



ASIC

Australian Securities & Investments Commission

Senate Economics References Committee inquiry into digital currency: Opening statement

*Speech by Michael Saadat, Senior Executive Leader,
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*Senate Economics References Committee inquiry into digital currency
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Introduction

Good afternoon, Chairman. Thank you for this opportunity to address the Committee.

As the Committee is aware, ASIC is Australia's financial services and financial markets regulator. ASIC also has responsibility for investor and consumer protection in financial services.

ASIC has been following the submissions and hearings into digital currency with interest.

In my introductory comments, I wanted to touch on ASIC and digital currencies, and ASIC and the digital currency industry.

ASIC and digital currencies

In general terms, there are two issues that arise for ASIC in relation to digital currencies:

- The first issue is whether digital currencies, or facilities associated with these currencies, are financial products that are regulated by ASIC under the *Corporations Act 2001* or the *Australian Securities and Investments Commission Act 2001*.
- The second issue is whether digital currencies are being used to facilitate certain types of crime. In this area, ASIC's primary interest relates to financial crime under the legislation we administer, as well as assisting other agencies in their work on other types of crime.

On the first issue, ASIC has considered how digital currencies fit within Australia's current financial services regulatory regime. Our views are outlined in detail in our submission to this inquiry.

However, in summary, we do not consider that digital currencies themselves are within the legal definitions of a 'financial product'. This means that a person does not need to be regulated by ASIC in order to operate a digital currency trading platform, trade in digital currency, provide advice about digital currency or arrange for others to buy and sell digital currency.

Some financial products that are associated with digital currency, such as contracts for difference over bitcoins, are currently ASIC-regulated.

The law could be changed to accommodate digital currencies within existing regulatory regimes – for example, by treating digital currencies in a similar way to national currencies or declaring digital currencies to be financial products. Some implications of these options are outlined in our submission.

In general, treating digital currencies in a similar manner to national currencies may not result in a significant change to how digital currencies are regulated by ASIC. Treating digital currencies as financial products would result in practical challenges because there are conceptual differences between digital currencies and facilities that are regulated as financial products.

ASIC and the digital currency industry

ASIC has responded to a number of requests from the digital currency industry for guidance on how the law applies to their arrangements. We have also met with relevant industry groups to discuss digital currencies and associated facilities. ASIC supports innovation and we have endeavoured to assist persons to understand their obligations under the laws we are responsible for.

ASIC has released guidance for consumers on digital currencies on our MoneySmart website. This guidance outlines that:

- exchanges for buying and selling digital currencies are not regulated
- the value of digital currencies can fluctuate significantly, and
- digital currency holders are unlikely to have any recourse if their currencies are stolen from their online wallet.

Mr Chairman, thank you for your time this afternoon. I am happy to take questions.