



UNIVERSITY *of* **NICOSIA**

MSc in Digital Currency

Introduction to Digital Currencies

Session 10

Regulatory and Tax Treatment

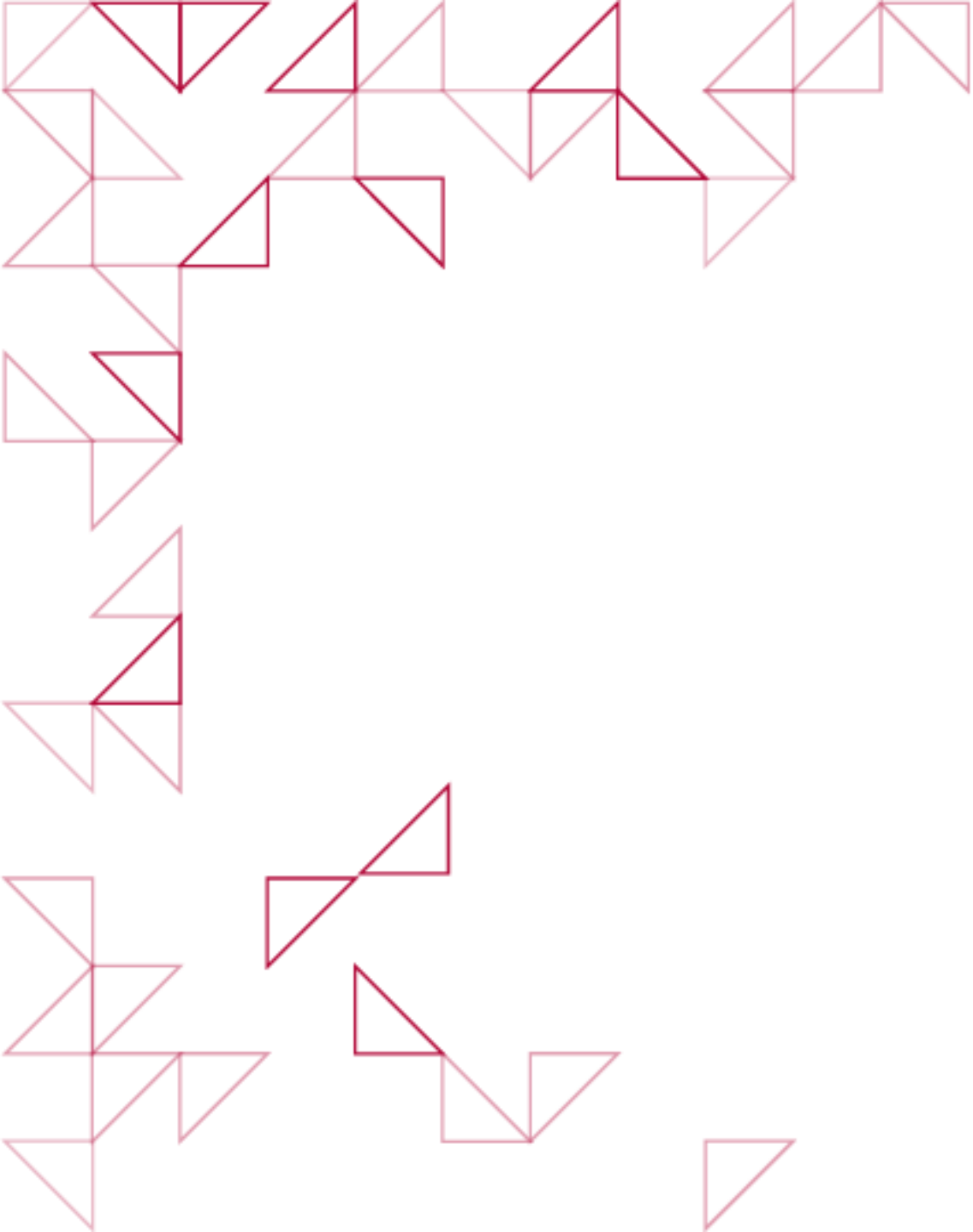
Introduction to Digital Currencies

Session Objectives

- ▼ Understand the likely areas of regulation that might impact Bitcoin and other decentralized currencies
- ▼ Develop an initial framework for evaluating different policy choices by nation-states in these areas
- ▼ Develop an appreciation for likely regulatory areas of concern when starting or working at a Blockchain-based business

Agenda

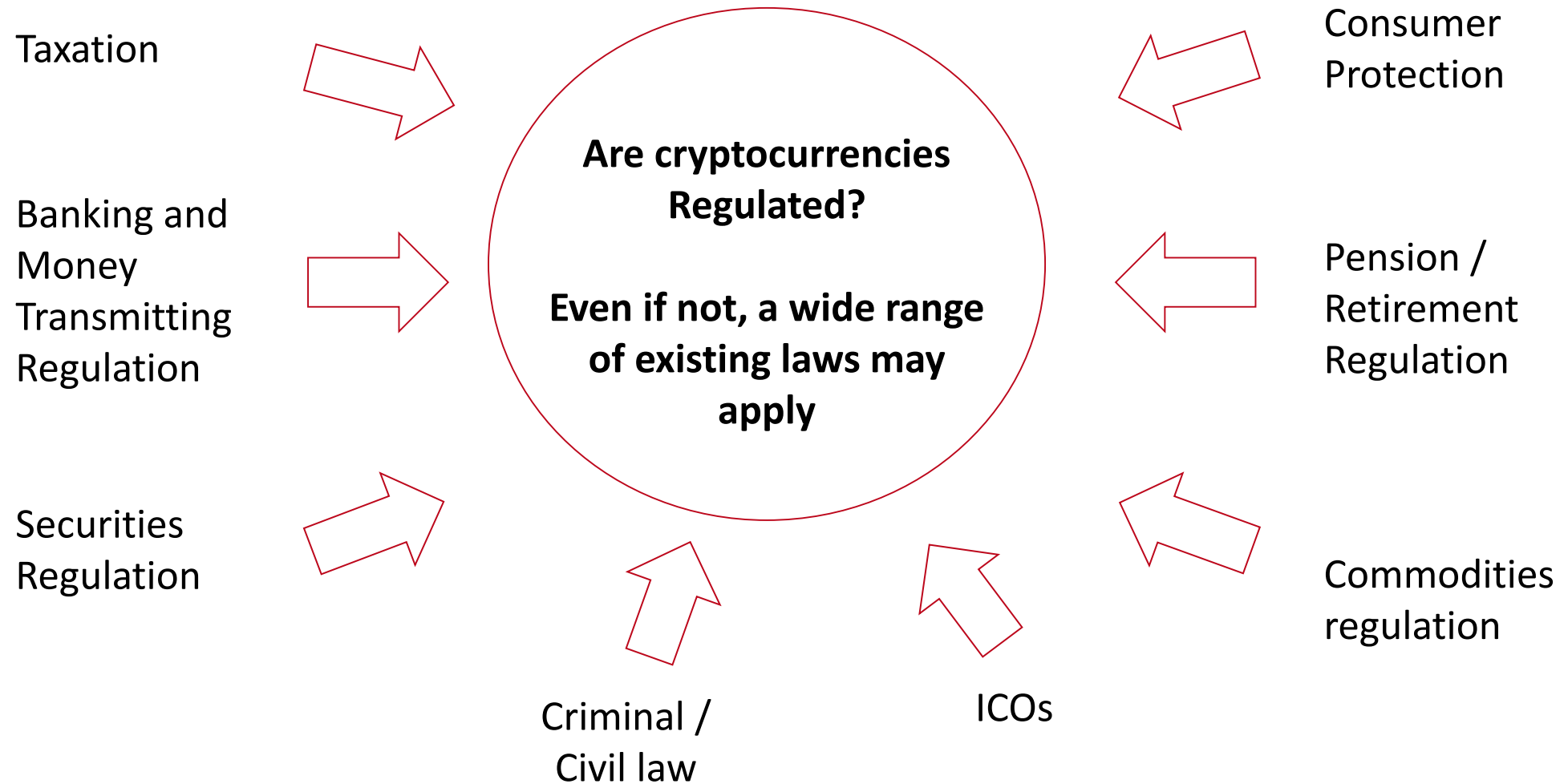
1. Overview
2. Definition and Tax Regulations
3. Money Service Business / Money Transmitter Regulations
4. Securities Regulation
5. Initial Coin Offerings
6. Conclusions
7. Self-Assessment Exercises and Further Reading



