



# AN OVERVIEW ON CRYPTOCURRENCY AND ITS ILLEGAL STATUS IN NIGERIA.

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# WHAT IS CRYPTOCURRENCY?

- ▶ It is a digital or virtual currency
- ▶ Can be described as a computer file stored in a digital wallet software on a smart phone or computer system. It has the much needed utility of being transferable from person to person, almost seamlessly.
- ▶ Cryptocurrencies are exchanged and converted for legal tenders on many exchange platforms such as Quidax, Binance, Coinbase, BuyCoins and Luno
- ▶ Encryption techniques called cryptography are used to regulate the generation of units of currency and verify the transfer of funds, operating independently of a Central bank.
- ▶ Due to this, it is not controlled by any single individual, organisation or government rather it is usually controlled by end-users (or nodes). Not all cryptocurrencies are decentralised however, the general blueprint of the concept allows it to exist outside the control of government and other regulatory authorities.

# WHAT IS CRYPTOCURRENCY?

- ▶ It is operated based on the blockchain technology which is a digital ledger of transactions. This ledger keeps a constant and verifiable update of transactions in real time across a network of computers (known as nodes), therefore parties can confirm transactions without the need for a central clearing authority.
- ▶ It is created to be secure and anonymous as the operation involves the use of codes in a form known as cryptography.

# TYPES OF CRYPTOCURRENCY

- ▶ Currently there are over 2000 crypto currencies in the world
- ▶ These include Bitcoin, Litecoin, Dcash, Ethereum, Altcoins and Tether
- ▶ Bitcoin is the most used currency in the crypto market space. Bitcoin was invented in 2009 by an entity using the name “Satoshi Nakamoto” and since then it has grown in use over the years.
- ▶ Nigeria has the second largest bitcoin market in the world with over \$500 million worth of Bitcoin traded over the last five years as the record shows.

# USES OF CRYPTOCURRENCY

- ▶ It can be used to buy products and services but not many business organisations recognise bitcoin yet and some countries like Nigeria, China, Vietnam, Columbia and Ecuador have banned the use of bitcoin. However some companies such as paypal are beginning to buy into its influence.
- ▶ In October last year, Paypal announced that it would be allowing its customers in the U.S (except Hawaii) buy and sell bitcoin. Major Retailers that accept Bitcoin include Microsoft, Starbox, Home Depot for certain transactions.
- ▶ It can be used as an investment vehicle to diversify assets
- ▶ It can be used for trading by making gains off the price fluctuation

# ISSUES ASSOCIATED WITH THE USE OF CRYPTOCURRENCY

- ▶ The anonymous nature of crypto currency makes them susceptible to a host of nefarious activities such as money laundering and tax evasion.
- ▶ The cryptocurrency market is highly speculative, there is no assurance that what is invested is what will be reaped or even more.
- ▶ Volatility continues hamper safe investment techniques as their prices are based on the antics of Whale movements (entities who own a large supply of the crypto asset), speculation, fear, greed, supply and demand.
- ▶ By the nature of cryptocurrency and its operational system, end users evade central government authorities by engaging in transactions without any form of remittance to the government.
- ▶ There is yet to be a globally or continentally accepted regulation on the use of cryptocurrencies, nevertheless some countries have begun developing forms of regulation on cryptocurrency exchange, there is no specific dedicated regulatory system. Countries such as the United States, Australia, Canada and the European Union have accepted its usage.

# CBN'S BAN ON THE USE OF CRYPTOCURRENCY

- ▶ The Central Bank of Nigeria is the lead banking regulator charged with the overall control and administration of the monetary and financial sector policies of the Federal Government in Nigeria.
- ▶ Section 2 of the Central Bank of Nigeria Act 2007 makes provision for the objectives of the Central Bank which includes: ensuring monetary and pricing stability, issuing legal tender currency in Nigeria, maintaining external reserves and providing economic and financial advice to the Federal Government.
- ▶ By Section 58 of BOFIA Act, the Central Bank has the responsibility of issuing and granting licenses to banks to carry on the business of banking and supervise banks and other financial institutions. The CBN is also empowered to issue guidelines and circulars relating to its responsibility to banks, foreign exchange market, and other financial institutions.



