Chapter 2

Overview and recent developments

What is digital currency?

2.1 In its 2014 report on virtual currencies, the Financial Action Task Force (FATF), an inter-governmental body established in 1989 by a Group of Seven (G-7) Summit in Paris, defined digital currency as:

> [A] digital representation of value that can be digitally traded and functions as (1) a medium of exchange; and/or (2) a unit of account; and/or (3) a store of value, but does not have legal tender status (i.e., when tendered to a creditor, is a valid and legal offer of payment) in any jurisdiction. It is not issued nor guaranteed by any jurisdiction, and fulfils the above functions only by agreement within the community of users of the virtual currency. Virtual currency is distinguished from fiat currency (a.k.a. 'real currency', 'real money', or 'national currency'), which is the coin and paper money of a country that is designated as its legal tender; circulates; and is customarily used and accepted as a medium of exchange in the issuing country. It is distinct from e-money, which is a digital representation of fiat currency used to electronically transfer value denominated in fiat currency. E-money is a digital transfer mechanism for fiat currency—i.e., it electronically transfers value that has legal tender status.[1]

2.2 The term 'digital currency' can sometimes have a broader meaning, which also includes e-money.[2] For the purposes of this report the terms 'digital currency' and 'virtual currency' can be used interchangeably.[3]

Types of digital currency

2.3 Digital currency can be divided into two basic types: convertible and non-convertible digital currency. Convertible digital currency has an equivalent value in real (fiat) currency and can be exchanged back-and-forth for real currency (Bitcoin is an example of convertible currency). Non-convertible digital currency, on the other hand, cannot be exchanged for fiat currency and is intended to be specific to a

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1 FATF, *Virtual Currencies—Key Definitions and Potential AML/CFT Risks*, 2014, p. 4. http://www.fatfgafi.org/topics/methodsandtrends/documents/virtual-currency-definitions-aml-cft-risk.html; see also Attorney General's Department, *Submission 42*, p. 5. The objectives of the FATF are to set standards and promote effective implementation of legal, regulatory and operational measures for combating money laundering, terrorist financing and other related threats to the integrity of the international financial system.

2 FATF, *Virtual Currencies—Key Definitions and Potential AML/CFT Risks*, 2014, p. 4. http://www.fatfgafi.org/topics/methodsandtrends/documents/virtual-currency-definitions-aml-cft-risk.html; see also Attorney-General's Department, *Submission 42*, p. 6.

3 FATF, *Virtual Currencies—Key Definitions and Potential AML/CFT Risks*, 2014, p. 4. http://www.fatfgafi.org/topics/methodsandtrends/documents/virtual-currency-definitions-aml-cft-risk.html; see also Attorney-General's Department, *Submission 42*, p. 6.

particular virtual domain or world, such as a massively multiplayer online role-playing game, for example World of Warcraft Gold is a non-convertible digital currency.[4]

2.4 Digital currency can be further categorised into two subtypes: centralised and non-centralised. All non-convertible digital currencies are centralised, as they are issued by a single administrating authority. Convertible digital currencies can be either centralised or decentralised. Decentralised digital currencies, also known as cryptocurrencies, are distributed, open-source, math-based, peer-to-peer currencies that have no central administrating authority and no central monitoring or oversight. Examples of cryptocurrencies include: Bitcoin, Litecoin and Ripple.[5]

What is Bitcoin?

2.5 Launched in 2009, Bitcoin was the first decentralised convertible digital currency and the first cryptocurrency. Bitcoin was created as an electronic payment system that would allow two parties to transact directly with each other over the internet without needing a trusted third party intermediary.[6] The 'distributed ledger' (also known as the 'block chain') is used to record and verify transactions, allowing digital currency to be used as a decentralised payment system.[7] A simplified explanation of the process is as follows:

> A user, wishing to make a payment, issues payment instructions that are disseminated across the network of other users. Standard cryptographic techniques make it possible for users to verify that the transaction is valid—that the would-be payer owns the currency in question. Special users in the network, known as 'miners', gather together blocks of transactions and compete to verify them. In return for this service, miners that successfully verify a block of transactions receive both an allocation of newly created currency and any transaction fees offered by parties to the transactions under question.[8]

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4 FATF, *Virtual Currencies—Key Definitions and Potential AML/CFT Risks*, 2014, p. 4. http://www.fatfgafi.org/topics/methodsandtrends/documents/virtual-currency-definitions-aml-cft-risk.html, see also Attorney-General's Department, *Submission 42*, p. 6.

