

Is Bitcoin Legal in India



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From exercising caution over Bit coin Crypto currency, the Government of India could finally be moving towards compliance. As per a recent CNBC India report, a committee of finance ministry officials, IT ministry officials, NITI Aayog, and Reserve Bank officials, may be inching closer to legalizing virtual currencies in India. The Inter-Disciplinary Committee's report is expected to take decision, after which the Securities and Exchange Board of India (SEBI) may be asked to step in to regulate transactions. On DEC, 1, 2017, India's finance minister, Mr. Arun Jaitley, has clarified that the government does not recognize bit coin as legal tender. According to the Times, the minister has previously informed the Indian parliament that the Reserve Bank of India (RBI), the country's central bank, has not issued any licenses to operate with crypto currencies in the country. He further informed the parliament that the country does not have any regulations governing virtual currencies.

Keywords: Bit Coin, Crypto Currency, Block Chain, Legal Tender, Digital Wallet

1. Introduction

Bit coin is a form of new money or currency that was created in 2009 and it's not currency which one can hold in his hand. It's not recognized by most Main Street stores. It's not issued or backed by a national government. At their core, Bit coin and its imitators are sets of software protocols for generating digital tokens and for tracking transactions in a way that makes it hard to counterfeit or re-use tokens. A Bit coin has value only to the extent that its users agree that it does. The original software was laid out in a white paper in 2008 by a person or group of people using the pseudonym Satoshi Nakamoto, whose identify remains unknown, despite several efforts to assign or claim credit. Online fantasy games had long used virtual currencies. The key idea behind Bit coin was the block chain -- a publicly visible, largely anonymous online ledger that records Bit coin transactions.

If one make an online transfer from one customer to another using a bank .It verifies that you have the funds, subtracts that amount from one spot in a giant database it maintains of accounts and balances, and credits it in another. Customer can view the statements of account and see the result by logging on to his account but the transaction is under the bank's control. Customer trusting the bank to credit or authorize debit the right amount of money, and the bank is also making sure the customer can't spend that money again. Transactions are made with no middle man-meaning, no banks. There are no transactions fees and no need by the customer to give his real name The block chain is a database that performs those tracking functions but without the bank or any other central authority. In Bit coin system the function performed by the bank in case of funds transfer is conducted through a decentralized network process and through various payment gateways sites which are offering mobile or e wallet. E wallets Payment Gateway system upload the data of financial transactions and clubbed the transfer in on line batch mode and broadcast the same information through network for verification which is called Bit coin Miners.

Bit coins can be used to buy merchandise anonymously. In addition, international payments are easy and cheap because Bit coins are not tied to any country or subject to regulation. Small businesses may like them because there are no credit card fees. Some people just buy Bit coins as an investment, hoping that they'll go up in value. Several marketplaces called Bit coin exchanges" allow people to buy or sell Bit coins using different currencies. Mt. Gox is the largest Bitcoin exchange. People can send Bit coins to each other using mobile apps or their computers. It's similar to sending cash digitally. People compete to "mine" Bit coins using computers to solve complex math puzzles. This is how Bit coins are created. Currently, a winner is rewarded with 25 Bit coins roughly every 10 minutes.

Bit coins are stored in a "digital wallet," which exists either in the cloud or on a user's computer. The wallet is a kind of virtual bank account that allows users to send or receive Bit coins, pay for goods or save their money. Unlike bank accounts, Bit coin wallets are not insured by the FDIC. Though each Bit coin transaction is recorded in a public log, names of buyers and sellers are never revealed – only their wallet IDs. While that keeps Bit coin users' transactions private, it also lets them buy or sell anything without easily tracing it back to them. That's why it has become the currency of choice for people online buying drugs or other illicit activities.

2. Objective of the Study

1. To explore and understand the basic concepts and principles of Bit coin
2. To study the countries where Bit coin is legal.
3. To highlight the present status of Bit coin in India.

3. Research Methodology

The research is basically based on secondary data. Secondary data have been collected from the various web sites, and different journals, annual reports, periodicals magazines and weeklies published by the various data collection and research institutes

4. Basic Concepts and Principles of Bit Coin

Bit coin is a digital and global money system (currency). It allows people to send or receive money across the internet; even to someone they don't know or don't trust. Money can be exchanged without being linked to a real identity. The mathematical field of cryptography is the basis for Bit coin's security. Bit coin address, or simply address, is an identifier of 26-35 alphanumeric characters, beginning with the number 1 or 3, that represents a possible destination for a bit coin payment. Addresses can be generated at no cost by any user of Bit coin. For example, using Bit coin Core, one can click "New Address" and be assigned an address. It is also possible to get a Bit coin address using an account at an exchange or online wallet service.

