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IS CRYPTO CURRENCY HALAL?

1. Introduction

The European Central Bank explains virtual currency as a “digital representation of value that is neither issued by central bank or a public authority, nor necessarily attached to a fiat money or currency, but is accepted by natural or legal persons as a means of payment and can be transferred, stored or traded electronically”. Examples for virtual currencies include non-cryptocurrencies (e.g. in-game credits) and crypto currencies such as Bitcoin, Litecoin, Stellar and many more.

With the global rapid introduction of Crypto Currency into the financial market, there has been much debate on the use of crypto currencies such as bitcoin and ethereum as a legitimate form of currency and investment in Islam. The same debate arises on “exchanges”, independently operating trading websites for crypto currencies, structured alike conventional foreign exchange trading and brokerage platforms.

This debate derives from the fact that, Shari’a law supports the real economic activities based on physical assets and prohibits activities based on pure monetary speculations, characteristics usually inherent to crypto currencies.

In an effort to cater to the Muslim population, who makes up close to a quarter of the world’s population, and to expand the crypto currency finance services in particular in the Middle East and Southeast Asia region, many Fintech companies strive to do business in an Islamic -compliant way and to promote this through Shari’a compliance certifications.

2. Shari’a Compliance basic principles

Islamic finance stipulates principles in compliance with Sharia. In the following we have listed the basic Islamic principles.

a) **Riba**

Prohibition of riba’, i.e. the payment of a fixed or determinable interest on funds. Which also includes the prohibition of usury;

b) **Gharar**

Prohibition of economic practices that involve the concept of gharar; i.e deceptive uncertainty;

c) **Maysir**

Prohibition of maysir (speculation), i.e categorically and firmly all forms of gambling;

d) **Murabahah**

Profit and loss sharing. Shari’ah promotes the principle of profit-loss sharing between banks and entrepreneurs as an approach to encourage the spirit of brotherhood and cooperation in business relationships;

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e) **Haram**

Haram prescribes a prohibited behaviour or investment in businesses that facilitate goods or services considered contrary to Islamic principles.

Many scholars argue that crypto currency is not compatible with Islamic law because it can be easily used for illegal activities (e.g. money laundering), it is intangible because it can only be used through the internet, there is no central authority that monitors its system and its valuation is open to speculation. All these attributes are in contrary to the Shari'a principles.

3. Outlook

a) Current Crypto Currency market situation

In the wake of many Middle Eastern declaring most virtual currencies and exchange not compatible with Islamic values nor Sharia law, several "Shariah-compliant" digital coins and exchange have been recently launched in the market.

The move highlights how Fintechs are broadening their footprint to include growth markets in the Middle East and Southeast Asia, prompting Islamic scholars to assess the religious validity of digital currencies.

Some Gulf regulators are still expressing scepticism, but for instance Bahrain has bucked the trend by exploring the use of digital currencies to boost its role as a regional financial hub.

The Shari'a Review Bureau (SRB), an Islamic advisory firm licensed by Bahrain's central bank, is providing certification for digital token and exchanges, after a thorough assessment and issues guidelines for the types of assets that can be traded in Islamic financial institutions.

Just to name a few examples, Stellar's blockchain and its native currency called Lumens were certified by the SRB in July 2018 in the money transfer and asset tokenization field.

Same applies for the recent certification of Rain in January 2019, a Bahrain based cryptocurrency exchange operating out of the Bahrain Central bank regulatory sandbox. SRB has reviewed Rain's brokerage service and has determined that the sale, purchase and custodian activities of Rain are in compliance with Shari'a principles.

Blossom Finance's internal Shari'a advisor, a company that uses cryptocurrency to help Muslims with Islamic financial law published a study that concludes Bitcoin does qualify as Islamic money, unless a local government forbids the use of digital currencies. The research explains an in-depth analysis of the various legal opinions (fatawah) on the subject of Islamic banking and Bitcoin, crypto currency and blockchain.

Many exchange and virtual currency trader are now claiming to be the first -ever Shari'a compliant currency or institution, using this slogan as an additional marketing tool to attract the North African and Middle Eastern market.

b) Governmental regulatory efforts in the GCC region

The potential for cryptocurrencies in Islamic finance is massive. This has also been recognised by governmental bodies of GCC countries.

In an effort to provide comfort to investors wary of cryptocurrency trading, which has been beset by lack of global regulation, recent high-profile heists of digital coins and market volatility, GCC countries, including UAE and Bahrain are implementing regulatory framework for the supervision and licensing of these services.

Bahrain has identified the fintech sector as crucial in helping the kingdom become a regional business and banking hub. The kingdom has launched a regulatory sandbox to allow financial institutions licensed by The Central Bank of Bahrain (CBB) and other firms to test their technology-based innovative solutions relevant to Fintech or the financial sector in general. Approximately 28 companies have joined the sandbox, amongst them, BitOasis a Dubai based exchange and digital asset wallet.

Furthermore, CBB has prepared draft rules designed to regulate digital assets and certain aspects of the country's crypto industry. On January 13th, 2019 the consultation period of the draft closed. The comprehensive rules cover the implementation of a licensing regime for companies operating cryptocurrency trading platforms. A supervisory mechanism for the providers of other services related to crypto assets has been developed as well. It remains to be seen when the law will be enforced.

Other players in the Persian Gulf, including Abu Dhabi and Dubai, are also investing heavily to support the growth of fintech start-ups. But while Bahrain's CBB is working to adopt regulations for decentralized, private cryptocurrencies, the central bank of the United Arab Emirates and the Saudi Arabian Monetary Authority have announced plans to issue a government-controlled digital currency.

4. Conclusion

To answer the question on whether Crypto Currency is halal or not, this will need to be determined on the characteristics of the particular virtual currency and the same applies for the underlying exchange. In other words, everything is permissible unless it is found to be clearly contradictory to Shari'a principles.

Crypto currency for the sale, purchase and custodian activities should be considered halal as opposed to investment activities with determinable or fixed interest (**Riba and Murabahah**).

Also, the virtual currency should be backed up by a physical asset such as gold stored in vault, a feature that aims to address speculation and price volatility (**Maysir**).

Crypto currency should not be declared haram due to the fact that they experience speculation. In fact, if this principle was valid, then trading in gold and silver or common currencies (EUR or US -Dollars) would all be considered impermissible, since those assets also experience speculation in the gold markets.

The argument, that Crypto currency can be used for illegal purposes does not make the medium of exchange itself unlawful (**Haram**). Otherwise any fiat money backed

by the government and used for money laundering activities should be questioned based on the same grounds.

Ensuring the implementation of a solid blockchain technology and underlying cryptography, which is usually more secure than a centralised system, will prevent any indication of deceptive uncertainty (**Gharar**).

In fact, the progressing implementation of regulatory frameworks through governmental bodies in the Middle East reflects that the general idea of a virtual currency is widely accepted if it follows certain rules.

However, over-regulation and the implementation of governmental- controlled cryptocurrencies would contradict the initial objective of a decentralised, private digital currency

MENA LEGAL will remain attentive to the evolution of the process and keep you informed.

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