 10/7/2014. — [Mode of access](#)

<sup>158</sup> New York Stock Exchange Launches Bitcoin Price Index // CoinDesk. — 5/19/2015. — [Mode of access](#)

<sup>159</sup> ItBit named the ‘most official’ Bitcoin company in the USA [Electronic resource] // ForkLog. — 5/8/2015. — [Mode of access](#) (Available in Russian)

<sup>160</sup> New York regulator grants banking charter to Winklevoss twins' bitcoin exchange // MarketWatch. — 10/5/2015. — [Mode of access](#)

provides unified information for anyone wishing to be involved in the cryptocurrency business to learn more about cryptocurrency regulation in different states<sup>162</sup>.

In May 2016, the United States Postal Service informed that it may possibly implement Blockchain technology in its operations. In addition, the United States Postal Service did not rule out that it might launch its own cryptocurrency<sup>163</sup>.

In June, the Coin Center published the State Digital Currency Regulation Tracker.<sup>164</sup> In October 2016, JP Morgan Chase, one of the leading American banks, announced the launch of the Quorum project — a private Blockchain based on Ethereum<sup>165</sup>. Earlier that year, Lael Brainard, a member of the U.S. Federal Reserve's Board of Governors, supported the development of such projects. However, Ms. Brainard recommended to work out a system that would be the most secure and confidential, and would protect from any unauthorized access<sup>166</sup>.

In December 2016, the Office of the Comptroller of the Currency published a press release informing about the regulator's plans to grant federal limited banking licenses. To obtain such licenses, companies have to be involved in fiduciary activities or carry out at least one of the key functions of banks: grant loans, cash checks and provide depository services<sup>167</sup>.

## REGULATORY FRAMEWORK

In the United States of America, any relations involving cryptocurrencies are regulated on two levels: federal law

<sup>161</sup> Bitcoin: Questions, Answers, and Analysis of Legal Issues // Congressional Research Service. — 10/13/2015. — [Mode of access](#)

<sup>162</sup> State Digital Currency Principles and Framework // Coin Center. — Oct 6, 2015. — [Mode of access](#)

<sup>163</sup> State Digital Currency Regulation Tracker // Coin Center. — 6/7/2016. — [Mode of access](#)

<sup>164</sup> JP Morgan is Quietly Developing a Private Ethereum Blockchain // CoinDesk. — 10/3/2016. — [Mode of access](#)

<sup>166</sup> Demos, T. "J.P. Morgan Has a New Twist on Blockchain; The bank's project is being built off the publicly accessible Ethereum network code." Wall Street Journal (Online). — 10/4/2016.

<sup>167</sup> Fintech companies to obtain banking licenses [Electronic resource] // ForkLog. — 12/3/2016. — [Mode of access](#)

<sup>168</sup> California Governor Grants Bitcoin 'Legal Money' Status // CoinDesk. — 6/29/2014. — [Mode of access](#)

and state law.

Bitcoin businesses have to obtain licenses, if the law of the state so requires.

California was the first US state to enact a regulation authorizing the use of cryptocurrencies. The law enabling corporations, associations and individuals in California to be involved in turnover of money other than the US official currency entered into force in early 2015<sup>168</sup>. However, cryptocurrency business activities fall outside of the scope of the state regulatory framework.

In the New York State, cryptocurrency business activities were regulated in 2015, when the New York State Department of Financial Services introduced BitLicense, a virtual currency business activity license<sup>169</sup>. The license was criticized by leading Bitcoin businesses that eventually left the state, including Poloniex, ShapeShift, and Kraken<sup>170</sup>. In addition, a lawsuit was filed with the Supreme Court of the State of New York, New York County, claiming that the Department of Financial Services had not been entitled to introduce BitLicense<sup>171</sup>. A year after the said license had been introduced, it was granted only to Circle (Bitcoin wallet) and Ripple (fintech startup)<sup>172</sup>. About 26 other companies were waiting for their applications to be confirmed<sup>173</sup>.

