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VIRTUAL CURRENCY IN BELGIUM

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WHAT IS VIRTUAL CURRENCY?

According to the European Banking Authority (EBA), virtual currency (“**VC**”) can be described as a digital representation of value that is neither issued by a central bank or a public authority, nor necessarily attached to a conventional currency (“**CC**”), such as EUR or USD, but is accepted by natural or legal persons as a means of payment and can be transferred, stored and traded electronically.

A distinction should be made between centralised and decentralised VC. The most common types of centralised VC are closed VC schemes and VC schemes with unidirectional flow.

Closed VC schemes have almost no link to the real economy and are not convertible to CC. It can be earned based on an online performance and can only be spent by purchasing virtual goods and services offered within a virtual community or online game (such as online gaming ‘*Word of Warcraft Gold*’). **VC Schemes with unidirectional flow** on the other hand can be purchased directly by using CC, but it cannot be exchanged back to the original CC (such as online gaming ‘*The Settlers Online Diamonds*’ and the former ‘*Facebook Credits*’).

VC schemes with a bidirectional flow, meaning that users can buy and sell VC according to an exchange rate with their CC, should be separated in centralised and decentralised types. The most famous example of a decentralised VC scheme with a bidirectional flow is probably ‘*Bitcoin*’. Bitcoins are not linked to any real-world currency, but can be used to purchase physical goods or services. The exchange rate is determined by supply and demand in the market. Bitcoin is

based on a decentralised P2P network, without any classic financial institutions involvement. This means that it does not have a central clearing house, nor is Bitcoin issued by a recognized public authority. Bitcoin users actually perform these tasks themselves and payment transactions are validated within the system (the so-called mining activity). People using their system to undertake such mining activity are rewarded by newly created bitcoins. This is the only way to create new money in the Bitcoin Scheme.

VIRTUAL CURRENCY = E-MONEY?

Very often VC is confused with electronic money (“**E-Money**”). The second E-money directive (2009/110/EC) and its implementation in Belgian law define E-Money as “*monetary value as represented by a claim on the issuer which is stored electronically, issued on receipt of funds of an amount not less in value than the monetary value issued, and accepted as a means of payment by undertakings other than the issuer*”.

E-Money and VC are both stored electronically and (sometimes) accepted as a means of payment by other entities than the issuer. They however also differ in important ways. VC does not represent a claim on the issuer (there is no obligation to redeem the VC upon request of the holder). VC is also not issued on receipt of funds of an amount not less in value than the monetary value issued, since its creation is purely digital. E-Money on the other hand preserves a strong link with the conventional underlying currency and is expressed in the same unit of account. Therefore VC does not fall into the definition of E

Money and E-Money regulation is therefore not applicable on VC.

legal status	<i>Unregulated</i>	Certain local currencies	Virtual Currency
	<i>regulated</i>	Banknotes and coins	E-Money Conventional bank deposits
		<i>physical</i>	<i>Digital</i>
Money format			

Source: ECB

IS VIRTUAL CURRENCY REGULATED?

Actually VC does not fall into the scope of any existing (Belgian or European) regulation and no licence is required to issue VC, nor is there a competent authority supervising its whereabouts.

VC's lack of regulation is at the same time its strongest and its weakest point.

Supporters of VC point out the numerous advantages resulting (at least partially) from the lack of regulation. The absence of licensed intermediaries such as credit institutions or payment service providers (normally imposed by regulation to guarantee the safety of transactions) has a positive influence on the transaction costs. Transactions within or between VC schemes are also not subject to the exchange fees applied to conversions with third countries. Although in the field of payment transactions, SEPA in Europe guarantees that the payee's account will be credited by the next business day at the latest, the processing of VC payments can take place seamless and on a 24/7 basis and is therefore able to compete with the swiftness of card payments.

More controversial is the anonymous basis upon which VC payment transactions can take place. They do not require the provision of personal or sensitive data and can in this sense be considered to be the equivalent of cash money. The Financial Action Task Force ("FATF") has already warned that the anonymous character of especially decentralised VC increases significantly the risk that it will be used to launder money or finance terrorist activities.

There are also numerous reports concerning theft of VC through Trojan horses or hacking, with significant decreases in the exchange value of the VC's concerned.

It is clear that an important element in the possible future success of VC is bringing trust to its (potential) users. As is the case with many innovations in the financial field, users should first

be convinced that VC is as trustworthy as the CC (both physical, bank deposit and digital) they are using now. It is believed that lawmakers have an important role to play in this process. The future of VC depends on whether authorities will be able to introduce a legal framework for VC which at the same time provides sufficient comfort to its users, but also does not remove all of the advantages resulting from its specific nature.

WHAT IS THE SITUATION IN BELGIUM LIKE?

VC in Belgium is not regulated at all and the only official position comes from a formal warning issued by both the FSMA and the Belgian National Bank in the beginning of 2014. This warning underlines the unregulated nature of VC and the complete lack of oversight. They advise users to be very careful when using VC and indicate the fact that VC is not a legal means of payment such as physical coins and notes or, to a certain extent, bank deposits. Another important issue underlined in the warning, concerns the fact that VC is not included under the Belgian deposit guarantee scheme, protecting account holder's savings when a financial institution is unable to redeem them.

Most Belgian credit institutions do not support VC or are even officially against the use of it. They however all very closely follow up on its evolution, indicating that VC is expected to expand rapidly in the near future.

VC's development will definitely depend on its future legal status and the introduction of a so-called killer application (which may or may not be 'Bitcoin'), enabling the VC market to completely lift off.

Do you want to find out more about virtual currency in a Belgian or more general context, how it can be used and what the consequences may be for your activity?

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