

**Looking through the Looking Glass:
The Digital Legal Horizon
for Solo Practitioners**

*Digital Money:
Currency, Banking, & Future Financial
Legalities*

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DISCLAIMER

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Overview

- History of Money
- Money 2.0
- Creation of Value
 - Crowd-funding
- Storage of Value
 - Virtual Currencies/Bitcoin
- Access to Value
 - M-Payments

The Context

Money ranks as one of the primary materials with which mankind builds the architecture of civilization.

~ Lewis Lapham

The Context

We invented money and we use it, yet we cannot...understand its laws or control its actions. It has a life of its own.

~ Lionel Trilling

The Context

Money is a social contrivance, not something that stands outside society. Even when people relied on gold and silver coins, what made those coins useful wasn't the precious metals they contained, it was the expectation that other people would accept them as payment.

~ Paul Samuelson, quoted by Paul Krugman, NY Times, April, 2013

Definition of Money

Something generally accepted as a medium of exchange, a measure of value, or a means of payment

<http://www.merriam-webster.com/dictionary/money>

History of Money

- Seashells/Bartering
- Metals & Precious Stones
- Coins
- Paper
- Checks
- Credit Cards
- Electronic Transactions
- Future: Time, Fingerprints???

History of Money Legalities

- Regulation of:
- Creation of
 - Access to
 - Distribution of

- Issues of:
- Ownership
 - Value

Money v Wealth

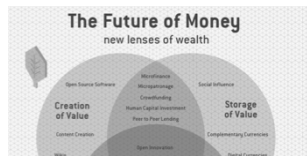
- abundance of valuable material possessions or resources
- all property that has a money value or an exchangeable value
- all material objects that have economic utility; *especially* : the stock of useful goods having economic value in existence at any one time <national *wealth*>

<http://www.merriam-webster.com/dictionary/wealth>

Money 2.0

- Creation of Value
- Storage of Value
- Access to Value

Money 2.0



http://www.emergence.cc/wp-content/files/FOM_infographic_A4.pdf

Money 2.0: Creation of Value

- Content Creation (IP Laws)
- Microfinance (SEC)
- Micropatronage (SEC, WMF)
- Crowdfunding (SEC, FTC)
- Human Capital Investment (UN, WMF)
- Peer to Peer Lending (SEC, Private Property Laws)

Money 2.0: Crowdfunding

- The use of small amounts of capital from a large number of individuals to finance a new business venture. Crowdfunding makes use of the easy accessibility of vast networks of friends, family and colleagues through social media websites like Facebook, Twitter and LinkedIn to get the word out about a new business and attract investors.
<http://www.investopedia.com/terms/c/crowdfunding.asp>

Money 2.0: Crowdfunding

- Jumpstart Our Business Startup (JOBS) Act; <http://www.govtrack.us/congress/bills/112/hr3606/text>
- Concerns:
 - Are these “qualified” investors?
 - Are they sophisticated investors fully knowledgeable in what they are about to invest in? Potential for fraud.
 - Only requires basic disclosures.
 - When does a friend become a stranger in social media?

Money 2.0: Crowdfunding

- Kickstarter
- IndieGogo
- Rickethub
- Gofundme
- <http://www.hongkiat.com/blog/crowdfunding-sites/>

Money 2.0: Storage of Value

- Traditional: Banks
 - Online Accounts, Bill Pay, etc.
 - Heavy Regulation
- Social Influence
 - Social Capital
- Complementary Currencies
- Digital Currencies

Money 2.0: Storage of Value

- Concerns:
 - Security Risks:
 - Data Integrity/Hacking
 - Authorization
 - Two-tier authentication
 - Privacy/Tracking
 - Consumer Protection

Money 2.0: Virtual Currencies

- FinCEN's regulations define currency (also referred to as "real" currency) as "the coin and paper money of the United States or of any other country that [i] is designated as legal tender and that [ii] circulates and [iii] is customarily used and accepted as a medium of exchange in the country of issuance."
- In contrast to real currency, "virtual" currency is a medium of exchange that operates like a currency in some environments, but does not have all the attributes of real currency.

Money 2.0: Virtual Currencies

- In particular, virtual currency does not have legal tender status in any jurisdiction. This guidance addresses "convertible" virtual currency. This type of virtual currency either has an equivalent value in real currency, or acts as a substitute for real currency.