In Washington State, digital currencies are defined as a medium for transmitting money under the Uniform Money Services Act<sup>174</sup>, which means that businesses are required to obtain a Washington Money Transmitter License to transmit money to Washington-based individuals. This requirement also applies to exchanges



<sup>169</sup> New York Codes, Rules and Regulations. Virtual Currencies // New York State Department of Financial Services. - [Mode of access](#)

<sup>170</sup> Ten leading Bitcoin companies left New York State following BitLicense [Electronic resource] // ForkLog. — 2/7/2016. — [Mode of access](#) (Available in Russian)

<sup>171</sup> Theo Chino, pro se. v. The Department of Financial Services // Supreme Court of the State of New York of New York. — 10/16/2015. - [Mode of access](#)

<sup>172</sup> New York Regulators Grant Second BitLicense to Ripple // CoinDesk. — 6/13/2016. - [Mode of access](#)

<sup>173</sup> The United States is Falling Behind in Bitcoin Regulation / Kyle Torpey // Bitcoin Magazine. — 4/25/2016. - [Mode of access](#)

<sup>174</sup> Virtual Currency Regulation // Washington State Department of Financial Institutions. - [Mode of access](#)

providing services for the exchange of fiat money for cryptocurrencies, and vice versa, and those exchanging digital currencies only. To obtain the license, companies providing cryptocurrency wallets are required to carry out computer systems audits. Individuals carrying out cryptocurrency transactions with other individuals are not required to obtain licenses<sup>175</sup>.

Similar requirements for Bitcoin businesses are provided under the law of New Hampshire. Exchanges and companies providing cryptocurrency wallets are treated as money transmitters. To carry out their business activities, they are required to obtain licenses<sup>176</sup>. Most states have similar requirements for Bitcoin businesses.

Judicial practice plays a very important role within the US legal system. While federal courts try to work out a unified approach to cryptocurrencies, state courts disagree over this issue<sup>177</sup>. In 2013, the judge of the county court of East Texas issued a Memorandum Opinion where Bitcoin was defined as currency and found that financial legislation had to be applied to cryptocurrency transactions<sup>178</sup>.

**At the same time**, in a case involving the alleged use and transmission of unauthorized cryptocurrency by Anthony Murgio, Judge Alison Nathan of the Southern District Court of New York held that “dictionaries, courts and statutes confirm that Bitcoin is money”<sup>179</sup>. However, a Miami county court judge ruled that Bitcoin doesn’t qualify as currency and dismissed all charges in a case involving alleged money laundering<sup>180</sup>.

The Financial Crimes Enforcement Network deals with cryptocurrency activities (except tax issues) at the federal

<sup>175</sup> Uniform Money Services Act. Interim Regulatory Guidance // Washington State Department of Financial Institutions. - [Mode of access](#)

<sup>176</sup> State Regulation Changes the Game for Bitcoin Sellers in New Hampshire // CoinDesk. — 3/19/2016. - [Mode of access](#)

<sup>177</sup> Porter, S. "Bitcoin is money, says US judge. What does that mean for business?." Christian Science Monitor. 2016, September 20: n/a

<sup>178</sup> Memorandum opinion regarding the court's subject matter jurisdiction // United States District Court. — 08.06.2013. — [Mode of access](#)

<sup>179</sup> Judge Rules Bitcoin is Money in Coin.mx cases // The Merkle. - 2016. - [Mode of access](#)

level. In March 2013, the regulator issued guidelines defining the businesses that had to be registered as money transmitters with the Financial Crimes Enforcement Network, i.e. the companies that transmit, trade and exchange cryptocurrencies<sup>181</sup>.

In 2014, two additional guidelines were issued defining Bitcoin businesses that were not subject to registration, including companies engaged in cryptocurrency mining<sup>182</sup> and software development<sup>183</sup>.

Companies registered as money transmitters are required to comply with anti-money laundering legislation and 'Know Your Customer' policies. Therefore, cryptocurrency companies are required to identify users before carrying out any transactions. If a company suspects that a user is involved in illicit activities, this company is required to report to the competent authorities.

In February 2014, Janet L. Yellen, Federal Reserve System Chair, submitted remarks before the U.S. Senate Committee on Banking, Housing, and Urban Affairs. According to Chair Yellen, the Federal Reserve System is not authorized to control and regulate Bitcoin, since cryptocurrency falls outside the scope of banking regulations<sup>184</sup>.