There are currently two address formats in common use:

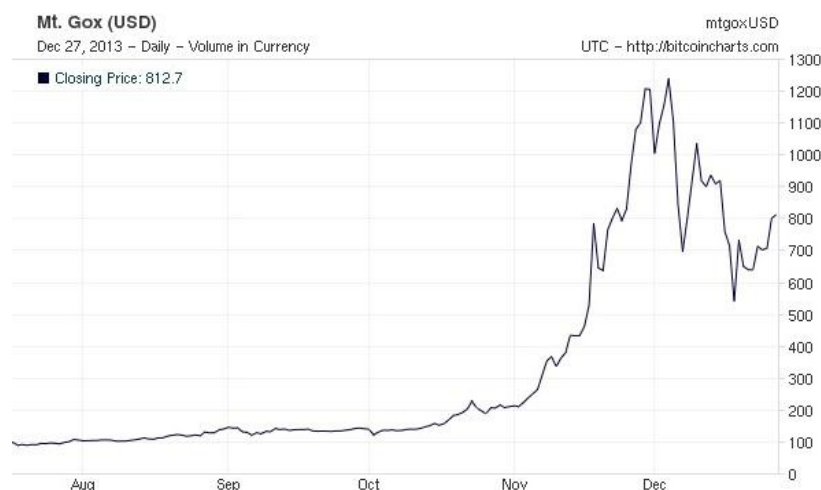
Common P2PKH which begin with the number 1, eg: 1BvBMSEstWetqTFn5Au4m4GFg7xJaNVN2.

Newer P2SH type starting with the number 3, eg: 3MXknxVapwv6QkMoQv99MBuXZ2XpPewHn9

Bit coins is a form of virtual currency- meaning, if customer have bit coins he do not physically purchase goods by handing notes or tokens to the seller. Bit coins are used for electronic purchases and transfers. Bit coins can be used to pay friends, merchants, etc. Every single purchase is immediately logged digitally (on computers) on a transaction log that tracks the time of purchase and who owns how many Bit coins. Think of this transaction log as an audit trail: it contains every single piece of information of every Bit coin transaction. This digital transaction log is called 'block chain'. The block chain records every single transaction - of present and past - and the ownership of every single Bit coin in circulation. The people who are constantly verifying the block chain, ensuring that all the information is correct and updating it each time a transaction is made, are called 'miners'. One way to think of miners is: they those who confirm transactions. Their job is to ensure that the transaction is secure and processed properly and safely. In return for their services, miners are paid fees by the vendors/merchants of each transaction and are also given physical, minted. Bit coins are growing in popularity, and although they were largely used by speculators who were looking at it as a way to make money by buying Bit coins at lower prices and selling them at higher prices (much like trading foreign exchange or forex), there is a growing trend of businesses accepting Bit coin as a form of payment. Many big companies like Word Press, Overstock.com, and Reddit accept Bit coin, and a growing numbers of brick and mortar stores are starting to accept them internationally as well. More than \$1.5 billion worth of Bit coins are currently in circulation around the world, with millions of transactions occurring daily. Needless to say, the popularity and usage of Bit coin is picking up very quickly as more and more businesses and individuals are becoming aware of its benefits and advantages over traditional currencies.

5. Pricing of Bit Coins

Bit coins are like any other currency: they fluctuate in value relative to other currencies. Similar to how the rupee's valuation swung wildly against the US dollar this year, Bit coins have had drastic movements in price as well. The value of a bit coin is constantly changing, and there is no centralized exchange for it. Think of it this way: each time a Bit coin changes ownership from seller to buyer, the two parties need to agree on its price. There is no 'fixed' price. Usually, it's the seller's responsibility to give a fair price to the buyer based on what rate Bit coins are being traded in elsewhere. The difference between Bit coins and other currencies is that there is no centralized bank that prints the currency and sets relative values. Through transactions, the value of Bit coin fluctuates through supply and demand. Here's a graph covering few months of the relative value of Bit coins against US dollars; there have been wild fluctuations in the value over the past two months.



