Forum: *Advisory Panel (APQ)*

Issue: *Regulating cryptocurrency in global commerce*

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Introduction

As the world experiences its rise of technological advancements, numerous aspects of everyday life are digitized, enabling more access and actions via digital means. One such element is transaction. Traditional forms of transaction are now largely replaced with the digitized, non-concrete forms of blockchain currencies, more typically known as cryptocurrency. Cryptocurrency is a virtual or digital medium of financial exchange that incorporates cryptography, a technology that ensures security in communication or exchange by making messages unintelligible to third parties. Those who participate in the exchange of cryptocurrency are able to buy, sell, and confirm values of assets through various methods. Cryptocurrencies exist in different forms – the most common one being a collection of binary data utilized as a medium finance and transaction. Unlike fiat currency, cryptocurrency is not issued by a single authority, rather, its essence lies in a decentralized control that is exclusive to only those participating in the exchange. In other words, the exchange of cryptocurrency is not regulated by any central authority. The process of decentralization is through a blockchain technology known as distributed ledger technology (DLT). DLT ensures the security, exclusivity, and integrity of assets through encryption. Investors are attracted to cryptocurrency due to its extremely autonomous nature: in the case of political or financial manipulation, such forms of currency are not as prone to sudden changes as regular currencies. As a result, investors of cryptocurrency are able to gain independence to a degree amidst an unstable economy.

Despite the popularity and attention it has garnered, the rise of cryptocurrencies and the desire for a decentralized economy also exacerbated the existing economic and environmental destitutions. Cryptocurrency should supposedly benefit those who do not have easy access to regular currencies and thus promote accessibility in global commerce. This remained true for a relatively short period of time. When Bitcoin was first introduced, small investors who are not affiliated with large corporations were able to gain financial rewards through crypto-mining. However, as more and more investors began to compete and mine for Bitcoin, cryptocurrency took a toll on both the economy and the environment. The premise

of crypto-mining lies in the inability of an authority to produce currency infinitely. Whereas a country's national bank and government could manipulate the value of its currency, there exists no central control in the market of cryptocurrency, making it less prone to political influence. The absence of a central authority, however, also entails that there would be no institution to hold accountable in cases of illicit financial flows (IFFs), money laundering, or fraudulent actions. Despite the global proliferation of cryptocurrency, there has not been any legally-binding agreement on this matter, which makes cryptocurrency more unregulated than regular currency or tender. Another difference between the two is that the amount of cryptocurrency is limited – for instance, Bitcoin has a 21-million coin limit and when such a threshold is reached, there will be no more Bitcoin to mine. In order to secure the scarcity and maintain the value of cryptocurrency, the developers utilize cryptography and blockchain technology, making cryptocurrency more demanding to obtain. The process of crypto-mining consists of extensive computational calculations performed by sophisticated hardware. As aforementioned, when Bitcoin was first introduced, many could easily solve such calculations by using less advanced hardware, thus obtaining their financial rewards nominated in cryptocurrency. However, as the demand for Bitcoin increases, the mining process grows more difficult. In today's context, crypto-mining demands a great amount of electricity and energy resources, making it almost impossible for independent investors with limited budgets to participate in such processes. The negative impacts of crypto-mining are obvious: such extensive, preposterous computations exploit natural resources that provide electricity and thus are extremely detrimental to environmental sustainability. Despite its possible advantages, cryptocurrency remains an elusive concept of the modern age. It is therefore imperative that stricter regulations be imposed upon cryptocurrency in global commerce.

Definition of Key Terms

Blockchain Technology

Blockchain technology refers to the technology whereby pieces of information are encrypted through cryptography, making it more difficult for third parties to access and change. It is believed that through such a technology, the exchange of information and assets are made more secure despite the lack of a centralized authority. Blockchain manages digital transactions through a ledger that contains information about the sender, recipient, and value transferred.

Cryptocurrency

Cryptocurrency is a form of digital currency in which transactions are recorded and maintained through a decentralized system that incorporates cryptography.

Decentralized Finance (DeFi)

Decentralized Finance (DeFi) is an emerging technology that deals with the distribution of ledgers. Similar to the central aim of cryptocurrency, DeFi handles such transactions by removing the influence that banks and institutions have on monetary values, financial products, and services. An example of this would be the elimination of handling fees some banks charge for using their services.

