



Team HSKA

Cryptocurrency

Hyderabad Study Group of CTC

“Bitcoin is neither fish nor fowl...But both pricing it as a commodity when no commodity exists and trying to make it behave as a currency, seem problematic. The problem is not that it is not issued by the Government nor that it is unregulated. The problem is that it is hard to see what it is.”

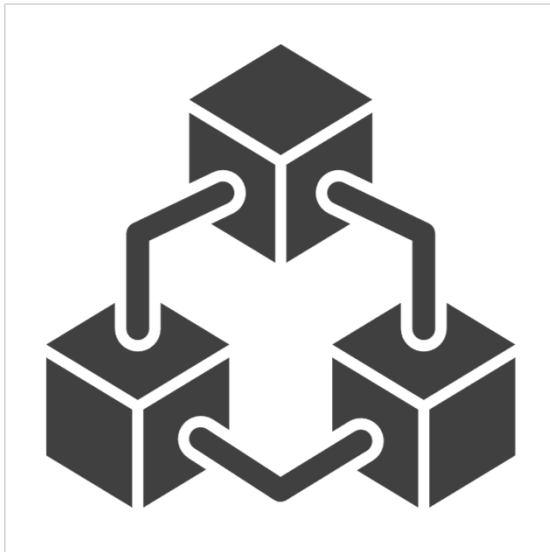
– George Friedman, the founder and Chairman of Geopolitical Futures LLC

Few Statistics

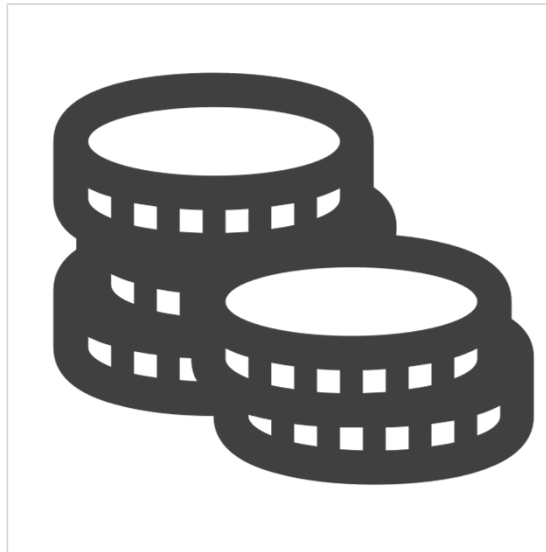
- Total Cryptocurrency Market - \$1.77 Trillions – Eighth Largest Economy globally
- Bitcoin Market Capitalization - \$ 1 Trillion
- 1st Bitcoin Real Purchase – 2 Pizza for 10,000 Bitcoins ~ \$ 43,000 x 10,000 = \$ 0.43 Million
- Global Mining Income - \$ 20 Billion
- 72% of Bitcoin Mining is done by China
- 14,000 Bitcoin ATMs
- 309 Cryptocurrency Spot Exchanges
- A Crypto post appears on social media every 2 seconds
- 67% of Millennials prefer Crypto over traditional investment in Gold
- Bitcoin uses more electricity in Argentina (It is one of the top 30 energy user worldwide)
- One Bitcoin transaction's carbon footprint is equivalent to 735,121 Visa transactions or 55,280 hours of watching YouTube
- Annual electricity costs on Bitcoin mining are \$4.45 Billion
- There are 600 Million + Malwares related to Cryptocurrency

Basics of Cryptocurrency

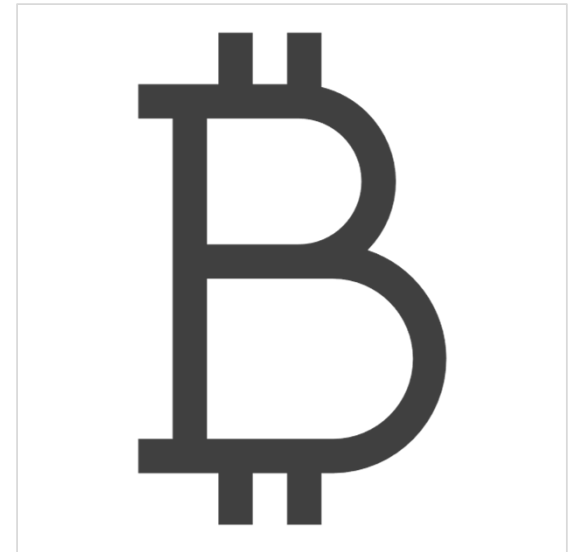
Blockchain



Cryptocurrency



Bitcoin



Bitcoins and Cryptocurrency

Bitcoins

- 1st Cryptocurrency
- Very secured – Uses SHA 256 Algorithm which has 22^{56} Private Key combinations
- There are high profile hacks but these are hacks on the Computer which stored Bitcoins and not the Bitcoin network
- Introduced by way of a White Paper **Bitcoin: A Peer-to-Peer Electronic Cash System**
- Author goes by a pseudo name **Satoshi Nakamoto**
- No Asset backing and no physical form
- Miners reward (Halved after every 210,000 Blocks)
 - 2009 – 50 Bitcoins
 - 2020 – 6.25 Bitcoins
- 21 Million Bitcoins in Total will be mined
 - 2 Million Bitcoins already mined
 - Last Bitcoin will be mined in the year 2140

