LEGAL STATUS OF BLOCKCHAIN TECHNOLOGY IN SOUTH AFRICA

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Sub-Saharan Africa has a 70% unbanked population.[1] This statistic indicates there exists the enormous potential for the adoption of blockchain-based solutions as an alternative to traditional payment options. Access to traditional services is one of Africa's biggest challenges and making use of blockchain would improve access to financial inclusion. So, as this term blockchain garners popularity within businesses and governments let us examine South Africa's current position on blockchain technology.

What is blockchain technology

Blockchain technology was created by Satoshi Nakamoto in 2009. There is, however, no clarity whether Satoshi Nakamoto is, in fact, a person or group of people as the inventor/s of blockchain have chosen to maintain their anonymity.

According to the World Bank definition, "a blockchain is one type of distributed ledger".[2] Distributed ledgers use independent computers (referred to as nodes) to record, share and synchronize transactions in their respective electronic ledgers (instead of keeping data centralized as in a traditional ledger). A blockchain allows for a private or public, electronic general ledger that records all payments and transfers of data, from the time of creation. Once this data has been recorded inside a blockchain it becomes extremely difficult to corrupt or change. The World Bank definition further outlines that "blockchain's are the building blocks of the "internet of value". They enable recording of interactions and transfer 'value' peer-to-peer, without a need for a central coordinating entity. 'Value' refers to any record of ownership of asset — for example, money, securities, land titles — and also ownership of specific information like identity, health information and other personal data."[3]

Simply put, a blockchain is particular type of data structure which stores and transmits data in packages called 'blocks' that are connected to each other in a digital 'chain'. Blockchain technology employs cryptographic and algorithmic methods to record and synchronize data across a network in an immutable manner.

The most popular use of Blockchain technology is creating decentralized convertible virtual currencies ("**DCVCs**''), such as Litecoin or Bitcoin or developing new financial technologies. Bitcoin is the most well-known adoption of the blockchain technology however there is more to what blockchain technology can do besides virtual currencies.[4]

In December 2014 the South African Reserve Bank ("**SARB**") issued a position paper on virtual currencies. The position paper expressly stated that only the SARB may issue legal tender and that decentralised convertible virtual currencies, including Bitcoin and Litecoin, are not legal tender in South Africa. [5]

Presently in South Africa there are no specific laws or regulations governing the use or trading of blockchain technology and the legal status of Bitcoin is undefined. So, if a person uses Bitcoin, it is not against the law. Without clear regulation authorised or supervised by SARB, DCVC offers no security to users in South Africa. The SARB stated that "no legal protection or recourse is afforded to users, traders or intermediaries of virtual currencies, and such activities are performed at the end-users sole and independent risk."[6]

If you are a user of blockchain technology not just for virtual currencies and require in-depth good, clear, precise advice, contact us.

[1] World Bank, 2017. "Global Findex Data:Africa ," World Bank Group.

[2] World Bank definition https://www.worldbank.org/en/topic/financialsector/brief/blockchain-dlt (last vist 24/01/2020)

[3] Ibid

[4] See additional examples of use of blockchain technology from author Bernard Marr (Jan. 22, 2018) https://www.forbes.com/sites/bernardmarr/2018/01/22/35-amazing-real-world-examples-of-how-blockchain-is-changing-our-world/#66c6d9ef43b5(last visit 24/02/2020)

[5] SARB, Position Paper on Virtual Currencies (Dec. 3, 2014), https://www.resbank.co.za/RegulationAndSupervision/NationalPaymentSystem(NPS)/Legal/Documents/Position%20Paper/Virtual%20Currencies%20Position%20Paper%20%20Final_02of2014.pdf (last visit 24/02/2020) pg4-5

[6] Ibid pg. 11. Further examine https://www.resbank.co.za/RegulationAndSupervision/FinancialSurveillanceAndExchangeControl/FAQs/Pages/VirtualCurrenciesCryptocurrencies.aspx (last visit 24/02/2020)