In September 2015, the U.S. Commodity Futures Trading Commission compared Bitcoin to stock trading<sup>185</sup>. The

## TAX TREATMENT

U.S. Internal Revenue Service (hereinafter referred to as

<sup>180</sup> The State of Florida vs. Michell Abner Espinoza // Eleventh Judicial Circuit Court of Florida. — 2016. — [Mode of access](#)

<sup>181</sup> Application of FinCEN's Regulations to Persons Administering, Exchanging, or Using Virtual Currencies (FIN-2013-G001) // The Financial Crimes Enforcement Network. — 3/18/2013. — [Mode of access:](#)

<sup>182</sup> Application of FinCEN's Regulations to Virtual Currency Mining Operations (FIN-2014-R001) // The Financial Crimes Enforcement Network. — 1/30/2014. — [Mode of access](#)

<sup>183</sup> Application of FinCEN's Regulations to Virtual Currency Software Development and Certain Investment Activity (FIN-2014-R002) // The Financial Crimes Enforcement Network. — 1/30/2014. — [Mode of access](#)

<sup>184</sup> The Federal Reserve System's semiannual monetary policy report to the Congress // the U.S. Government Printing Office. — 2/27/2014. — [Mode of access](#)

the “IRS”) is the authority that deals with tax issues in the United States.

In March 2014, the IRS issued a document titled Virtual Currency Guidance. According to this guidance, virtual currency is defined as property, and transactions involving virtual currencies, including mining, are taxable under the general tax rules<sup>186</sup>. This statement caused a stir. As a result, a petition was created on the We the People section of the White House website claiming that the IRS decision would affect Bitcoin development. The petition was signed by 864 people<sup>187</sup>.

The Guidance provides that:

\*Wages paid to employees in virtual currency are subject to federal income tax and payroll taxes.

\*Payments in virtual currency made to contractors under civil contracts are also taxable

\*The character of gain or loss from the sale or exchange of cryptocurrency depends on whether the cryptocurrency is a capital asset of a taxpayer

\*Information on payments made in cryptocurrency must be reported to the competent authorities. Any gains obtained by individuals in cryptocurrency must be declared in USD<sup>188,189</sup>

<sup>185</sup> CFTC Orders Bitcoin Options Trading Platform Operator and its CEO to Cease Illegally Offering Bitcoin Options and to Cease Operating a Facility for Trading or Processing of Swaps without Registering // The U.S. Commodity Futures Trading Commission. — 9/17/2015. — [Mode of access](#)

<sup>186</sup> IRS Virtual Currency Guidance // The Internal Revenue Service. — 3/25/2014. — [Mode of access](#)

<sup>187</sup> Amend IRS notice 2014- 2 // We the People. — 3/28/2014. — [Mode of access](#)

<sup>188</sup> IRS Notice 2014- 21. IRS Virtual Currency Guidance // The Internal Revenue Service. — 4/14/2014. — [Mode of access](#)

<sup>189</sup> IRS Publication 525 // The Internal Revenue Service. — 2015. — [Mode of access](#)

In early 2014, the United States Attorney for the Southern District of New York commented on the Silk Road case and said that seized cryptocurrency had to be treated the same as any currency obtained from illicit activities<sup>190</sup>.

On May 5, 2015, the Financial Crimes Enforcement Network fined Ripple Labs Inc. in the first civil enforcement action against a virtual currency exchanger<sup>191</sup>.

A court in Miami dismissed the charges against an individual Bitcoin exchanger accused of conducting illegal Bitcoin exchange operations. The court found that merely selling bitcoins to someone who plans to use them for a criminal purpose, is not a sufficient basis for a money laundering charge, even if that criminal purpose is evident at the time of the sale<sup>192</sup>.

In December 2016, the United States District Court, Northern District of California, permitted the Internal Revenue Service to request information on Bitcoin transactions of Coinbase users<sup>193</sup>.



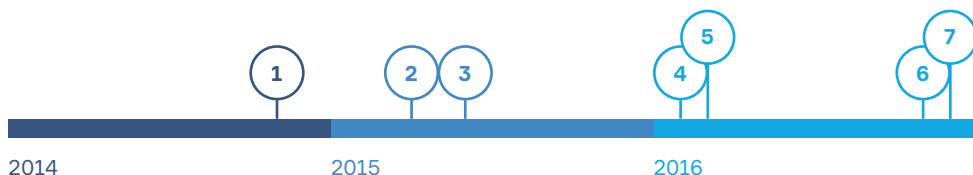
**Ukraine**

Ukraine is listed among the top-10 countries where Bitcoin is widely used. Kuna, the leading Bitcoin agency in the Commonwealth of Independent States (CIS), operates in Ukraine, and one of its projects is a cryptocurrency exchange. Major developers and research companies, for example, Distributed Lab, operate in Ukraine as well.