Overview



A heavily regulated arena



Two Key Conundrums

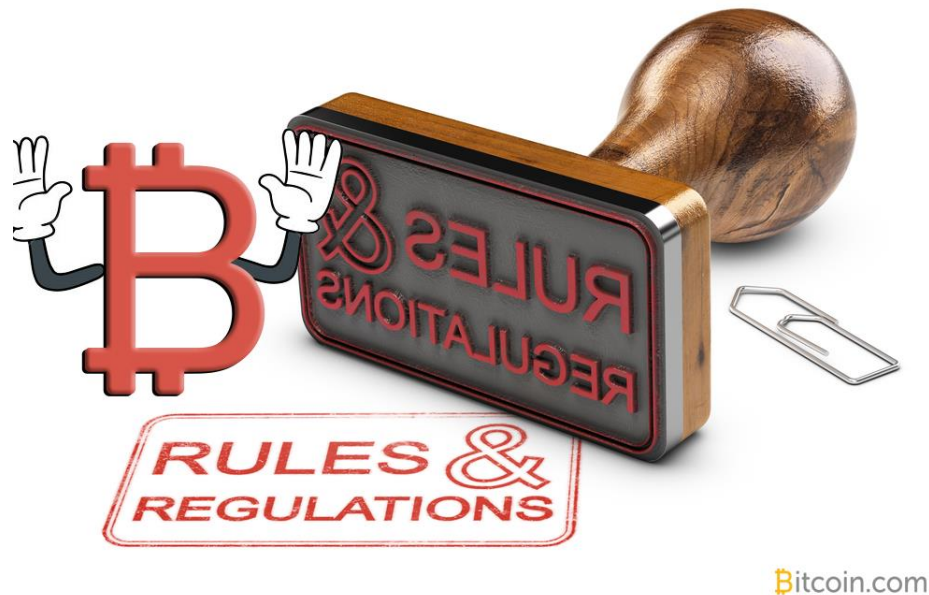
▼ Not Legal Tender

- ▼ Many nation-states have regulations that explicitly define currency as legal tender of another nation-state, preventing them from recognizing other “currencies” formally as currency.
- ▼ This policy does serve a purpose. Bitcoin might behave as a currency, but should a country extend the same treatment to every alt-coin? If so, should this same treatment apply to other forms of digital currencies, such as in-game credits and frequent flier miles?
- ▼ The exceptions to this approach are countries like Germany that allow for the concept of a “unit of account” (tax & trading purposes) that can be treated as a form of “private money” used in “multilateral clearing circles”

▼ Property that acts like a currency

- ▼ If it is not a currency for legal purposes, then cryptocurrency almost certainly is property / asset instead. This seems very logical and consistent from an investor perspective.
- ▼ Most property, however, does not transact as often and in such small amounts as crypto does, making this potentially burdensome from a consumer perspective.

