

# Electronic Money System and its Importance in Electronic Payment: Comparative Analysis of Bahrain and UK Laws

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## Abstract:

This research determines the methods of electronic money that are used in Bahrain and UK as well as its importance in being able to create an electronic payment. Laws which regulate the area in Bahrain have been explored and cases of breach of law in relation to electronic money have been identified. The research paper sought to determine whether the area of electronic money in Bahrain has been regulated and in what regard. The regulatory body who maintains oversight over such transactions has been identified as has the main law which would determine whether an electronic payment was lawfully made or not. The research has studied the subject of electronic money and its importance in electronic payments in depth as it relates to Bahrain and UK. The paper has placed a specific focus on the laws, regulations, and governmental bodies, which govern the arena. Boolean searches were run in order to gain a representative selection of up to date information on the subject. We find that the Bahrain has electronic money products on offer, with consistent regulations that are in line with the same crimes in the physical world. There is an obvious willingness to accept new digital money products into the financial services sector, as can be seen by the Sandbox hub allowing at least four crypto currency exchanges to operate at present. This has been identified by the Central Bank of Bahrain to determine what type to allow for crypto currency coming on board. Bahrain's approach in this regard is markedly different from England, with the main Bank of England on behalf of England's Central Bank taking the opposite stance on the use of crypto currency as electronic money.

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## I. INTRODUCTION

Bahrain, being at the centre of the GCC financial hub is no stranger to a customer's desire to make payments and receive same electronically. The rise of internet banking globally was also taken hold by the country and banks which offer Bahraini residents financial services. It is required that at least one of three options for facilitating a payment is made by a bank operating in Bahrain, with the traditional option of a bricks and mortar bank being the first, and the second and third being internet banking or mobile banking. This shows that even at a regulatory level there is an understanding of the inclusion of electronic payments within the financial services sector.

At this stage of financial technology, the ability to make a bank payment online, or use Western Union or PayPal, has almost become a 'traditional' way of making a payment. New types of digital payments through cryptocurrencies such as Bitcoin are at the forefront of the financial services industry at present. Bahrain has shown initiative on the highest level in this regard, by offering an opportunity for digital currencies to operate in a hub environment (the Sandbox), which has offered the regulatory body of financial services in Bahrain, the Central Bank of Bahrain, to oversee how such new Fintech services work in order to define how new regulations should be created.

The importance of making payments electronically in modern society has not gone unnoticed in any part of the world. In this regard, Bahrainis have also used the system of using electronic money to make payments for a wide variety of goods and services. The types of payments and purchases of goods and services which can be done online with electronic money are growing every day. Not only does it include monies which are transferred by a person on their online bank account, but it also includes digital currency which is not issued by a bank, such as most types of cryptocurrency at present. Given that there is a new level of electronic money transacting being done, it is worth understanding what laws intersect over this field, and where there are criminal penalties for misuse or fraud, do they differ from the penalties which are seen in physical currency 'real world' scenarios.

As a country, Bahrain has shown initiative in creating a digital currency hub to gain the opportunity for examples to be made from cryptocurrency exchanges that are used in the country in order to later add formal regulations around the field, after clarification of the parameters have been met through ongoing study of the daily activities of such hubs. Bitcoin is the most popular digital currency, seconded by Ethereum, and both are used by Bahrainis as well as a global population. In Bahrain, the block chain based Fintech programs that are incubating in the Fintech hub have produced various other digital currencies.

Most notably of these is the Tam Dinar, which is approved and licensed by the Central Bank of Bahrain and is considered 'Bahrain's e-money'; over 250 kiosks located across the country sell the Tam Dinar, issued as a receipt and able to be used in many government entities. This list includes the GDT, MoJ, Bahrain Customs and Bahrain Polytechnic, with more locations coming on board as recognition of this type of electronic money widens. The Tam Dinar also has a mobile app that can

integrate all other electronic money transaction centers that a person might use, including bank and credit cards.

It can be seen that a fraud would be a fraud, in the real world or online, and at present all electronic money criminal penalties are aligned with the same types of theft or fraud penalties that someone stealing or will fully abusing their financial responsibility face. There are no specifically electronic based fraud criminal penalties on the books in Bahrain, and whether it is traditional or electronic transactions, the penalties are based on the same laws

## II. REGULATING ELECTRONIC PAYMENTS IN BAHRAIN

In Bahrain, the Red Book (first edition) explains the process of payments, clearing and related settlement systems that are in use in various countries. The inclusion of an electronic payment system in any country increases the effectiveness of the financial system of that country. Transaction costs are often noted as being one benefit of making an electronic payment, and time is also a consideration. It is much faster to send an electronic payment than it is to make a traditional payment at the bank. This facilitates an effective use of national resources and personal financial resources and acts to improve the financial market's liquidity. It also creates the opportunity for a well-defined conduct and monetary policy to be created, such as can be seen in Bahrain.

