# TechBrief: Global Crypto-currency Crackdown – Search for Safe Havens

Confronted with national regulators' intensifying scrutiny of digital currency fund-raising, known as initial coin offerings, many entrepreneurs are moving businesses to locations more welcoming to crypto-currencies and known for low taxes.

Dozens of start-ups have flocked to Singapore, Switzerland, Eastern Europe and the Caribbean this year, according to interviews with entrepreneurs and company registration data made available to Reuters.

Like bitcoin, the best-known crypto-currency created in 2009, the coins use encryption and a blockchain transaction database enabling fast and anonymous transfer of funds without centralized payment systems.

The numbers compiled by crypto-currency research firm Smith + Crown show how national regulators' attempts to curb coin sales may just shift business elsewhere.

The United States leads with 34 digital currency start-up registrations so far this year, but that reflects Silicon Valley's role as a technology hub and the depth of U.S. financial markets rather than a welcoming regulatory climate.

Singapore registered 21 entities, up from one in 2016, followed by 19 in Switzerland, up from three last year, according to Smith + Crown. Central Europe saw 14 companies registered this year, compared with one in 2016 and the Caribbean hosted 10, up from two last year.

"The data affirms our sense that Switzerland and Singapore remain go-to locations, but the U.S. could remain for companies raising large amounts of money," said Matt Chwierut, Smith + Crown's research director.

## Advantage Crypto

Switzerland does not have specific rules on digital coin sales, but some parts of an offer may fall under existing regulations, the Swiss Financial Market Supervisory Authority (FINMA) said in September.

So far, four of the five largest token sales, raising a total of over $600 million, were carried out by firms registered in Zug, a low-tax region south of Zurich known as the "crypto-valley" of the world.

In contrast, China and South Korea banned digital coin sales this year and regulators in the United States, Malaysia, Dubai, United Kingdom and Germany warned investors that current scant oversight exposed them to risks of fraud, hacking or theft.

Soaring registrations in friendly jurisdictions show how hard it is for national watchdogs to regulate digital coin sales. It is a challenge, regulators have begun to recognize.

“We are talking to other regulators, we know that there are a lot of bilateral discussions taking place,” the Dubai Financial Services Authority said in an email to Reuters.

The U.S. Securities Exchange Commission declined to comment about the migration of coin issuers to remote jurisdictions.

The United Kingdom’s Financial Conduct Authority and Securities Commission Malaysia reiterated their stance that digital coin sales are high-risk, speculative investments and that retail investors should be aware of that.

A spokesman for Germany’s Federal Financial Supervisory Authority (BaFin) told Reuters “hopping” within the European Union would be “largely futile” since the EU supervisory authority has adopted the same stance as BaFin on the issue.

The Dubai regulator pointed out that seeking out friendly jurisdictions was not unusual, but regulators still needed to warn about the inherent risks in digital coin sales.

Financial regulators from South Korea and China were not immediately available for comment.

In the United States, the SEC’s July 25 ruling that digital coins should be regulated as securities had a short-lived chilling effect on the crypto-currency market. Short-lived, because many U.S. startups thought they could avoid such scrutiny by selling “utility tokens,” which gave buyers access to products or services rather than a stake in the company.

Still, concerns that regulators’ views might evolve, have made potential U.S. coin issuers consider sales overseas.

“Our lawyers certainly think regulations on utility tokens could change. So for safety, the ICO should be done outside the U.S.,” said Arran Stewart, co-founder of U.S.-based Job.com, an online employment platform which plans a token offering in the Cayman Islands in February.

In fact, out of 15 start-ups interviewed by Reuters only one, Airfox, sold digital tokens in the United States, raising $15 million last month. Others have either carried out a coin sale overseas or are planning one.

Many operators have considered various options and have picked Thailand, Malaysia, Seychelles, Cayman as some of these are yet to form Crypto Regulations or they have not issued anything negative on crypto regulations yet.

**Gone in Minutes**

Digital coin sales soared to about $3.6 billion by mid-November, compared with just over $100 million in the whole of 2016, according to Autonomous NEXT, which tracks technology in the financial services industry.

Typically, issuers publish a “white paper” describing their business plan and the news of new coin sales spread via online forums and websites tracking new offers. Investors pay for them with bitcoins or ether - two most widely accepted crypto-currencies - via a company’s website.

The ease with which start-ups can raise millions of dollars with little scrutiny in as little as minutes, has alarmed regulators, but without unified approach they hold little sway over that new funding market.

“It’s very difficult for governments to work together in any organized fashion,” said Lewis Cohen, a partner at Hogan Lovells in New York, which has a team of lawyers specializing in blockchain.

“Different jurisdictions will look at token sales through different lenses and it would be very difficult to get on a completely harmonized place.”