The government is currently using and is looking into the further use of decentralized technologies, including e-Auction 3.0, e-Vox, E-Ukraine. In addition, Ukraine can boast of a well-developed cryptocurrency community.

The legal status of cryptocurrencies and relations involving them has not been defined. However, the National Bank of Ukraine is actively studying the best practices of other countries to regulate the use of digital currencies in the European and global context.

Tax treatment of cryptocurrency transactions still falls outside of legal regulation. Since there are no special rules, standard tax regulations are applied to digital currencies in Ukraine.



- 1** **November 2014**  
The National Bank of Ukraine defined Bitcoin as quasi money
- 2** **April 2015**  
The National Bank of Ukraine reconsidered its position regarding Bitcoin and announced that it is planning to cooperate with Bitcoin Foundation Ukrainec Bitcoin Foundation Ukraine
- 3** **June 2015**  
The National Bank of Ukraine started a dialogue with the Bitcoin community
- 4** **February 2016**  
E-Vox Memorandum signed providing for online voting on Ethereum blockchain
- 5** **March 2016**  
Memorandum on the launch of Auction 3.0, i.e. a Blockchain platform, a system of decentralized online auctions in public institutions at municipal and regional levels
- 6** **November 2016**  
The National Bank of Ukraine presented ‘Cashless Economy’, a roadmap for e-Auction 3.0 Blockchain platform, i.e. a system of decentralized online auctions in public institutions on municipal and regional levels
- 7** **December 2016**  
Ukrainian exchange operator – the first platform in the world to trade Bitcoin derivatives

<sup>194</sup> Interpretation of Bitcoin legitimacy in Ukraine [Electronic resource] // National Bank of Ukraine. — 11/10/ 2014. — [Mode of access](#) (Available in Ukrainian)

<sup>195</sup> Commentary on the statement released by the National Bank of Ukraine on 11/10/2014 [Electronic resource] // Bitcoin Foundation Ukraine. — 11/17/2014. — [Mode of access](#) (Available in Ukrainian)

<sup>196</sup> PayPal and Bitcoin: Future on Ukraine's market [Electronic Resource] // RIA News Ukraine. — 4/26/2015. — [Mode of access](#) (Available in Ukrainian)

In November 2014, the National Bank of Ukraine released a statement concerning Bitcoin. According to information published on the official facebook page of the National Bank of Ukraine, the National Bank of Ukraine defines Bitcoin virtual currency/cryptocurrency as quasi money with no real value and may not be used by individuals and legal entities in Ukraine as a medium of payment, since such use falls outside the scope of Ukrainian legislation. In addition, the regulator noted that “persons involved in Bitcoin transactions bear all risks arising out of the use of Bitcoin in transactions”<sup>194</sup>.

A few days later, Bitcoin Foundation Ukraine commented on the statement released by the National Bank of Ukraine and noted that the statement of the National Bank did not contain any ban on the use of cryptocurrencies and criticized the approach used by the National Bank in defining Bitcoin as quasi money. According to the commentary, “Bitcoin is being used in illegal transactions just like national currencies, including UAH” and “it is obvious that Bitcoin’s legal status requires regulation”. Bitcoin Foundation Ukraine offered the National Bank to hold consultations regarding the legal status of cryptocurrencies to enable Ukraine to take a leading position in the Bitcoin world<sup>195</sup>.

A few months later, the National Bank of Ukraine changed its approach. In late April 2015, Oleksandr Karpov, Director of the Ukrainian payment systems banking association told that the National Bank of Ukraine was going to consider the offer from Bitcoin Foundation Ukraine regarding cooperation and announced that some large and interesting innovations would take place by the end of the year<sup>196</sup>.



