

The Bitcoin in a Market Economy

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Virtual coins, or cryptocurrency, are a phenomenon that has challenged the fundamental notions about the regulatory limits of the global financial system. For those who perceive them as a "decentralized" means for the production of "new money", bitcoins symbolize the full reach of "freedom" and, therefore, "the ideal of a deregulated market".

Under this perspective (which can be utopian or dystopian, depending on one's take on the idea of market freedom), they are a presumably a safe piece of digital property which is transferable to another network user and which can be exchanged for goods or services, therefore playing the same role as cash.

Using blockchain-type technology platforms, the virtual coins are commercialized, at least in theory, so that the interference of the State or of financial institutions should not be necessary, therefore eliminating the costs associated to the monetary intermediation.

They are considered "autonomous" or "free", since they are produced in an independent fashion and are not subject to a specific body (unlike the physical coins, whose production monopoly is controlled by the Central Bank and the Bureau of Engraving and Printing, in the Brazilian case).

The relevance of this phenomenon is observed, for example, in companies whose focus is on-line commerce. For these companies, accepting payments by means of a virtual currency represents a complement to their profitability - according to their executives, it configures a safe, transparent and low-cost form of payment, with a transaction rate lower than that charged by the majority of credit cards.

However, cryptocurrencies also create uncertainty and doubt. The first question is whether they actually represent "coins", or are simply some form of protocol, commodity or undefined virtual asset, which one can take possession of.

Among the most relevant cryptocurrencies, "bitcoin" deserves attention. The bitcoin was conceived by a discussion group interested in cryptography and it was made concrete by a programmer known by the alias "Satoshi Nakamoto", who remains unknown by using communication systems difficult to monitor and hack.

The process by means of which bitcoins are created is called "mining", pretty much as it happens with gold, and it uses a digital mining software. Once conceived, it is released into an open database, keeping the users' privacy, though. Bitcoin's design is grounded on the



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understanding of a decentralized currency, which is based on encryption and slightly anonymous, which has low financial rates and the potential to penetrate all countries in the world.

In Israel, a country that concentrates a large number of technology companies, the bitcoin is classified as a taxable asset, subject to a tax on capital gains and to the value added tax; it is not classified as a coin or payment system. Although Israeli tax laws do not recognize cryptocurrencies as cash, the guidelines in Israel are waving at a legal framework regarding bitcoins in the market by means of which they can be treated as assets that can be exchanged for goods and services.

This raises another relevant question: can bitcoin survive a system of market regulation? Again, for those who perceive it as something "decentralized", the bitcoin symbolizes the full reach of "freedom" in a "deregulated market", where each individual is responsible for his actions and the system is, theoretically, safe, honest and profitable.

In the United States, some experiences featured cryptocurrencies in illicit activities and investors' exposure to fraud. This resulted in the adjustment of this market by means of the BitLicense, a business license connected to activities with virtual coins, issued by the New York State Department of Financial Services - NYDFS. This license (or regulation) applies to all companies that store, manage, buy, sell or make transfers using bitcoins within New York City. The BitLicense defines the protection measures against hackers and prevents the use of currency in illicit activities, by requiring that all transactions be recorded and that all operations higher than 10 thousand dollars be monitored.

In Brazil, the bitcoin is not considered currency in its legal sense, nor is it treated as an asset. CVM (the Brazilian equivalent to the American SEC), by means of Ruling no. 1/2018/CVM/SIN, issued on January 1, 2018, stated that cryptocurrencies cannot be classified as financial assets, and are not subject to article 2, item V, of CVM's Instruction no. 555/14. Therefore, its direct acquisition by investment funds regulated by that instrument is not allowed.

However, from the point of view of taxation in Brazil, bitcoins must be included in the annual Income Tax Report, in the field "Assets and Rights" or "other assets", with the amount paid for their acquisition. Considering that bitcoins do not have an official exchange rate (since there is no institution responsible for controlling its issuance), there is no legal rule for converting values for tax purposes.

Last month, the bitcoin suffered a severe devaluation resulting from the decision made by some countries to forbid its trade, precisely because of the difficulty to regulate it. The issue made global headlines, which became even more intense after Warren Buffet's statement, saying that this will surely have a bad end.

The dramatic diversity of points of view about this thought-provoking, brand-new issue, deriving from a necessary technological innovation, shows that in reality, the bitcoin has a hybrid nature at this point: it is no money nor asset, but serves as "payment", or a simple "exchange" for goods and services, thus allowing the transfer and circulation of wealth. In this context, it seems essential that bitcoin, while free from an effective regulation by the State, be able to meet the demands for legal safety which is at the core of the private market, and of businesses in general, so that its use can be trusted and promote economic development that generates good results for holders and society.