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ANTI-MONEY LAUNDERING AND CRYPTO CURRENCIES

The recent arrest of the CEO of a Bitcoin exchange on Anti-Money Laundering (AML) charges and the seizure last month of $28 million in bitcoins pursuant to a forfeiture order raise novel regulatory issues around this heretofore unregulated "crypto-currency"—also known as "virtual currency." As more commercial enterprises begin to accept this form of money for trade, its potential for AML risk needs to be addressed.

The Bitcoin Enigma

Bitcoins, unlike dollars or other traditional currencies, were created in 2008 as a "digital currency," meaning they exist only as software as opposed to being minted as bills or coins. They can be used to pay for online transactions, and they are not issued nor controlled by a central body. A unique system for tendering and receiving digital currency payments exists, and recently, exchanges have been created for the purpose of trading in bitcoins. They have come under closer scrutiny during the past year as an increasing number of merchants accept bitcoins for everything from basketball tickets to small home appliances.

Will Bitcoins Get Mainstreamed?

With the opening of a bitcoin ATM last year in Vancouver and additional terminals unveiled in Toronto, Ottawa and Montreal since the beginning of this year, Canada has already taken the lead in advancing bitcoins as a mainstream currency. Retailers such as Clearly Contacts and Tiger Direct accept bitcoin payments, and a California Starbucks accepts bitcoins for tips—with a strong push underway to allow for a customer's Starbuck's card to be refilled via Bitcoin in the near future.

Bitcoin Investors Seek Regulatory Approval

The Canadian government is taking a wait-and-see approach toward Bitcoin while Germany has recognized it as "private money," and China has banned its banks from dealing in it altogether. Two investors who are seeking regulatory approval for a Bitcoin exchange-traded fund have invested more than $1 million in "BitInstant" and recently participated in a panel at the New York Department of Financial Services seeking to determine how to regulate crypto-currencies.

U.S. Federal Banking Rules and AML Laws to Apply

Last March, the U.S. Treasury Department announced that federal banking rules aimed at "suspicious dollar transfers" would also apply to firms that issue or exchange money that "isn't linked to any government and exists only online"—i.e., bitcoins. This would include other lesser known crypto-currencies such as PeerCoin, LiteCoin and Ripple. Any organization dealing with crypto-currencies, whether as "legal tender" for trade or for exchange investment purposes would be wise to consult with GreenPoint Legal's AML experts regarding risk ramifications involved in navigating these newly charted waters.

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