The Central Bank has a founding interest in maintaining the efficiency and overall safety of the financial market infrastructure and it plays the key role in domestic payments. In Bahrain, the Central Bank of Bahrain (CBB) is the only regulator over the national financial sector and has a complex regulatory framework that encompasses all financial services which can be provided by either a conventional financial institution or by an Islamic

financial institution. Bahrain is a regional centre for Islamic finance and conventional finance, supported by the regulatory framework and by Shari'a compliant financial products.

Payment systems in Bahrain have been significantly modernized in the past 20 years, and large reforms were made in relation to payments, clearing and the settlement infrastructure, to bring the country in line with best practice as seen through international standards. In 2007, the Real-Time Gross Settlement System (RTGS) and the Scripless Securities Settlement (SSS) systems were implemented by the CBB. These systems acted to modernize the transaction process on all securities related products and their day to day use. In 2012, the cheque clearing process was outsourced to the Benefit Company. TBC were authorized to implement a real-time electronic fund transfer system that facilitates bank customers in the transferring of funds between accounts held with different banks on an almost immediate transaction basis. There are three different retail payment systems that are operated by the TBC, the Bahrain Electronic Network for Financial Transactions (BENEFIT), the Bahrain Cheque Truncation System (BCTS) and the Near Real-Time Electronic Fund Transfer System (EFTS).

Electronic payment systems in Bahrain have progressed to include a requirement by the EFTS requiring all participating banks to facilitate their customers being allowed to receive all types of electronic inward bound payments and also offer at least one of three options to customers: a physical bank branch, mobile banking or internet banking. Legislative decrees and laws which are relevant to electronic payments include the CBB law, which is what gives the CBB the right to have several roles in the payment settlement and clearing areas of the financial services sector. Under Article 32 of CBB, the empowerment to own and operate payment clearing systems is given to the CBB, with allowance to outsource such system management to

another company as well as to create new regulations relating to the payment clearing and financial settlement systems.

Article 39 of the CBB defines the regulated services which the CBB is in charge of, which broadly covers all areas of financial transactions. As such it would include both electronic payments made and cryptocurrency as it currently stands in law (as a commodity). If in the future the area of cryptocurrency is redefined, it will still fall within the remit of the CBB. The exact list of regulated services which the CBB is in control over is defined in Regulation No 1 of 2007 entitled "Pertaining to the Central Bank of Bahrain Regulated Services" which was published by the CBB in the official gazette on 27 December 2007. It also includes Resolution No 9 of 2010 and Resolution No 43 of 2010 amending Regulation No 1 of 2007.

The main area of regulation for electronic payments falls under Legislative Decree No 28 of 2002 with regard to Electronic Transactions and subsequently amended by Law No 6 of 2012 that allowed for the BCTS to be created. It provides the legal framework for electronic signatures, electronic transactions, electronic records, and provided for electronic records to be admitted as evidence. It cemented the legitimacy of an electronic signature to be legally recognized and the use of electronic agents in creating contracts.

## 2.1 Cryptocurrency Legality in Bahrain

In terms of cryptocurrency, Bahrain recognises cryptocurrency as a commodity which can be traded in the exchanges but do not consider it to be a legal tender 'in any form'. This is an interesting perspective as it naturally brings up the idea of clarifying the differences between legal tender and a traded commodity. In March 2018, Bahrain Fintech Bay was regarded as the largest Fintech hub in either the Middle East or North Africa (MENA) region and was Bahrain's first Fintech cluster which is guided by regulatory framework which central banks have

adopted to reduce entry requirements for Fintech firms. This categorization is how a digital currency company would fall under, and with the focus of Fintech being on developing entrepreneurship through Fintech in Bahrain, it would be for the Central Bank of Bahrain to consider future legitimization and monetization or regulation of digital currencies as legal tender.

As of March, there were four cryptocurrency companies falling into this regulatory SandBox in Bahrain, which will allow for the study on how these exchanges function prior to solid regulations being established guiding same. One such cryptocurrency exchange, Belfrics Global, was opened in January 2018 as an extension office to a Malaysian based cryptocurrency technology provider. A Belfrics Global company statement noted that this approval allowed access to the digital transaction market which was valued at \$50 billion in the MENA region alone.

### III. CRIMINAL PENALTIES

As Bahrain is the leading financial centre in the Gulf area, there have long been laws against money laundering and financial related fraud or theft. There area of money laundering in particular is rooted in online and real- world scenarios, so there is no difference in law as to the criminal penalties for one of these crimes if it were to happen online or if it happens in the physical world.

Money laundering, electronic money theft or fraud would be defined by the Kingdom of Bahrain as criminal offences that would fall under the Financial Crime Regulations. These regulations are based on the Financial Action Task Force Principles, which were the Financial Crime Regulations that were brought into effect by the Central Bank of Bahrain . There is a focus on inclusion of all relevant identifying documentation to be included with all electronic money transfers in order to combat fraud, terrorism financing or money laundering. A

contractual nature of every transaction is created wherein the sender is affirming that the electronic monies they are sending are legitimately theirs, and for a legitimate purpose. If funds are not backed when a transfer is made, the sender would be held liable.