What's the point of having Bit coins if one can use regular currency for purchases? That's a question at some point in time; after all, the rupee seems to get the job done. Well, for starters, there are many benefits to Bit coins over traditional currencies. For example, let's assume one needs to purchase an item for Rs. 10,000, but the seller doesn't accept credit cards or Bit coins; he only wants cash. You now need to scrounge around for Rs. 10,000 and pay the seller in hard cash; the seller, on his side, has to somehow ensure that the money you're giving him is not counterfeit. Just the hassle of having to pay him Rs. 10,000 in cash is what Bit coin prevents. If you have at least Rs. 10,000 worth of bit coins (after converting rupees to bit coins) and the seller accepts bit coins, the entire transaction is completed in less than 10 minutes - hassle free.

But, you say, the seller is willing to accept credit cards. Well, this is where the seller would much rather want to accept bit coins versus traditional credit cards. There is usually a 2 - 3 per cent transaction fee for every credit card transaction that the seller needs to pay (to Visa, MasterCard, American Express, etc). With Bit coins, there are little to no fees involved. So the seller has a strong incentive to accept Bit coins.

What it basically comes down to is this: if the buyer and seller agree on a said amount for a good or service, using Bit coins gives them full control and transparency. There are no credit limits imposed by credit card companies, no need to carry cash, no extra fees that the seller can impose upon the buyer without the buyer's full approval. Every single transaction has to be 'agreed' to by both parties before it goes through.

The greatest advantage, however, is that all necessary information is public and transparent. Without revealing the identities of the buyer and seller, the entire Bit coin network is made aware of each and every transaction. This gives a tremendous amount of comfort to both parties of the transaction.

To obtain Bit coins there are number of ways and the first customer needs to get a 'Bit coin wallet'. A Bit coin wallet is first required to get started with using Bit coins. A wallet can be created easily through different online applications. Bit coin wallet is essentially just like, well, any other wallet. Bit coin wallet like an "app" can be installed on phone. Or by downloading wallet on computer through a software wallet, on mobile, and also on the web.

Obtaining Bit coins is a relatively easy process. The three common ways are:

- If customer is selling a good, then he can accept Bit coins as a form of payment.
- In case of purchase and sell Bit coins through Bit coin exchanges (this is the most common way. Exchanges are typically found online.)
- Trade Bit coins for traditional currencies of countries.

As written above, obtaining bit coins through an exchange is the most common and feasible way to get started. There are hundreds of exchanges (mostly online) through which you can obtain bit coins. Simply register and enter bank account information, and convert the local currency into bit coins. In fact, there is an easy way for you to find an online exchange based on where you live through [this website](#). Although many brick-and-mortar businesses are starting to accept Bit coin, the large majority of transactions occur online. You can think of bit coins as 'cash' for the internet. Making payments with bit coins is an incredibly easy process; in fact, you could argue that it is much easier than using credit cards. All one needs to do is, using your Bit coin wallet:

- Enter the recipient's address (we will explain what an address is later on in the article).
- Enter the amount of Bit coins to be sent.
- Press send.

The recipient will then simply receive the request for bit coins in exchange for what he is offering (goods, services, or perhaps a currency). Bit coin works off addresses. There are two components to a Bit coin address: a public address, and a private address. Each Bit coin address has its own Bit coin balance. Every time a transaction is made, the public address of each user is made public to the entire network. Therefore, it is recommended that the sender creates a new address for each transaction.

6. Legal Status Bit Coin in Different Countries

The peer-to-peer digital currency Bit coin made its debut in 2009 and with it ushered in a new era of crypto currency. Today, there are more than 500 different crypto currencies to choose from, but Bit coin still enjoys the first mover advantage. While tax authorities, enforcement agencies, and regulators are still exploring the phenomenon, one pertinent question is—is Bit coin legal or illegal? The answer is, it depends on the location and activity of the user. Bit coins are not issued, endorsed, or regulated by any central bank. Instead, they are created through a computer-generated process known as mining. In addition to being a crypto currency unrelated to any government, Bit coin is also necessarily a peer-to-peer payment system since it does not exist in any physical form and must be exchanged online. As such, it offers a convenient way to conduct cross-border transactions with no exchange rate fees. It also allows users to remain anonymous. Consumers have greater ability now to purchase goods and services with bit coins directly at online retailers and using bit coin-purchased gift cards at bricks and mortar stores. The currency is being traded on exchanges, and companies have even made investments in virtual currency-related ventures. These activities portray a technically well-established virtual currency system, but there is still no uniform international legal law covering the use of bit coin. The fact that bit coin can be anonymously used to conduct transactions between any account holders, anywhere and anytime across the globe, makes it attractive to criminal elements.