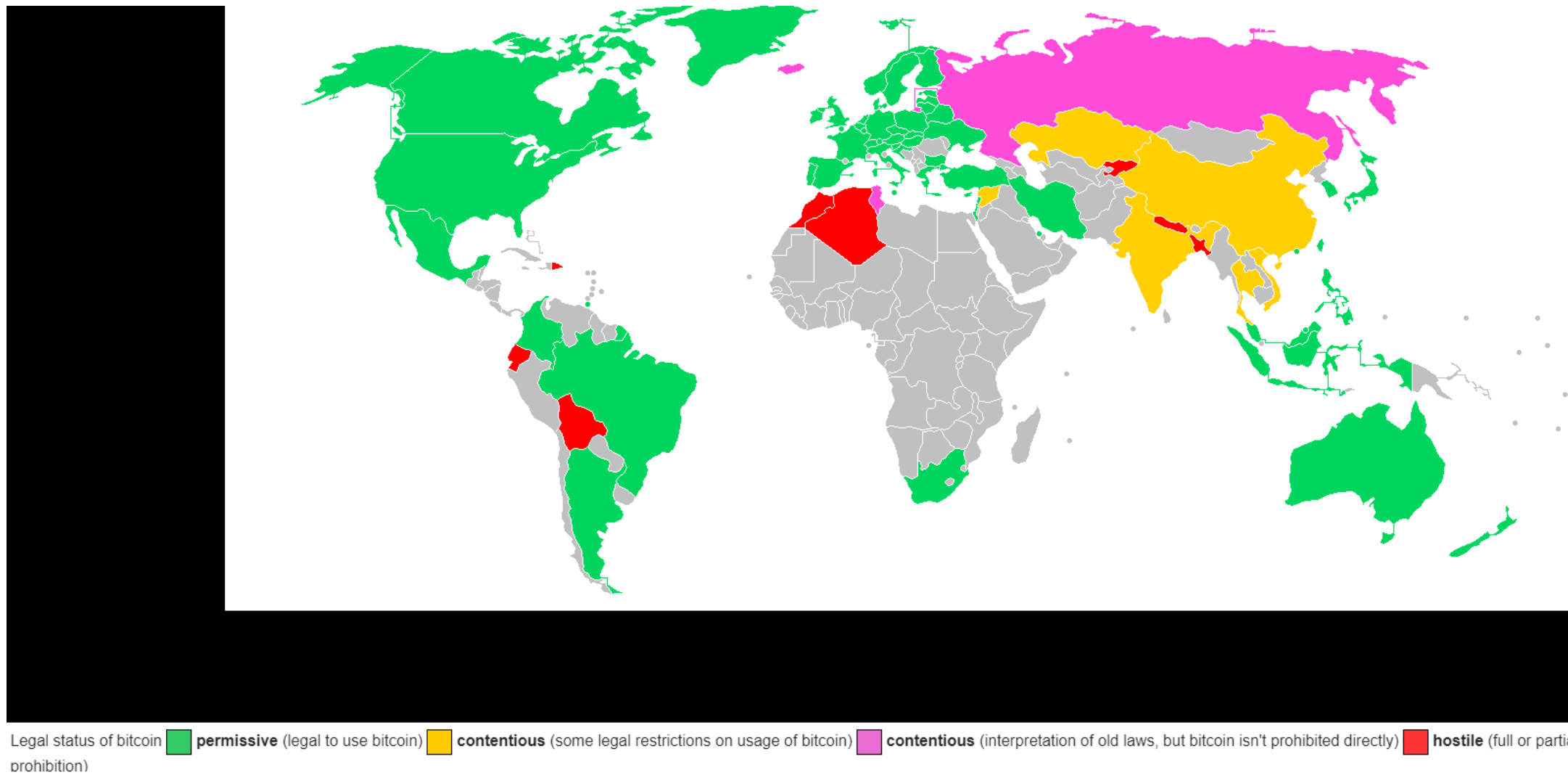
Regulatory Concerns



- ▼ Market competition and efficiency (no collusion)
- ▼ Consumer protection – fraud and theft;
- ▼ Consumer protection – loss of value (investor protection);
- ▼ Insider trading;
- ▼ Capital controls (China particularly concerned);
- ▼ Tax evasion;
- ▼ Currency controls;
- ▼ Crime Prevention ('Silk Road' ventures, ransom, kidnapping, extortion and data ransom);
- ▼ Anti-money laundering/counter terrorism financing

Regulatory environment

(source: [https://en.wikipedia.org/wiki/Legality_of_bitcoin_by_country_or_territory#/media/File:Legal_status_of_bitcoin_\(new\).png](https://en.wikipedia.org/wiki/Legality_of_bitcoin_by_country_or_territory#/media/File:Legal_status_of_bitcoin_(new).png))





Definition and Tax Regulations

USA

- ▼ The U.S. Treasury classified bitcoin as a convertible decentralized virtual currency in 2013. The Commodity Futures Trading Commission, CFTC, classified bitcoin as a commodity in September 2015, a view which has been confirmed in late 2018. Per IRS, bitcoin is taxed as a property
- ▼ In September 2016, a federal judge ruled that "Bitcoins are funds within the plain meaning of that term"
- ▼ Legality of Bitcoin varies by U.S. jurisdiction. In June 2018, The US Supreme Court discussed Bitcoin for the first time, while the first Bitcoin case was heard by the Supreme Court in February 2019.
- ▼ **BitLicense**: A business license issued by the New York State Department of Financial Services applicable to those conducting business in the state of New York. The application costs could end up to be approximately \$100,000
 - ▼ Required, if business activity involves:
 - ▼ Receiving virtual currency (VC) for Transmission or Transmitting VC, unless for non-financial purposes and only a nominal amount of VC;
 - ▼ Storing, holding, or maintaining custody or control of VC on behalf of others;
 - ▼ Buying and selling VC a customer business;
 - ▼ Performing Exchange Services as a customer business;
 - ▼ Controlling, administering, or issuing a VC
- ▼ Approximately 15 organizations have been awarded the BitLicense as of March 2019. Circle, Ripple and Coinbase were among the first organizations. More recently bitFlyer, Genesis Global Trading, Xapo, Robinhood Crypto LLC and Square Inc. have also been awarded with the BitLicense. It is generally considered a tough model and an inefficient approach therefore there are thoughts of redesigning:
- ▼ <https://www.coindesk.com/bitcoin-crypto-ny-lawmaker-pledges-make-bitlicense-something-works/>

Taxation: USA

- ▼ According to IRS - “virtual currency”, for tax purposes, is considered **property**, therefore Bitcoin price at the time of transactions, as well as gains and losses must be tracked by Bitcoin users. Trading one cryptocurrency for another and benefiting from “forkcoins” also fall under the capital gains tax. The positive aspect is that a maximum tax rate of 15% is applied to Bitcoin capital gains
- ▼ Buying cryptocurrency with USD is not a taxable event. You don’t realize gains until you **trade, use, or sell** your crypto. If you hold longer than a year you can realize long-term capital gains
- ▼ Income and expenses in cryptocurrencies **are taxed and reportable** as per regular standards, which can reach 25%
- ▼ Currency earned through mining is treated as ordinary **income**. i.e. you have to record the cost basis in fair market value at the time you are awarded the coin
- ▼ This guidance is an outcome that **investors** in cryptocurrencies could have asked for, though it has presented some difficulties for **consumers** using Bitcoin and other cryptos for purchases.
- ▼ **Sales tax** was **not addressed** by the IRS ruling, as the IRS is the federal tax agency and sales tax is regulated by the individual states.
- ▼ IRS’ collaboration with Chainalysis to identify tax evaders: <https://www.cryptocoinsnews.com/irs-tracked-bitcoin-tax-evaders-since-2015/>
- ▼ For the first time, the US Congress has dedicated a whole chapter praising cryptos and blockchain in March 2018
- ▼ <https://dailyhodl.com/2018/03/19/us-congress-releases-extraordinary-report-praising-cryptocurrency-and-blockchain-technology/>
- ▼ Congress Members urge IRS to **update** the guidelines
- ▼ The most controversial outcome of the IRS decision is the implication that every time you purchase something with, say, a bitcoin you have “sold” bitcoin and therefore have to calculate a capital gain or loss relative to your “basis” (purchase price) of the bitcoins you sold. There is no minimum exemption