An important law in relation to financial fraud of any type in Bahrain is Law 62 of 2014 (the new Commercial Anti-Fraud Law) that was established to pursue or impose sanctions on anyone that supplies a counterfeit product, which would arguably include any false electronic money transactions. The law has a broad definition of what a counterfeit product is, and it is any original product that has been tampered with or changed in any way that results in a loss of some of the product's material or in-kind value. This would include the type, property, form, measure, scale, element or origin of the source. Sentences for criminal activity in this regard could range from 3.5 to 10 years and include financial penalties of 3,000 to 20,000 Bahraini Dinars.

### IV. CRITICAL ANALYSIS

It is clear that being able to use electronic money in a personal financial portfolio has given people in Bahrain, and around the world, the ability to make purchases and payments for goods and services across the world. This can only be seen as a good thing, but the fact is clear that there is a lot of opportunity for fraud to take place when electronic money forms are used. Oversight in the electronic world is different than those which people have traditionally used, and for this reason it is necessary to follow given regulations in relation to showing the identity of the sender and receiver at all times. The source of funds also come into question, and a solid structure of regulatory oversight as can be seen to be in effect by the CBB will go a long way in ensuring that people can be safe in the knowledge their electronic money transactions are safe. As can be seen from the TIBC bank scandal, oversight regulations on their own do not stop electronic



money fraud from happening, and it is with a stringent physical world oversight on all electronic transactions that safety is created.

A comparison can be made between the availability of electronic payment methods, types of electronic payments that are available and solid regulations which guide same between Bahrain and England. It can be seen the Bahrain is on the cusp of technological acceptance in the fintech area whereas England is yet to incorporate such up to date stance. For instance, the Bank of England wrote in a white paper in 2017 relating to digital currency inception, that they are not considering integrating it into their currency and that anyone using it should be ready to lose all their money. While the Bank of England, as other English banks, offer digital electronic payments for bank customers, the electronic money used is directly from their accounts which they could also withdraw cash on. This is not the same as allowing debts to be paid by a digital currency such as the option exists in Bahrain. There is a distinction in England between electronic money and digital currencies such as Bitcoin or any other cryptocurrency. While there are cryptocurrency exchanges in the UK, they are not regulated by the Central Bank as they are not considered currency. As such, there is a higher level of risk to anyone purchasing or accepting cryptocurrency in England as there is in Bahrain.

Part of this issue is in the fact that in England, since the cryptocurrency exchanges are not considered currency, they do not hold the same liabilities to their customer as any other financial transaction. In Bahrain a financial transaction of any type would bear the same compliance requirement as what would be seen in physical cash.

When a cryptocurrency is used in England, either nationally or globally, the only backing it has in law is the contractual agreement which the user entered into with the exchange when they decided to use it. In fact, this would mean that there is really nothing to stop fraud from happening in cryptocurrency or nongovernment backed digital currency, because the

contracts which are offered in the terms and conditions on platforms waive all liability. In theory, an exchange could shut down in England still owing their platform users money, but that would not be possible in Bahrain. In Bahrain, the use of the government accepted cryptocurrency is considered the same as any financial instrument.

England does offer all other forms of digital currency which could be seen in Bahrain with the exception of Western Union, which has alternative competitors in the country to make global transfers. In all senses of electronic money regulations as exist in Bahrain, the same could be seen in England with the exception of cryptocurrency. There is a reluctance to allow cryptocurrency in England and the Bank of England has maintained a consistent stance against considering any integration of cryptocurrency with electronic money that is linked to bank accounts. Whereas the English government think that an addition of cryptocurrency to their legal tender could act to upset the typical economic structures that are in place, Bahrain understands that the addition of same acts to offer a more wide-ranging capabilities to financial product users nationally. Indeed, in this regard, Bahrain can be seen to be on the cusp of global technological advance in the Fintech industry.

## V. CONCLUSION

Bahrain is a centre in the Gulf for financial activity and can be seen to be on the edge of the Fintech developments globally through the integration of digital currency possibilities. With the growth of Fintech areas and the increased use of electronic money to facilitate everyday transactions, it is clear that the future of the industry will be shifting from the traditional bricks and mortar method of physically showing up to pay for a good or service or withdraw physical cash to make a purchase. Digital transactions have been on the rise for many years across the globe, and Bahrain is well placed with stringent regulatory checks in place to keep pace with this growth in a safe manner.

The future of the industry is of course uncertain, in the sense that we cannot foresee now what new technological advancement in the Fintech industry will sweep the globe next. We can be sure, however, that Bahrain is in line with the most advanced countries in creating a space to review what actions need to be regulated, such as the case in the digital hub sector of cryptocurrency exchanges in the Sandbox.

The Central Bank of Bahrain retains the authority to enact new financial related laws as they become relevant. The clarifications around any new Fintech electronic money market which does not already align within current regulations is something that the country will see once the Sandbox initiative has progressed to be able to discern where regulatory functions should exist in cryptocurrency related electronic money transactions. In England, cryptocurrency is not considered legal tender, and as such it is only traded between willing parties. This is in contrast to the kiosks which Bahraini citizens can use in over 200 locations that allow them to pay government related bills and other types of bills. Bahrain in this sense, does consider cryptocurrency as a legal tender.

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