

Research on Legal Issues of China's Legal Digital Currency

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Abstract: With the development of information technology and the wide application of mobile payment, currency has also begun to have a digital technical basis. Legal digital currency refers to a legal currency issued by a financial institution in the form of an encrypted data chain representing a certain specific amount. It itself is not a physical entity, but digital information that is exchanged and stored over the network and has a certain amount of value. From the perspective of characteristics, it is fundamentally different from traditional currencies. Because of this, China's current legal system for the adjustment of traditional banknotes as the object does not fully meet the development and application needs of digital banknotes. In view of this, this chapter focuses on the relevant issues raised by digital currency as the scope of discussion, and summarizes their treatment methods.

Keywords: Central Bank of China; fiat digital central bank; Chinese regulation

I. INTRODUCTION

Currency is the carrier created by people to improve transaction efficiency, and other economic forces have never been able to resist its fundamental characteristics of improving efficiency. Therefore, looking at the history of global coin development, it is not difficult for people to summarize the basic shape changes of coins. It has gradually evolved from the physical form to the form of precious metals, tokens, credit coins and e-commerce currencies. After the 1980s, electronic banknotes underwent a new round of development and evolution, and produced increasingly deepened e-commerce currency forms, as well as encrypted banknotes that gradually got rid of virtual currency forms, that is, digital banknotes.

As a product of a developed market economy and scientific and technological progress, it is difficult to achieve unity in the scope and meaning of quantitative currency among various academic circles. After David put forward the initial definition of digital currency in 1983, many researchers have discussed the concept and meaning of digital currency. Dwyer (2015) pointed out that digital currency is a conceptual currency of an

electronic system that can be stored and circulated. Bisessar (2016) advocated to further strengthen the point-to-point function of Bitcoin, and added the content of digital currency. He believed that digital currency is based on a distributed accounting system and a decentralized banknote. The special status excludes some digital banknotes that use new computing power, so it has been disputed by some researchers. Kraus (2017) further expanded the definition of digital currency, thinking that all virtual currencies that are only circulated in specific virtual units, as well as all encrypted currencies that include virtual network units and real transactions, can be called digital currencies. Professor Li Jianjun (2017) based on recent research and experiments on digital currency in China, proposed that digital currency is an effective digital currency that can realize digital encryption methods such as cloud

computing technology through blockchain, and has basic currency functions.

From commodity currency to metal currency and credit currency, every change in the form of currency is aimed at improving transaction efficiency. With the vigorous development of Internet information technology and blockchain technology, the form of currency has also undergone a trend of digital transformation. Many developed countries are already exploring the possibility of launching legal digital currency. China's development of digital currency is not only necessary, but also has relatively sufficient advantages and conditions. At present, China has become the most active economy in the world in terms of e-commerce operations and trading activities, and the strong demand for electronic transactions has created a large number of usage scenarios for the development of digital currency. At the same time, the completion of China's financial infrastructure has a late effect, and the level of electronicization is the highest. The People's Bank of China started the research and development of digital currency as early as 2014, and formed a professional research team to carry out theoretical demonstration work on the possibility of legal digital currency development. And at the digital renminbi symposium held in 2016, a series of related issues were discussed and exchanged with experts and professional institutions from various parties, and the issue of launching the legal digital renminbi in the future was placed on the agenda. strategic heights. Looking at countries around the world, this is the first time that an official government agency has included the launch of the legal digital renminbi on the agenda. At the beginning of 2017, in order to actively explore the development of legal digital currencies, the People's Commercial Bank of China announced that it was preparing to establish the China Digital RMB Research Institute. In February of the same year, the testing of the China Digital Bill Trading Platform led by the People's Commercial Bank of China was completed. The system uses blockchain

technology to carry out a small-scale test on the development of legal digital renminbi. It is an experimental test carried out by the Central Bank of China for the development of legal digital renminbi. In October 2020, the central bank conducted a pilot experiment of DCEP (central bank digital currency) in Shenzhen for the first time.