Digital Transformation

Digital Transformation refers to the drift in which business profiles, databases, and customer experiences are all digitized. Although this process has greatly enhanced the efficiency of data collection, resource management, and the overall productivity of an exchange, it is prone to cybercrime as well as privacy and security issues. Cryptocurrency falls under this dilemma: despite its guaranteed privacy (through the technology of cryptography), the permeation of illicit activities require stricter regulations. These regulations often diminish the extent of privacy one can enjoy in the cryptomarket.

Inflation

Inflation refers to the general increase in the purchase of goods and services, and consequently the decrease of individuals' purchasing powers in an economy. Inflations in different economic settings do not occur at the same rate. However, the current economic system is a highly globalized one; therefore, global inflation has gained more impact upon various countries. Inflation is also a contributing factor to the rise of cryptocurrencies.

Non-Fungible Tokens (NFTs)

Non-Fungible Tokens are similar to cryptocurrency in that they transform assets through cryptography. More specifically, NFTs are a type of digital currency where images – such as artworks, photographs, and other collectibles – are made into verifiable assets that can be traded on a blockchain. However, unlike Bitcoins and other forms of fungible digital currency, NFTs cannot be replaced by an identical copy of said tokens. In fact, there exists no identical copy of an NFT. One key difference between NFTs and regular cryptocurrencies is that NFTs cannot be used as a form of currency. Because of its non-fungibility, NFTs enable investors to profit off the uniqueness and scarcity of these creations, which are otherwise available infinitely.

Background Information

Origin

Cryptocurrency is a fairly modern concept. Many dated the creation of the first cryptocurrency to the 2009 founding of Bitcoin. Despite its The concept of cryptocurrency first emerged in the 1980s, when

people referred to it as "cyber-currencies." American cryptographer David Chaum was credited as the inventor of digital cash that relied on cryptography to verify and record transactions. This technology would, later on, become the foundational aspect of cryptocurrency. The notion of utilizing cyber currency to achieve a decentralized economy remains idle throughout the decades. It was only until the early 2000s where the concept gained significant attention. With the rise of Bitcoin, investors globally began investing in the blockchain which would guarantee a so-called "decentralized finance." Bitcoin -- created by a group of anonymous programmers under the name Satoshi Nakamoto -- is then coined as the first cryptocurrency ever to be introduced to the global economy. Unlike traditional transactional methods and currencies, Bitcoin serves as a worldwide payment without a single, central authority. Since its launching in the early 2000s, cryptocurrency has been attracting more investors globally.

Inflation

When examining the rise and proliferation of cryptocurrency, one has to take into account the prior form of transaction, as well as its inefficiency in serving its purposes. In market economies, the prices for goods and services are in a constant state of fluctuation. Inflation refers to a continuous rise of the prices for goods and services, reducing the value of cash over time. The scope of inflation is broad: it can occur amongst both need-based and want-based expenses. However, one constant trend can be observed – once an economy experiences inflation, the perpetuation of such tendencies remains in the economy, impacting both businesses and consumers. There exists a variety of factors that prompt economic inflation. One of which is expansionary fiscal policies. Despite the increase in discretionary government spending, expansionary fiscal policies often pervade a country's economy with more money. Regular currencies issued by national banks are therefore prone to such political manipulation and decisions. Inflation generally occurs when a national bank starts printing more cash. This proliferation of paper currency reduces the value behind each unit of cash. The increased accessibility and spread of cash consequently lower people's purchasing powers. While most do not necessarily benefit from inflation, investors who obtain assets in markets impacted by inflation will also experience a rise in these said assets.

Inflation is a chief factor behind the development of cryptocurrencies. Because of its decentralized nature, most cryptocurrencies remain stable throughout the course of inflation. In addition, investors of cryptocurrencies are able to determine the value of their crypto assets without a third party's – such as the government's – interference. Cryptocurrency, in the case of inflation, could therefore be considered an asset of stable value.

Rise to Popularity

One main attraction of cryptocurrency like Bitcoin is the decentralized aspect for investors. The value of each cryptocurrency block is determined by the level of competition and popularity of the market. As compared to regular currency, which can easily be manipulated by political actions, cryptocurrency is influenced by those who participate in its market. In addition, DeFi also minimizes the interference from banks and governments when transferring money. These elements further draw employees working in a foreign country to use such a medium. Those who participate in transactions across borders benefit from such a system since it minimizes the time and costs associated with transactions across borders.