5 FATF, *Virtual Currencies—Key Definitions and Potential AML/CFT Risks*, 2014, p. 5. http://www.fatfgafi.org/topics/methodsandtrends/documents/virtual-currency-definitions-aml-cft-risk.html; see also Attorney-General's Department, *Submission 42*, p. 6.

6 Satoshi Nakamoto, 'Bitcoin: A peer-to peer electronic cash system', https://bitcoin.org/bitcoin.pdf (accessed 30 April 2015).

7 Robleh Ali, John Barrdear, Roger Clews and James Southgate, 'The economics of digital currencies', *Quarterly Bulletin*, Q3 2014, Bank of England, vol.54, no.3, p. 277. http://www.bankofengland.co.uk/publications/Documents/quarterlybulletin/2014/qb14q302.pdf (accessed 30 April 2015).

8 Robleh Ali, John Barrdear, Roger Clews and James Southgate, 'Innovations in payment technologies and the emergence of digital currencies', *Quarterly Bulletin*, Q3 2014, Bank of England, vol.54, no.3, p. 266. http://www.bankofengland.co.uk/publications/Documents/quarterlybulletin/2014/qb14q301.pdf (accessed 30 April 2015).

2.6 While Bitcoin is the most prominent digital currency, there are currently more than five hundred different digital currencies, including Litecoin, Ripple, Peercoin, Nxt, Dogecoin, Darkcoin, Namecoin, Mastercoin and BitcoinDark.[9] Most of these alternative digital currencies were inspired by, or explicitly modelled on, Bitcoin.[10]

Digital currency intermediaries

2.7 Digital currency users may use intermediaries to manage their holdings and facilitate transactions. For Bitcoin users, there is a range of intermediaries which provide services to users.[11]

Table 1: Bitcoin Intermediaries

Intermediary Service	Description
Bitcoin wallets	Store users' bitcoin address(es) to which their bitcoins are tied and generate messages to transfer bitcoins from one address to another. A user may also choose to store their private keys needed to access their bitcoin addresses in a wallet.
Exchanges and trading platforms	Provide a market for the exchange of bitcoins for national currencies (or other digital currencies); these intermediaries are the main entry and exit points for the Bitcoin system. Exchanges operate order books, matching buyers and sellers of bitcoins and the price (in national currencies or other digital currencies) at which they are willing to trade.
Payments processing for merchants	Provide guaranteed-rate-conversion facilities. Some also offer point-of-sale infrastructure and applications that allow merchants to accept payments in bitcoin.
Intermediation for consumers	Act as an intermediary between users and Bitcoin exchanges or trading platforms, buying and/or selling bitcoins on behalf of the user. Some also provide an interface to facilitate retail payments and/or retain users' private keys.
Bitcoin ATMs	Operate ATMs that allow users to buy bitcoins using cash or sell their bitcoins for cash.

Current regulatory framework

Taxation

2.8 On 20 August 2014, the Australian Taxation Office (ATO) released a suite of draft public rulings on the tax treatment of digital currencies. The ATO's rulings, which were finalised on 17 December 2014, determined that:

> Transacting with bitcoins is akin to a barter arrangement, with similar tax consequences.
>
> The ATO's view is that Bitcoin is neither money nor a foreign currency, and the supply of bitcoin is not a financial supply for goods and services tax

9 'Crypto-Currency Market Capitalizations', http://coinmarketcap.com/, (accessed 30 April 2015).

10 Robleh Ali, John Barrdear, Roger Clews and James Southgate, 'Innovations in payment technologies and the emergence of digital currencies', *Quarterly Bulletin*, Q3 2014, Bank of England, vol.54, no.3, p. 266. http://www.bankofengland.co.uk/publications/Documents/quarterlybulletin/2014/qb14q301.pdf (accessed 30 April 2015).

