

SEVENTEENTH CONGRESS OF THE )  
REPUBLIC OF THE PHILIPPINES )  
Second Regular Session )

SENATE

SENATE BILL NO. 1694



SENATE

Office of the Secretary

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Introduced by **SENATOR LEILA M. DE LIMA** <sup>18</sup> FEB 14 A11:51

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RECEIVED BY: \_\_\_\_\_

**AN ACT**  
**PENALIZING THE USE OF VIRTUAL CURRENCY**  
**IN THE COMMISSION OF CRIMES**

**Explanatory Note**

In the early ages, trade is largely conducted with the use of barter-like methods. Centuries later, coins were introduced, then countries adopted the gold standard, to the present-day government-issued fiat money. In 2008, a new type of currency emerged with the invention of Bitcoin by an unidentified programmer known as Satoshi Nakamoto.<sup>1</sup> This type of currency, along with the likes of Ethereum, Ripple, Bitcoin Cash, Cardano, and Litecoin, are collectively known as virtual currency or cryptocurrency.

The Bangko Sentral ng Pilipinas (BSP) has defined virtual currency as “any type of digital unit that is used as a medium of exchange or a form of digitally stored value created by agreement within the community of virtual currency users. Virtual currencies are not issued nor guaranteed by any jurisdiction and do not have legal tender status”.<sup>2</sup> “Virtual currencies resemble money and necessarily come with their own dedicated retail payment systems. Virtual currency schemes are relevant in several areas of the financial system and are therefore of interest to central banks.”<sup>3</sup> Thus, in Circular No. 944, the BSP recognized that “virtual currency systems have the potential to revolutionize delivery of financial services, particularly for payments and remittance, in view of their ability to provide faster and more economical transfer of funds, both domestic and international, and may further support financial

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<sup>1</sup> Brito, Jerry and Andrea Castillo (2013). “Bitcoin: A Primer for Policymakers.” George Mason University. Available at <[https://www.mercatus.org/system/files/Brto\\_BitcoinPrimer.pdf](https://www.mercatus.org/system/files/Brto_BitcoinPrimer.pdf)>. Last accessed 18 January 2018.

<sup>2</sup> Circular No. 944 s. 2017.

<sup>3</sup> European Central Bank (2012). “Virtual Currency Schemes.” Available at <<https://www.ecb.europa.eu/pub/pdf/other/virtualcurrencyschemes201210en.pdf>>. Last accessed 18 January 2018.

inclusion.” However, it also recognized the risks involved in its use in money laundering and terrorist financing, among others.

At present, the legal status of virtual currencies vary from country to country. In some jurisdictions such as Japan, the United States of America, United Kingdom, and Italy, the use and trading of virtual currencies are legal. On the other hand, countries such as China, South Korea, Bangladesh, and Bolivia have altogether banned the use of virtual currencies.<sup>4</sup> Meanwhile, a research conducted by Cambridge University showed that there are between 2.9 million and 5.8 million persons actively using virtual currency wallets.<sup>5</sup>

This bill does not explicitly intend to provide recognition for the use of virtual currencies in our country’s financial system. But with the emerging threats of its use in the commission of crimes, our penal laws must adapt with the changing times and our criminal justice system must come prepared in the event that this is used in illegal activities. Examples of this include estafa whereby unscrupulous individuals entice unsuspecting people to purchase fake bitcoins, sending a virtual currency as payment for child pornography, or a public officer agreeing to perform an act in consideration of payment in bitcoins (direct bribery). Since virtual currency resemble money, the possibilities are endless.

Furthermore, due to its anonymous or pseudonymous character, law enforcement agencies may encounter difficulty in tracing the user or owner of a virtual currency used in the commission of crimes, thereby necessitating a higher penalty for its use.

It is always worth recalling that the “maintenance of peace and order, the protection of life, liberty, and property, and the promotion of general welfare are essential for the enjoyment by all the people of the blessings of democracy.” (Article 2, Section 5 of the 1987 Constitution)

In view of the foregoing, early approval of this measure is requested.

