

The Blockchain Ledger

LINKING ASSETS INC.




A Jaisan Recovery Corp.

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In this Ledger

-  What Is Virtual Currency, Part 1
-  Key News & Developments Highlights
-  States & Virtual Currency

Linking Assets Inc. publishes *The Blockchain Ledger* with articles and information regarding blockchain, cryptocurrency, virtual currency, digital assets, and their intersections with state unclaimed property laws. Keeping you informed of pertinent unclaimed property implications and related developments.

What is Virtual Currency, Part 1

By [Christa DeOliveira](#) & [Ari Mizrahi](#)

States are updating unclaimed property laws to include virtual currency. This article series will provide definitions for virtual currency from various statutory and regulatory sources. (See the States & Virtual Currency section for state specific information).

BACKGROUND: By way of background on what virtual currency means, in October 2012, the European Central Bank (ECB), in *Virtual Currency Schemes*¹ defined it “as a type of unregulated, digital money, which is issued and

usually controlled by its developers, and used and accepted among the members of a specific virtual community.”

The paper notes future changes in the characteristics of virtual currency could necessitate modifying the definition. There have been regulatory and structural changes. Virtual currencies are being regulated, to a degree, and some are not issued or controlled by a central developer; rather, they are decentralized using distributed ledger/blockchain technology.

A couple of years later, in June 2014, there was a definite and necessary definition shift to keep up with ongoing developments. The Financial Action Task Force’s (FATF)² *Virtual Currencies: Key Definitions and Potential AML/CFT Risks*³ report offered an updated definition. The report cites virtual currency as “a digital representation of value that can be digitally traded and functions as a medium of exchange; and/or a unit of account; and/or 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.” Further, the report notes virtual currency is not issued, nor is it guaranteed by any jurisdiction. It fulfills its functions only by agreement within the community of users of the respective virtual currency.

Naturally, virtual currency and fiat currency are both mediums of exchange supported by the faith of their holders. Although, with fiat currency, also considered legal tender, national currency, real money, and real currency, it is government issued currency and customarily used and accepted as a medium of exchange in the issuing country. By contrast, currency that is based on a commodity, such as gold, is

¹ European Central Bank, <https://www.ecb.europa.eu/pub/pdf/other/virtualcurrencyschemes.pdf>

² The Financial Action Task Force (FATF) is an independent inter-governmental body that develops and promotes policies to protect the global financial system against money laundering, terrorist financing and the financing of proliferation of weapons of mass destruction. The FATF Recommendations

are recognized as the global anti-money laundering (AML) and counter-terrorist financing (CFT) standard (www.fatf-gafi.org). As of printing FAFT had 39 member countries and 1 observer country (the current listing can be found here: <http://www.fatf-gafi.org/about/membersandobservers/>).

³ <https://www.fatf-gafi.org/media/fatf/documents/reports/virtual-currency-key-definitions-and-potential-aml-cft-risks.pdf>

representative money, as it represents a potential claim on the commodity. Of course, neither virtual nor fiat currencies have the backing of a commodity.

While most legal tender today exists only in electronic format, specifically in the records within databases of financial institutions, it does not stop being fiat currency because it is electronic. Instead, it is a digital representation of fiat currency stored electronically and easily transferred.

More to come, please look forward to future pieces in this series:

- How virtual currency is defined in the Revised Uniform Unclaimed Property Act (RUUPA)
- How virtual currency is defined in the Revised Uniform Virtual Currency Business Act (RVCBA)
- How virtual currency is defined/viewed the IRS and SEC

Other upcoming articles:

- Blockchain Technology 101
- Logistical Challenges of Unclaimed Property Reporting of Virtual Currencies



Key News & Developments Highlights

With the proliferation of events and news in this sector, this section simply seeks to contain a few relevant highlights. We also include information on our [NEWS](#) page and [LinkedIn](#) and invite you to follow us.

Virtual Currency Unclaimed Property Remitting Development: Avenu Insights & Analytics (Avenu), a vendor for unclaimed property solutions for States, has announced adding cryptocurrency custody to its Unclaimed Property Solutions Portfolio. This begins to address some of the logistics of how virtual currency could be remitted to states.

According to Avenu's press release, a new platform has been established that is able to receive, deliver,

⁴ https://www.prweb.com/releases/cryptocurrency_is_added_to_avenu_insights_analytics_unclaimed_property_portfolio/prweb17579529.htm

⁵ <https://home.treasury.gov/news/press-releases/sm1203>

⁶ The participation date ends on 12 January 2021, 23:59 CET. <https://www.ecb.europa.eu/euro/html/digitaleuro.en.html>

liquidate, purchase, and hold the most prevalent used and popular types of cryptocurrency. This new platform is the result of a recently established relationship between Avenu and the digital asset exchange, Gemini. Gemini is a licensed digital asset exchange and custodian founded in 2014. The press release notes, "Gemini is subject to comprehensive regulations under multiple federal and state laws, including those pertaining to unclaimed property and escheatment."⁴