<sup>197</sup> Bitcoin and the National Bank. Dialogue beginning [Electronic resource] // PaySpaceMagazine. — 6/11/2015. — [Mode of access](#)

<sup>198</sup> National Bank gives thumbs up to Bitcoin in Ukraine [Electronic resource] // Finance.ua. — 9/25/2015. — [Mode of access](#)

<sup>199</sup> e-Vox: Open eDemocracy Platform [Electronic resource] // eVox.org. — [Mode of access](#)

In June 2015, a meeting of the Commission on payments executed by individuals and the Public Council under the National Bank of Ukraine took place, during which Bitcoin development was discussed. The project was presented by Mikhail Chobanian, one of the founders and directors of Bitcoin Foundation Ukraine, the founder of KUNA Bitcoin Agency, and Bitcoin Embassy. The meeting was attended by numerous representatives from the National Bank of Ukraine, including Natalia Lapko, head of the payment systems department. It was the starting point of a dialogue between the National Bank of Ukraine and the Bitcoin community. During the meeting, Natalia Lapko noted that Bitcoin was a tool for money transfers. Since banks in Ukraine work under licenses issued by the National Bank of Ukraine, cryptocurrencies fall under the scope of authority of the National Bank. According to Ms. Lapko, it is necessary to work out the definitions of 'Bitcoin,' 'mining' and other terms that appear due to the widespread use of cryptocurrencies<sup>197</sup>.

In September 2015, during Bitcoin Conference Kiev 2015 Natalia Lapko confirmed that the dialogue between the National Bank of Ukraine and Bitcoin community was continuing for months. She also noted that interest in cryptocurrencies had recently increased. In addition, Lapko said that she is interested in the development of new technologies in Ukraine and promised that the National Bank would continue to study international best practices in order to regulate virtual currencies in the European and global context<sup>198</sup>.

In February 2016, volunteers signed a memorandum to create E-vox, an Ethereum blockchain-based electronic

<sup>200</sup> Memorandum on the launch of e-Blockchain-based Auction 3.0 on signed in Kyiv [Electronic resource] // ForkLog. — 3/23/2016. — [Electronic resource](#) (Available in Russian)

<sup>201</sup> Ukraine to launch e-government on Blockchain [Electronic resource] // Finance.ua. — 3/21/2016. — [Mode of access](#) (Available in Russian)

<sup>202</sup> Ukraine's National Bank to issue blockchain-based e-money [Electronic resource] // ForkLog. — 11/10/2016. — [Mode of access](#) (Available in Russian)

<sup>203</sup> Ukraine-based exchange trades Bitcoin futures [Electronic resource] // ForkLog. — 12/19/2016. — [Mode of access](#)

voting system. E-vox is a system that enables voting for any purposes, including elections in municipal councils and the parliament, allows to carry out referendums, plebiscites, etc<sup>199</sup>.

In March 2016, a memorandum was signed on a blockchain platform called e-Auction 3.0, a system of decentralized auctions that was to become the first example of decentralized system use by the government for the purposes of privatization and lease of state property and licensing<sup>200</sup>. In addition, E-Ukraine, a concept of online government was presented during Blockchain Conference Kiev. The system was designed to be Blockchain-based, and a distributed platform was intended to become the platform for cooperation between individuals, businesses and the government<sup>201</sup>.

In November 2016, information emerged that the National Bank of Ukraine had approved and presented a roadmap entitled “Cashless Economy” that first described Ukraine’s plans to use Blockchain technology. The roadmap is designed to encourage the evolution of Blockchain-based e-money issued by Ukraine’s National Bank as a tool for non-cash payments. Acquiring (an alternative to card payments) cost-cutting was indicated as the expected effect<sup>202</sup>.

In December 2016, a Ukraine-based exchange became the world’s first platform to trade cryptocurrency derivatives<sup>203</sup>.

<sup>204</sup> Interpretation of Bitcoin legitimacy in Ukraine [Electronic resource] // National Bank of Ukraine. — 11/10/2014. — [Mode of access](#) (Available in Ukrainian)

The legal status of cryptocurrencies has not been defined in Ukraine. Cryptocurrency regulations have also not been developed. In addition, the statement issued by the National Bank of Ukraine in 2014, where cryptocurrencies were defined as quasi money, has no regulatory effect<sup>204</sup>.