Cryptocurrency

- Decentralized Authority
- Free from control by one person
- Cannot be forged
- Lower Transaction Fee
- Uses Block Chain as a base
- Approx 4,000 Cryptocurrencies around the World
- Issues
 - Transaction verification can take hours
 - Rewards are less compared to the cost
 - Flood of Cryptocurrencies
 - If Miners gang up then entire system can be exploited
 - If incorrect transaction, no one to complain to

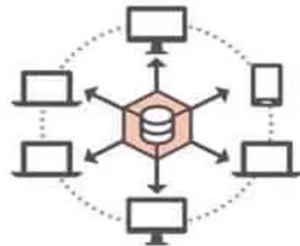
HOW DOES BLOCKCHAIN WORK



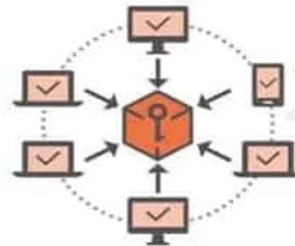
A transaction is requested



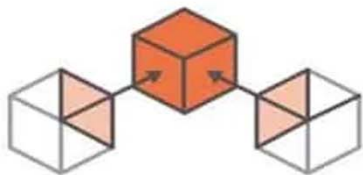
The transaction is broadcasted to a network of nodes



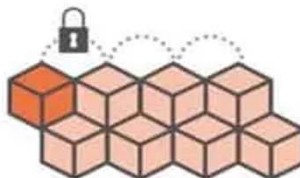
The network validates the transaction using known algorithms



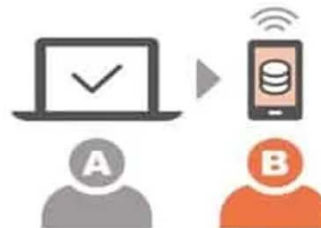
The transaction is unified with other transactions as a block of data.



The new block is added to the blockchain in a transparent and unalterable way.



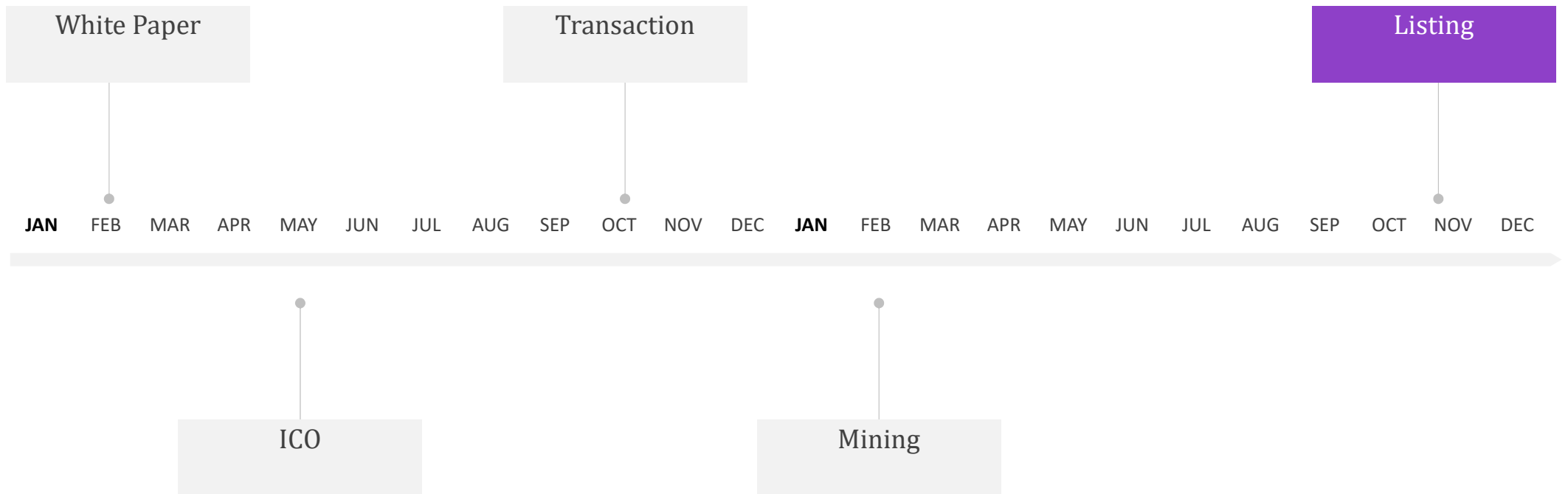
The transaction is complete



Blockchain can be a better solution for ITC matching

- Vendor uploads the invoice on Seller
- Vendor pays the tax
- Transaction gets broadcasted with GST credit details
- Entire network validates the transaction
- Seller claims the credit

