

Senate Economics Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Supplementary Budget Estimates

2014 - 2015

Department/Agency: ASIC

Question: SBT4250-4253

Topic: Bitcoin

Reference: written - 31 October 2014

Senator: Edwards , Sean

Question:

4250. What problems or risks do digital currencies such as Bitcoin present to Australians?
4251. What steps has ASIC taken to inform Australians of any risks inherent in digital currencies?
4253. The Canadian Government has recently conducted an inquiry into digital currencies in particular Bitcoin. What emerging evidence or findings do you see as relevant to Australian from this inquiry?
4254. Has ASIC received any complaints in relation to the use of digital currencies? If so, how many and what are the dominant themes, problems, experiences or issues being raised?

Answer:

4250. Digital currencies such as Bitcoin are not financial products and are not regulated by ASIC. Many digital currency businesses are also not providing financial services and are therefore not regulated by ASIC. This means that the obligations and protections in the *Corporations Act 2001* and the *Australian Securities and Investments Commission Act 2001* that apply to financial services business do not apply to Bitcoins.

Additionally, the following risks also affect Australians who buy and hold digital currencies:

- digital currency holders are unlikely to have any recourse if the passcodes (or ‘private keys’) to use their digital currencies are stolen from an online wallet and
- the value of digital currencies can fluctuate wildly.

As transactions in digital currencies can be completed in a way that has a higher level of anonymity, there has been some concern about use of these currencies for crime (e.g. money laundering). ASIC works with other agencies responsible for investigating and addressing the use of digital currencies for criminal purposes.

4251. ASIC has published information for consumers about digital currency and the risks involved in holding these currencies on our MoneySmart website. This guidance outlines that:

- Exchanges for buying and selling digital currencies are not regulated;
- The value of digital currencies can fluctuate wildly;
- Digital currency holders are unlikely to have any recourse if their currencies are stolen from their online wallet by hackers; and
- Digital currencies may be used by criminals.

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ASIC's information for consumers may be accessed here:

<https://www.moneysmart.gov.au/investing/investment-warnings/virtual-currencies>

4253. ASIC is aware that the Canadian Senate's standing committee on Banking, Trade and Commerce is conducting a study on the use of digital currency. The committee has not yet released findings of its study. The committee has met several times and obtained evidence from Canadian regulators, the Bank of Canada, digital currency industry organisations as well as businesses that are integrating digital currencies into their product offerings and operators of existing payment systems.

The evidence gathered by the Canadian Senate appears to be focussed on understanding how digital currencies and digital currency businesses operate, as well as the appropriate anti-money laundering and counter-terrorism financing regulatory settings for digital currencies. ASIC considers that these issues are equally relevant to digital currency businesses in Australia.

4254. Since 2012-13, ASIC has received 17 reports of misconduct about digital currencies, including bitcoin and other virtual currency exchange systems. The majority of these reports have come from people raising concerns about the purchase or use of digital currency.

ASIC's consideration of these matters has generally focused on whether the subjects are providing financial services in Australia without an Australian financial services licence. We have assessed these reports of misconduct consistent with our understanding of how the current law applies. Where we have had concerns that an entity may not be complying with its obligations, we have made further inquiries.