Financial Crimes Enforcement Network ("FinCEN")
http://fincen.gov/statutes_regs/guidance/html/FIN-2013-G001.html

Money 2.0: Virtual Currencies

How acquired:*

- Purchased with real money
- Earned by in-world actions (micro-transactions)
- In sweepstakes and contests
- "Gambling"
- Release of User Information

Money 2.0: Virtual Currencies

How acquired: (cont.)*

- Survey Participation
- Acceptance of Exposure to advertising
- Gift of currency from others

** Excerpted from Pillsbury Law:
<http://www.socialgameslaw.com/Virtual%20Currency.pdf>*

Money 2.0: Virtual Currencies

What can VC be used for:*

- To purchase in-world goods
- Cashed out for real money
- To buy real-world goods
- Traded for other currency

** Excerpted from Pillsbury Law:
<http://www.socialgameslaw.com/Virtual%20Currency.pdf>*

Money 2.0: Virtual Currencies

Related Legal Issues:

- Stored Value/Unclaimed Property Laws (Breakage)
- Gift Card Laws
- Gambling/Sweepstakes
 - Avoiding Illegal Lotteries
- Money Transmittal Licensure
- Regulation as a Financial Institution

Money 2.0: Virtual Currencies

Related Legal Issues: (cont.)

- Taxes
- Data Privacy and Security
- Child Protection - COPPA
- Terms of Service
- Secondary Markets
- IP Protection

Money 2.0: Bitcoin

- Bitcoin is a crypto-currency implemented entirely with open source specifications and software which relies entirely on a peer-to-peer network for both transaction processing and validation.

<http://www.howtogeek.com/141374/htg-explains-what-is-bitcoin-and-how-does-it-work/>

Money 2.0: Bitcoin

- Crypto-currency
 - Digitally created currency protected by powerful cryptography
 - Cryptography is the enciphering and deciphering of messages in secret code or cipher; *also* : the computerized encoding and decoding of information

<http://www.merriam-webster.com/dictionary/cryptography>

Money 2.0: Bitcoin

Concerns:

- Bitcoin is an algorithm = code.
- It is not backed by anything except trust of its users in the system.
- No tracking? Anonymity can lead to money laundering, fraud, corrupt flow of the currency

Money 2.0: Bitcoin

Concerns:

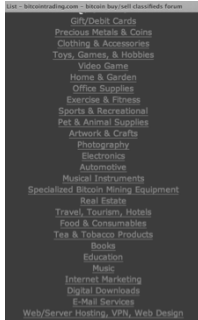
- It was created to work outside the regulatory system - but that is not what the US government is allowing it to do.
- Does the US regulation validate it?
- Jurisdictional Issues?

Money 2.0: Bitcoin

- Living on Bitcoins for a Week: Forbes <http://www.forbes.com/sites/kashmirhill/2013/05/09/25-things-i-learned-about-bitcoin-from-living-on-it-for-a-week/>
- <https://www.spendbitcoins.com/places/>

Money 2.0: Bitcoin

<http://www.bitcointrading.com/forum/spend-bitcoins/online-stores-accepting-bitcoins/>



Money 2.0: Bitcoin

What about lawyers accepting Bitcoins as payment for legal services?

- Conversion Issues
- Client Privacy
- Can't accept Assets from illegal activities

Money 2.0: Access to Value

- Most of these options work with **Fiat Money**: *Currency that a government has declared to be legal tender, despite the fact that it has no intrinsic value and is not backed by reserves.*

<http://www.investopedia.com/terms/f/fiatmoney.asp>

Money 2.0: Access to Value

Mobile Payments

- US Users: 2010 102.3 million/\$48.9 Billion
- US Users: 2011 141.3 million/\$86.1 Billion
- Expected World: 2011 \$240 Billion
- Expected World: 2015 \$670 Billion

<http://www.slideshare.net/sapient/future-of-money-infographic>

Money 2.0: Access to Value

- mCommerce: Mobile Internet browser (online wallets & Standard Web connections)
 1. Add to Cart
 2. Fill in info or one-click
 3. Confirmation & Receipt

Money 2.0: Access to Value

- mPayments: uses contactless/mobile app technologies
 1. Credit card info/account info in stored on mobile phone
 2. Enter your PIN prior to purchase
 3. Tap your phone and your info is sent for authentication
 4. Confirmation & Receipt

Money 2.0: Access to Value

- mWallets: replaces your physical wallet
 1. Funds are loaded onto phone
 2. Scan barcode, amount is deducted
 3. New balance appears on phone
- Amazon, Google Wallet, iTunes, Square, Paypal

Money 2.0: Access to Value

- Digital Legacies and distribution of digital inheritance.
 - TOU
 - Access/Authorization
 - Stored Value/Conversion to FIAT Currency

Final Transaction

- What will money look like in the future?
- Should we change our thought process from money to currency or from currency to wealth?
- What forms of future payments will you accept from your clients? Why?

Q&A



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