

ECONOMICS REFERENCES COMMITTEE

INQUIRY INTO DIGITAL CURRENCY

ANSWERS TO QUESTIONS ON NOTICE

Treasury

4 March 2015

Hansard Page: 18 and 23

Question:

Senator CANAVAN: That is not the question I am asking. I cannot speak for the chair, but what I interpreted him to be asking is a relevant question. It is not a question about what the law may be in the future; in fact, it is a question about what the law is now. Maybe I can put it in my terms. What I am asking is: can we interpret bitcoin as currency for the purposes of the tax law, in particular the GST, without that having knock-on ramifications for other laws, be they financial oversight, prudential, consumer protection et cetera? Are there interconnections in our laws between the interpretation of something as a currency in a tax law and the other related financial legislation oversight that we have? That is all I am asking.

CHAIR: You worded it a lot better than I did.

Senator CANAVAN: If you cannot answer that right now, that is fine. I am happy for you to take that on notice.

Ms Preston: Yes. I think we will take that on notice.

...

Mr McAuliffe: And it is not the only one. There have been other examples of exchanges that have fallen over. Again, as this is an emerging industry, you would expect that there would be issues. At the moment, largely, ASIC's financial regulation does not apply to Bitcoin. There are things related to Bitcoin which do still fall within financial services regulation. For example, derivatives in relation to money payment services relating to Bitcoin—some of those can fall within the existing regime. Likewise, if you go further, if you go to the Currency Act and you look at payment system regulation, it is a situation where the current regulatory arrangements do not generally apply to Bitcoin. In terms of the financial regulation and payment system regulation, it is a bit of a different situation. There is not regulation that the industry is objecting to. In fact, it is a situation where, the industry, domestically, is trying to do self-regulation that in some respects mirrors some of the actual legal requirements, because they see that there is benefit in having a self-regulatory model. Where we are at in that space is that it is an emerging industry. We are monitoring it, and we are waiting on this inquiry to finish its deliberations before coming back to look at it in a bit more detail.

Senator CANAVAN: Are there any other implications? The currency and money that are defined in those two acts, do they then flow through to other regulations, other laws, that refer to those?

Mr McAuliffe: There are cross-references in the legislation.

Senator CANAVAN: Could you perhaps, on notice, provide us with those other laws that reference those definitions?

Mr McAuliffe: Yes. We can certainly do that.

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Answer:

The *Currency Act 1965* does not contain explicit definitions for either ‘money’ or ‘currency’. No other legislation therefore can explicitly cross reference a *Currency Act 1965* definition of these terms.

The term currency is used in more than 150 Commonwealth Acts and more than 650 legislative instruments.

For goods and services tax (GST) purposes the definition of ‘money’ is set out at section 195-1 of the *A New Tax System (Goods and Services Tax) Act 1999* (the GST Act).

In regards to specific cross-references, the *A New Tax System (Goods and Services Tax Transition) Act 1999*, the *A New Tax System (Luxury Car Tax) Act 1999* and the *A New Tax System (Wine Equalisation) Act 1999* use the same definition of money as is found in the GST Act, as do the regulations and other legislative instruments made under those Acts or the GST Act.

Additionally, there are no references to other acts in the definition of money in the GST Act.