<sup>205</sup> Ruling of the Kyiv Court of Appeal dated 10/12/2016 in case No.753/599/16 [Electronic resource] // Unified Registrar of Court Rulings. — 10/12/2016. — 10/12/2016. — [Mode of access](#) (Available in Ukrainian)

However, on October 12 2016, the Kyiv Court of Appeal held that Bitcoin is not a commodity in the context of Article 179 of the Commercial Code of Ukraine and bears no signs of the material world”. The court confirmed that Bitcoin turnover fell outside the scope of legal regulation<sup>205</sup>.

Since case law is not applied in Ukraine, this decision can hardly be considered important. The law does not specify any additional requirements for cryptocurrency activities and Bitcoin businesses. Regulatory authorities failed to make any interpretation on the issue as well.

## TAX TREATMENT

In Ukraine, general tax rules apply to cryptocurrencies. Income gained by individuals in cryptocurrencies is subject to 18% income tax, while tax treatment of profits gained by legal entities depends on the tax system used by a legal entity. Value-added tax treatment is a controversial issue, since under the applicable law, cryptocurrencies are not defined as a commodity.

<sup>206</sup> Determination of Investigating Judge of the Chernihiv Desnianskyi district court of 1/30/2015 in the case No750/848/15-к [Electronic resource] // Unified State Registrar of Court Rulings. — 1/30/2015. — [Mode of access](#) (Available in Ukrainian)

By the end of 2016, Ukrainian courts made a number of determinations in criminal cases involving cryptocurrencies.

For example, on January 30, 2015, the investigating judge of Desnianskyi district court of Chernihiv (Ukraine) sustained the application filed by the investigating officer authorizing temporary access to personal belongings and documents of the suspect. For example, on January 30, 2015, the investigating judge of Desnianskyi district court of Chernihiv (Ukraine) sustained the application filed by the investigating officer authorizing temporary access to personal belongings and documents of the suspect<sup>206</sup>. In the course of proceedings, it was required to obtain information on the movements of accounts. This determination was based on information that the suspect had used bank cards, in particular, aimed at “obtaining freely convertible currency for Bitcoin.” To support the application, the investigating officer argued that the suspect was one of the founders of a legal entity incorporated “to issue Bitcoin, the issue and turnover of which is prohibited in Ukraine according to paragraph 2, Article 32, of the Law of Ukraine On the National Bank of Ukraine”.



**Japan**

Japan is famous for Bitcoin due to reputed founder Satoshi Nakamoto. Japan is a world leader in innovation and fintech, and even the crash of Tokyo-based MtGox exchange did not stop the development of the cryptocurrency industry.

The Japan Authority of Digital Assets was established to deal with cryptocurrencies, which is in fact a self-regulatory authority.

In 2016 a law was enacted to regulate the work of exchanges and require them to register with the Financial Services Agency. The Agency may inspect such businesses and apply administrative measures. In accordance with this law, cryptocurrencies are defined asset-like values. Digital currency operations are not prohibited under the law of Japan.

Digital money and transactions with them are taxable under general tax rules: income gained by individuals in cryptocurrency is subject to income tax; profits gained by legal entities in digital currency is subject to corporate tax; the sale of cryptocurrency is subject to consumption tax, which is similar to value-added tax. Purchases of digital currencies may be omitted from consumption tax in July 2017.



- 1** **February 2014**  
MtGox, a Tokyo-based cryptocurrency exchange operator, went bust
- 2** **May 2014**  
The government put aside plans to regulate cryptocurrency trading and informed that it was going to control illegal Bitcoin transactions
- 3** **Summer 2014**  
Japan Authority of Digital Assets launched
- 4** **November 2015**  
The Financial Services Agency announced that Japan needed to improve its control mechanisms for cryptocurrencies
- 5** **December 2015**  
The Financial System Council developed a draft proposal on digital currency regulation
- 6** **February 2016**  
The government approved a bill that defined Bitcoin as an asset-like value and a legal means of exchange

<sup>207</sup> Mt. Gox Files for Bankruptcy, Claims \$63.6 Million Debt // CoinDesk. — 2/28/2014. — [Mode of access](#)

<sup>208</sup> Japanese Government Says Bitcoin 'Not a Currency', Forms Investigation Committee [Electronic resource] // CoinDesk. — 3/7/2014. — [Mode of access](#)

<sup>209</sup> Japan to monitor illegal bitcoin activity but put off regulation [Electronic resource] // Global Post. — 5/13/2014. — [Mode of access](#)