# CBN'S BAN ON THE USE OF CRYPTOCURRENCY cont'd

- ▶ By Section 17 of the CBN Act, the CBN has the sole right of issuing currency notes and coins through out Nigeria and no other authority has the right to issue bank notes, coins and documents which are likely to pass as legal tender. Section 20 of the CBN Act also provides that the currency notes issued by the CBN in Nigeria shall be legal tender for payment of any amount. Is crypto currency recognised as legal tender in Nigeria?
- ▶ In light of this provision, the CBN on the 5<sup>th</sup> of February 2021, released a letter to banks and other financial Institutions which stated that dealing in Crypto Currency and facilitating payment for cryptocurrency exchanges are prohibited
- ▶ The CBN further instructed all banks and other financial institutions to identify individuals and entities who transact in crypto currency and close the accounts of such persons.

# CBN'S BAN ON THE USE OF CRYPTOCURRENCY cont'd

- ▶ In the circular, the CBN stated that cryptocurrencies were issued by unregulated and unlicensed entities and as such its use contravened existing laws as they are not legal tender.
- ▶ It also stated that the anonymity and the lack of KYC (Know your Customer) made it susceptible to illegal use such as money laundering and financing of terrorism.
- ▶ The volatility of crypto currency has threatened the stability of financial systems in other countries.
- ▶ The letter sparked anger amongst the public and in response the CBN issued a press release on 7<sup>th</sup> February 2021 addressing its earlier directive and providing reasons for the prohibition of cryptocurrency transactions by banks and other institutions. It stated that the circular did not place any new restrictions on crypto currencies given that all banks in the countries had earlier been forbidden through CBN's circular dated January 12<sup>th</sup> 2017 not to use, hold, trade or transact in crypto currency.

# EFFECT OF THE BAN ON CRYPTOCURRENCY IN NIGERIA

- ▶ The ban prevents traders from buying crypto currency with their debit/credit cards issued by Nigeria Banks or receiving proceeds of crypto currency sales from exchanges which facilitate the buying and selling of crypto currency.
- ▶ Companies established for the purpose of trading crypto currency have to migrate to other crypto- friendly jurisdictions.
- ▶ However, as a way to boycott the prohibition, traders have now switched to peer to peer trading which enables one to purchase ,buy or sell crypto currency from individual traders as opposed to the exchanges.

# EFFECT OF CRYPTOCURRENCY ON THE ECONOMY

- ▶ Crippled economic activities and growth as Nigerians who use bitcoin for investment opportunities and to make a living have been greatly affected.
- ▶ The Securities and Exchange Commission, in September 2020 issued a statement announcing its intention to regulate digital assets which includes crypto currencies (virtual crypto assets that qualify as securities) but in light of CBN's directive, SEC issued a statement on 11<sup>th</sup> February 2021 stating that it would partner with the CBN to analyse and better understand the identified risks of crypto currency to ensure that appropriate regulations are put in place if crypto currency transactions are allowed in future.

# RECOMMENDATION

- ▶ The CBN should develop a regulatory frame work tailored towards the registration of crypto currency exchange businesses in Nigeria with relevant agencies such as the Corporate Affairs Commission, the tax agencies (state and federal) etc in a bid to subject them to taxation.
- ▶ Policies encouraging licensing of crypto exchange businesses should be established. This will enable the government have better control of crypto currency transactions.
- ▶ The CBN should develop a regulatory frame work to enable cryptocurrency players conduct live experiments in a controlled environment and under supervision. This would afford the CBN a better opportunity to understand the risks and more so, the opportunities for the country to explore the industry.

# CONCLUSION

- ▶ The Ban on Crypto Currency has attracted attention from the highest levels of government. The Nigerian Senate deliberated on the CBN'S directive and some senators gave their reservations. The Senate resolved to invite the CBN governor to give a briefing on the actions of the CBN.
- ▶ The CBN Governor, Godwin Emefiele appearing before a joint Senate Committee on Banking, Insurance and Other Financial Institutions; ICT and Cybercrime, has affirmed Nigeria's central bank resolve in continuing its surveillance and deeper understanding of the crypto ecosystem, buttressing that its major objective remains to educate Africa's largest economy on emerging financial risks and protect Nigeria's financial system from the activities of money launderers, currency speculators, and foreign-based fraudsters.

# CONCLUSION CONT'D

- ▶ The necessity of balancing regulation with innovation has risen in recent years with the exponential growth of Nigeria's FinTech industry, which has attracted significant interest from foreign investors. Unfortunately, it has also exposed the seeming cluelessness of the regulators who have struggled to keep up with the rapid developments in the industry.
- ▶ Although the rationale for the CBN's decision is yet unknown, there are indications that it may not be unconnected with foreign currency controls and the 97% drop in remittances through official channels, between January 2020 and September 2020. Notwithstanding the justification, the hastiness with which the decision was reached, particularly without an attempt to engage the industry, is unbecoming of a regulator of the financial industry.

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