

Break the Rules to Make the Rules: Cryptocurrency on the Rise

Jack Sadek, McGill University, Canada

Many of us by now have heard of Bitcoin and other cryptocurrencies such as Ethereum, XRP, and Dogecoin. However, you may not know that this new form of money originated in the late 90s from the cypherpunk movement. This movement was led by crypto-anarchists who believed in libertarian values and were highly antigovernment. They saw the internet as the last true refuge to express their freedom. Despite early attempts to form a digital currency, the community failed to create an immutable decentralized currency that allowed individuals to transact peer-to-peer without third-party intermediaries. This all changed when Satoshi Nakamoto released the Bitcoin white paper in 2008, which provided the blueprint for a new digital currency. Although the intentions of Bitcoin were pure, it soon garnered a stigmatized reputation. In my research, on crypto regulation within the United States, I track the emergence of the new phenomenon. Early in 2011, dark web marketplaces like Silk Road allowed individuals to buy illegal products using Bitcoin, leading to regulatory condemnation. The U.S. government associated Bitcoin with terms such as “criminal activities” and “terrorist groups” a perception that has persisted to this day. Fast forward to 2024, financial institutions such as BlackRock and Fidelity have begun to alter the narrative having launched their own Bitcoin ETF, with the phenomenon now slowly becoming more associated with terms such as “digital asset” or “crypto asset”.

Despite reaching this milestone, incongruities still persist within governments regarding the regulation of the new asset class. The regulatory bodies specifically Congress the Securities and Exchange Commission (SEC), and the Commodity Future Trading Commission (CFTC) have provided, bluntly, vague guidelines as to what category a cryptocurrency falls under. Whereas the CFTC sees the new category as a commodity, the SEC has been adamant in their witch hunt against companies selling cryptocurrencies. For example, in 2020 SEC sued Ripple, a payments software company that uses the cryptocurrency XRP to facilitate transactions, claiming they had been selling their currency XRP as an unregistered security. This was even though representatives of Ripple had approached the SEC for guidance and had received none. What can we learn from the unique case of cryptocurrencies? First, what is important to understand is that any technology can be used in nefarious ways. However, just because it *can* doesn’t mean it *will*. Furthermore, just because it *is* used for nefarious purposes doesn’t mean it should be completely banned. A clear example of this is cash. Now many of us may not carry hard money on us with the advent of debit and credit cards, but as the saying goes cash is king. Well, cash has been used for decades to launder money, drug trade, and other activities. Second, regulators are always going to be slow in adapting their regulations to a new technology. Take the case of Napster which allowed individuals to send music to each other using mp3 files. Copyright laws at that time did not consider the advancement in technology and did not know how to regulate the new space. Yet despite the delay in regulation, this technology was the foundation for companies such as Spotify, Apple Music, and other streaming services. Finally, if the internet has taught us anything, it is that if something goes viral, it will overcome regulatory scrutiny. This is evident in the new Bitcoin ETFs which were approved this past year, after years of hesitation and resistance from the SEC. Therefore, it is essential for entrepreneurs entering a new industry to avoid restricting themselves due to unclear regulations. They need to navigate regulatory uncertainty and keep innovating. On one hand, similar to the situation with AI, entrepreneurs can take proactive measures to collaborate with government agencies in shaping regulations. On the other hand, they should be mindful that despite their efforts to work with regulators, they may be overlooked by the same individuals who are there to guide them (as seen in the Ripple case). Technology advances faster than regulation, and entrepreneurs must work on educating regulators about the advantages of such technologies. Sometimes we have to break the rules to make the rules.

CONTACT: Jack Sadek; jack.sadek@mail.mcgill.ca; McGill University; 1001 Sherbrooke Street West Montreal, QC, H3A 1G5, Canada