<sup>210</sup> Government-Backed Bitcoin Industry Association to Launch in Japan [Electronic resource] // Coin Desk. — 7/13/2014. — [Mode of access](#)

<sup>211</sup> Bitcoin Regulation In Japan [Electronic resource] // Coin Desk. — 10/23/2014. — [Mode of access](#)

<sup>212</sup> New Crypto currency Rules Discussed by Japan's Financial Services Agency [Electronic resource] // All Coins News. — 11/18/2015. — [Mode of access](#)

The MtGox bankruptcy in February 2014 may be considered the starting point for cryptocurrency regulation in Japan. <sup>207</sup> In less than two weeks, Japan's ruling Liberal Democratic Party issued a statement on the legal status of Bitcoin and transactions involving Bitcoin<sup>208</sup>.

[In May 2014](#), information emerged that the government was going to control illegal Bitcoin transactions, but put aside plans to regulate cryptocurrency trading<sup>209</sup>.

[In summer 2014](#), the Japanese Authority of Digital Assets (hereinafter referred to as "JADA") was launched. JADA's main task is to ensure protection of Bitcoin businesses. Although JADA is government-backed, it is not a governmental organization.<sup>210</sup> In fact, JADA is a self-regulatory authority established by cryptocurrency industry operators<sup>211</sup>.

[In June 2015](#), the government began to consider new regulations to prevent money laundering, funding terrorism, and other illegal activities. In November, the Financial Services Agency decided that Japan needed to improve its control mechanisms for cryptocurrencies<sup>212</sup>.

[In late May 2015](#), information emerged that a working group under the Financial System Council had developed a draft proposal on digital currency regulation. Reportedly, according to the draft proposal, operators of virtual currency exchanges were required to register with the Financial Services Agency<sup>213</sup>.

[In February 2016](#), information emerged that the Liberal Democratic Party was planning to propose amendments to legal acts that would define digital money as currency.



<sup>213</sup> Japan to consider regulating cyber currency exchanges after Mt. Gox debacle [Electronic resource] // The Japan Times. — 12/17/2015. — [Mode of access](#)

<sup>214</sup> Japan considers making bitcoin a legal currency [Electronic resource] // The Guardian. — 2/25/2016. — [Mode of access](#)

<sup>215</sup> Japan to adopt new safeguards for bitcoin users [Electronic resource] // Nikkei Asian Review. — 3/5/2016. — [Mode of access](#)

Reportedly, such amendments would enable financial institutions, including banks, to invest in cryptocurrencies, and also change the rules for exchange operators<sup>214</sup>.

Nikkei, the leading Japanese publisher, informed that the government had approved a new regulation defining Bitcoin as a legal form of payment fulfilling the functions of currency.<sup>215</sup> Another Japanese publication informed that in May the Diet passed a bill, according to which cryptocurrencies were defined as asset-like entities and a legal means of exchange<sup>216 217</sup>.

In addition, [in early February 2016](#), Asashi, a Japan-based publication informed that a big Japanese bank was developing its own cryptocurrency<sup>218</sup>. In June 2016, this bank confirmed the information<sup>219</sup>.

## REGULATORY FRAMEWORK

<sup>216</sup> Diet OKs bill to regulate virtual currency exchanges [Electronic resource] // The Japan Times. — 6/14/2016. — [Mode of access](#)

<sup>217</sup> Bitcoin: a new currency in Japan? [Electronic resource] // KU Leuven Centre for IT & IP Law. — 4/4/2016. — [Mode of access](#)

According to a statement released by the Liberal Democratic Party, cryptocurrency is neither currency nor a bond, and banks in Japan may not open Bitcoin deposit accounts, broker the buying and selling of cryptocurrency or exchange it for fiat money<sup>220</sup>. In its statement, the Liberal Democratic Party referred to 11 current regulations<sup>221</sup>.

