

Blockchain & Cryptocurrencies Regulation Index 2018. Country Report: United States

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Abstracts

United States. Index score: 6.04. Country Rank: 15. Rather Enabling Environment.

As of today, the U.S. is one of the pivots of the global blockchain industry, with an approximately 30% concentration of all businesses. The U.S. dollar is the second currency in the total volume of transactions in the cryptocurrency market. The federal authorities, just as the authorities of states, show considerable interest in regulating blockchain- and cryptocurrencies-related businesses.

The regulatory framework for virtual currencies was first formed before the blockchain era. In 2006, following the legal suit filed by the Department of Justice (DOJ) against e-gold, the definition of money transfer was expanded. It was determined that the concept of money transfer included not only the transfer of cash or currency, but also the transfer of the value of this currency by any other instrument of circulation. In 2013, Financial Crimes Enforcement Network (FinCEN) issued Regulations to Persons Administering, Exchanging, or Using Virtual Currencies with the main purpose of clarifying the provisions of the Bank Secrecy Act with respect to persons creating, acquiring, distributing, exchanging, accepting or transferring virtual currencies. In fact, rules were established obliging businesses related to monetary services (including transactions with virtual currencies) to register with FinCEN and strictly comply with anti-money laundering (AML) and Know Your Customer (KYC) rules.

Since 2013, the United States Securities and Exchange Commission (SEC) and the Commodity Futures Trading Commission (CFTC) have also played a significant role in the cryptocurrency market regulation. In 2013, the SEC disseminated Investor Alerts related to the use of cryptocurrency in Ponzi schemes. In September 2015, the CFTC classified bitcoin as an exchange commodity. In 2017, the SEC started classifying

issues of any tokens as issues of securities, which de facto results in a ban on ICOs in the United States.

At the level of states, there are different approaches to blockchain- and cryptocurrencies-related regulating businesses. A special license for transactions with virtual currencies has been required only in the state of New York since 2015 (the so-called BitLicense). Attempts have been made to unify the legislation of individual states in the domain of virtual currencies. In particular, various states are invited to adopt a model law on the regulation of businesses related to virtual currencies (the Uniform Regulation of the Virtual Currency Businesses Act (URVCBA), 2017).

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