Key Issues

Extent of Government Regulations on Cryptocurrency

The extent to which the government is able to interfere with cryptocurrency is extremely limited. As aforementioned, the purpose behind establishing such a system is to minimize – and possibly eliminate – all forms of third-party presence in the process of a financial exchange. However, numerous countries have implemented their own surveillance policies regarding cryptocurrency to combat fraudulent cases such as money laundering and tax evasion.

The Right to Privacy

The right to privacy is a primary argument against governmental or legislative oversight. However, many crypto exchange platforms require their users to undergo anti-money laundering and customer due diligence before participating in the crypto exchange. Such processes verify the users' identities and therefore ensure more accountability in cases of money laundering or fraudulent charges. The implementation of government surveillance systems becomes a problem as it defeats the purpose of preserving anonymity in crypto trades. It is subsequently each government's responsibility to distinguish between the extent of the right to privacy and the prevention of IFFs.

Environmental Concerns

The process of crypto-mining requires an enormous amount of electricity. Popular mining regions are prone to the mass emission of carbon-dioxide due to crypto-mining's demand for energy in a short span of time. These energy outputs are generated from highly polluting sources such as coal. The energy level required for mining increases as cryptocurrency's popularity escalates. As compared to the early 2000s, where investors could obtain cryptocurrency with little computational work, crypto-miners in the 2010s and 2020s must possess resources that could endure exhaustive calculations done by

computer hardwares. Although individual states and nations have attempted to regulate the environmental toll of crypto-mining, there has been no international agreement on the industry's detrimental environmental consequences.

Vulnerability to Illicit Financial Flows (IFFs)

Repercussions on Governmental Constraints

Despite numerous attempts to regulate both IFFs and cryptocurrency in terms of a country's domestic economy, the vulnerability to illegal trade deals still exists as a factor that makes governmental regulations futile on cryptocurrency. Investors are inclined towards illegal means when mining cryptocurrency under governmental and legal pressure. A notable example is Bitcoin – the largest cryptocurrency in the current economy. Since its launching in 2009, Bitcoin sought the absence of a government authority as its main source of attraction. Although it was intended to stabilize assets in events of political unrest, such tendencies attracted consumers from the black markets. Bitcoin has also become a popular medium of transaction in illicit trade deals. Launched in 2011, two years after the rise of Bitcoin, the Silk Road is a marketplace for a variety of illegal substances and drugs including stimulants, psychedelics, and opioids. Dealers in the Silk Road receive their payment exclusively through Bitcoin. And because of the anonymity and privacy cryptocurrencies preserve, illicit financial activities have found cryptocurrency a suitable medium for their exchange.

Major Parties Involved and Their Views

China

China, along with several other countries including Egypt, Iraq, and Bangladesh, have banned cryptocurrency. One of the major factors prompting such a restriction on cryptocurrency is the fear for a decentralized economic system. The Chinese government has imposed such restrictions through numerous staggered phases. In May, 2021, the government prohibited any financial institutions from the engagement or the exchange of cryptocurrency. In the following months, it banned all forms of crypto-mining – a process by which new digital currencies are created – within its domestic borders. In September, 2021, the country has finally outlawed the entirety of cryptocurrency as well as any associated activities. Despite the strict regulations, some investors continue the process of crypto-mining through illegal, undetectable means. However, the Chinese government has been developing its own sovereign digital currency – known as the Yuan Currency.

United States of America

The United States of America comprises some of the most active investors of cryptocurrency. It is estimated that roughly 68% of high-net-worth investors own cryptocurrency. There are also a handful of U.S. financial offices regarding cryptocurrency at both state and federal levels. The Security and Exchange Commission (SEC), the Financial Crimes Enforcement Network (FinCEN), and other related administrative agencies have directed their focus towards the rise of cryptocurrency. The U.S. Congress – upon witnessing the rapid proliferation of cryptocurrency – is currently considering additional regulations on digital assets and blockchain technology. However, these administrative organs have done little in terms of actual law-making. The U.S. seeks to assume a leading role in this emerging blockchain technology. In terms of individual states, numerous states foster the growth and prevalence of cryptocurrency through adopting specific legislative actions. For instance, Ohio became the first state to accept taxes via cryptocurrency. Colorado exempted cryptocurrencies from state security regulations. However, states such as Iowa prohibited the use of cryptocurrency as a form of payment. The United States does not have a uniform regulation on cryptocurrency; therefore the jurisdiction of cryptocurrency and crypto-mining varies widely in between different states.