How Cryptocurrency comes into existence?



Legality in India

- The Finance Minister on February 1, 2018 in his Budget Speech for the FY 2018-19[1] mentioned that “the Government does not consider crypto-currencies legal tender or coin and will take all measures to eliminate use of these crypto assets in financing illegitimate activities or as part of the payment system”;
- RBI had issued an instruction on April 6, 2018[2] to prohibit Banks and other financial institutions from dealing in Virtual Currency or facilitating any person / entity dealing in Virtual Currency;
- Three Bills introduced to Ban / Regulate Crypto Currency
 - Crypto Token and Crypto Asset (Banning, Control and Regulation) Bill, 2018
 - Banning of Cryptocurrency and Regulation of Official Digital Currency Bill, 2019[3] – Proposed imprisonment of upto 10 years and penalty upto Rs 50 Crores
 - The Cryptocurrency and Regulation of Official Digital Currency Bill, 2021[4] – The text of the bill is not available in the Public Domain.
- All the three bills provide for banning all transactions related to Private Crypto Currency (including issuance, mining, trading, wallet, exchanges etc) and also hints at creation of Official Digital Currency to be issued by RBI – The entire concept behind Crypto Currency is that it is de-centralized. If the RBI issues a digital currency, it will again be a centralized system and hence may not qualify as a Crypto Currency in true sense.
- The Supreme Court in a Writ Petition filed by Internet and Mobile Association of India, held that the Circular issued by RBI dated April 8, 2016 (referred at Sl No. 2 above) is to be set aside – Placing reliance on the said judgement it can be said that currently VC is not illegal in India.

Money

Used for purchase and sale

Payment not guaranteed by RBI

Gold

Price based on demand and supply

Requires mining

Does not have an end use

Shares

Traded in Exchanges

Does not have underlying asset

Reward Points

Created and Issued by a Issuing Company

Reward Points carry expiry date

What is Cryptocurrency?

- Section 2(75) of the CGST Act, 2017 defines the term money to mean
 - Indian legal tender;
 - Any foreign currency;
 - cheque, promissory note, bill of exchange, letter of credit, draft, pay order, traveller cheque, money order, postal or electronic remittance; or
 - any other instrument recognized by the Reserve Bank of India when used as consideration to settle an obligation or exchange with Indian legal tender of another denomination.
- Security
 - Based on underlying asset
 - SEBI returned the draft 2018 bill with comments that SEBI is not best suited for regulating Cryptoassets
- Goods
 - Supreme Court decision in the case of Internet and Mobile Association of India
 - Goods means every movable property
 - TCS Decision - Goods in Indian context includes even intangibles so long as they are capable of abstraction, consumption and use and which can be transmitted, transferred, delivered, stored, possessed etc

Issues in Taxability

- No specific entry to tax – residual entry also provides for rate of 18% for goods which are covered under “**any chapter**” but for which no specific rate has been notified
- Purchase and Sale may not be in the course of Business
- Location of Buyer and Seller is unknown – How to determine if intra state / inter state / Export / Import
- Multiple Permutation and Combinations to be taken into account
 - Issuing Company may be in India but transaction outside India
 - Issuing Company may be out of India but transaction is in India

Typical transactions and GST implications

○ Issuance of ICO

- Similar to IPO
- Currency at concept stage. Investors investing at deep discounts

○ Mining Fees

- Barter of Goods (VC) in exchange for service of verifying the transaction
- Export of Service – Money not received in convertible foreign exchange

○ Pooling of Mining Fees

- Joint Venture between Indian and Foreign Miners
- Main Miner in India – Payment to other miners will be import of service
- Main Miner outside India – Money received by Indian Minor will be export of service

○ Purchase of VC

- Customs Frontier not crossed so no Customs Duty

Typical transactions and GST implications

- Sale of VC
 - Export – No evidence that goods left India
- Crypto Exchanges
 - GST applicable on transaction fee or Commission
- Purchase / Sale of goods using VC
 - Barter of Goods and Services



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Thank You

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