European Union

- ▼ **2014:** The European Central Bank classifies bitcoin as a convertible decentralized virtual currency. In July 2014 the European Banking Authority advised European banks not to deal in virtual currencies such as bitcoin until a regulatory regime was in place
- ▼ **2015:** The European Union has passed no specific legislation relative to the status of the bitcoin as a currency, but has stated in October 2015 that **VAT/GST is not applicable to the conversion between traditional fiat currency and bitcoin**. VAT/GST and other taxes (such as income tax) still apply to transactions made using bitcoins for goods and services
- ▼ **2016:** The European Parliament's passed a proposal to set up a taskforce to monitor virtual currencies to combat money laundering and terrorism. It has been sent to the European Commission for consideration
- ▼ **2017:** A proposal requiring cryptocurrency exchanges and cryptocurrency wallets to identify suspicious activity was presented by the European commission
- ▼ **2018:** EU has been promoting the concept of blockchain technology and subsidizing blockchain initiatives such as the [EU Blockchain Observatory and Forum](#), however no crypto regulations have been imposed to date. Cryptocurrency use is considered legal while member states can impose their own regulations and guidelines towards crypto exchanges. This normally means that crypto exchanges should register with their respective regulators e.g. Germany's BaFin

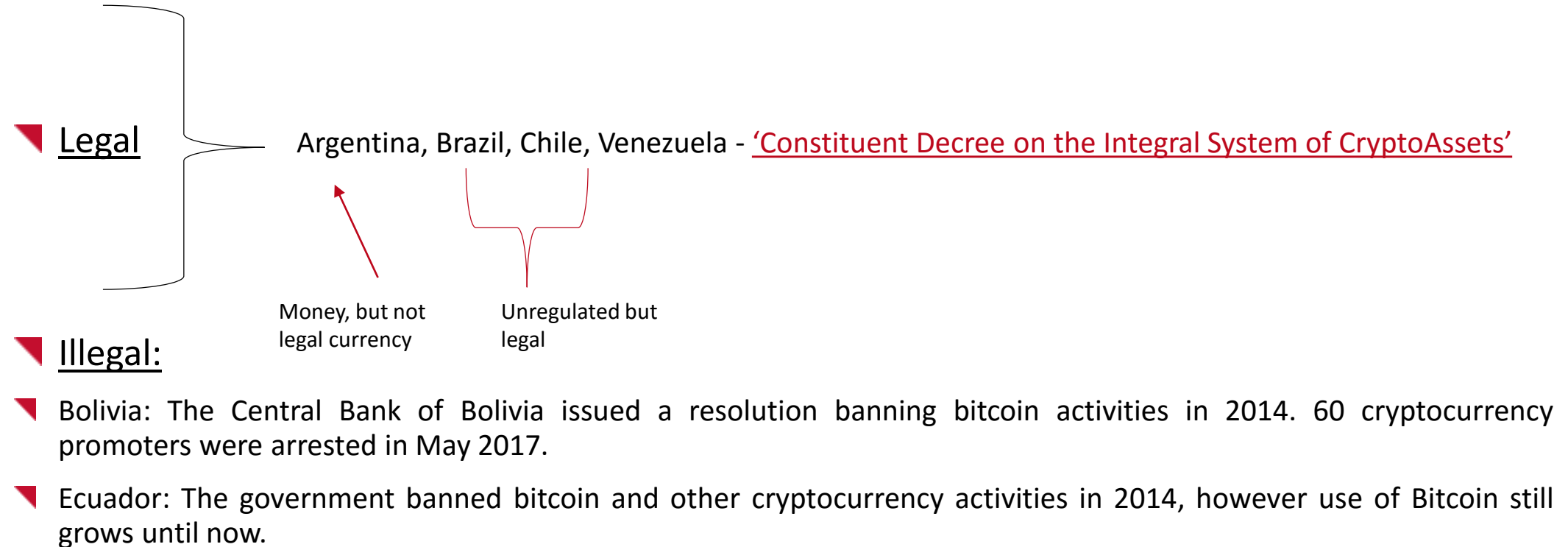


Exchanges and wallet providers must be under the "Anti-Money Laundering Directive"

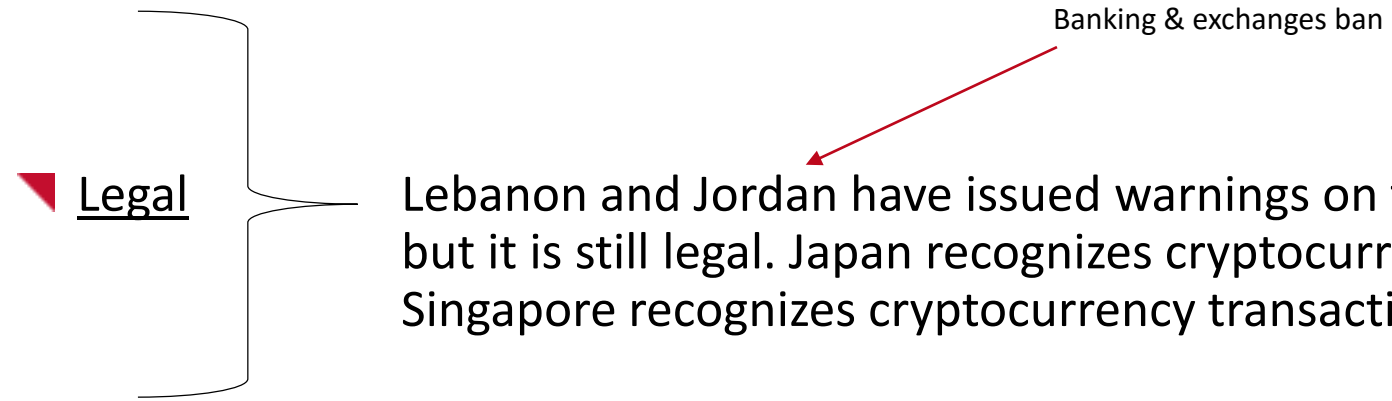
Europe

-
- Not heavily regulated, legal
Mostly warnings
- Regulated and legal:
contentious
- Entering national strategy to promote crypto and blockchain technology
- Cyprus, Poland, Slovakia, Denmark, Estonia, Netherlands
- Russia, Greece, Italy, Portugal, Turkey, Belgium, Ireland
- Germany: “Unit of account” and can be used for tax and trading
 - Malta: Recognized by the government as “a medium of exchange, a unit of account, or a store of value”. Exchanges are regulated under the [VFA act](#)
 - UK: Treated as private money and foreign currency - no VAT for exchanging BTC to fiat. VAT applicable for goods/services sold for BTC or any other cryptocurrency. Relevant profits/losses subject to capital gains tax. A parliamentary [inquiry](#) was formed to further elaborate on proposed regulations and DLT strategy
 - Slovenia: Mining and businesses selling goods/services in bitcoin are taxed
 - Switzerland: Bitcoin businesses subject to anti-money laundering regulations and may need a banking license
 - Norway: Bitcoin is an asset and falls under the sales tax regulation
 - Sweden: Subject to Financial Supervisory Authority regulations and treated as currency exempt of VAT