11 Reserve Bank of Australia, *Submission 19*, p. 3.

(GST) purposes. Bitcoin is, however, an asset for capital gains tax (CGT) purposes.[12]

2.9 The ATO's finalised public rulings are as follows:

- GSTR 2014/3—Goods and services tax: the GST implications of transactions involving Bitcoin
- TD 2014/25—Income tax: is Bitcoin a 'foreign currency' for the purposes of Division 775 of the *Income Tax Assessment Act 1997*?
- TD 2014/26—Income tax: is Bitcoin a CGT asset for the purposes of subsection 108-5(1) of the *Income Tax Assessment Act 1997*?
- TD 2014/27—Income tax: is Bitcoin trading stock for the purposes of subsection 70-10(1) of the *Income Tax Assessment Act 1997*?
- TD 2014/28—Fringe benefits tax: is the provision of Bitcoin by an employer to an employee in respect of their employment a fringe benefit for the purposes of subsection 136(1) of the *Fringe Benefits Tax Assessment Act 1986*?[13]

2.10 A summary of the taxation implication of the ATO's rulings on digital currencies is as follows:

- Capital gains tax (CGT)—Those using digital currency for investment or business purposes may be subject to CGT when they dispose of digital currency, in the same way they would be for the disposal of shares or similar CGT assets; individuals who make personal use of digital currency (for example using digital currency to purchase items to buy a coffee) and where the cost of the Bitcoin was less than AUD$10,000, will have no CGT obligations.
- Goods and Services Tax (GST)—Individuals will be charged GST when they buy digital currency, as with any other property. Businesses will charge GST when they supply digital currency and be charged GST when they buy digital currency.
- Income Tax—Businesses providing an exchange service, buying and selling digital currency, or mining Bitcoin, will pay income tax on the profits. Businesses paid in Bitcoin will include the amount, valued in Australian currency, in assessable business income. Those trading digital currencies for profit, will also be required to include the profits as part of their assessable income.

12 Australian Taxation Office, 'Tax treatment of crypto-currencies in Australia—specifically bitcoin', https://www.ato.gov.au/General/Gen/Tax-treatment-of-crypto-currencies-in-Australia---specifically-bitcoin/ (accessed 30 April 2015).

13 Australian Taxation Office, 'Tax treatment of crypto-currencies in Australia—specifically bitcoin', https://www.ato.gov.au/general/gen/tax-treatment-of-crypto-currencies-in-australia---specifically-bitcoin/?page=1#Bitcoin_exchange_transactions (accessed 30 April 2015).

- Fringe Benefits Tax (FBT)—remuneration paid in digital currency will be subject to FBT where the employee has a valid salary sacrifice arrangement, otherwise the usual salary and wage PAYG rules will apply.[14]

Taxation white paper process

2.11 On 30 March 2015, the Hon Joe Hockey MP, Treasurer, released a tax discussion paper to inform the government's tax options Green Paper, due to be released in the second half of 2015, with the White Paper to be released in 2016 following further consultation.[15]

2.12 The tax discussion paper commented on challenges arising from the potential for digital currencies to increase the ability of companies to relocate profits to minimise their tax. The discussion paper noted:

> …financial markets are increasingly globally integrated, and the international flow of capital has become less restricted and more mobile. Technology has also allowed new business models to evolve that have substantially changed the way businesses and consumers interact. New ways of transacting, including crypto-currencies such as bitcoin, were not contemplated when the current tax system was designed.[16]

International approaches

2.13 The ATO's ruling, that digital currency is a commodity rather than a currency, is similar to the tax guidance provided by relevant authorities in other countries such as Canada and Singapore.[17] Alternatively, other jurisdictions such as the United Kingdom and most recently Spain, have released guidance advising that digital currency is exempt from value added tax (VAT) under Article 135(1)(d) of the European Union (EU) VAT Directive.[18] The EU is waiting on a ruling from the EU

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14 Australian Taxation Office, *Submission 8*, pp. 3–4.

15 The Hon Joe Hockey, Treasurer of the Commonwealth of Australia, 'Time to 're:think' our tax system', media release, 30 March 2015, http://jbh.ministers.treasury.gov.au/media-release/021-2015/ (accessed 30 April 2015).

16 The Australian Government the Treasury, *Re:think: Tax discussion paper: Better tax system, better Australia*, March 2015, p. 9, http://bettertax.gov.au/publications/discussion-paper/ (accessed 30 April 2015).

17 Inland Revenue Authority of Singapore, 'For GST-registered businesses: e-Commerce', http://www.iras.gov.sg/irashome/page04.aspx?id=2276 (accessed 18 May 2015); Canada Revenue Agency, 'What should you know about digital currency', 17 March 2015, http://www.cra-arc.gc.ca/nwsrm/fctshts/2015/m03/fs150317-eng.html (accessed 30 April 2015).

