Forbes

New Money Laundering Guidelines Are A Positive Sign For Bitcoin

By: Timothy B. Lee – March 19, 2013

Over at Ars Technica I reported on news that the Financial Crime Enforcement Network (FinCEN) has issued new guidelines on the legal status of Bitcoin under the nation's money laundering laws. In a nutshell, Bitcoin exchanges (which exchange Bitcoins for conventional currencies) and most Bitcoin miners (servers that process Bitcoin transactions and are rewarded for their efforts by "minting" new Bitcoins) are required to register as Money Services Businesses (MSBs) and comply with anti-money laundering regulations. Ordinary Bitcoin users are not required to register as MSBs if they merely use the currency to purchase goods and services.

The announcement has prompted a fair amount of consternation among Bitcoin fans in the Ars comment section, with people suggesting that this is the first step in a federal crackdown on Bitcoin. But I think it's closer to the opposite.

I'm not a big fan of anti-money laundering laws, but they exist, and it's pretty clear that at least some Bitcoin-related businesses fall under them. Moreover, Bitcoin is sufficiently different than anything that's come before that there's some genuine ambiguity about how US financial regulations apply to it.

With that kind of legal uncertainty, the attitude of regulators matters at least as much as the details of the law. If regulators view a new technology as basically benign, they'll look for ways to interpret the law to allow it to flourish. If they view the technology as a threat, they'll look for interpretations of the law that could allow it to shut it down.

The new FinCEN guidelines don't do all that much to clear up the legal confusion about whether ordinary Bitcoin users who use the currency as a hobby or investment are subject to the regulations. They are not a strong endorsement of the currency. But neither do they evince any particular hostility toward the concept of decentralized virtual currencies. FinCEN is clearly trying, in its somewhat bumbling way, to squeeze a square technological peg into its round regulatory hole. Reading between the lines, FinCEN is saying that if Bitcoin-based businesses fill out some paperwork and collect some information about their customers, then they'll be left alone.

By focusing on Bitcoin exchanges, FinCEN is signalling that it isn't interested in regulating the core Bitcoin network, which allows ordinary users to exchange currency with one another. That will hopefully leave people at the core of the Bitcoin economy free to continue experimenting.

Personally I would have preferred to see FinCEN issue guidance stating that Bitcoin is completely exempt from regulatory requirements. But that probably wasn't an option given the laws FinCEN is charged with enforcing. Given those laws, FinCEN's guidance is probably the best Bitcoin fans could have hoped for: it sends a clear sign that America's anti-money laundering regulators do not consider the currency a threat and isn't going to try to force it to change or shut down.