South America



Asia

- 
- ▼ Legal Lebanon and Jordan have issued warnings on the use of Bitcoins but it is still legal. Japan recognizes cryptocurrencies as a method of payment. Singapore recognizes cryptocurrency transactions as barter sales for tax purposes
 - ▼ Illegal: Kyrgyzstan, Bangladesh
 - ▼ India bans the purchases/sales of crypto but expressed believe in blockchain technologies. Indian Supreme Court puts pressure on Indian government to produce crypto regulation
 - ▼ In early January 2018, China took a hostile position for local miners and ICOs, but the Chinese Government also favors the implementation of a regulatory framework
 - ▼ Financial firms cannot hold or trade cryptocurrencies.
 - ▼ A late October ruling confused legality of Bitcoin even more, as it was stated that there is no prohibition against Bitcoin ownership and transfer

Notable Approaches

▼ France

- ▼ The French Ministry of Economy and Finance announced in July 2014 that measures and taxes were to be placed until the end of the year, although not recognizing digital currencies as official currencies.
- ▼ A threshold is to be placed at €5,000, so that people can “*try, invest and develop business with Bitcoin*”, before it becomes subject to taxes.
- ▼ Bitcoin is now classified as “movable property” while France is said to be among the top 10 ICO countries, as the French Minister of the Economy wants Paris to become the ICO capital of the world.

▼ Japan

- ▼ JADA (Japan Authority of Digital Asset) was formulated to create and establish standards, best practices and guidelines and offer advice and consultancy, for the safe and sound operation of its members. Right now there are growing AML concerns.
- ▼ In 2014, the Japanese government made a decision that did not recognize bitcoin as currency nor bond under the current Banking Act and Financial Instruments and Exchange Law, prohibiting banks and securities companies from dealing in bitcoins.
- ▼ In 2017, the country’s government officially recognized bitcoin as a method of payment.
- ▼ Stablecoins fall under the category of “Currency Denominated Assets” and not “Virtual Currencies”
- ▼ Japan-based exchange Coincheck was hacked on January 2018. Losses were reported as \$530M worth of NEM. Closer oversight from the Financial Services Agency is expected
- ▼ The Financial Services Agency of Japan has innovated by approving a cryptocurrency exchange group as a self-regulatory industry body
- ▼ Virtual Currency Exchange Services must be registered with Japan’s FSA

Notable Approaches

▼ Australia

- ▼ In 2017, Australia's government declared that cryptocurrencies were legal and specifically stated that Bitcoin and cryptocurrencies should be treated as property, and subject to Capital Gains Tax (CGT).
- ▼ Australian Taxation Office declared in December 2017: *"Transacting with bitcoin is akin to a barter arrangement, with similar tax consequences. Our view is that bitcoin is neither money nor a foreign currency, and the supply of bitcoin is not a financial supply for goods and services tax (GST) purposes. Bitcoin is, however, an asset for capital gains tax (CGT) purposes."*
- ▼ On June 29 2018, the Australian Tax Office stated that Capital Gains Tax may be occurred when there is any sale, exchange, trade or purchases via cryptocurrencies as well as conversion to fiat
- ▼ Exchanges must be registered with AUSTRAC
- ▼ Treatment of ICOs depends on whether their usage is utility or security based.
- ▼ The National Blockchain Roadmap was announced in March 18th, while the government has been partnering with IBM to automate data security procedures via blockchain technology

▼ United Kingdom

- ▼ On December 4, 2017, The Guardian and The Telegraph reported that the U.K. Treasury and the EU both are in the process of regulating cryptos with the aim to end anonymity for cryptocurrency traders, because of anti-money laundering and tax evasion concerns. New tax guidelines have been released in late 2018
- ▼ Gains/losses are subject to capital gains tax
- ▼ **U.K. Treasury:** *"working to address concerns about the use of cryptocurrencies by negotiating to bring virtual currency exchange platforms and some wallet providers within anti-money laundering and counter-terrorist financing regulation."*
- ▼ "there is little current evidence of [cryptocurrencies] being used to launder money, though this risk is expected to grow."
- ▼ CryptoUK is now the first self-regulatory trade association with the aim to promote standards of conduct

Taxation: Other Notable Approaches

▼ Denmark

- ▼ Personal gains and losses from trading digital currency are **not taxable** (or tax-deductible)
- ▼ Corporations whose primary business is digital currency trading are taxable as any other businesses
- ▼ The FSA has suggested amending the present legislation so that virtual currencies and regulation come under their remit.
- ▼ Updates:
- ▼ <https://www.fairforexbrokers.com/blog/2018/05/06/danish-tax-authority-decides-on-how-to-tax-cryptocurrencies/>
- ▼ Danish Tax Agency, Skattestyrelsen got the green light to collect trader information (trades, names, addresses etc.) from local cryptocurrency exchanges to see if they are paying their dues.