18 HM Revenue and Customs, 'Policy paper: Revenue and Customs Brief 9 (2014): Bitcoin and other cryptocurrencies', 3 March 2014, https://www.gov.uk/government/publications/revenue-and-customs-brief-9-2014-bitcoin-and-other-cryptocurrencies/revenue-and-customs-brief-9-2014-bitcoin-and-other-cryptocurrencies#vat-treatment-of-bitcoin-and-similar-cryptocurrencies (accessed 30 April 2015); Law and Bitcoin, 'Bitcoin is Exempt from VAT in Spain', 16 April 2015, http://lawandbitcoin.com/en/bitcoin-is-vat-exempt-in-spain/#vat and bitcoin in europe (accessed 30 April 2015).

Court of Justice on the correct interpretation of the relevant EU VAT directive.[19] Sweden's tax authorities have challenged a previous Swedish decision that digital currency should be VAT exempt.[20]

Financial regulation and consumer protection

Reserve Bank of Australia

2.14 The Reserve Bank of Australia (RBA) is the principal regulator of the payments system, and administers the *Payment Systems (Regulation) Act 1998* (PSRA). The RBA's general regulatory approach under the PSRA relies principally on 'industry- or market-driven solutions', intervening only when necessary on the grounds of its 'responsibility for efficiency and competition in the payments system and controlling systemic risk'. The RBA considers digital currencies are currently in limited use and do not yet raise any significant concerns with respect to competition, efficiency or risk to the financial system; and are not currently regulated by the RBA or subject to regulatory oversight.[21]

2.15 In April 2015, the RBA informed the committee that it would be assessing whether the current regulatory framework could accommodate alternative mediums of exchange such as digital currencies.[22]

ASIC and ACCC

2.16 The Australian Securities and Investments Commission's (ASIC) view is that digital currencies themselves do not fall within the legal definition of 'financial product' under the *Corporations Act 2001* (Corporations Act) or the *Australian Securities and Investments Commission Act 2001* (ASIC Act). This means that 'a person is not providing financial services when they operate a digital currency trading platform, provide advice on digital currencies or arrange for others to buy and sell digital currencies'. However, some facilitates associated with digital currencies may fit within the definition as financial products.[23]

2.17 ASIC has issued advice to consumers on its MoneySmart webpage outlining some of the of the risks of digital currencies:

> Virtual currencies have less safeguards—The exchange platforms on which you buy and sell virtual currencies are generally not regulated, which means that if the platform fails or is hacked, you are not protected and have no statutory recourse. Virtual currency failures in the past have made investors lose significant amounts of real money. Some countries are moving towards

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19 Australian Taxation Office, *Submission 8*, p. 5.

20 Australian Securities and Investments Commission, *Submission 44*, p. 31; Mr Michael Hardy, Australian Taxation Office, *Committee Hansard*, 4 March 2015, p. 16.

21 Reserve Bank of Australia, Submission 19, p. 9; Dr Anthony Richards, Reserve Bank of Australia, *Committee Hansard*, 7 April 2015, p. 45.

22 Dr Anthony Richards, Reserve Bank of Australia, *Committee Hansard*, 7 April 2015, p. 45.

23 Australian Securities and Investments Commission, *Submission 44*, p. 11.

> regulating virtual currencies, however virtual currencies are not recognised as legal tender.
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> Values fluctuate—The value of a virtual currency can fluctuate wildly. The value is largely based on its popularity at a given time which will be influenced by factors such as the number of people using the currency and the ease with which it can be traded or used.
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> Your money could be stolen—Just as your real wallet can be stolen by a thief, the contents of your digital wallet can be stolen by a computer hacker. Your digital wallet has a public key and a private key, like a password or a PIN number. However, virtual currency systems allow users to remain anonymous and there is no central data bank. If hackers steal your digital currency you have little hope of getting it back. You also have no protection against unauthorised or incorrect debits from your digital wallet.
>
> Popular with criminals—The anonymous nature of virtual currencies makes them attractive to criminals who use them for money laundering and other illegal activities.[24]

2.18 In summary, ASIC advised that 'if you decide to trade or use virtual currencies you are taking on a lot of risk with no recourse if things go wrong'.[25]

2.19 On 26 November 2014, the Parliamentary Joint Committee on Corporations and Financial Services tabled a report on the oversight of ASIC. During the course of the inquiry, ASIC informed the committee of its approach to digital currency:

