

International Summer School on Cyber Law (ISSC)

July, 6 - July, 10 2015

The Definition of Virtual Currencies and Bitcoin within the Framework of Financial Regulators' Views

Olga S. Belomyttseva



NATIONAL RESEARCH

Tomsk State University

Regulators' Viewpoints on Virtual Currencies

- **Loyal:**
 - Argentina: “money but not legal currency”
 - Finland: “commodity”
 - Germany: “unit of account, private money”
 - Great Britain ¹: “single-purpose voucher”
 - Norway ¹: “asset”
 - USA: “cryptocurrency”
- **Neutral (India, Mexico, France)**
 - France: “unregulated online money”
- **Categorical (China, Iceland, Russia, Vietnam)**
 - Russia: “money surrogates”

¹ - Bitcoins are taxed

Opinions on Bitcoin

“Bitcoin is a bubble without intrinsic currency value”

**German Gref, Sberbank
CEO, Russia**



**Alan Greenspan,
former Federal
Reserve Chairman, USA**

“It's a very interesting global experiment that breaks the paradigm of currency issuance”

Is Bitcoin Money?

“No. Bitcoin is not money”

- **George Reisman**
*Professor Emeritus of Economics,
Pepperdine University*

“Not yet”

- **Robert P. Murphy**
*American economist, consultant,
Institute for Energy Research*

**“I love Bitcoin.
Could it ever become money
in this fiat world? One cannot
rule it out”**

- **Lew Rockwell**
*American libertarian author,
founder and chairman
of the Ludwig von Mises Institute*

“I say, ‘Yes’”

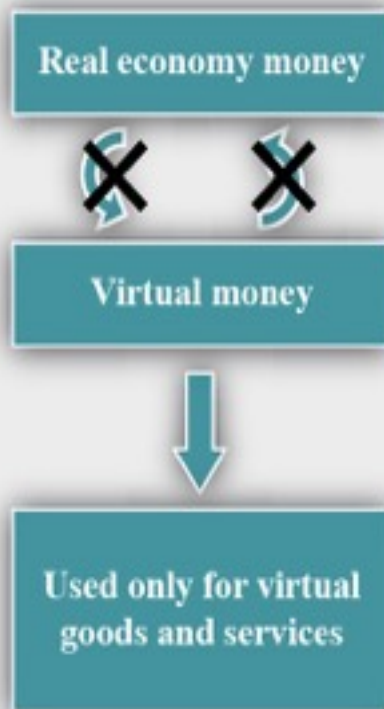
- **William Anderson**
*Professor of Economics,
Frostburg State University*

Virtual Currency Schemes

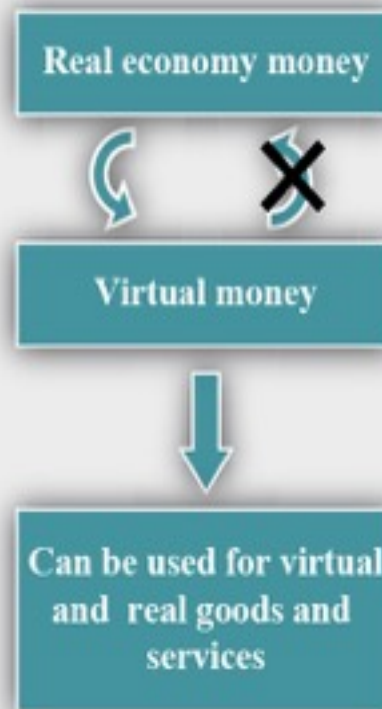


EUROPEAN CENTRAL BANK
EUROSYSTEM

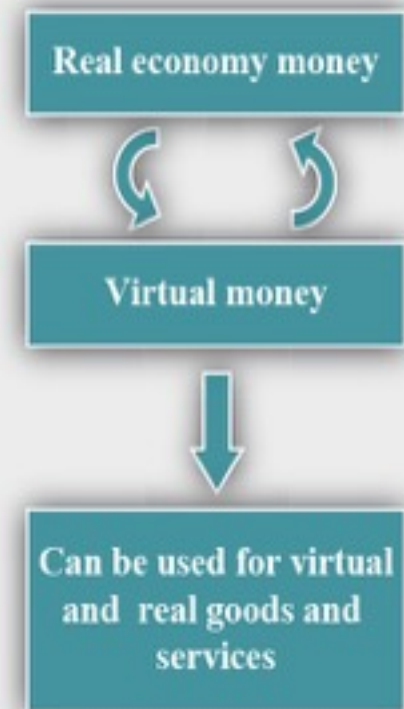
Closed virtual currency scheme



Virtual currency scheme with unidirectional flow



Virtual currency scheme with bidirectional flow





FATF Classification of Virtual Currencies

	Centralised	Decentralised
Convertible	Administrator, exchangers, users; third-party ledger; can be exchanged for fiat currency. Example: WebMoney	Exchangers, users (no administrator); no Trusted Third-Party ledger; can be exchanged for fiat currency. Example: Bitcoin
Non-convertible	Administrator, exchangers, users; third-party ledger; cannot be exchanged for fiat currency. Example: World of Warcraft Gold	Does not exist