▼ Finland

- ▼ The Finish Tax Authority has [issued instructions](#) for the taxation of Bitcoin and other digital currencies
- ▼ When transferred to another currency, the rules on taxation of capital gains apply
- ▼ When the currency is used as a form of payment for goods and services, it is treated as a trade, and the increase in value that the currency might have gained after it was obtained is taxable
- ▼ Losses are not-tax deductible
- ▼ A bitcoin transaction is considered a private contract equivalent to a contract for difference for tax purposes
- ▼ Bitcoin mining is taxed
- ▼ <https://metropolitan.fi/page/bitcoin-cryptocurrency-tax-in-finland>

Taxation: Other Notable Approaches

▼ Russia

- ▼ Issued warnings in [January 2014](#) that the use of currencies besides the ruble is illegal, and has since proceeded to release [draft bills](#) with the penalties involved for the promotion and use of “money surrogates” like Bitcoin.
- ▼ The Russian Central Bank was against regulating cryptocurrencies as currency (as a payment for goods and services) and against equating them with a foreign currency
- ▼ The deputy Finance Minister Alexei Moiseev, said that cryptos “are not legal now.” and “Obviously, now there is a legal vacuum, and accordingly it’s hard for me to say if these actions are legal or not.”
- ▼ Russian President Vladimir Putin highlighted crypto risks as follows: laundering criminal capitals, evading taxes, financing terrorism and spreading fraudulent schemes
- ▼ Russian regulators announced that cryptocurrencies will officially be regulated in Russia after they met with Putin
- ▼ Putin sided with the Ministry of Finance a few days after that, when he stated that legislative regulation of the cryptocurrency market is needed
- ▼ In late January 2018, the Finance Ministry published a draft law “On Digital Financial Assets.” The law, “is expected to define tokens, establish ICO procedures and determine the legal regime for cryptocurrencies and mining.”
- ▼ <https://cointelegraph.com/news/russian-state-duma-almost-unanimously-approves-first-reading-of-crypto-industry-bill>
- ▼ On May 2018, the Ministry of Finance [published a document](#) stating that citizens should estimate and declare capital gains tax “independently” before an official regulatory framework for the crypto market is introduced. Personal income tax in Russia is 13%.
- ▼ Putin’s [order](#) is to adopt crypto regulation by July 2019, while there is also interest to create an environment which would benefit [offshores](#)

A decorative pattern of various-sized triangles, some solid and some outlined, in shades of red and pink, arranged in a complex, overlapping geometric design along the left and bottom edges of the slide.

Money Service Business / Money Transmitter Regulations

Banking and Money Transmitting: USA

- ▼ FINCEN (Financial Crimes Enforcement Network) is the bureau of the US Department of Treasury tasked with fighting financial crime. It has made two public rulings regarding “virtual currency” clarifying which parties in the digital currency ecosystem are MSBs (**Money Service Businesses**) and are therefore subject to regulation:
- ▼ Consumers are NOT MSBs: “A user who obtains convertible virtual currency and uses it to purchase real or virtual goods or services is not an MSB under FinCEN's regulations”
- ▼ Miners are NOT MSBs so long as they are mining for their own account. If they are mining in order to transmit money for others to third parties, they would be MSBs
- ▼ Exchanges ARE MSBs if they allow transmission of value to third parties. In the Bitcoin ecosystem, that would mean that firms like Coinbase would be MSBs as would full exchanges.

What does it mean to be an MSB?: USA

- ▼ Who are MSBs? (1) Currency dealers/exchangers, (2) Check cashers, (3) Issuers of traveler's checks / money orders or stored value cards, (4) Sellers/redeemers of traveler's checks, money orders or stored value cards, (5) Money transmitters, and (6) The US Postal Service.

Once a firm is classified as an MSB, it triggers a wide range of regulatory requirements in the United States such as:

- ▼ Having to **register** with the Department of the Treasury
- ▼ Developing a **customer identification** (Know Your Customer) and AML (Anti-Money Laundering) program with policies, procedures, internal controls, compliance officers and independent review
- ▼ **Reporting cash or suspicious transactions** under the Bank Secrecy Act
- ▼ State-level **registrations**: Almost all states require registration or licensing for MSBs that operate in their state, and in some cases, that transact with citizens of their state, even if they don't have operations in-state. New York State, in particular, is in the process of developing special regulations for digital currency exchanges that might serve as a model for other states.

The accidental MSB?: USA

- ▼ Legal penalties for violating MSB regulations (even unknowingly) are very severe and can include heavy fines and jail time.
- ▼ Prior centralized digital currency firms such as e-Gold and Liberty Reserve were indicted and closed for failing to register as money transmitters (among other charges). Several early Bitcoin firms such as Mt.Gox (May 2013) and BitInstant (Jan 2014) also ran afoul of MSB regulations. It has been interesting to see that with decentralized currencies, the regulatory problems of individual businesses have gained all of the attention of regulators, without attracting any towards the currency itself
- ▼ **MSB compliance is expensive and time-consuming.** This means that startups using digital currencies in MSB contexts will need to be well-funded and have strong compliance expertise
- ▼ FinCEN fined BTC-e for facilitating transactions involving Ransomware, computer hacking, identity theft, tax refund fraud schemes, public corruption, and drug trafficking.
- ▼ FinCEN now claims to receive approximately 1,500 crypto-related complaints per month while US Lawmakers expect FinCEN to apply specific focus on cryptocurrency-related regulation soon.
- ▼ Crypto exchanges registered with FinCEN include:
 - ▼ OKEEx USA, HBUS (Huobi US), Coinbase, Bitstamp, Bittrex, Poloniex, BitFlyer, itBit and Gemini



Securities Regulation

Securities Regulation: USA – The Howey Test, used by SEC

- ▼ What is a security? An asset is a security if:
 - ▼ It is an investment product that can be exchanged for value
 - ▼ The investment involves some element of risk
 - ▼ It is tradable, thereby representing an ownership position and creditor relationship
 - ▼ Examples: banknotes, stocks, options, futures and bonds
- ▼ Howey Test – Determines whether an asset can be deemed as a security. See [here](#) for the relevant lawsuit
- ▼ The takeaway is that an investment contract comes into existence when “a person invests his money in a common enterprise and is led to expect profits solely from the efforts of the promoter or a third party”
- ▼ The crypto related question is whether or not cryptocurrency investors are participating in a speculative enterprise and if the potential profits are entirely dependent upon the operations of a third party. The SEC may classify a given token as a security, thereby determining whether the token can be sold to U.S. investors legally or not. Investors holding such tokens should register their holdings with the SEC.

Securities Regulation: USA

- ▼ The Securities and Exchange Commission Chairman Mary Jo White has stated: *“interests issued by entities owning virtual currencies or providing returns based on assets such as virtual currencies likely would be securities and therefore subject to our regulation”*
- ▼ In *SEC v Trendon T. Shavers and Bitcoin Savings and Trust*, the SEC charged the defendant with running a Bitcoin-denominated securities scam and Ponzi scheme. The SEC claimed jurisdiction based on the Securities Act of 1933 and the Exchange Act of 1934, the cornerstone securities regulations in the United States
- ▼ US District Court for the Eastern District of Texas ruled in favor of the SEC, using a Supreme Court test of an investment contract that: *“is any contract, transaction or scheme involving (1) an investment of money, (2) in a common enterprise, (3) with the expectation that profits will be derived from the efforts of the promoter or a third party”*
- ▼ National securities exchanges such as the New York Stock Exchange and the Chicago Stock Exchange are registered with the SEC.