The rest of this paper is organized as follows: Part 2 mainly studies the potential legal issues of legal digital currency; Part 3 proposes solutions to legal issues related to legal digital currency; Section 4 ends.

II. THE LEGAL CHARACTERISTICS AND STATUS QUO OF LEGAL DIGITAL CURRENCY

Compared with traditional physical currencies such as banknotes and coins, legal digital currencies are currencies in which financial institutions directly fulfill monetary credit responsibilities, and are also directly guaranteed by national

reputation. However, there is a clear difference between legal quantity coins and legal physical coins, because the legal physical currency is directly owned by the user in the form of physical objects, and the transaction of China Unicom is directly carried out within the user without the intervention of a third party. However, digital currency users need to have an account to obtain legal currency, and use the information transmission method in the account or between other storage devices to complete the circulation function of the medium of exchange, so it is not appropriate to use direct transactions to buy and sell digital currency. OK. In terms of judicial nature, legal digital currency is consistent with legal physical currency. Both are different forms of legal tender and have the same legal status and use.

Legal digital currencies is issued by the central bank and endorsed by the country 's reputation. It is also protected and controlled by law like traditional legal tender, and at the same time has complete currency characteristics, so it can fully perform currency functions. In addition, digital currency also has a legal obligation. Within the territory of the country, no natural person or institution has the right to refuse others to use it as a payment method. The private digital currency neither has the characteristics of national sovereignty, lacks the support of national reputation, nor has the legal compensation and compulsion of national currency. It can become the basis of RMB settlement and exchange based on the recognition and agreement between the parties, and its price fluctuates with different demands.

According to the relevant provisions of Articles 16 and 18 of the "Law of the People's Bank of China", China's legal tender is the RMB printed and issued by the central bank. The legal digital renminbi is a digital payment and settlement tool issued by the People's Bank of China with the country's reputation as the main guarantee for liabilities, and it undertakes all the responsibilities of a country's legal currency. The main purpose of China's development of DCEP is to achieve the digital replacement of traditional cash zero. In the future, it will be the new image of China's legal renminbi, which is also legally compensable like the renminbi.

China has the largest netizen group in the world, and its third-party payment methods such as Alipay and WeChat Pay, as well as the online banking system within the Chinese banking system, are well known to everyone, and the research and development of related technologies in China has also taken the lead in the world. status. It can be considered that in the field of digital currency application in China, the development of hardware and software is more convenient than other countries in the world. If China can seize the opportunity of digital economy construction and develop and use legal digital currency products in a timely manner, it will allow China to have the right to speak in terms of laws and regulations in the tide of digitalization of the world's renminbi, thereby helping China's renminbi internationalization to overtake in a corner. And promote the implementation of the " Belt and Road " plan.

The People's Bank of China has long recognized the trend that legal digital currencies will replace traditional paper currencies in the future, and private digital currencies are difficult to exist as currencies due to their inherent defects. The People's Bank of China Digital Currency Conference (2016) mentioned that the development of digital currency will help reduce the circulation and transaction costs of ordinary currency, effectively improve the efficiency of payment and settlement, and the monitoring of capital flow. There are improvements or improvements to the monetary system rather than revolutions

or subversions. Sheng Songcheng and Professor Jiang Yile (2016) believe that " from the perspective of the nature of financial currency, in the modern credit currency system, only the currency issued by the national government is the real currency. " Therefore, the substantive nature of legal digital currency and private digital currency is completely different. The legal digital banknote is the electronic development of traditional Chinese banknotes, but at the same time it breaks through the technology of traditional Chinese electronic technology currency, and has the support of the credibility of the Chinese government, so its banknotes will not change in essence. However, in

the process of implementing and circulating the central bank's digital banknotes, it is necessary to use network information technology to form a complete monetary system, which will have a profound impact on China's traditional banknote circulation, monetary policy, government liquidation system, and financial institutions. In addition, many aspects such as transaction conditions in the development of digital currency, laws and regulations related to digital currency, and the interconnection of digital currency and market currency must also be studied. Sheng Songcheng believes that the introduction of legal digital renminbi will strengthen the central bank's control over the issuance and transaction of RMB, and its introduction and operation must have a whole set of procedures and overcome corresponding difficulties in order to make it effectively serve economic and social stability and increase.