FinCEN on Virtual Currency



FinCEN Financial Crimes Enforcement Network
United States Department of the Treasury

- *Medium of exchange*
- *Operates like a currency in some environments*
- *Does not have all the attributes of real currency*
- *Does not have legal tender status in any jurisdiction*

Types of Virtual Currencies according to FinCEN



FinCEN Financial Crimes Enforcement Network
United States Department of the Treasury

- *E-Currencies and E-Precious Metals*
- *Centralized Virtual Currencies*
- *De-Centralized Virtual Currencies*

Approaches to Defining Bitcoin

- Bitcoin as a cryptocurrency (virtual currency)
- Bitcoin as a counterpart of gold (commodity)
- Bitcoin as a money transmission system
- Bitcoin as a financial pyramid (scam)
- Bitcoin as private electronic money

Key Functions of Money



**Medium
of exchange**



**Unit
of account**



**Store
of value**

Electronic Money vs Virtual Currency

	Electronic money schemes	Virtual currency schemes
Unit of account	Traditional currency (euro, US dollars, pounds, etc.) with legal tender status	Invented currency (Linden Dollars, Bitcoins, etc.) without legal tender status
Acceptance	By undertakings other than the issuer	Usually within a specific virtual community
Legal status	Regulated	Unregulated
Issuer	Legally established electronic money institution	Non-financial private company
Type(s) of risk	Mainly operational	Legal, credit, liquidity and operational

Virtual Currencies in Russian Legislation

- *Virtual currencies are considered money surrogates and issuance of money surrogates is prohibited in the territory of the Russian Federation (Art. 27, point 2 of the RF Federal Law “On the Central Bank of the Russian Federation”)*
- *Information statements by the Central Bank of Russia, General Prosecutor’s Office, Federal Financial Monitoring Service, Ministry of Internal Affairs, and Federal Security Service of Russia (January - February 2014) warn private people and legal bodies against using virtual currencies*
- *Punishment for the use of virtual currencies is not directly stated in Russian legislation*

Draft Federal Law of the Russian Federation

- *the definition of money surrogates*
- *the mechanism for blocking information resources*
- *four categories of administrative violations*
- *penalties:*
 - for citizens 5 000 - 50 000 rubles (90 - 900 euro),*
 - for officials 20 000 - 100 000 rubles (360 - 1800 euro),*
 - for legal entities 10 000 - 1 000 000 rubles (180 - 18100 euro)*

Fiat Money

- The term derives from the Latin FIAT (“let it be done”, “it shall be”)
- It is legal tender, the nominal value of which is declared, backed and secured by the State by means of its authority and power
- Circulation of other currencies in the territory of the State is restricted
- Fiat currency is necessary to pay taxes and levies imposed by the State
- The Central Bank conducts currency interventions

Austrian School's Viewpoint on the State Monopoly of Issuing Money

“How the State gained control over the monetary system of the society” (1964)

Money must be issued by private organizations on competition basis as well as all other goods



Murray Rothbard, an American economist (1926 - 1995)

Austrian School's Viewpoint on the State Monopoly of Issuing Money

“Private money” (1975)

The idea that it is possible to denationalize money and to keep the State away from issuing money and control over the banking sector

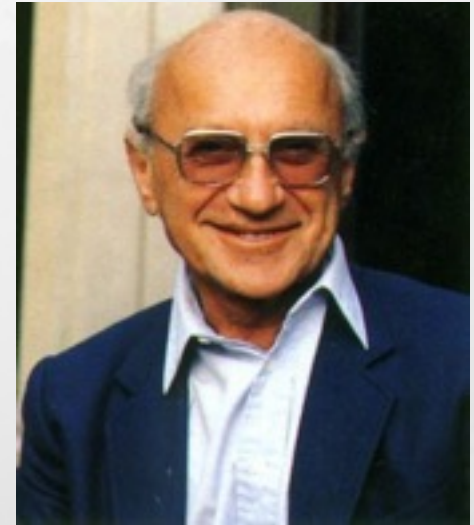


Friedrich August von Hayek,
an Austrian economist, the
1974 Nobel Memorial
Prize winner in Economic
Sciences
(1899 - 1992)

Milton Friedman on Private Currencies

*Friedman, Milton, and Schwartz, Anna,
1986,
Has Government Any Role in Money?
Journal of Monetary Economics 17,
1986*

“Our own conclusion ... is that leaving monetary and banking arrangements to the market would have produced a more satisfactory outcome than was actually achieved through governmental involvement.”