United Kingdom

The United Kingdom – like many other European countries – does not have specific regulations on cryptocurrency. The term “crypto-asset”, however, is generally associated with money laundering and other fraudulent activities through the use of virtual currencies. The UK Financial Conduct Authority (FAC) categorizes the types of cryptocurrency to be regulated into three broad categories: security tokens, e-money tokens, and unregulated tokens. It is stated, however, that the classification of each crypto-asset varies within these general categories. This implies that the definition of crypto-assets remain relatively vague and the regulations that follow are more than often ineffective. The UK, along with other European countries, has played a prominent role in today’s global crypto-market. With over $170 billion worth of digital assets received between the period of June 2020 and July 2021, the UK becomes the leading country in the investment of DeFi. It is also estimated that the investment in DeFi projects in the UK has attracted the most capital than any other market segments.

South Africa

South Africa has witnessed a number of crypto scams, which in turn prompted the government to create stricter regulatory frameworks. In April 2021, the founders of Africrypt – a cryptocurrency based in Africa – eloped after acquiring millions of dollars in Bitcoin. Raees and Ameer Cajee, the two brothers who allegedly disappeared with illegally obtained Bitcoins, are pressured by the users of Africrypt. Those involved in this incident have also urged the South African law enforcement to impose stricter punishments for the accomplice of crypto-scamming. South Africa’s Financial Sector Conduct Authority

began constructing a more rigorous regulatory framework on the nation's crypto markets. This framework is designated to be proposed this year.

El Salvador

El Salvador is the first country that announces its adoption of Bitcoin as a legal tender. On September 7th, 2021, President Nayib Bukele declared that Bitcoin will be an acceptable means of payment for goods and services. As the smallest country in South America, El Salvador has experienced little economic growth throughout its history. With over 2.5 million of its population living abroad – mostly in the United States – El Salvador's economy relies heavily on these foreign commissions. In 2020, Salvadorans who live and work abroad sent back approximately $6 billion, making up almost 23% of the country's gross domestic product. President Bukele furthermore assures Salvadorans that the adoption of Bitcoins will avert the loss of millions of dollars in commissions for those living abroad. However, many are skeptical of the volatility and the inherent value of cryptocurrency. Such economic initiatives were proven to be futile as many are unwilling to utilize cryptocurrency. A World Bank report indicates that El Salvador's U.S. remittances are already one of the lowest globally. Another issue that comes with the adoption of Bitcoin is the already impoverished economic situation in El Salvador. In 2017, only 30% of the Salvadoran population owned a bank account. President Bukele sought financial inclusion through such an adoption. However, many concluded that Salvadorans could not access the Internet as efficiently. The country also has one of the lowest internet penetration rates in Latin America, making it more difficult for its people to maneuver and participate in the exchange of cryptocurrency.

European Union

The European Union does not have a standardized, unified legislation for the regulation of cryptocurrency. The extent of government regulation varies according to each member state. Cryptocurrency is legal throughout the EU. Consequently, the EU has been one of the most influential forces in the current crypto-market. The EU Directive has proposed numerous regulatory legislations on cryptocurrency. For instance, the EU adopted a legislation that grants only those with a license the ability to provide crypto-assets and operate crypto exchanges. These laws, however, are only applicable to the EU, which means that these laws have little impact on the global crypto market. The jurisdiction of such legislations do not pertain to other member-states. Despite its effectiveness in diminishing the value people place upon cryptocurrencies and digital assets, the law does little to address the transparency and accountability problem of cryptocurrency.

