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Legal status of YEM in international payment transactions

Status 10/11/21

Sources: *European Banking Authority (EBA)*
German Federal Financial Supervisory Authority (BaFin)
German Federal Ministry of Finance (BMF)

Note: due to the principle of equal treatment, the above authorities always refer to digital currencies in general and not specifically to YEM. For ease of understanding, the direct reference to YEM is partly made in this document.

The EBA has been monitoring so-called virtual currencies (VC) since 2013. On 04.07.2014, the EBA published an official statement (EBA/Op/2014/08), in which the risks and opportunities of virtual currencies are described in detail. The EBA confirms that VC offer numerous advantages compared to the established financial system with legal tender:

- **Lower transaction costs**

Due to the absence of intermediaries, VC transactions can be achieved at lower costs than other means of payment, such as payment cards or bank transfers. Additionally, transactions within or between VC schemes are also not subject to the exchange fees applied to conversions for transactions with third countries, therefore providing further potential for cost savings. The EBA puts the possible savings at up to 8% of the transaction amount plus the savings from eliminated exchange rates.

- **Faster transactions**

Blockchain-based transactions are generally executed faster than traditional bank transactions, which sometimes take several days. Also, processing VC payments takes place on a 24/7 basis, unlike payments made through traditional payment systems.

- **Certainty of payments received**

VC schemes allow merchants to avoid having to refund transactions, particularly those that are based on an alleged non-fulfilment of a contract. In conventional fiat-currency payment systems in some jurisdictions, merchants have been reported to complain about large numbers of consumer-initiated payment charge backs that were based on false claims that a product had not been delivered.

- **Contributing to economic growth**

Compared to traditional payment systems with established business actors, VCs have spawned new types of businesses that did not exist before. The use of VCs offers various new business opportunities. The main focus of innovation opportunities is the IT sector although they may also arise in the financial services sector.

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- **Financial inclusion in underserved states**

In jurisdictions where financial services are not widely available, where users have a high-risk profile, where the national currency is not convertible into other FC, where financial services are too expensive for individuals, or where the administrative burden for obtaining an account is high, VC schemes provide an alternative way for individuals to achieve the same end: accessing commerce and effecting payment transactions.

- **More data security and privacy**

VC payment transactions do not require the provision of personal or sensitive data, unlike credit card data or passwords in the case of conventional payment methods. In this sense, VC units can be considered to be like cash: whoever possesses them also owns them, removing a source of potential identity theft.

- **Limited interference by public authorities**

As a rule, transactions with virtual currencies take place outside the control of governmental authorities. Thus, governments or central banks have very limited power to control, and allegedly abuse, the supply and flow of money denominated in that virtual currency.

In addition to these potential benefits of virtual currencies, the EBA lists more than 70 potential risks, mostly pointing to anonymity, lack of regulation, risk of fraud and loss, and volatility.

The YEM is the only digital currency that has been consistently developed in accordance with these EBA specifications in order to exclude or minimize the aforementioned risks as best as possible. This makes YEM one of the few legal means of payment that can be used without restriction in national and international payment transactions as a non-governmental substitute currency for the Euro, for example.

In its public notice on virtual currencies updated on Sept. 18, 2020, BaFin points out that YEM constitutes a financial instrument under Section 1(11) sentence 1 No. 10 of the German Banking Act (KWG) because it is a digital representation of a value that does not have the legal status of currency or money but is accepted by natural or legal persons as a means of exchange or payment or serves or investment purposes on the basis of an agreement or actual practice.

This makes YEM a unit of account within the meaning of Section 1(11) sentence 1 no. 7 KWG. Units of account are comparable to foreign exchange but are not denominated in legal tender. This also includes any other substitute currency used as a means of payment in multilateral clearing systems on the basis of agreements under private law.

The use of YEM as a substitute for cash or book money to participate in the economic cycle is therefore permitted. Any service provider or supplier may have its services paid for with YEM without thereby providing banking or financial services. The same applies to the customer. The sale of YEM or its purchase as part of general financial and liquidity planning are also generally not subject to authorization.

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As early as February 2018, the BMF stated in a circular to the supreme tax authorities of the German states (2018/0163969) that cryptocurrencies are treated the same as legal tender insofar as they have been accepted by the parties to transactions as an alternative contractual and direct means of payment and do not serve any purpose other than use as a means of payment.

Prof. Rolf-R. Radeisen states in a commentary for Haufe Publishing that cryptocurrencies are increasingly penetrating conventional trading structures as well. While they were only "exotics" some time ago, more and more sales in the real economy are also being transacted via cryptocurrencies. It is therefore to be welcomed that the financial administration now also officially equates cryptocurrencies with conventional currencies.

Due to the special conception of YEM, it takes a pioneering role as a digital currency:

Already in 2018, the first real estate transaction was completely processed in YEM, and in 2019, the first limited liability company was founded, whereby the entire share capital was provided as formation by non-cash capital contribution in YEM. This was made possible by an independent expert opinion from a German auditing firm on the value of YEM, which was fully recognized by the competent registration court.

In January 2021, TCU AG became the first listed stock corporation to include YEM in its financial and liquidity planning. On October 8, 2021, the German city of Roding (Bavaria) publicly announced the setup of the "Foundation for an attractive Roding" with a founder sum of 500,000 YEM. In addition, a Swiss mining corporation decided to have their digitized assets (silicon, gold, silver, oil, vanadium) token 100% backed with YEM as a collateral. On top of all that, it is planned to establish YEM as the lead currency in an international free trade zone at the beginning of 2022.

Conclusion: YEM not only meets all the legal requirements for use in private and business payment transactions, with transactions totaling more than USD 700 billion, YEM has long since become a fixed and rapidly growing factor in international payments.



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