

# IP KNOWLEDGE EXTRACT

---



## Vietnam's Cryptocurrency Ban: Balancing Protection and Progress

By Uyen Ngo, Nguyen Hoa Binh, et al.

### Overview

In late October 2017, the State Bank of Vietnam made a public announcement reaffirming that virtual currency issuance, supply, and use are strictly prohibited in Vietnam. Initially, the prohibition was based on Decree 101/2012/ND-CP provisions on non-cash payment, as amended by Decree 80/2016/ND-CP. Subsequently, Decree 52/2024/ND-CP replaced Decree 101/2012/ND-CP and inherited Decree 80/2016/ND-CP's provisions, stating that payment instruments not stipulated by the State Bank (implicitly including Bitcoin and other forms of virtual currency) are illegal. The State Bank imposed a 150-200 million VND fine for prohibition violations, as prescribed by Article 26 of Decree 88/2019/ND-CP, on administrative sanctions for monetary-banking infringements.

### What's New

---

- [1. Overview](#)
- [2. In Details](#)
- [3. Conclusion](#)



However, despite the prohibition, the value of virtual currency in Vietnam has shown significant growth. According to data from the Vietnam Blockchain Association (VBA), in September 2023, the value of virtual currency received in Vietnam was nearly 91 billion USD in one year (from October 2021 to October 2022). Additionally, the Ministry of Justice has expressed that virtual currency is not explicitly prohibited in Vietnam due to the absence of specific regulations.

This prohibition encompasses all forms of virtual currency, including cryptocurrencies. Bitcoin, the first and most well-known cryptocurrency, has gained significant public recognition, but many other types of cryptocurrencies have been created since its inception.

## **Cryptocurrencies Definition**

Cryptocurrencies are digital currencies that operate independently of governments and central banks. Each cryptocurrency exists within its network, with any interaction involving the currency causing the user's computer to join that network. Transactions made using a cryptocurrency are recorded in a permanent, public digital ledger that is continuously updated and shared with all computers in the network.

To ensure the integrity of the ledger, computers owned by individuals and companies worldwide continuously secure recorded transactions by encrypting them using complex mathematical equations. Transactions are sealed off in batches, similar to pages in a ledger, with each batch being referred to as a "block." The sealing-off process is designed to compound, meaning that the mathematical equations for new blocks require information from previously secured blocks. This creates a chain-like structure, where tampering with a sealed block would be evident in all subsequent blocks, ensuring the ledger's security. This technology is known as "Blockchain."

As an incentive for securing the ledger, computers or groups of computers are rewarded with newly created cryptocurrency, a process referred to as "mining." More powerful computers that complete the sealing-off process are awarded more currency, making mining competitive. However, the energy-intensive nature of mining requires specially designed computers to make it profitable.

Cryptocurrencies operate within their network, making every transaction visible to everyone. The encryption process relies on information from sealed-off blocks, and the data ledger is stored on every computer in the network rather than on a central server, making the cryptocurrency theoretically resistant to counterfeiting. This, combined with the cryptocurrency's scarcity and utility in digital transactions, gives the currency its value.

As a result, cryptocurrencies are often likened to commodities like gold or oil. The U.S. Commodity Futures Trading Commission has classified cryptocurrency as a commodity and regulates it in the United States. One key difference between cryptocurrency and most commodities is the ability to use cryptocurrency for small transactions. As the cryptocurrency infrastructure expands, cryptocurrencies are increasingly being used to purchase goods directly.



Like most technologies, Blockchain technology has been updated, perfected, and utilized for various applications. Private companies are creating new cryptocurrencies for specific purposes, such as real estate transactions and recording contracts and security obligations. These specialized currencies, known as "altcoins," sometimes differ from traditional cryptocurrencies regarding distribution methods and economic models.

The State Bank of Vietnam's declaration does not clearly indicate whether these altcoins are similarly prohibited in Vietnam. The confusion arises from the ambiguous rationale for the prohibition. The official release by the State Bank simply states that Vietnam has already established a legal framework for means of payment, and virtual currencies fall outside the scope of that framework.