> Virtual currencies such as Bitcoins are a developing area globally. ASIC monitors new developments in the marketplace and, accordingly, ASIC is considering whether and how the legislation it administers, such as the Corporations Act, applies to virtual currencies.
>
> ASIC's view is that Bitcoins themselves (and other virtual currencies) are not financial products and are not regulated under the legislation we administer. Unlike Australian dollars or other traditional currencies, Bitcoins are not issued by a central bank and do not give the Bitcoin holder any right to make payments in this form.
>
> ASIC is consulting with other Australian regulators that are also giving consideration to the regulation of virtual currencies. This includes both financial regulators and law enforcement agencies that are examining the

24 Australian Securities and Investments Commission, 'Virtual currencies: Bitcoin and other virtual currencies', last updated 26 August 2014, https://www.moneysmart.gov.au/investing/investment-warnings/virtual-currencies (accessed 30 April 2015).

25 Australian Securities and Investments Commission, 'Virtual currencies: Bitcoin and other virtual currencies', last updated 26 August 2014, https://www.moneysmart.gov.au/investing/investment-warnings/virtual-currencies (accessed 30 April 2015).

> use of Bitcoin in criminal activities. Additionally, the regulation of Bitcoins is being considered by regulators and policy makers internationally.[26]

2.20 The Parliamentary Joint Committee on Corporations and Financial Services noted that it will continue to monitor the development of digital currencies.[27]

2.21 While ASIC does not consider digital currencies to be currency or money for the purposes of the Corporations Act or the ASIC Act, the general consumer protection provisions of the *Competition and Consumer Act 2010* apply to digital currencies, rather than the equivalent provisions in the ASIC Act. The *Competition and Consumer Act 2010* is administered by the Australian Competition and Consumer Commission (ACCC). The ACCC's SCAMwatch and consumer information webpages do not include any specific warnings about digital currencies.[28]

Financial System Inquiry

2.22 On 20 December 2013, the Hon Joe Hockey MP, Treasurer, announced the final terms of reference for the government's Financial System Inquiry (FSI) and the appointment of four members of the inquiry panel to be chaired by Mr David Murray AO. The purpose of the FSI was to examine how Australia's financial system could be 'positioned to best meet Australia's evolving needs and support Australia's economic growth'.[29] On 7 December 2014, the final report of the FSI was released and the Treasury is currently conducting a consultation process on the FSI recommendations.[30]

2.23 The FSI report noted that national currencies are currently the only instruments widely used to fulfil the economic functions of money—that is, as a store of value, a medium of exchange and a unit of account. The FSI found that:

> Digital currencies are not currently widely used as a unit of account in Australia and as such may not be regarded as 'money'. However, their use in payment systems could expand in the future. It will be important that payments system regulation is able to accommodate them, as well as other potential payment instruments that are not yet conceived. Current

26 Parliamentary Joint Committee on Corporations and Financial Services, *Statutory Oversight of the Australian Securities and Investments Commission, the Takeovers Panel and the Corporations Legislation Report No. 1 of the 44th Parliament*, November 2014, p. 25.

27 Parliamentary Joint Committee on Corporations and Financial Services, Statutory Oversight of the Australian Securities and Investments Commission, the Takeovers Panel and the Corporations Legislation Report No. 1 of the 44th Parliament, November 2014, p. 26.

28 Australian Competition and Consumer Commission, 'Consumers', http://www.accc.gov.au/consumers; SCAMwatch, www.scamwatch.gov.au (accessed 29 May 2015).

29 The Hon Joe Hockey, Treasurer of the Commonwealth of Australia, 'Financial System Inquiry', media release, 20 December 2013. http://jbh.ministers.treasury.gov.au/media-release/037-2013/ (accessed 30 April 2015).

30 The Treasury, 'Financial System Inquiry Final Report', 7 December 2014, http://treasury.gov.au/ConsultationsandReviews/Consultations/2014/FSI-Final-Report (accessed 30 April 2015).