Timeline of Relevant Resolutions, Treaties and Events

Date	Description of event

2008	**Economic Crisis** The global economic collapse in 2008 marked an abrupt change in people's perception of the traditional financial system. Due to this incident – and the subsequent economic instability – investors, consumers, and governments alike began looking for a more decentralized alternative.
January 3rd, 2009	**Creation of Bitcoin** Largely considered as the first cryptocurrency, Bitcoin was released by a group of programmers under the pseudonym Satoshi Nakamoto in 2019. This represents a pivotal moment in the history of transaction as Bitcoin is one of the first attempts at decentralizing financial tokens.
October 5th, 2009	**New Liberty Standard Established** The New Liberty Standard is the first platform for cryptocurrency exchange. Users are able to buy and sell Bitcoins on New Liberty Standard, which established its first exchange rate of Bitcoin (where 1 USD is equivalent to 1,309.03 Bitcoins) on October 5th, 2009.
October 7th, 2011	**Release of Litecoin** As more cryptocurrency investors emerged, competition also burgeoned. In 2011, former Google engineer Charlie Lee released Litecoin, another medium of transaction that aims to provide an immediate transaction process that does not require intermediary operations.
November 28th, 2012	**The First Bitcoin Halving** A halving in cryptocurrency refers to the situation where the reward for crypto-mining is cut in half.
2020	**A Surge of Crypto-Lending Firms** The popularity and prevalence of cryptocurrency continued to grow during the 2010s. In the year 2020, due to the pandemic, many sought for virtual transactional methods that would enable them more efficiency and less handling fees. Crypto-lending refers to a type of DeFi where investors are able to lend their cryptocurrency to various sources.

Relevant UN Treaties and Events

- "Promotion of international cooperation to combat illicit financial flows and strengthen good practices on assets return to foster sustainable development" (A/RES/73/222) 20 December 2018

Evaluation of Previous Attempts to Resolve the Issue

As a fairly modern technology, cryptocurrency has not yet been thoroughly evaluated by the United Nations (UN). Due to the issue's novelty, member states have not devised any multilateral agreements in the context of global commerce. However, one can still examine each member-state's treatment of and attitude towards cryptocurrency. More specifically, the cases in South Africa and El Salvador both help scrutinize the impact cryptocurrency has in a given economic setting. The attempt at homogenizing cryptocurrency with a nation's legal aspects has failed because of the nature of such currencies – one that comprises a high volatility. The volatility of cryptocurrency refers to its unstable and highly variable nature. Although it is less prone to inflation, cryptocurrency still obtains the potential to increase or decrease in its value over a short period of time. It is therefore an inapt medium to be adopted as a legal tender. Compounded with the intricacies of each nation's legislative operations, the high volatility of cryptocurrency poses significant risks for those involved in the market.

Possible Solutions

The main concern regarding cryptocurrency is the transparency and the security of its transaction process. Although government regulations can do very little to ensure such qualities, unlimited access and oversight can lead to issues regarding one's right to privacy. Just as it is extremely difficult to adopt a globalized system for any type of currency, it is almost impossible for an organization like the UN to regulate cryptocurrency in global commerce. However, because cryptocurrency is on its rise of popularity, the UN can delimit the extent of each member state's incorporation of cryptocurrency. The main focus when regulating cryptocurrency on a global scale is to prevent the mass exploitation of such technologies. One way to hinder the proliferation of cryptocurrency is to limit the extent of crypto trade deals for both national and private banks. The UN should strive to **disincentivize banks to issue loans nominated in cryptocurrency** globally. In other words, there should be repercussions against both public and private banks that attempt to adopt cryptocurrency as a legitimate tender.

The decentralized aspect of cryptocurrency also entails that there will be no institution held accountable when the involved parties violate a state's law. Compounded with the absence of an accountable institution, many have exploited cryptocurrency as a means to perpetuate IFFs. To prevent this and subsequently regulate cryptocurrency, some member-states proposed government-issued cryptocurrency. Instead of adopting it as a legal, national tender, member-states should strive to enhance

government presence and oversight within such an industry. Creating a state-issued cryptocurrency does not necessarily equate adopting cryptocurrency as a legal tender. In monitoring cryptocurrencies in the global economy, the UN should ensure and delimit the proliferation of such currencies. One way to do so is to **reduce cryptocurrency's role as a medium of transaction**. In other words, member-states should not adopt cryptocurrency as their national tender. As can be seen from El Salvador's tumultuous attempt at adopting Bitcoin as their legal tender, the instability and high volatility of cryptocurrency are inapt for the purposes of a legally recognized payment method. This is not to say that the UN should prohibit cryptocurrency. Member-states should instead treat cryptocurrencies (such as Bitcoin) as an asset and regulate them accordingly.

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All citations must be in MLA format. You may use www.noodletools.com or www.easybib.com to create your bibliography. Please ensure that all entries in this section are '**left-justified**' – as this paragraph is set out. Also, any websites cited must be in **hyperlinks**. Put the **most useful links in bold**.

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