

VIRTUAL CURRENCIES

In recent years, so-called virtual currencies such as Bitcoin have been used by a relatively small and expert group to store wealth and make and receive payments outside of normal national currencies and payment mechanisms. Virtual currencies act as kind of unregulated, digital money, issued and usually controlled by its developers, without legal tender status in any jurisdiction. In 2013, Financial Crimes Enforcement Network (FinCEN), a bureau of the US Treasury, defined virtual currency as "a medium of exchange that operates like a currency in some environments, but does not have all the attributes of real currency."

Virtual currencies behave differently to standard national currencies and have the potential for wild fluctuations in the value of individual currency units (e.g. bitcoins), creating risks for merchants that accept them. Another key difference is the anonymous nature of virtual currency transactions which carries with it enormous potential for abuse by criminals. Identifying the parties involved in a transaction has become a basic requirement for protecting against and detecting money-laundering and other unlawful activity (e.g., purchase of illegal narcotics).

Anonymity also creates challenges for tax-authorities. Anonymous virtual currencies create a sort of electronic cash which is difficult to track or tax.

Critics of virtual currencies point out that they are not legal tender and the system lacks basic protections that customers and merchants expect when transacting. If bitcoins are used to pay for goods online, for example, the buyer has no legal recourse if those goods fail to materialize.

Although numerous governmental agencies have issued stern consumer warnings (e.g., CFBP, FINRA) there are no laws in place protecting Bitcoin users against the fraud or human error and there is no recourse for consumers who have their bitcoins stolen.

AFSA'S POSITION

AFSA supports innovation in the field of financial services and products within a system of sensible regulation which protects consumers while maintaining broad access to credit.

Virtual currencies such as Bitcoin, operate outside of the safe, stable, transparent, and reliable financial system that consumers and merchants expect. As such, they cannot provide an accepted value guarantee without exposing users to significant fluctuations and risk.

Virtual currencies avoid government oversight and control because of their design. Bitcoin was created and released by an unidentified individual and is operated by unknown peers who essentially donate computing power to use the source code to release new bitcoins and anonymously validate Bitcoin transactions.

The anonymous nature of virtual currencies puts them beyond the reach of government agencies charged with consumer protection, and from law-enforcement who would deal with malfeasance.

How to regulate and oversee virtual currencies is a challenge that governments all over the world have addressed or are grappling with. Considerations for consumer protection, stability, transparency, and anonymous transactions should be in scope for any regulation.

AFSA believes that It is in everyone's interest for any regulation to ensure that virtual currencies operate on a level-playing field alongside other forms of payment.