China's digital currency market is growing rapidly, but it lacks corresponding legislative standards. At present, the country has only promulgated normative documents for private digital currencies, mainly "Notice on Preventing Bitcoin Operation Risks", "Notice on Preventing Risks in Token Development and Financing" and "Notice on Preventing Overseas C Zero and " Bitcoin " Currency " Trading Risk Reminder". However, the existing regulations cannot guarantee the use of legal digital currency.

III. LEGAL ISSUES OF LEGAL DIGITAL CURRENCY

Although the current DCEP is still in the stage of research and development and testing, the development issues related to legal digital currency should also enter the period of discussion and exploration.

1. Issues based on issues

The external form of legal digital currency is completely different from our traditional physical legal currency such as banknotes or coins, and the current Chinese legislation and even the entire financial institution system are specially tailored for legal entity currency, which also means legal Digital currency cannot be directly integrated into the existing legal system, which also shows that the central bank of the Chinese government lacks the right to issue legal digital currency. According to the relevant legislative provisions of the People's Republic of China's existing "National People's Commercial Bank Law" or "Renminbi Regulations" , the current legal numerical currency is not yet among the legal currency types that the People's Bank of China can issue , and this will also This leads to the embarrassing situation that the legal

digital currency has been developed in the future , but the legal currency issuer is difficult to issue because the funds cannot be undocumented. Therefore, clarifying the same legislative status of legal digital currency and traditional legal tender in China, establishing the issue of issuance rights in legislation, and

improving the circulation basis of traditional legal digital currency in China, is a further study of traditional legal digital currency in China. The proper meaning of monetary legislation issues.

2. Legal issues

The basic nature of legal tender. Its attributes are not only the basic attributes of legal coins, but also an important cornerstone to ensure that legal coins can fully and effectively perform their monetary functions. Since legal digital currency will be another form of legal currency in the future, it should have the same legal compensation as physical legal currency such as banknotes and coins. Although the legal digital currency is also a currency in essence, because its external form is very similar to third-party payment methods such as Alipay and WeChat payment, it will face a huge risk of being rejected by the people. Clarify its legality, and adopt legislative means to let the general public understand, thus forming the same way of use as paper coins, otherwise the promotion and development of digital currency will be difficult. However, people must be aware of the fact that the development of digital currency depends on the completeness of infrastructure hardware and the fact that the improvement of information technology will take some time to complete, and in this process, there will inevitably be differences between the two parties due to objective conditions. Restrictions, but cannot support or accept the other party's use of legal digital currency, in these cases, the law should not be difficult, but there should be clear exceptions for exemption.

3. Ownership transfer issues

Ownership refers to the exclusive and exclusive control right of the obligee when he owns, uses, benefits or disposes of something. Compared with the original banknotes and coins, the intangibility of digital banknotes makes it difficult to determine the transfer method of property rights, so it must be clearly divided in legislation. However, according to the relevant provisions of the real rights section of the French "Civil Code", the publicity method for the establishment and transfer of movable property ownership is property ownership and transfer, while the formula method for the establishment and transfer of immovable property ownership is recording.

The biggest commonality between ownership and registration is that both can clearly reflect who owns and manages something exclusively. Therefore, when dealing with the transfer of property rights of legal digital currency, it should be closely around the publication method of property rights. The central bank stipulates that only identity code information can be bound to the legal digital currency issued by the system, and this identity code information is matched with the key of the designated legal digital currency user. The holder of the right to use can only exercise exclusive and exclusive control over the legal digital currency, and the external performance is that the holder of the right to use must have both the legal digital currency and the corresponding private key. In order to improve the stability of the legal digital currency, whether the two parties can jointly own the legal digital currency and its matching keys can be regarded as the criterion for judging the ownership of the legal digital currency.