They may use bit coins to buy or sell illegal goods like drugs or weapons. Most countries have not clearly made determinations on the legality of bit coin, preferring instead to take a wait-and-see approach. Some countries have indirectly assented to the legal usage of bit coins by enacting some regulatory oversight. However, bit coin is never legally acceptable as a substitute for a country's legal tender.

The United States: The United States has taken a generally positive approach towards bit coin. At the same time, it has several government agencies working on preventing or reducing the use of Bit coin for illegal transactions. The digital currency has also made its way to the U.S. derivatives markets, which speaks about its increasingly legitimate presence. The U.S. Department of Treasury's Financial Crimes Enforcement Network (Fin CEN) has been issuing guidance on bit coin since the beginning of 2013. The Treasury has defined bit coin not as currency, but as a money services business (MSB). This places it under the Bank Secrecy Act which requires exchanges and payment processors to adhere to certain responsibilities like reporting, registration, and record keeping. In addition, bit coin is categorized as property for taxation purposes by the Internal Revenue Service (IRS). (*Related Bit coin: Current and Future Legal Framework*)

Canada: Like its southern neighbor the United States, Canada maintains a generally bit coin-friendly stance while also ensuring the crypto currency is not used for money laundering. Bit coin is viewed as a commodity by the Canada Revenue Agency (CRA). This means that bit coin transactions are viewed as barter transactions, and the income generated is considered as business income. The taxation also depends whether the individual has a buying-selling business or is only concerned with investing. Canada considers bit coin exchanges to be money service businesses. This brings them under the purview of the anti-money laundering (AML) laws. Bit coin exchanges need to register with Financial Transactions and Reports Analysis Centre (FINTRAC), report any suspicious transactions, abide by the compliance plans, and even keep certain records. In addition, the Canadian government has tasked the Senate Banking Committee with drafting guidelines for the legislature of virtual currencies by July of 2015.

Australia: Australia allows entities to trade, mine, or buy bit coin. The Australian Taxation Office (ATO) considers bit coin transactions barter arrangement subject to appropriate taxes depending upon the user.

The European Union: Though the European Union (EU) has followed developments in crypto currency, it has not issued any official decision on legality, acceptance, or regulation. In the absence of central guidance, individual EU countries have developed their own bit coin stances. A few nations are allowing bit coin while others are either undecided or issuing warnings. In **Finland**, the Central Board of Taxes (CBT) has given bit coin a value-added tax exempt status by classifying it as a financial service. Bit coin is treated as a commodity in Finland and not as a currency. The Federal Public Service Finance of **Belgium** has also made bit coin exempt from value added tax (VAT). In Cyprus, bit coins are not controlled or regulated but are not illegal either. The Financial Conduct Authority (FCA) in the **United Kingdom (UK)** has a pro-bit coin stance and wants the regulatory environment to be supportive of the digital currency. Bit coin is under certain tax regulations in UK. The National Revenue Agency (NRA) of **Bulgaria** has also brought bit coin under its existing tax laws. **Germany** is open to bit coin; it is considered legal but taxed differently depending upon whether the authorities are dealing with exchanges, miners, enterprises, or users.

Countries That Say No to Bit Coin

While bit coin is fairly welcomed in many parts of the world, there are few countries which are wary of bit coin because of its volatility, decentralized nature, perceived threat to the current monetary system, and link to illicit activities like drug dealing and money laundering. Some of these nations have outright banned the digital currency while others have tried to cut off any support from the banking and financial system essential for its trading and usage.

Iceland: The island nation has been exercising stringent capital controls as a part of its monetary policies adopted after the global economic crisis of 2008. It seeks to protect the outflow of Icelandic currency from the country. Under the same pretext, foreign exchange trading with bit coin is banned in Iceland as the crypto currency is not compatible with the country's Foreign Exchange Act. Interestingly, a new crypto currency called Aurora coin has launched out of Iceland. Its founders wished to create a viable alternative to the present Icelandic banking system.

Vietnam: From the beginning, **Vietnam's** government and its state bank have maintained that bit coin is a not a legitimate payment method. After a few initial rounds of public rejoinders against the use of bit coin, Vietnam made it illegal for both financial institutions and citizens to deal in bit coin. It links the crypto currency to criminal activities such as money laundering.

Bolivia: El Banco Central de Bolivia has banned the use of bit coin and other crypto currencies.

Kyrgyzstan: Using bit coin and alt coin as a payment form is illegal in Kyrgyzstan.

Ecuador: Bit coin and other crypto currencies were banned in Ecuador by a majority vote in the national assembly. However, the nation has plans to create its own crypto currency in the future.