Securities Regulation: USA

- ▼ SEC argues in a [statement](#) on early March, 2018 that digital assets like coins and ICOs can be defined as a “security” under US security laws, although Bitcoin is not a security according to the [SEC chairman](#)
- ▼ Therefore, platforms which trade cryptocurrencies, tokens (or digital assets if you like) should probably register with the SEC, which after all is responsible for the protection of investors and fairness of markets
- ▼ The Commission believes that there are potential areas of inefficiencies and fraud within cryptocurrency exchanges, which investors are not aware of
- ▼ Therefore, imposed regulations should be imposed in order to validate that these exchanges satisfy the standards of a national security exchange.
- ▼ *“There is no reason to believe that such information [on digital currency platforms] has the same integrity as that provided by national securities exchanges”, SEC*

Securities Regulation: Germany

- ▼ An earlier evaluation by German authorities classified Bitcoin as a “unit of account” in September 2013 for taxation and trading purposes.
- ▼ In February 2014, Germany clarified the stance taken earlier by the ministry of finance with a [publication](#) from BaFin.
- ▼ In said publication: “BaFin has qualified BTC with legally binding effect as financial instruments in the form of units of account pursuant to section 1 (11) sentence 1 of the German Banking Act (Kreditwesengesetz – KWG).”
- ▼ The paper also clarifies 4 activities that need to be licensed by BaFin, if performed with Bitcoin on a commercial level :
 - ▼ Principal Broking Services (Finanzkommissionsgeschäfte)
 - ▼ Multilateral Trading Systems (MTFs)
 - ▼ Investment and Contract Broking (Anlage- und Abschlussvermittlung)
 - ▼ Proprietary Trading (Eigenhandel)
- ▼ In January 2018, (BaFin) [ordered](#) GmbH, a Berlin-based crypto exchange, to immediately stop acting as a financial broker.



Initial Coin Offerings

USA

- ▼ Jay Clayton is the SEC Chairman. You can find some important points from his December 2017 public [statement](#) below:
- ▼ *“...a token that represents a participation interest in a book-of-the-month club may not implicate our securities laws, and may well be an efficient way for the club’s operators to fund the future acquisition of books and facilitate the distribution of those books to token holders. In contrast, many token offerings appear to have gone beyond this construct and are more analogous to interests in a yet-to-be-built publishing house with the authors, books and distribution networks all to come. It is especially troubling when the promoters of these offerings emphasize the secondary market trading potential of these tokens. Prospective purchasers are being sold on the potential for tokens to increase in value – with the ability to lock in those increases by reselling the tokens on a secondary market – or to otherwise profit from the tokens based on the efforts of others. These are key hallmarks of a security and a securities offering”*
- ▼ *“...the structures of initial coin offerings that I have seen promoted involve the offer and sale of securities and directly implicate the securities registration requirements and other investor protection provisions of our federal securities laws. Generally speaking, these laws provide that investors deserve to know what they are investing in and the relevant risks involved”*
- ▼ All the updated guidelines can be found here: <https://www.sec.gov/ICO>

- ▼ The European Securities and Markets Authority outlines the following risks in a [press release](#):
 - ▼ An ICO might be unregulated. Regulations protecting investors may not necessarily apply to ICOs, and several ICOs have been identified as frauds.
 - ▼ Risk of complete or partial loss of capital. There is a high risk of losing all of the invested capital.
 - ▼ Extreme price volatility. In the absence of a secondary market, it may be impossible to find a buyer for the acquired cryptocurrency if the investor wishes to dispose of it.
 - ▼ Inadequate information: the information made available to investors is often incomplete, unbalanced or even misleading.
 - ▼ Technology risks: the technology may not function quickly and securely.

- ▼ Ashley Fox a representative of the United Kingdom as a Member of the European Parliament (MEP), [wrote a draft report](#) on proposed ICO regulations

ICO Guidelines on the making

▼ Switzerland

- ▼ On January 18, 2018, an ICO working group was [set up](#) to “increase legal certainty, maintain the integrity of the financial center and ensure technology-neutral regulation.”
- ▼ A synopsis of the official document developed on February 2018 can be found [here](#). The 3 categories of tokens are payment tokens, utility tokens, asset tokens.

▼ Russia

- ▼ Regulations are being drafted – initial thoughts include the following:
 - ▼ ICO organizers would be accredited for a period of 5 years;
 - ▼ Accreditation is proposed to be voluntary and controlled by the Ministry of Telecom and Mass communications;
 - ▼ ICOs must be registered in the Russian Federation;
 - ▼ Registered capital must be at least 100 million rubles (1.7 mill USD);
 - ▼ Must be licensed to develop, produce, and distribute cryptographic commodities;
 - ▼ Must have Russian bank account for transmitting money raised from ICO;
 - ▼ Issuing of digital tokens must be carried out in rubles only (cashless settlement).

ICO Guidelines on the making

▼ France

- ▼ Finance minister Bruno Le Maire announced plans on a legal framework for ICOs and indicated willingness to become a global blockchain hub
- ▼ *“France has every interest in becoming the first major financial center to propose an ad hoc legislative framework for companies making an initial coin offering.”*
- ▼ France and Germany pushed for crypto regulation to be discussed during the G20 summit in Buenos Aires.
- ▼ Robert Ophele, president of the Autorite des marches financiers (AMF), the domestic financial markets regulator, said that soon his agency is planning to finalize regulations on ICOs. A working group is also assigned with the task of drafting regulations
- ▼ BaFin, the German Federal Financial Services Supervisory Authority, released guidance for German ICO issuers and advisors.
- ▼ In February 2018, it was stated that firms involved in ICOs need to assess whether the ICOs qualify as financial instruments or as securities and therefore there is a need to comply with the relevant financial legislation.
- ▼ Transactions from FIAT to crypto and vice versa constitute the taxable supply of other services, but are exempt from VAT. Cryptocurrency transactions on the form of payments are treated the same as traditional means of payment

A decorative pattern of various-sized triangles, some solid and some outlined, in shades of red and pink, arranged in a complex, overlapping geometric design along the left and bottom edges of the slide.