4. Anti-counterfeit currency issues

Different from traditional physical currency, the basic form of legal digital currency is an electronic encrypted string. The legal concept of currency counterfeiting regulated in China's current legislative system can not involve the copying or modification of digital currency electronic data. etc. behavior.

If it is necessary to make more effective restrictions on the counterfeiting of legal digital coins, it is necessary to make corresponding changes to the existing legislation, to make a more comprehensive definition of counterfeiting, and to copy or tamper with legal Behaviors such as digital currency electronic data records are also introduced into the definition of counterfeit and altered coins. Therefore, it is necessary to innovate the law enforcement means of anti-counterfeit currency. It is difficult for the previous regulatory methods to have an effect on the activities of counterfeiting and altering digital renminbi. More targeted scientific and technological regulatory methods need to be adopted. In addition, the government also needs to do a good job of popularizing legal science among the public. However, due to the technical nature of digital currency, ordinary citizens have some difficulties in identifying its forgery. Therefore, only by letting users know about it Only after some understanding can the role of the public in spontaneous supervision and reporting be brought into full play, so that the anti-counterfeiting work on legal digital currencies can be carried out more smoothly.

5. Anti-money laundering issues

Compared with traditional banknotes and coins, legal digital currency has the characteristics of convenience and concealment in transactions, which makes it more difficult to investigate and trace regulatory crimes, and at the same time makes traceability more complicated.

The original anti-money laundering mechanism cannot realize the supervisory role of legal digital currency, and the risk of money laundering will be greatly increased. In the foreseeable future, legal digital currency will have the opportunity to become a means of fraud for criminals. Since the anti-money laundering regulations formed according to the characteristics of the traditional RMB cannot be applied to the anti-money laundering of digital RMB, the application of the law will "failure", resulting in the problem of money laundering being separated from the previous anti-money laundering laws and regulations, resulting in a law enforcement vacuum. From the perspective of law enforcement, we start from two aspects of law enforcement technology and judicial supervision. Regulatory technology is the combination of law and technology, and adopts technological methods to enhance supervision. However, in the establishment of the legal digital currency judicial mechanism, we must conduct research based on the particularity of the matter itself, and determine that there are no "universal standards" and "universal formulas" suitable for any matter. It stipulates that the risk of money laundering contained in digital currency is related to its own particularity. Therefore, China's anti-money laundering rules should be adjusted and established according to the particularity of legal digital currency.

6. Personal information protection issues

Legal digital currency is stored in an encrypted electronic manner, and the identity number and private key become the basis for judging the ownership of property rights, and mainly reflect the function of property right circulation through data transmission. At the same time, transaction records are kept during the transaction process, making the legal digital Currency has a more serious information security risk than ordinary banknotes—if information is leaked, it will not only infringe on personal privacy, but also cause individuals to lose control over the legal digital currency itself, thereby damaging the interests of personal assets. Therefore, on the one hand, technical facilities and confidentiality measures should be improved, and service providers who provide software and

hardware for storage and transactions of digital currency must comply with national and industry signs. The risk of personal information disclosure such as clients in digital currency, the government needs to prohibit the illegal collection and theft of personal information in legislation.

Moreover, after the legal digital currency is issued, the ecology of banknotes has changed drastically. At the same time, with the in-depth exploration of its issuance and circulation system, its use scenarios will be further deepened, and its scope of use will become wider and wider. In this process, the legal digital currency will inevitably generate more complex legal issues, such as its impact on the international financial system, especially the impact on the operational efficiency and security of financial infrastructure, and the acceleration of bank deposits and financial asset conversion. Wait. Therefore, when making legislation, we should try our best to formulate relevant legislative provisions according to the current situation to maintain the stability of the financial system.

IV. LEGAL DIGITAL CURRENCY REGULATORY LEGISLATION IMPROVEMENT COUNTERMEASURES

Through the above analysis and judgment, for the legal compensation that China's newly developed legal digital currency may face, the handling of legal issues such as anti-counterfeit currency and anti-money laundering is crucial to the successful development. China is currently promoting the market-oriented development and transformation of the financial industry in an all-round way. According to the needs of market-oriented, functional, systematic, and integrated new operating methods and the construction of supervision and management systems and mechanisms, China should make more comprehensive revisions to the entire financial industry legal system with perfection.