Russia: The legality of bit coin in Russia is disputed. Russia's Ministry of Finance is hoping to pass a law to ban bit coin sometime this year.

China: All banks and other financial institutions like payment processors are prohibited from transacting or dealing in bit coin. Individuals, however, are free to deal in bit coin between themselves. Bit coin culture is thriving in China. It continues to be one of the worlds larges bit coin markets. (*Related reading* How Bit coin Can Change The World)

The Bottom Line

Although Bit coin is now five years into existence, countries still do not have explicit systems that restrict, regulate, or ban the crypto currency. The decentralized and anonymous nature of bit coin has challenged many governments on how to allow legal use while preventing criminal transactions. Most countries are still analyzing ways to properly regulate the crypto currency. Overall, bit coin remains in a grey area as the technological leap has left lawmakers far behind.

7. The Future of Bit Coin In India

As Bit coin gains popularity, governments are slowly but surely starting to take stances against/for it. For instance, the RBI issued a vague warning last week that Bit coin usage is unsafe due to potential money laundering and cyber security risks. The government of China took it one step further by barring financial institutions and payment institutions from accepting bit coins as a form of payment. Governments are cracking down on "black markets" that accept bit coins as a form of payment. In India, it's not very easy to convert rupees to other currencies since the Indian currency is not freely convertible. Due to this hindrance, obtaining bit coins is not as hassle free as it is in other countries. Another problem with obtaining bit coins in India is that there is electronic method to transfer funds safely; most transfers happen through NEFT. Due to these hindrances, liquidity of bit coins is relatively scarce in India, but is picking up. That being said, Bit coin isn't an institution, organisation, or any sort of centralized entity. In fact, the beauty of Bit coin is that there is no central authority. It is literally a network of users - known as "peers" - who simply decide to buy and sell goods and services through a mode of virtual currency. It will be difficult for governments to 'shut down' Bit coin. In fact, there are talks that virtual currencies are the wave of the future to do their inherent associations of being decentralized, transparent, secure and hassle free.

The RBI has taken notice of Bit coin but has not outlawed it. As Mark Twain popularly said, "The more things are forbidden, the more popular they become."

Even as Bit coin touches new highs fuelling investor interest, the Reserve Bank on 5TH Dec, 2017 warned the public of the risks of virtual currencies (VCs). Citing its earlier warnings on the subject, the central bank said, "in the wake of a significant spurt in the valuation of many VCs and rapid growth in Initial Coin Offerings (ICOs), RBI reiterates the concerns". It can be noted that the price of a single Bit coin, which is not regulated by any monetary authority, had skyrocketed to up to USD 11,000 last week in a rally which puzzled watchers. There is no underlying or backing of any asset for VCs. As such, their value seems to be a matter of speculation. Huge volatility in the value of VCs has been noticed in the recent past. Thus, the users are exposed to potential losses on account of such volatility in value," the central bank had said in a December 24, 2013, note.

Bit coins or other VCs do not yet have a wide acceptance as tender for settling trade transactions. They are 'minted' using algorithms which are based on block chain technologies, according to experts. Those backing the instrument say no one has been able to crack the code which mints the 'currency' and stress the fact that such instruments are the future of finance in an inter-connected world. The Reserve Bank has been repeatedly saying since late 2013 that they possess "potential financial, operational, legal, customer protection and security related risks". The apex bank had said that it was studying the sector but emphatically clarified that it is uncomfortable with "non-fiat" crypto currencies.

"As regards non-fiat crypto currencies, I think we are not comfortable," its executive director Sudarshan Sen said an industry summit in September this year.

"The creation, trading or usage of VCs including Bit coins, as a medium for payment are not authorised by any central bank or monetary authority. No regulatory approvals, registration or authorisation is stated to have been obtained by the entities concerned for carrying on such activities," it had said in its first comments in September 2013. Such currencies, stored in electronic wallets, are prone to losses arising out of hacking, loss of password, compromise of access credentials, malware attack, it had said. The RBI had also said that the exchange platforms on which the Bit coins are traded are set up in various jurisdictions whose legal status is also unclear.

8. References

1. Bit coin Rally – RBI again warns users of Risk – www.moneycontrol.com ,6th Nov, 2017
2. RBI Reiterates warning about trading in Bit coins – www.economictimes.com , updated 6th Nov, 2017
3. Countries where Bit coin in legal & Illegal – www.investpedia.com , 15TH April ,2013
4. Bit coin explained in layman Terms – www.profit.ndtv.com dated 27 Dec, 2013
5. How is the price of Crypto currency Defined – www.bitconnect.com