Nimble and lightly-regulated crypto-currency companies can straddle borders with ease.

For example, BANKEX, which aims to convert illiquid assets into tokens to be traded on its crypto-currency platform, is registered in Delaware and plans a coin offering in the Cayman Islands this month, said the company’s CEO Igor Khmel.

Hogan Lovell’s Cohen said that while it would be foolish to shut token sales down, they should be regulated, or self-regulated. “We may need to have some guard rails,” he said.

“I don’t think it’s really fair for legitimate platforms that are trying to create new and innovative business models to be thrown in with other less scrupulous parties who may see token sales as a way of making a fast buck.”

Considering that most nations are averse to un-bridled speculation, gambling and high-risk activities, which evade scrutiny from regulators, cross border restrictions and statutory controls, giving way to money laundering, trading of illegitimate goods, illegal funding, running a risk of fraud, hacking and theft, identifying crypto friendly jurisdictions remains a challenge.

(consult us for further details)

# Blockchain the key

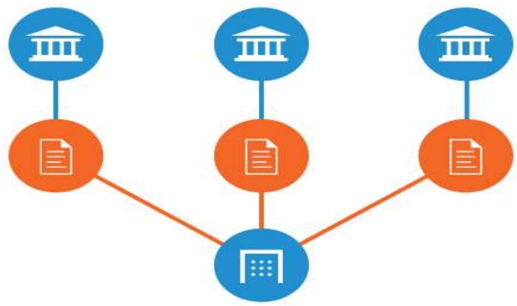
Blockchain technology, a public online ledger of transactions, gained prominence in the digital currency market as a technology that underpinned the first digital currency, bitcoin.

NETWORK

**Centralised**

Each party keeps its own individual record of the data, and relies on a third party to ensure those records stack up with each other.

**CURRENT BANKING SYSTEM**

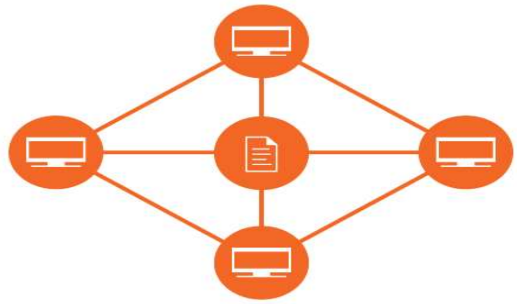


NETWORK

**Open**

Single digital ledger of transactions is shared across network and is accessible to all who particpate.

**HOW BITCOIN BLOCKCHAIN WORKS**



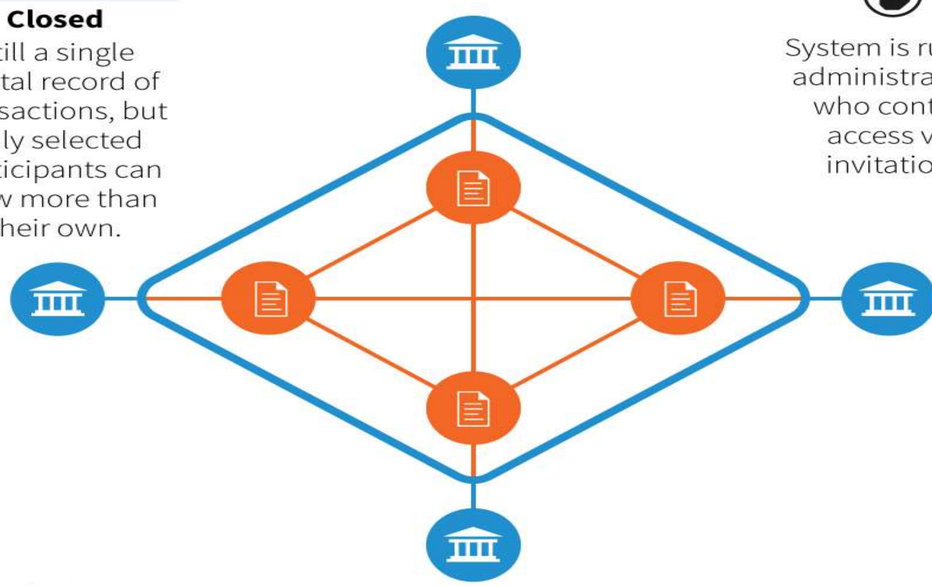
System is run by a global network of "mining" computers that compete to process transactions, with winners paid in bitcoin.

NETWORK

**Closed**

Still a single digital record of transactions, but only selected participants can view more than their own.

**PROPOSED PRIVATE BLOCKCHAIN**



System is run by administrators, who control access via invitation.

Source: Reuters

C. Hughes; G. Cabrera, 02/02/2018 REUTERS