In its first guidelines, JADA recommended exchanges and marketplaces to submit the filing document to JADA at the time of the opening and take measures to prevent money laundering and ensure security. In addition, JADA

<sup>218</sup> Bank of Tokyo Mitsubishi UFJ to create its own cryptocurrency [Electronic resource] // ForkLog. — 2/1/2016. — [Mode of access](#)

<sup>219</sup> Bank of Tokyo-Mitsubishi says testing its own digital currency [Electronic resource] // Reuters. — 6/14/2016. — [Mode of access](#)

<sup>220</sup> Regulating bitcoins [Electronic resource] // The Japan Times. — 3/13/2014. — [Mode of access](#)

<sup>221</sup> Japan issues guidelines on bitcoin taxation [Electronic resource] // The Guardian. — 3/7/2014. — [Mode of access](#)

recommended to follow ‘Know Your Customer’ policy<sup>222</sup>.

In May 2016, the Diet, the parliament of Japan, enacted a law that provides for the following:

\* Cryptocurrency exchange operators are required to register with the Financial Services Agency;

\* The Financial Services Agency is authorized to conduct inspections at virtual currency exchanges and issue administrative orders as needed.

\* Virtual currencies are defined as “asset-like values” that can be used in making payments and can be transferred digitally<sup>223</sup>.

However, digital currencies do not have the status of legal tender and are defined as a medium of exchange with which goods, services or legal tender can be acquired<sup>224</sup>. The law will come into force by May 2017.

## TAX TREATMENT

<sup>222</sup> Summary of Guidelines for JADA [Electronic resource] // Japan Authority of Digital Assets. — 10/23/2014. — [Mode of access](#)

<sup>223</sup> Diet OKs bill to regulate virtual currency exchanges [Electronic resource] // The Japan Times. — 6/14/2016. — [Mode of access](#)

According to the above statement issued by the Liberal Democratic Party, cryptocurrencies and transactions using them are taxed under the standard rules specified in the tax regulations<sup>225</sup>. Cryptocurrency income gained by individuals is subject to Income Tax, while cryptocurrency gains by legal entities are subject to Corporate Tax.

In addition, purchases of cryptocurrency are subject to Consumption Tax, the Japanese version of value-added tax.

<sup>224</sup> Bitcoin: a new currency in Japan? [Electronic resource] // KU Leuven Centre for IT & IP Law. — 4/4/2016. — [Mode of access](#)

However, in July 2017, the buyers of digital currencies may be officially exempt from the tax<sup>226</sup>.

## LIABILITY

<sup>225</sup> Regulating bitcoins [Electronic resource] // The Japan Times. — 3/13/2014. — [Mode of access](#)

In May 2014, Japanese law enforcement arrested a suspected drug trafficker who allegedly used Bitcoin to buy drugs in Mexico<sup>227</sup>.

<sup>226</sup> Japan Could Drop 8% Bitcoin Sales Tax By Mid-2017 [Electronic resource] // CoinDesk. — 12/8/2016. — [Mode of access](#)

In August 2015, Japanese authorities arrested Mark Karpeles, CEO of Mt Gox exchange that had gone bankrupt in 2014<sup>228</sup>. In May 2016, Nobuyuki Kobayashi, head of the supervisory board on the MtGox bankruptcy case appointed by the Tokyo-based court, said that the case was still being investigated, and criminal charges were served against Mr Karpeles<sup>229</sup>. In July, 2016 he was released on bail amounting to 10 million yen<sup>230</sup>.

<sup>227</sup> Japan Makes First Bitcoin-Related Drug Arrest [Electronic resource] // CoinDesk. — 5/9/2014. — [Mode of access](#)

<sup>228</sup> Mt Gox CEO Mark Karpeles Arrested in Japan [Electronic resource] // CoinDesk. — 8/1/2015. — [Mode of access](#)

<sup>229</sup> MtGox Bankruptcy Case: All Claims on the Return of Funds Examined [Electronic resource] // ForkLog. — 5/25/2016. — [Mode of access](#) (Available in Russian)

<sup>230</sup> Report: Mt Gox CEO Mark Karpeles Released On Bail [Electronic resource] // CoinDesk. — 7/14/2016. — [Mode of access](#)

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Regulation of cryptocurrency is still up for debate, and governments are still working on regulatory frameworks for digital currencies. Therefore, cryptocurrencies should be dealt with on a case-by-case basis. While working on this report, Axon Partners and ForkLog Research made an all-out effort to provide the most accurate information. However, information provided in this report may not be used as a definitive guide, without additional expert advice on this matter. To get Bitcoin business regulation advice, you may contact Axon Partners or ForkLog Research.

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