

Regulating cryptocurrencies necessary for mass adoption

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21 April 2021, South Africa: The infamous case of South Africa's Mirror Trading International (MTI) has been crowned as the world's largest cryptocurrency Ponzi scam. A total of around \$589 million was lost, affecting hundreds and thousands of investors, according Chainalysis' 2020 Crypto Crime Report.

Unfortunately, MTI's illicit scheme using cryptocurrencies to commit fraud has overshadowed the thriving cryptocurrency industry in South Africa and the rest of the world - and has given credible and reputable virtual asset service providers and participants in this alternative financial system yet another hurdle to overcome on the road to mass adoption.

The Financial Sector Conduct Authority (FSCA) and other regulators across the world are constantly warning crypto asset investors to be extremely cautious and vigilant when dealing with, or investing in these digital assets.

In most circumstances, regulators are issuing these warnings due to a lack of existing, formal regulations - as is the case in South Africa, where cryptocurrencies remain unregulated. This lack of regulation therefore requires investors to do their own extensive research before investing in cryptocurrencies, but also offers opportunity for fraudsters to prey on uninformed investors.

Regulation ensures market stability

Bitcoin, by its nature, was originally designed to facilitate peer-to-peer transactions across the internet. This meant that there was no need for any intermediary or monetary regulations that come with commercial and central banks. The notion of being free from regulations has led people to believe that cryptocurrencies should operate completely independently from any form of regulation; failing to realise that certain regulations are in fact imposed to protect consumers and economic stability.

It is for these reasons that publicly accountable businesses are vigorously regulated and required to be audited. Independent audits are conducted to protect the interest of all stakeholders, ensure that the applicable laws and regulations are adhered to, and that the financial statements are free from material misstatement, as well as fraud (to a certain extent).

Regulation for fraud prevention

Fraud and error can usually be mitigated by prevention, detection, and recourse. The introduction of regulations to govern the industry will mean preventative measures are put in place to ensure fraud of this magnitude doesn't occur again - and that there is appropriate legal recourse for victims. In addition to regulations, the role of the forensic and financial auditor would be to detect possible instances of fraud and error, as well as assisting with the recourse process.

Mazars has developed the required technical expertise on cryptocurrencies and has designed specific procedures to audit virtual asset service providers using a combination of ITGC assessments, application control testing and data analytics to obtain the required assurance. In addition to this, we are able to use our available resources and expertise on cryptocurrencies to obtain and analyse information directly from the respective blockchains. This mitigates the risk of factious assets and proves the existence of the assets as well as ownership of a specific account, referred to as public key addresses, which holds the cryptocurrencies.

The evolution of digital assets such as cryptocurrencies brings phenomenal potential to change the financial industry, but with this comes certain challenges to adapt and overcome. Fortunately, regulations are there to aid us in this journey by protecting consumers and developing the industry to better allow an alternative financial system.

You will find it difficult to find a virtual asset service provider operating in this industry that are not pro-regulations, because these service providers understand what the benefits are of a regulated industry and, ultimately, the positive impact this could potentially have on a country's economy.

MTI's fraud: a case study

Looking from a financial audit and Companies Act's perspective there are various ways that MTI's fraud could have been prevented or limited with the use of a financial audit and regulations. According to CIPC MTI was registered as a South African company on 30 April 2019 by the sole director, Johannes Steynberg, to commence business on the very same day.

The Companies Act required MTI to be audited as a result of them holding customers' bitcoin and fiat currency in a fiduciary capacity where that value was in excess R5m. Based on the application of relevant accounting frameworks each Rand or bitcoin invested into MTI would have resulted in a corresponding customer liability on the balance sheet. This massive liability would have resulted in a significant public interest score (as calculated by the Co Act) that would have also required the company to be audited and to have a social and ethics committee comprising of various individuals further reducing the possibility of fraud as a result of a single director denominated company.

MTI also has a February year-end and in terms of the Companies Act they were required to have audited financial statements by no later than 31 August 2020, which is 6 months after their financial year end and if they had been regulated by the FSCA the period may have decreased to 3 months. If one looks at the rate funds were flowing into MTI, but also out also out of the back door, these losses could have been limited to August or even May of 2020.

The director had however neglected to appoint an auditor and there was no regulating body overseeing or requesting MTI to provide audited financial statements. Several red flags on their extremely complex multiple level marketing business plan would have been raised by both regulators and auditors. If a company such as MTI made it past the acceptance procedures of an audit firm, the challenge would be to identify the fictitious assets that a Ponzi scheme relies on in addition to a certain level of pseudo-anonymity that bitcoin provides.

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