> legislation should be reviewed to ensure payment services using alternative mediums of exchange can be regulated—from consumer, stability, competition, efficiency and AML [anti-money laundering] perspectives—if a public interest case arises.[31]

International approaches

2.24 In August 2014, the UK government announced it was considering regulation of digital currencies. In November 2014, it published a call for information and the outcome of this consultation process was released in March 2015. In relation to consumer protection the UK government announced its intention to work with the digital currency industry and the British Standards Institution to develop voluntary standards for consumer protection. In its view, this approach would address potential risks to consumers without imposing a disproportionate regulatory burden on the digital currency industry.[32]

2.25 The Canadian Senate's Standing Committee on Banking Trade and Commerce conducted an inquiry into digital currency and tabled its report on 19 June 2015. It investigated how digital currency should be treated, including whether it should be regulated. It recommended that the Canadian government should exercise a regulatory 'light touch' in order to create an environment that fosters innovation and minimises the risks of stifling new technologies.[33]

2.26 Both the Singapore and Canadian governments have published advice for consumers, similar to ASIC's MoneySmart webpage, warning consumers of the risks associated with digital currency.[34]

Law enforcement

2.27 Digital currencies, such as Bitcoin, are not currently covered under section 5 of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act). The Act, however, recognises e-currency, which is defined as follows:

> e-currency means an internet-based, electronic means of exchange that is:

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31 The Australian Government the Treasury, *Financial System Inquiry: Final report*, November 2014, p. 166.

32 HM Treasury, *Digital currencies: response to the call for information*, March 2015, p. 19, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/414040/digital_currencies_response_to_call_for_information_final_changes.pdf (accessed 30 April 2015).

33 Canadian Standing Senate Committee on Banking Trade and Commerce, *Digital Currency: You Can't Flip this Coin!*, June 2015, p. 13. http://www.parl.gc.ca/Content/SEN/Committee/412/banc/rep/rep12jun15-e.pdf (accessed 23 June 2015).

34 Singapore government, 'Virtual Currencies', http://www.mas.gov.sg/moneysense/understanding-financial-products/investments/consumer-alerts/virtual-currencies.aspx (accessed 15 May 2015); Financial Consumer Agency of Canada, 'Virtual currencies', http://www.fcac-acfc.gc.ca/Eng/forConsumers/topics/paymentOptions/Pages/Virtualc-Monnaies.aspx (accessed 15 May 2015).

(a) known as any of the following:

(i) e-currency;

(ii) e-money;

(iii) digital currency;

(iv) a name specified in the AML/CTF Rules; and

(b) backed either directly or indirectly by:

(i) precious metal; or

(ii) bullion; or

(iii) a thing of a kind prescribed by the AML/CTF Rules; and

(iv) not issued by or under the authority of a government body;

(c) and includes anything that, under the regulations, is taken to be e-currency for the purposes of this Act.

2.28 The AML/CTF Act currently only covers a very small proportion of the digital currencies. It does not cover digital currencies, such as Bitcoin, that are not backed by precious metal or bullion. While subsection 5(b)(iii) enables the regulation of digital currencies backed either directly or indirectly by 'a thing of a kind prescribed by the AML/CTF Rules', no such rules have been issued to date.[35]

2.29 Australia's current AML/CTF regime allows for limited regulatory oversight of convertible digital currencies. Because digital currencies such as Bitcoin are not yet widely used and accepted, they are yet to form a 'closed loop' economy, and whenever they are exchanged for fiat currencies, or vice versa ('on ramps' and 'off ramps'), the transactions will generally intersect with banking or remittance services which are regulated under the AML/CTF regime.[36] For example, Australian Transaction Reports and Analysis Centre (AUSTRAC), Australia's AML/CTF regulator, is able to monitor and track reportable transactions such as:

- reports of international funds transfer instructions (IFTIs) between Australian accounts and foreign accounts for the purchase/sale of digital currencies;
- threshold transaction reports (TTRs) for cash deposits/withdrawals of AUD10,000 or more involving the bank accounts of digital currency exchange providers; and
- suspicious matter reports (SMRs) submitted where reporting entities consider financial activity involving a digital currency exchange to be suspicious.[37]

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35 Attorney-General's Department, *Submission 42*, p. 10.

36 Attorney-General's Department, *Submission 42*, p. 11.

37 Australian Transaction Reports and Analysis Centre, *AUSTRAC typologies and case studies report 2014*, 2014, p. 13.

Statutory Review of the Anti-Money Laundering and Counter-Terrorism Financing Act 2006

2.30 In December 2013, the Australian government commenced a statutory review of the operation of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act)—the review is required under section 251 of the AML/CTF Act.[38] The Attorney-General's Department stated:

> The use and ongoing expansion of digital currencies is an area of continuing policy interest to the Attorney-General's Department. A number of options to address the money laundering and terrorism financing issues created by the emergence of digital currency systems are being considered in the context of the statutory review of the AML/CTF Act.[39]

Parliamentary Joint Committee on Law Enforcement

2.31 The Parliamentary Joint Committee on Law Enforcement is currently conducting an inquiry into financial related crime and received evidence from law enforcement agencies in relation to Bitcoin and financial crime.[40] The inquiry was referred on 5 March 2014 and is expected to report late in 2015.