  
LEILA M. DE LIMA

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<sup>4</sup> Thomson Reuters. “World of Cryptocurrency.” 25 Oct 2017. Available at <<https://blogs.thomsonreuters.com/answeron/world-cryptocurrencies-country/>>. Last accessed 18 Jan 2018.

<sup>5</sup> *Id.*



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*Be it enacted by the Senate and the House of Representatives of the Philippines in Congress assembled:*

1 **Section 1.** *Declaration of Policy.* – It is a State principle that the maintenance of  
2 peace and order, the protection of property, and the promotion of the general welfare  
3 are essential for the enjoyment by all Filipinos of the blessings of democracy. In the  
4 same manner, the State shall provide an environment that encourages financial  
5 innovation while ensuring the integrity of the financial system. Emerging  
6 technologies and tools for the conduct of trade and commerce are welcome so long as  
7 these are not used in the commission of illicit activities and are therefore inimical to  
8 the general welfare.

9 **Sec. 2.** *Virtual Currency (VC).* – As used in this Act, “virtual currency” refers to any  
10 type of digital unit that is used as a medium of exchange or a form of digitally stored  
11 value created by agreement within the community of virtual currency users. Virtual  
12 currencies are not issued nor guaranteed by any jurisdiction and do not have legal  
13 tender status. Virtual currencies shall be broadly construed to include digital units of

exchange that (1) have a centralized repository or administrator; (2) are decentralized and have no centralized repository or administrator; or (3) may be created or obtained by computing or manufacturing effort.

It shall not be construed to include e-money as defined under Sec. X780 of the Manual of Regulations for Banks, digital units used solely within online gaming platforms and are not convertible to fiat currency or real-world goods or services, digital units with stored value redeemable exclusively in goods or services and limited to transactions involving a defined merchant such as rewards programs.

**Sec. 3.** *Use of Virtual Currency in the Commission of Crimes.* – All crimes defined and penalized by Act No. 3815, otherwise known as the Revised Penal Code, as amended, and special penal laws, if committed by, through and with the use of virtual currency shall be covered by this Act: *Provided*, That the penalty to be imposed shall be one (1) degree higher than that provided for by the Revised Penal Code, as amended, and special penal laws, as the case may be.

**Sec. 4.** *Value Conversion.* – For purposes of determining the gravity of the crime and the appropriate penalty to be imposed, the value of the virtual currency at the time of the commission of the crime shall be used: *Provided*, That its value is converted to Philippine currency as determined by the Bangko Sentral ng Pilipinas (BSP).

**Sec. 5.** *Confiscation and Forfeiture of the Virtual Currency.* – In addition to the penalty imposed for the crime committed, the court shall order the confiscation and forfeiture in favor of the government of the virtual currency used in the commission of the crime, unless it is a property of an innocent third party, or another person not liable for the unlawful act. The BSP shall thereafter seek to convert the virtual

1 currency into fiat currency in international virtual currency exchanges and turnover  
2 the proceeds to the National Treasury.

3 **Sec. 6.** *BSP to issue guidelines.* – Pursuant to Sections 4 and 5, the BSP shall issue  
4 the necessary guidelines in determining the correct value conversion of virtual  
5 currency to Philippine currency, and the process of turnover of confiscated proceeds  
6 to the National Treasury.

7 **Sec. 7.** *Separability Clause.* - If any provision of this Act is declared invalid or  
8 unconstitutional, the provisions not affected thereby shall continue to be in full force  
9 and effect.

10 **Sec. 8.** *Repealing Clause.* - All laws, executive orders, presidential decrees,  
11 presidential proclamations, letters of instruction, rules and regulations or parts  
12 thereof inconsistent with the provisions of this Act are hereby repealed or modified  
13 accordingly.

14 **Sec. 9.** *Effectivity.* - This Act shall take effect fifteen (15) days following its  
15 publication in the Official Gazette or in two (2) newspapers of general circulation in  
16 the Philippines.

Approved,