Milton Friedman, an American economist, the 1974 Nobel Prize winner in Economic Sciences (1912 - 2006)

Money Matrix

Fiat money	<i>Coins and banknotes</i>	E-money Deposit Money
Private money	<i>Local currencies</i>	In-game money
		Bonuses, aeromiles, gift certificates
		Cryptocurrencies
	<i>Cash</i>	Digital
	<i>Physical form of money</i>	

Prospects for Virtual Currencies

- Legitimacy of the currency
- Stagnation
- Entering the shadow economy
- Further evolution

References

- European Central Bank. (2012). *Virtual Currency Schemes*. Retrieved from <http://www.ecb.europa.eu/pub/pdf/other/virtualcurrencyschemes201210en.pdf>
- United States Department of the Treasury, Financial Crimes Enforcement Network. (2013, March 18). *Application of FinCEN's Regulations to Persons Administering, Exchanging, or Using Virtual Currencies* (FIN-2013-G001). Retrieved from http://www.fincen.gov/statutes_regs/guidance/html/FIN-2013-G001.html
- United States Department of the Treasury, Financial Crimes Enforcement Network. (2014, January 30). *Application of FinCEN's Regulations to Virtual Currency Mining Operations* (FIN-2014-R001). Retrieved from http://www.fincen.gov/news_room/rp/rulings/pdf/FIN-2014-R001.pdf
- United States Department of the Treasury, Financial Crimes Enforcement Network. (2014, January 30). *Application of FinCEN's Regulations to Virtual Currency Software Development and Certain Investment Activity* (FIN-2014-R002). Retrieved from http://www.fincen.gov/news_room/rp/rulings/pdf/FIN-2014-R002.pdf

References

- The Financial Action Task Force. (2014). *Virtual Currencies, Key Definitions and Potential AML/CFT Risks*. Retrieved from <http://www.fatf-gafi.org/media/fatf/documents/reports/virtual-currency-key-definitions-and-potential-aml-cft-risks.pdf>
- Bank of Russia Informational Letter “On the Use of “Virtual Currencies” and in particular Bitcoin in Transactions” of January 27, 2014. Retrieved from http://www.cbr.ru/press/pr.aspx?file=27012014_1825052.htm
- Belomyttseva, O. S. (2014). The Legal Status of the Cryptocurrency Bitcoin in the Russian Federation. *Problemy ucheta i finansov*, 2 (14), 26-29.
- Belomyttseva, O. S. (2015). Put in a good word for the poor Bitcoin. *Rynok tsennykh bumag*, 2, 54 - 57.
- RF Federal Law “On Currency Regulation and Currency Control” of 10 December, 2003 N 173-FZ. Retrieved from <http://www.consultant.ru>

References

- European Commission. *E-money*. Retrieved from http://ec.europa.eu/finance/payments/emoney/index_en.htm
- Directive 2009/110/EC of the European Parliament and of the Council of 16 September 2009 on the taking up, pursuit and prudential supervision of the business of electronic money institutions amending Directives 2005/60/EC and 2006/48/EC and repealing Directive 2000/46/EC (Text with EEA relevance)
- RF Federal Law “On the National Payment System” of 27 June, 2011 N 161-FZ. Retrieved from <http://www.consultant.ru> (In Russ.).
- Rothbard, M. N. (2010). *What has government done to our money?*. Auburn, AL: Ludwig von Mises Institute.
- Hayek, F. A. (1990). *Denationalisation of Money: An Analysis of the Theory and Practice of Concurrent Currencies* (3d edn.). London: The Institute of Economic Affairs.
- Friedman, M., & Anna Schwartz, A. J. (1986). Has government any role in money?. *Journal of Monetary Economics*, 17 (1), 37-62.
- Juniper Research. (2015, February 04). *The Future of Cryptocurrency: Bitcoin & Altcoin Impact & Opportunities, 2015-2019*. Retrieved from: <http://www.juniperresearch.com/research/cryptocurrency>

Thank you for your attention!