### **The State Bank of Vietnam's cryptocurrency ban is influenced by various protective and regulatory concerns**

The State Bank's Prohibition has sparked various theories about its underlying rationale. One such theory suggests that the prohibition serves as a protective measure for Vietnam's currency, the Vietnamese Dong (VND). While the VND has shown stability in recent years, it has also experienced significant fluctuations and devaluation, making it less reliable than more stable currencies. With increasing internet penetration in Vietnam, e-commerce has been gaining prominence. If a substantial number of people start using payment methods other than domestic currency, it could potentially lead to a collapse of the VND. Historical evidence suggests that a collapse of a state currency often leads to severe repercussions such as civil unrest.

It is interesting to note that there is a strong correlation between countries that have banned cryptocurrency and the levels of corruption in their Government. Cryptocurrency has been promoted as a tool to combat corruption by bypassing the control of corrupt governments. Countries such as Bolivia, Ecuador, Kyrgyzstan, Bangladesh, Nepal, and China have prohibited the use of cryptocurrencies, and Russia is likely to follow suit. Vietnam was ranked 113 on Transparency International's Corruption Perception Index in 2016. This index ranks countries based on their perceived levels of corruption, with Denmark being ranked first with very little perceived corruption and Somalia being ranked 176th at the bottom.

The State Bank of Vietnam has taken a cautious approach towards applying blockchain technology and using cryptocurrencies. While recognizing these as irreversible trends, the bank carefully assesses their potential impacts to ensure they remain controlled. Although the Prime Minister of Vietnam has approved a scheme to create a legal framework for managing cryptocurrencies and virtual property, a complete legal framework may not exist before 2020.

One of the main reasons cited by countries that have banned cryptocurrency is to combat illegal activity often associated with cryptocurrencies. Due to cryptocurrency's anonymous and decentralized nature, it has been commonly used for illegal online transactions, especially in the early days of its inception. The cryptocurrency was primarily used to purchase illicit goods and services on the dark web, which is an obscure internet section. Despite limited data on these underground online marketplaces, it is well-documented that cryptocurrency was the primary form of payment. The rationale behind banning cryptocurrency was to make conducting illegal transactions on these markets more difficult. However, as cryptocurrency has evolved and gained more legitimate uses, this rationale for prohibition has become less compelling.



It is currently uncertain which of these reasons, or possibly a combination of them, influenced the decision-making of the State Bank of Vietnam.

## **Conclusion**

The Vietnamese Government must clearly define its stance on cryptocurrency and Blockchain technology. The technology has many applications beyond e-commerce and is gaining increasing attention and value. With more large businesses adopting the technology and more countries establishing legal frameworks for cryptocurrency, it is evident that cryptocurrencies are becoming a permanent part of the digital landscape. Vietnam should consider the consequences of disregarding what is poised to become a crucial aspect of the digital future.

A positive development occurred in April 2024 when the representative of the Minister of Justice, Mr. Cao Dang Vinh, Deputy Head of the Civil Law Department, stated that the Ministry of Justice does not prohibit cryptocurrencies and virtual assets. He emphasized the need for specific regulations to govern cryptocurrencies due to their potential risks of exploitation and appropriation. In February 2024, the Government assigned the Ministry of Finance to develop a legal framework for virtual assets, with an expected completion date of May 2025.

Establishing a well-considered legal framework for regulating cryptocurrency and Blockchain technology, similar to other developed countries, would demonstrate to the international community that Vietnam is aligned with global commercial technology and development leaders. In essence, it signals that Vietnam is prepared to engage actively in the future of commerce.

## **Disclaimers:**

*This material is provided for informational purposes only. The provision of this material does not create an attorney-client relationship between the firm and the reader and does not constitute legal advice. Legal advice must be tailored to the specific circumstances of each case, and the contents of this article are not a substitute for legal counsel. Do not take action in reliance on the contents of this material without seeking the advice of counsel.*

*The information contained in this article may or may not reflect the most current legal developments. Accordingly, information in this article is not promised or guaranteed to be correct or complete and should not be relied upon as such. Readers should conduct their own appropriate legal research.*

# DAITIN & ASSOCIATES

Lawyers and Consultants

## Contact

*Please contact Daitin & Associates if you require any further information or guidance in the procedures of acquiring, protecting intellectual property rights in Vietnam | Cambodia | Laos | Myanmar | Thailand | Philippines | Brunei | Indonesia.*

[info@daitin.com.vn](mailto:info@daitin.com.vn) | [www.daitin.com.vn](http://www.daitin.com.vn)