Revise and improve existing relevant laws and regulations, specifically, include but not limited to the following:

1. "China's RMB Management Measures" (hereinafter referred to as "Regulations")

Article 2 of the "Regulations" expressly stipulates that "the Renminbi referred to in these regulations refers to the currency organized and circulated by the People's Bank of China according to law, including banknotes and coins." Article 3 of the Regulations clearly stipulates that RMB banknotes and coins have unlimited legal compensation, and all public and private debts in China are borne in RMB, and other units and individuals have no right to reject them. The second rule clearly defines that the main forms of existence of RMB are banknotes and coins, which indirectly excludes digital currency with electronic data as the main form of existence, thus restricting the legal compensation of digital currency, so it is necessary to specify this article. The scope of regulations has been expanded so that digital currency can be developed simultaneously with banknotes and coins, thus clarifying the legal value of digital currency.

The thirty-first regulation of the "Administrative Measures" stipulates that no counterfeiting or altering of RMB is allowed. It is not allowed to sell or purchase counterfeit or altered RMB. It is not allowed to smuggle, transport, hold, or use counterfeit or altered RMB. Obviously, digital coins, as intangible electronic data, it cannot be forged, altered, smuggled and transported, but this article does not mean that there must be no counterfeit currency problem in digital currency. The digital information system of banking institutions and the informal way of cracking digital currency algorithms are realized, so it

is necessary to include such social activities in this article, and to regulate the problem of counterfeit digital currency.

In addition, because banknotes and coins are managed or owned by the owner as specific categories and substitutes, and each unit of money has the same characteristics, and does not additionally carry the personal information of other owners, the "Regulations" does not Issues concerning the security of personal information are not required to be regulated. However, since digital currency only appears in the form of electronic data, it can be stored in a special electronic account or a special electronic data storage device, and can be circulated and consumed through the account, and the account will store the basic information of all account holders. In this case, it is necessary for the "Regulations" to regulate the preservation of basic information.

2. "Law of the People's Republic of China on the People's Bank of China" (hereinafter referred to as "Bank Law")

Article 18 of the "Commercial Bank Law" clearly stipulates that "RMB is printed and sold by the People's Bank of China. When the People's Bank of China issues new RMB, it must announce the release date, face value, graphics, style, and size in a timely manner." The specific content is similar. This article does not determine the status of digital currency at the same time, and it should make detailed regulations on its issuance method according to the characteristics of digital currency: Article 19 of the "Banking Law" is also made on the issue of counterfeit banknotes of traditional banknotes. Specific specifications, such as the above-mentioned specifications, should also consider adding specific content to regulate the counterfeiting of digital currencies through technical means.

3. "Anti-Money Laundering Law of the People's Republic of China" (hereinafter referred to as "Anti-Money Laundering Law")

Due to the privacy, convenience and other characteristics of digital currency, it is very easy to be used as a medium for fraudulent incidents, but at the same time, because of the strong professionalism of digital currency, traditional anti-money laundering regulatory measures are often ineffective. Therefore, according to the anti-money laundering risks that legal digital currencies may face, the "Anti-Money Laundering Law" should be similar to the judicial supervision of private digital currencies, introduce requirements for financial supervision technology, integrate justice and technology, and encourage regulatory agencies to adopt codes. That is, judicial-like technological methods to strengthen financial supervision. In short, for the issue of digital currency anti-money laundering, we must modify and improve the current "Anti-Money Laundering Law" according to the characteristics of digital currency to reduce the risk of money laundering.

