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Regulating Crypto-Currencies

BY [SUMIT AGARWAL](#) / ON APRIL 26, 2016

Powerball fever recently struck the nation. An estimated \$1.5 billion jackpot had everyone talking. Hoping. Dreaming. With a single Powerball ticket cost at \$2, one can imagine saving each and every dollar in order to purchase a ticket at a chance to win the big prize. What was new this time around? Individuals were able to purchase Powerball tickets with bitcoin.^[1] JackPocket, a mobile lottery ticket application, “integrated bitcoin payments into its offering...allow[ing] users to buy Powerball tickets.”^[2] JackPocket CEO Peter Sullivan believed that this move would “attract more affluent and tech-savvy consumers to buy more lottery tickets.”^[3]

One may ask, what is the big deal that there is something else out there one can buy with bitcoin? It is important because the use of bitcoin continues to expand despite recent discussion and analysis of the regulatory framework of bitcoin. In the United States, there have been a number of steps taken at aiming to regulate bitcoin. New York adopted the BitLicense^[4] making it “the first US state to formally launch a custom-made regulatory approach to bitcoin and digital currencies.”^[5] Other regulatory bodies such as the U.S. Securities and Exchange Commission^[6] (SEC) and the United States Commodities Futures Trading Commission^[7] (CFTC) have either indirectly or directly attempted to assert that bitcoin is a currency^[8] or a commodity,^[9] respectively. Presumably, this would allow these different regulatory bodies, amongst others, to have some authority at attempting to regulate bitcoin.

As with New York, the SEC, and CFTC, other states, agencies, and regulatory bodies are attempting to regulate bitcoin in their own way.^[10] If one were to look from an even broader perspective, there are even changes worldwide. Recently “Russia took a step...that would effectively ban the use of digital currencies like bitcoin domestically.”^[11] Additionally, the “UK Treasury has announced a series of initiatives dealing with digital currency”^[12] which illustrates the “government’s first major attempt to grapple with the regulatory...issues surrounding digital currencies.”^[13]

All in all, it seems fair to say that there are a number of governments and agencies, worldwide, which are evaluating regulatory measures geared toward digital currencies such as bitcoin. The question then becomes, do these additional uses for bitcoin put it and other digital currencies in danger of becoming heavily regulated, more so than they would be otherwise?

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- [1] For a basic understanding of bitcoin see *What is Bitcoin?*, CoinDesk (last updated Mar. 20, 2015), <http://www.coindesk.com/information/what-is-bitcoin/>.
- [2] See Pete Rizzo, *Tickets for \$1.5 Billion Powerball Jackpot Now Selling for Bitcoin*, CoinDesk (Jan 13, 2016, 6:21 PM), <http://www.coindesk.com/tickets-1-5-billion-powerball-jackpot-bitcoin/>.
- [3] *Id.*
- [4] See e.g., Stan Higgins, *NY Bitcoin Businesses Now Have 45 Days to Apply for BitLicense*, CoinDesk (June 24, 2015, 8:42 PM), <http://www.coindesk.com/ny-bitcoin-business-45-days-bitlicense>.
- [5] *Id.*
- [6] For an understanding of the SEC's responsibilities, see <http://www.sec.gov/about/whatwedo.shtml>.
- [7] For an understanding of the CFTC's responsibilities, see <http://www.cftc.gov/About/MissionResponsibilities/index.htm>.
- [8] Edward V. Murphy et al., Cong. Research Serv., R43339, *Bitcoin: Questions, Answers, and Analysis of Legal Issues* (2015). (Discussing how certain perceptions and measures taken by the SEC qualify bitcoin as a currency.)
- [9] See Pete Rizzo, *CFTC Ruling Defines Bitcoin and Digital Currencies as Commodities*, CoinDesk (Sept 17, 2015, 10:06 PM), <http://www.coindesk.com/cftc-ruling-defines-bitcoin-and-digital-currencies-as-commodities/>; Jared Paul Marx, *Bitcoin as a Commodity; What the CFTC's Ruling Means*, CoinDesk (Sept 21, 2015, 11:50 AM), <http://www.coindesk.com/bitcoin-as-a-commodity-what-the-cftcs-ruling-means/>.
- [10] Edward V. Murphy et al., Cong. Research Serv., R43339, *Bitcoin: Questions, Answers, and Analysis of Legal Issues 1* (2015) (Analysis and discussion of regulation other states such as California and Connecticut aim to take with regards to bitcoin.).
- [11] Daniel Palmer, *Bill Seeking Bitcoin Ban Reaches Russian Legislature*, CoinDesk (Jan 11, 2016, 10:43 AM), <http://www.coindesk.com/bill-bitcoin-ban-russian-legislature/>.
- [12] Joon Ian Wong, *UK's Plan to Regulate Bitcoin Revealed in Treasury Report*, CoinDesk (March 18, 2015, 2:02 PM), <http://www.coindesk.com/breaking-uk-treasury-issues-landmark-digital-currencies-report/>.
- [13] *Id.*