Agreement on the need to regulate digital assets at G-7:

While, at this point, regulating cryptocurrencies and other digital currencies is akin to putting toothpaste back in the tube, regulating them remains a hot topic and shows no signs of subsiding. The US Department of the Treasury noted in a statement, "There is a strong support across the G7 on the need to regulate digital currencies. Ministers and Governors reiterated support for the G7 joint statement on digital payments issued in October."⁵

Central bank digital currency (CBDC) Developments:

China is currently testing a digital yuan. The ECB is actively conducting a survey on views, user needs applications, features, security, safety, etc. related to a potential digital euro.⁶ In October Russia's central bank outlined plans to have a digital ruble and is expected to be pilot tested as early as the end of 2021. Sweden is studying a possible move to a e-krona CBDC.

The first US cryptocurrency company bank charter has been issued:

Kraken Financial is the first digital asset company in the U.S. to be granted a bank charter recognized under federal and state law.⁷ Kraken Financial plans to provide clients with a seamless banking gateway between digital assets and national currencies.

OCC leader Brian Brooks: 'Nobody's going to ban Bitcoin':

Brian Brooks, the head of the Office of the Comptroller of the Currency, said regulators are not looking to "kill" Bitcoin (BTC) but instead ensure its smooth integration into the financial system. On CNBC's Squawk Box on 12/04/2020,⁸ Brooks said: "We're very focused on getting this right. We're very

⁷ <https://blog.kraken.com/post/6241/kraken-wyoming-first-digital-asset-bank/>

⁸ <https://www.cnbc.com/video/2020/12/04/cryptocurrency-regulation-bitcoin-squawk-box.html>

focused on not killing this," Said Brooks. "And it's equally important that we develop the networks behind bitcoin and other cryptos as it is... [to] prevent money laundering and terrorism financing."

Large uptick in digital assets in securities arena: The S&P Dow Jones confirms it is launching crypto indexes: S&P Dow Jones Indices in a joint venture between S&P Global, the CME Group and News Corp will introduce a cryptocurrency index in 2021.⁹ The firm will partner the US blockchain data provider Lukka to launch the indexes, it is reported 550 cryptocurrencies will be included.

MicroStrategy will issue \$400 million in securities to buy more BTC. The world's largest publicly traded business intelligence firm, MicroStrategy has announced plans to invest the proceeds from a \$400 million securities offering into BTC.

JPMorgan is using custom blockchain to move billions in repurchase agreements. "The repo trades swapped digitized U.S. Treasury bonds for JPM Coin, the blockchain-based representation of U.S. dollars held in the bank's account."¹⁰ The article goes on to state, "We're at the point where we can offer this product to our customers," according the head of markets for distributed-ledger technology at JPMorgan, Scott Lucas. It is expected other banks and broker-dealers will join Goldman in signing up with JPMorgan.

SEC's fintech team becomes a standalone office: On December 3rd, the SEC's fintech team became an independent office.¹¹ This means the Division of Corporate Finance's leader, Valerie Szczepanik, now reports directly to SEC chairman, Jay Clayton.

First company sponsored BTC retirement plans launched in US: In 2021, Digital Asset Investment Management, has launched the first ERISA compliant employer sponsored 401K plans with BTC. The BTC will be held by Gemini Trust.¹²



⁹ <https://cointelegraph.com/news/bitcoin-arrives-on-wall-street-s-p-dow-jones-launching-crypto-indexes-in-2021>

¹⁰ <https://www.bloomberg.com/amp/news/articles/2020-12-10/jpmorgan-using-blockchain-to-move-billions-in-repo-market-trades>

States & Virtual Currency



States with virtual currency defined as property in their statutes.

State	Statute Reference
CO	C.R.S. 38-13-102.24(b)(I)
IL	765 ILCS 1026/15-102.24(B)(i)
NV	Nev. Rev. Stat. Ann. §120A.113.2(a)
TN	Tenn. Code Ann. §66-29-102.24(B)(i)
UT	Utah Code Ann. § 67-4a-102.29(b)(ii)(A)
VT	27 V.S.A. § 1452.24(B)(i)

Pending state legislation:

NV SB 71 has been prefiled for 2021.¹³ If enacted, this legislation would define virtual currency as a digital representation of value used as a medium of exchange, unit of account or store of value, that does not have legal tender status recognized by the US.

The proposed legislation notes, virtual currency does not include the software or protocols governing the transfer of the digital representation of value, game-related digital content, or a loyalty card or gift certificate.



¹¹ <https://www.sec.gov/news/press-release/2020-303>

¹² <https://www.prnewswire.com/news-releases/digital-asset-investment-management-daim-launches-first-erisa-compliant-employer-sponsored-401k-plans-with-bitcoin-301177306.html>

¹³ <https://legiscan.com/NV/bill/SB71/2021>