International approaches

2.32 In March 2015, the UK government flagged its intention to apply anti-money laundering regulation to digital currency exchanges, and committed to a full consultation on the proposed regulatory approach in the next Parliament in response to the findings of its consultation process.[41]

2.33 On 19 June 2014, the Canadian AML/CTF legislation, the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*, was amended to bring money service businesses (MSB) dealing in digital currencies under Canada's AML/CTF regime. Once new regulations are drafted and come into force, they will cover digital currency exchanges, but not individuals or businesses that use digital currencies for buying and selling goods and services.[42]

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38 Attorney-General's Department, 'Statutory Review of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*', http://www.ag.gov.au/consultations/pages/StatReviewAntiMoneyLaunderingCounterTerrorismFinActCth2006.aspx (accessed 30 April 2015).

39 Attorney-General's Department, *Submission 42*, p. 17.

40 Parliamentary Joint Committee on Law Enforcement, 'Inquiry into Financial Crime', http://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Law_Enforcement/Financial_related_crime; see for example AUSTRAC, *Submission 10*, pp. 20–21.

41 HM Treasury, *Digital currencies: response to the call for information*, March 2015, p. 19, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/414040/digital_currencies_response_to_call_for_information_final_changes.pdf (accessed 30 April 2015).

42 Financial Transactions and Reports Analysis Centre of Canada, 'FINTRAC Advisory regarding Money Services Businesses dealing in virtual currency', 30 July 2014, http://www.fintrac-canafe.gc.ca/new-neuf/avs/2014-07-30-eng.asp (accessed 15 May 2015).

2.34 In its report on digital currency, the Canadian Senate's Standing Committee on Banking Trade and Commerce recommended that the Canadian government should require digital currency exchanges, excluding businesses that solely provide wallet services, to meet the same requirements as money service businesses under Canada's AML/CTF laws. The report recommended that digital currency exchanges should be defined as 'any business that allows customers to convert state-issued currency to digital currency and digital currencies to state-issued currency or other digital currencies'.[43]

2.35 On 13 March 2014, the Money Authority of Singapore (MAS) announced that it would regulate digital currency intermediaries that buy, sell or facilitate the exchange of digital currencies for fiat currencies under its AML/CTF regime.[44]

Financial Action Task Force

2.36 The Financial Action Task Force (FATF) is an independent intergovernmental body that develops and promotes policies to protect the global financial system against money laundering and terrorism financing. FATF released a report on digital currencies in June 2014, establishing a common definitional vocabulary and suggesting a conceptual framework for understanding and addressing the AML/CTF risks associated with digital currencies.[45]

2.37 On 1 July 2014, Mr Roger Wilkins AO, former Secretary of the Attorney General's Department, assumed the Presidency of the FATF. Mr Wilkins has indicated that during his term he intends to examine the money laundering and terrorism financing risks associated with digital currencies and, consider whether further policy measures are necessary.[46]

Conclusion

2.38 Countries are considering the regulatory challenges presented by the emergence of new forms of digital currencies. Australia is no exception and in the following chapters the committee will explore some of these challenges and how best to address them.

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43 Canadian Standing Senate Committee on Banking Trade and Commerce, *Digital Currency: You Can't Flip this Coin!*, June 2015, p. 13. http://www.parl.gc.ca/Content/SEN/Committee/412/banc/rep/rep12jun15-e.pdf (accessed 23 June 2015).

44 Monetary Authority of Singapore, 'MAS to Regulate Virtual Currency Intermediaries for Money Laundering and Terrorist Financing Risks', media release, 13 March 2014, http://www.mas.gov.sg/news-and-publications/media-releases/2014/mas-to-regulate-virtual-currency-intermediaries-for-money-laundering-and-terrorist-financing-risks.aspx (accessed 15 May 2015).

45 Attorney-General's Department, *Submission 42*, p. 15.

46 Attorney-General's Department, *Submission 42*, p. 15.