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FINANCE & BANKING ALERT

IN THIS ISSUE >

The rise of crypto arbitrage

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Crypto asset traders have also identified the opportunities of potential profits which can be gained buying crypto in one country and selling it in another. For example, we heard news of the "Kimchi Premium" where traders in South Korea were paying much more for Bitcoin in terms of US Dollars than they would have done if they purchased the Bitcoin in the US or other jurisdictions.

At one point in 2017, a local exchange in Zimbabwe was selling Bitcoin for almost double the price quoted on other international exchanges. Bitcoin has also traded at a premium in Hong Kong and Argentina and there are other examples around the world.

Is cross-border crypto arbitrage permissible in South Africa?

- Increasingly, South African investors are seeking to buy crypto on foreign platforms and then transfer that crypto to a local wallet held with a local South African platform provider. Crypto can, depending on the market conditions prevailing from time to time, be sold at a higher price on South African platforms than the price it was originally purchased for on a foreign platform.
- From a regulatory perspective, the South African Reserve Bank (SARB) is aware of the emergence of crypto arbitrage trading, although no formal communications have been issued by the SARB in this regard.

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It is strictly prohibited for a resident to directly or indirectly use the allowances of another resident. Unused allowances can also not be rolled over to subsequent years.

The rise of crypto arbitrage...continued

- The South African Intergovernmental Fintech Working Group (IFWG) published a consultation paper on crypto assets and crypto asset service providers in January of 2019. Whilst the paper highlighted the risks and benefits of crypto asset activities and crypto asset trading, it primarily reviewed the approaches taken by other jurisdictions, and presented recommendations for dealing with crypto assets and crypto asset service providers from a South African perspective. No express mention was made with regard to how crypto arbitrage might be regulated going forward. The IFWG has, according to their most recent publication, started collecting voluntary transactional data from crypto exchanges. They have further announced plans to establish an innovation hub that will include a regulatory sand box planned to be operational by early 2020.
- Funds transferred by a resident to a foreign crypto wallet for the purchase of crypto, would be subject to the following exchange control limits imposed on South African residents:
 - a R1 million single discretionary allowance (per person over the age of 18, per calendar year);
 - a R10 million foreign investment allowance (per person over the age of 18, per calendar year: provided that a tax clearance certificate is obtained from the South African Revenue Service).
- These allowances are not transferrable and each South African resident is entitled to use only his/her own allowance for a given calendar year, whether in respect of investments in crypto offered by foreign platforms or for any other foreign investment purposes. It is strictly prohibited for a resident to directly or indirectly use the allowances of another resident. Unused allowances can also not be rolled over to subsequent years.

What regulations must be considered?

- Although no crypto specific regulations are in place, investors implementing any form of cross-border crypto trading must comply with:
 - the exchange control restrictions applicable to South African residents;
 - the tax obligations in relation to declaring income and/or capital gains.
- Given that the SARB is already aware of crypto arbitrage practices by South African residents, we recommend that investors in this space proceed with caution and be ready for any future regulations which may be formalised in due course.
- In this regard, attention must be paid to the IFWG's periodic publications and updates and press releases.

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