

Conference Paper

Issues of Regulation of the Use of Cryptocurrency in the Russian Federation

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Abstract

The paper is devoted to the analysis of issues of regulation of use of cryptocurrency in the Russian Federation and offers the possible measures to solve them. The conclusion is made that the ideal desired result would be the creation of such a controlled financial and economic mechanism based on blockchain technology that would become more attractive for its potential participants than the “usual” cryptocurrencies and smart contract systems.

Keywords: cryptocurrency, legal regulation, financial system, transactions, financial risks, financial mechanism.

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1. Introduction

In the modern world, financial and economic sectors of any country develop in a consistent and balanced way only when they evolve along with the introduction of new financial technologies and solutions. There is a direct link between the standard of living of citizens in each individual country and the quality of the financial and economic mechanism functioning there.

The real state of the modern global financial and economic mechanism is a catalyst for innovation, introduction of new financial and economic technologies. Demand for them only increases over time.

Cryptocurrencies and similar monetary surrogates are a new financial and economic phenomenon that developed in the last decade and has become an object of close study and analysis. The interest of the international community, government bodies, financial institutions and public organizations to the problems of cryptocurrency is growing.

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Consequently, scientific research in this field is relevant. Real threats, which are associated with virtual currencies, require careful research and analysis. All possible solutions to the problems associated with the use of cryptocurrencies will have far-reaching and so far hard-to-predict consequences, so they must be weighed.

The aim of the work is to analyze some issues of regulation of the use of cryptocurrency in the Russian Federation and to offer some possible measures to solve them. For the structure of authorized AML / CFT authorities, the use of cryptocurrencies and similar monetary surrogates is a major problem that, theoretically and technologically, will affect the entire sphere of counteracting the legalization of monetary laundering and financing of terrorism. In the future, the fight against such criminal manifestations can become even more complicated.

2. Material and Theoretical Bases of Research

International financial monitoring authorities define cryptocurrencies as follows: "Virtual currency is a digital expression of value that can be traded in digital form and that functions as a means of exchange and / or a monetary unit and / or a means of storing value, but does not have the status of a legitimate payment funds in no jurisdiction" (Basic manual on the detection and investigation of money laundering committed via the virtual currency. [Electronic resource]. Access mode: http://www.imolin.org/pdf/UNODC_VirtualCurrencies_final_RU_Print.pdf).

At the moment, the negative factors of Bitcoin from the point of view of those who use this cryptocurrency are the following:

- strong fluctuations in exchange rate make the currency a risky means of storing large amounts;
- the average expected transaction time is approximately 10 minutes, which is due to the specifics of accounting transactions in the system;
- legal vagueness in the use of Bitcoin in many countries of the world, in some countries it is an offence of law, and the system itself is under reasonable external pressure from law enforcement agencies;
- there is no certainty that the decentralized Bitcoin system is completely protected and secure, because in fact the so-called Bitcoin chain can incorporate almost any information, and therefore malicious computer programs («Interpol cyber research identifies malware threat to virtual currencies». [Electronic

resource]. Access mode: <http://www.interpol.int/News-and-media/News/2015/N2015-033>).

The development of methods and approaches to legal regulation of the use of cryptocurrencies and similar monetary surrogates in many countries of the world, including the Russian Federation, is a result of the arising risks and threats.

There are two alternatives. The first way is "total regulation" and an attempt to legally and economically "integrate" the new financial and economic phenomena into existing common system. This solution to the problem seems obvious at first sight, but it is not so simple – for now this has not fully happened in any country in the world.

The second possible way is a kind of "tacit approval" by the state of the processes taking place in the "fintech" and "regtech" environment without taking measures to regulate them. Moreover, half measures (an attempt to regulate on paper without proper results concerning the prevention of alleged illegal use of cryptocurrencies and blockchain technologies) can do more harm than good.

Both possible ways of development are not desirable, probably. Neither "total management" nor "tacit approval" from the state will give acceptable results.

Is the appearance of blockchain and the state-of-the-art technologies based on it a state problem? Undoubtedly, it is.

Potential risks are too high for any state, including the Russian Federation, not to pay attention to them, not to try to manage them, or, as is generally the case these days, or to be preparing for managing such risks for the over five years. Modern Russian public and state institutions, being by their nature conductors of the functional chain "threat-evaluation-response", are obliged to react. Further, in order to analyze what is happening, let us examine in more detail the links of the above functional chain.