4. Promulgate the resolution of the National People's Congress

When the People's Bank of China starts to circulate legal digital currency in the future, the Standing Committee of the National People's Congress may also issue a resolution at the same time to regulate the legal status of legal digital currency, distribution flow, and the basic rights, responsibilities and obligations of various market entities, to make a more comprehensive system of norms. The advantage of this method is that the level of legislation is high, the cycle of legislation is short, the operability is strong, and it can comprehensively cover the statutory issues involved. The disadvantage is that it is not possible to deal with legal issues regulating legal digital

currencies in a more specific and detailed manner like criminal law.

5. Improving the Currency Law

China's current financial legal system was mainly formed around the 1990s, because shortly after China's reform and opening up at that time, people's understanding of the RMB legal system still remained at the point of regarding it as a supervisory issue for the central bank. At the theoretical level, people cannot fully regard RMB as a relatively independent national property law system. At present, only seven legislative norms related to RMB are clearly stipulated in the "National People's Bank Law", and the "Renminbi Regulations" are mainly about the management norms of RMB production, issuance and withdrawal, and the payment and settlement of RMB can only be regarded as the internal supervision problem network of the People's Bank of China. Due to the development of China's economy and society, the People's Republic of China has gradually become the second largest market economy in the world. The establishment of the " Belt and Road " will also lead to more and more extensive and in-depth economic and trade ties between China and the world. In this process, modernization is also being accelerated, but it will be accompanied by more and more complicated regulatory issues formed in the entire process of operating the RMB circulation field. At the same time, because the technical characteristics of the legal digital RMB are different from the Traditional banknotes and coins are different, and the previous legal supervision methods and rules and regulations are likely to encounter the risk of failure, and there are also huge challenges to the current financial legal system. Therefore, by writing a relatively comprehensive system based on the current reality, the scientific and perfect "Currency Law" stipulates and summarizes the types and characteristics of RMB, as well as the basic rights and obligations of various market players, etc. It is the most effective way to solve the problem, and it is the inevitable choice for the construction of the legal system of the entire Chinese financial market.

In terms of specific legislative content, the key provisions of the " Currency Law" should focus on the following levels: First, the provisions are objective, including clarifying the relevant legal nature, concept types, external manifestations, organizational structure and various aspects of legal RMB. The basic rights and obligations of coins and related participants, etc. , need to be clearly included in the classification of digital currency , leaving legal space for the issuance of legal digital currency in the future ; The basic rules and methods that should be observed during operation and the basic rights and responsibilities of the respective parties in the process of operation in the field of circulation , especially according to the common usage methods in data currencies that are different from traditional banknotes and coins , must also be formulated . Third, legislative supervision, the legislative supervision institutions, principles, models and means, etc., involving legal tender. It is particularly worth noting that according to the characteristics of legal tender concealment and transnationality, it is necessary to pass detailed legislation related to legal tender. clauses to motivate and guide the supervisory agency, and adopt a supervision model combining technology and legislation, so that the supervisory agency becomes the right node in the underlying blockchain of the digital currency, and can use the role of a judicial intermediary to manage the blockchain under certain conditions. Litigation and coordination of disputed issues in the currency, and notarization of important judicial procedures. In addition, the introduction of a smart contract system can also be considered,

and the specific terms of the "Currency Law" can be embedded in the currency to play a role in blockchain management. China can intervene in the role of multiple parties in dispute resolution. Finally, it can make specific regulations on the extraterritorial transaction functions, operating rules, regulatory standards, and judicial norms of national coins.

V. IN CONCLUSION

From physical currency to electronic currency, and then to legal digital currency is a necessary process for the gradual dematerialization of RMB. In the process of digital currency legislation construction in the future, China also needs to actively explore a complete private digital currency legislation and supervision system, and effectively guide the innovation and development of technology within a controllable range; in addition, actively promote legal digital currency legislation. Various works, and clearly put forward the status of legal digital currency. The two roads go hand in hand, and positive interaction can complete the legal construction of China's digital currency in an all-round and multi-level manner. Make overall plans, explore the establishment and development of the upper-level method of the network financial system as soon as possible, gradually complete the introduction of the legal digital renminbi and the construction of the rule system, grasp a greater voice in the future global financial system, and grasp the international value of the renminbi. Great opportunity for overtaking on curves.

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