Cryptocurrencies

Prompt contrasting reactions by Latin American regulators

While used by organized crime, cryptocurrencies are also becoming accepted as a legitimate payment method by mainstream sectors of the economy in Latin America. Currently, some stores, start-ups, restaurants, hotels, and other online businesses are accepting Bitcoin and other cryptocurrencies as a valid payment method. Online exchange platforms are emerging rapidly and even ATMs have been installed to carry out transactions using digital currencies.

Argentina, Brazil, Mexico and Venezuela are countries where the adoption of cryptocurrencies is rising rapidly. Businesses and individuals have found that Bitcoin can be more stable than local currencies. During 2015, earnings received by Bitcoin holders performed more than 400% better than the Venezuelan Bolivar, more than 92% better than the Brazilian Real, more than 65% better than the Mexican Peso and more than 41% better than the Argentine Peso[1].

The Venezuelan case is the most significant because since 2004 the country has applied a trade exchange regime, inflation has been out of control and the country is in political and economic turmoil. Bitcoin appears as an attractive alternative to the Bolivar in some sectors of the economy such as tourism and online retailers.

Regulators in Latin American are reacting in different ways

In 2014 the Mexican Central Bank (Banxico) and the Protection Commission of Users of Financial Services (CONDUSEF) each published a press release warning users of the dangers of entering into transactions with cryptocurrencies. Both argued that cryptocurrencies are inherently unstable and untrustworthy because they are not regulated, are not backed by national governments, and are not considered as legal tender. Any person using such currencies does so at their own risk. As of today, Bitcoin, Ethereum, Litecoin and other cryptocurrencies have not been regulated in any way and there is no clear indication that they will be regulated any time soon in Mexico.

Argentina is one of the leading countries for Bitcoin use, in part due to the country's exchange and capital control limitations which were abolished by the new government in 2015. In 2014 the Argentinian Central Bank (BCRA) issued a press release in similar terms to the Mexican Central Bank's, warning users of the risks of cryptocurrencies. Yet Argentina's new President Macri has expressed openness to Bitcoin[2].

Ecuador's approach has been to reject cryptocurrencies and instead created its own electronic currency. The Ecuadorian government launched its own official cryptocurrency called the Electronic Money System ("Sistema de Dinero Electrónico"- SDE). Although the use of SDE is mandatory for public institutions and private banking, it has not been well adopted by the general population.

1 See http://motherboard.vice.com/read/can-bitcoin-still-thrive-in-argentina-without-price-controls-peso-dollar-Mauricio-Macri

2 See http://motherboard.vice.com/read/can-bitcoin-still-thrive-in-argentina-without-price-controls-peso-dollar-Mauricio-Macri

The Bolivian Central Bank (BCB) has forbidden the use and possession of cryptocurrencies, and outlawed any activity related with cryptocurrencies.

The foregoing examples illustrate the difficulties that governments are facing with respect to regulating cryptocurrencies as well as other disruptive digital business models such as Uber and Airbnb. Of course, regulation will be changing in the future but at the end it will be difficult for regulation to keep up with digital innovation, whether based on blockchain technology or other Internet-based platforms. The gap between regulation and new digital currencies may be even greater in developing countries such as in Latin America where citizens need to cope with economic instability.

Cryptocurrencies, among other applications and technologies, could help to fill the gaps that traditional actors (including the government) are not addressing. We suggest that governments consider not only the risks of these new innovations, but also the benefits they could bring to the economy and the community.

Federico Hernandez Arroyo
Partner, Mexico City
T +52 55 5091 0164
federico.hernandez@hoganlovells.com

Rodrigo Mendez Solis
Senior Associate , Mexico City
T +52 55 5091 0052
rodrigo.mendez@hoganlovells.com