Regulation and Tax treatment – A preview of DFIN-522 (MSc)

A preview of DFIN-522 (MSc)

There's much to cover with regards to regulation and the tax treatment of cryptocurrencies;
for example:

- ▼ **Regulation** – key theories for regulation and how digital currencies fit in them, application of existing regulations, regulatory approaches (e.g. BitLicense), self vs. statutory regulation, inherent capabilities of blockchain-based currencies for self-regulation
- ▼ **Taxation** – Anti-Money Laundering (AML) approaches, tax evasion, relation to individual tax system principles, and how direct/indirect taxation could take place
- ▼ **Legislation** – regulation as a function of the legal system, fundamental legal concepts, tax law enforcement related to (or perhaps using) digital currencies
- ▼ **Business models** – use of Bitcoin exchanges, wallet providers, payment processors, friction points with existing regulations
- ▼ **Issues** – such as in Accounting, Auditing, Custodianship, non-currency blockchain uses, and emerging issues in regulation

All of the above are covered by DFIN-522 Regulation and Digital Currencies from the MSc.

A preview of DFIN-522 (MSc) - Regulation

Key topics explored are:

- ▼ Regulation as a function of the legal system and theories – e.g. role, points of weakness
- ▼ Property and its relevance to digital currencies – e.g. Is Bitcoin a “property”, a “commodity”, a “currency”, etc.
- ▼ Regulation approaches: e.g. Anti-Money Laundering (AML) with examples and related issues,
- ▼ Consumer protection against fraud and theft
- ▼ Study of new regulatory approaches on crypto and ICOs
- ▼ Inherent regulatory capabilities of blockchain-based currencies, self regulation and algorithmic regulation

A preview of DFIN-522 (MSc) - Taxation

Key topics explored are:

- ▼ Tax evasion
- ▼ Tax system principles – e.g. simplicity, transparency, efficiency, etc.
- ▼ How tax laws apply to cryptos and ICOs
- ▼ Direct/indirect taxation, how it works and how it is applicable to cryptocurrencies
- ▼ Tax systems approaches and their differences in certain countries, such as, the US, and Australia

A preview of DFIN-522 (MSc) - Legislation

Key topics explored are:

- ▼ Regulation as a function of the legal system
- ▼ Crypto and ICO specific regulations
- ▼ Fundamental legal concepts – e.g. with regards to “property” (Common law and European legal codes)
- ▼ Tax law enforcement
- ▼ Study of existing legislation in relation to cryptocurrencies and ICOs

A decorative border on the left side of the slide, composed of various triangles in different shades of red and pink, arranged in a complex, overlapping geometric pattern.

Conclusions

A decorative border on the right side of the slide, featuring a few triangles in dark red and pink, including a solid dark red triangle at the top right.

Conclusions

- ▼ The financial services industry is a very highly regulated industry. Given that there is no particular reason that changing the denomination of a financial services activity or instrument to the cryptocurrency would invalidate this regulation, it is likely that in most countries the full panoply of financial services regulation will be applicable to at least some parties in the cryptocurrency ecosystem
- ▼ Decentralized digital currencies share characteristics of currency, property, commodities and money transmission networks. This creates challenges in neatly matching them to pre-existing categories.
- ▼ The regulatory environment is still uncertain on a global basis as many countries have not yet given detailed guidance across the board about how cryptocurrencies, ICOs and blockchain startups should be treated. Countries with capital controls have been the most negative for obvious reasons.
- ▼ The greatest variety of approaches has been seen in taxation approaches, ranging from standard “property” treatment to no taxation at all
- ▼ It will be interesting to see which countries provide accommodations (permanent or temporary) to allow for early adoption or development



Further Reading



Further Reading 1/2

▼ USA

- ▼ <https://cryptocurrencyfacts.com/2017/12/30/the-tax-rules-for-crypto-in-the-u-s-simplified/>
- ▼ <https://www.cftc.gov/PressRoom/PressReleases/7820-18>
- ▼ <https://www.coinmama.com/blog/bitcoin-taxes-in-the-usa>
- ▼ <https://coiniq.com/crypto-exchange-fincen-registration/>

▼ Investopedia Guide to Bitcoin Taxation

- ▼ <http://www.investopedia.com/university/definitive-bitcoin-tax-guide-dont-let-irs-snow-you/>

▼ Malta – Blockchain Hub

- ▼ <https://bca.com.mt/malta-business-in-malta/>

▼ Regulation of Cryptocurrency around the world, *The Law Library of Congress*

- ▼ <https://www.loc.gov/law/help/cryptocurrency/cryptocurrency-world-survey.pdf>

▼ BaFin on Virtual Currencies

- ▼ https://www.bafin.de/EN/Aufsicht/FinTech/VirtualCurrency/virtual_currency_node_en.html

▼ SEC Statement, 2018

- ▼ <https://qz.com/1224093/the-sec-wants-to-regulate-bitcoin-and-other-cryptocurrencies/>

▼ UK – Tax on Cryptoassets

- ▼ <https://www.gov.uk/government/publications/tax-on-cryptoassets>

▼ Venezuela Crypto Bill in 2019

- ▼ <https://cointelegraph.com/news/venezuela-new-crypto-legal-framework-comes-into-force>

Further Reading 2/2

▼ Finland ICO & Crypto Warnings

- ▼ http://www.finanssivalvonta.fi/en/Publications/Press_releases/Pages/17_2017.aspx

▼ BaFin ICO and Token regulation

- ▼ <https://www.lw.com/thoughtLeadership/bafin-publishes-statement-on-ico-and-token-regulation>

▼ France Finance Minister on ICOs

- ▼ <https://www.ccn.com/frances-finance-minister-plans-ico-regulations-in-bid-to-attract-crypto-startups/>

▼ Australia

- ▼ <https://asic.gov.au/regulatory-resources/digital-transformation/initial-coin-offerings-and-crypto-currency/>

▼ Japanese exchanges to set up self regulatory body

- ▼ <https://www.reuters.com/article/us-crypto-currencies-japan/japans-cryptocurrency-exchanges-to-set-up-self-regulatory-body-idUSKCN1GE037>

▼ Russia's plans as a result of meeting between regulators and Putin

- ▼ <https://cointelegraph.com/news/russia-vladimir-putin-signals-obligatory-cryptocurrency-regulation-will-begin-july-1>

▼ France potential regulations on ICOs

- ▼ <https://www.coindesk.com/france-close-issuing-position-icos/>

▼ Global Blockchain/Crypto Regulation

- ▼ https://en.wikipedia.org/wiki/Legality_of_bitcoin_by_country_or_territory
- ▼ <https://www.globallegalinsights.com/practice-areas/blockchain-laws-and-regulations#jurisdictions>



UNIVERSITY *of* NICOSIA

Twitter: @mscdigital

Course Support: digitalcurrency@unic.ac.cy

IT & live session support: dl.it@unic.ac.cy