Let us consider the main threats that should be in the interests of the national financial system to deal with regulatory and legal regulation and which in the future will greatly complicate AML / CFT in the field of cryptocurrency technologies and smart contracts:

- fast transactions, which are hard to track, as a part of the architecture systems of most cryptocurrencies;
- uncontrolled transfers of cryptocurrency from one virtual account to another;
- uncontrolled conversion of a currency into a cryptocurrency and conversion of cryptocurrencies and other digital assets into each other and a lack of data on such transactions;

- the anonymity of users of cryptocurrency systems and the existing technical difficulty in establishing the facts of their alleged illegal activity;
- greater confusion of transaction models in real money laundering schemes and technological difficulties in separating legal transactions from illegal ones.

As we see, initially virtual threats really exist and are complex in nature. Thus, our state cannot afford to underestimate the new sphere of financial relations based on blockchain technologies. This is where the greatest difficulties in the proposed "threat-assessment-response" concept are observed.

The slow process, especially taking into account the current rates of development of new financial technologies and the "digital adjustment" of the world economy, assessment of the potential risks and consequences of using cryptocurrency and similar monetary surrogates in the Russian Federation is natural. In our opinion, this situation is connected with some clearly manifested factors.

First, there is a general complexity of understanding the essence of cryptocurrency as a new financial technology. There are scientific and methodological problems with this in all countries of the world, and the opinions of leading experts on the future of cryptocurrency are often totally opposite. Little time is given to study the essence of cryptocurrency. If such research is conducted, then nothing is known to the general public about the results. However, it should be mentioned that such a situation is generally typical of the Russian science, when the importance of fundamental theoretical results for practice exists, perhaps, only in such fields as nuclear physics, molecular biology and materials science. The lack of understanding of the essence of cryptocurrency influences the decision-making in regulatory measures in this area.

Secondly, there is no single coordinating body in the Russian Federation in making specific decisions on the development of regulatory and legal regulation of cryptocurrencies. At the moment, almost all Russian ministries and departments, including law enforcement agencies, in one way or another connected with the financial or economic sphere, are engaged in this to some extent, and there are commissions and working groups. If this order of things is preserved, even if legislative measures are adopted to regulate the use of cryptocurrencies, we can expect a further lag in the effectiveness of the application of measures from the actual development in this area.

Thirdly, assessment of the risks and consequences of the use of cryptocurrency is complicated because of their cross-border status. For Bitcoin or Ethereum there is no

difference in the exchange between counter-parties from one country or from different countries. People in different countries are subjects of legal relations of different jurisdictions, it is problematic to apply the rules of uniform regulation.

3. Results

In the current international situation, when communication between the Russian Federation and some Western countries is hampered by economic and financial sanctions, it is difficult to talk about formation of a common position on the legal regulation of the use of cryptocurrencies and similar monetary surrogates.

At this stage, when the legal regulation of the use of cryptocurrency has not been finalized yet, it is too early to say what the "response" to the threats that have arisen will be. Nevertheless, it is quite possible to formulate our own proposals on measures that could be implemented. Such measures could be:

- to determine the regulatory and legal status of cryptocurrencies, so that the responsible authorities can form further approaches to regulating this whole sphere in our country;
- to define a specific body in the executive branch responsible for supervision and regulation in the use of cryptocurrencies and blockchain technologies, authorized to make proposals for further improvement of legislation;
- to create a special unit dealing with technological and financial issues in the field of threats related to the use of cryptocurrency and similar monetary surrogates within the authorized AML / CFT bodies in the Russian Federation;
- to attract experts from the economic, financial and information technology fields to the scientific and practical study of cryptocurrency at the state level, as well as attracting international experts to discuss possible measures and their consequences;
- to consider the use of Blockchain and Proof-of-work technologies in the development of new de-anonymized information and technical support platform for government agencies (for example, a new type of registries or e-democracy systems), the activities of credit and financial institutions (a transparent system of interbank payments) up to the development of its own de-anonymized official cryptocurrency (at least in the form of a predictable experiment for scientific purposes);

- to identify cryptocurrency users at the time of exchange of the corresponding units of cryptocurrency for fiat money on crypto-exchange markets and “exchangers”;
- to take measures to further personalize the flow of incoming and outgoing information on the Internet for users;
- to intensify the interaction of law enforcement agencies in AML / CFT, including paying special attention to the sphere of anonymous and pseudonymous payments through virtual assets and the prevention of predicate crimes - corruption, drug trafficking and others.

4. Conclusion

Naturally, the ideal desired result would be the creation of such an indirectly controlled financial and economic mechanism based on blockchain technology, which would become more attractive for its potential participants than the “usual” cryptocurrencies and smart contract systems.

Consequently, the Russian Federation, following the logic of its development within the international community and the existing international economic and financial ties, cannot remain aloof from solving problems with regulating the use of cryptocurrencies. One can cautiously say that in addition to significant risks and well-founded threats, the cryptocurrencies and technologies underlying their concepts, as a bright manifestation of modern financial innovations, can bring enough benefits to the functioning of the financial and economic mechanism in the country in the future.

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