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China Intensifies Regulations on Cryptocurrency Trading and Mining

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The People's Bank of China ("**PBOC**") posted the *Notice on Further Prevention and Disposal of the Risk of Speculation in Virtual Currency Trading* ("**Notice**") (关于进一步防范和处置虚拟货币交易炒作风险的通知) on its website on September 24, 2021. This Notice is marked effective as of September 15, 2021. The Notice reinforced the concept that cryptocurrency is illegal and provides that all related services, such as offering trades, exchanging between legal tender and cryptocurrency or between different cryptocurrencies, or providing information intermediary and pricing services for cryptocurrency transactions, are all deemed illegal financial activities.

Unlike prior regulations on cryptocurrency issued by industry associations or regional administrative bodies, this Notice was jointly released by 10 central government regulatory bodies, implying that this Notice is a high-level and national legal precedent. The 10 regulators include:

- PBOC
- The Office of the Central Cyberspace Affairs Commission ("**CAC**")
- The Supreme People's Court
- The Supreme People's Procuratorate
- The Ministry of Industry and Information Technology ("**MIIT**")
- The Ministry of Public Security ("**MPS**")
- State Administration for Market Regulation ("**SAMR**")
- China Banking and Insurance Regulatory Commission ("**CBIRC**")
- The Securities Regulatory Commission ("**SRC**")
- State Administration of Foreign Exchange ("**SAFE**")

This Notice further clarifies that providing cryptocurrency services to Chinese residents from overseas is also covered as an "illegal financial activity" under the Notice and employees working for overseas platforms while physically in China providing such services to Chinese residents would be in violation of the Notice and can be criminally charged.

The Notice also (i) requires all relevant local government authorities to monitor and supervise all related entities and organizations to cooperate in banning cryptocurrency-related businesses at all levels; (ii) prohibits the provision of banking and financing, advertising and marketing services and internet access to cryptocurrency-related businesses; and (iii) prohibits the inclusion of virtual currency or virtual assets related words or content in registered names of businesses.

This Notice is not the first regulation related to cryptocurrency, but is the culmination of multiple regulatory pronouncements that progressively limits the viability of the cryptocurrency industry in China. A brief summary of the regulatory progression is as below:

2013 – the *Notice on the Prevention of Bitcoin Risk* (关于防范比特币风险的通知) was issued by 5 central bodies, including PBOC, MIIT, the China Banking Regulatory Commission (abolished), SRC, and the China

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Insurance Regulatory Commission (abolished). This notice indicated that bitcoin is illegal and financial institutions and payment institutions are not allowed to conduct any business related to bitcoin.

2017 – the *Announcement on the Prevention of Token Issuance and Financing Risks* (关于防范代币发行融资风险的公告), by 7 central bodies, including PBOC, MIIT, SAMR, the China Banking Regulatory Commission (abolished) and the China Insurance Regulatory Commission (abolished). This announcement focused on initial coin offerings and financings and prohibited token trading platforms from providing exchange services, including trading, pricing or quotation, for any virtual currencies. The Announcement promulgated in 2017 did not clarify the geographical scope of its applicability. Nonetheless, a lot of cryptocurrency platforms migrated their operations overseas after this announcement.

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In **February**, the Development and Reform Commission of Inner Mongolia Autonomous Region issued the *Several Guarantee Measures on ensuring the completion of the “14th Five-Year Plan” double control of energy consumption (Draft for Comments)* (关于确保完成“十四五”能耗双控目标任务若干保障措施 (征求意见稿)), providing that new virtual currency mining projects are strictly prohibited.

In **April**, the Beijing Economic and Information Bureau issued the *Urgent Notice on Mapping the City’s Data Centers Involving Bitcoin and Other Cryptocurrency Mining Operations* (关于摸排我市数据中心涉及比特币等加密货币挖矿业务情况的紧急通知), mandating the collection of information about electricity consumption and total energy consumption ratio of cryptocurrency mining operations in the past year, which was considered as preparation for further action.

In **May**, the China Internet Finance Association, the China Banking Association and the China Payment Clearing Association released the *Announcement on Risks of Speculations in Virtual Currency Trading* (关于防范虚拟货币交易炒作风险的公告), stated that virtual currency is not a legal tender and prohibited financial institutions from being engaged in or to provide services for virtual currency related businesses.

The Development and Reform Commission of Inner Mongolia Autonomous Region also released the *8 Measures on Resolutely Combating and Punishing Virtual Currency Mining Behavior (Draft for Comments)* (关于坚决打击惩戒虚拟货币“挖矿”行为八项措施(征求意见稿)), to retire cryptocurrency mining projects in its region. These measures include removal of all kinds of concessions, revocation of value-added telecommunications business licenses, closure of businesses, etc.

In **June**, the Sichuan Development and Reform Bureau together with the Sichuan Energy Bureau released the *Notice on Cleaning Up Virtual Currency Mining Projects* (关于清理虚拟货币“挖矿”项目的通知), setting a deadline of June 20, 2021 for shutting down the cryptocurrency mining facilities in the region which were supplied by local power companies.

Additionally, the Qinghai Provincial Department of Industry and Information Technology released the *Notice on Clean-up and Rectification of Virtual Currency Mining Projects* (关于对虚拟货币“挖矿”项目开展清理整顿工作的通知), strictly forbidding the establishment or approval of cryptocurrency mining projects and required the shutdown of all existing crypto currency mining projects.

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The Xinjiang Changji Prefecture Development and Reform Commission also released the *Notice on the Immediate Suspension of Production and Rectification of Enterprises Engaged in Virtual Currency Mining Practices* (关于立即对虚拟货币挖矿行为企业进行停产整顿的通知), requiring the cessation of all cryptocurrency mining related businesses by June 9, 2021.

On **September 3, 2021**, the *Notice on the Regulation of Virtual Currency Mining Activities* (关于整治虚拟货币“挖矿”活动的通知) was released by 11 central government agencies, including the National Development and Reform Commission of China (“**NDRC**”), the Propaganda Department of the CPC Central Committee, CAC, MIIT, MPS, the Ministry of Finance of China, PBOC, the State Administration of Taxation of China, SAMR, CBIRC, and the National Energy Administration of China. This notice provides for the cleaning up of existing cryptocurrency mining projects and lays the groundwork for halting the business registration and investments in cryptocurrency mining projects. This notice provides that “before cryptocurrency mining is formally added to the “phase-out” list in the *Industrial Restructuring Guideline Catalogue* (产业结构调整指导目录), it should be deemed and dealt with as a “phase-out” industry (淘汰类产业).”

On **October 8**, the NDRC released the *Negative Market Access List Y2021 Version (Draft for Comment)* (市场准入负面清单 (2021 年版) 征求意见稿), providing that cryptocurrency mining is listed in the “Phase-out category”, which means investment in such activity is prohibited if this draft of the negative list comes into effect.

According to *Caijing Magazine* quoted by *Global Times* on October 12, 2021, the Supreme People’s Court and the Supreme People’s Procuratorate are also exploring specific ways to implement the Notice.

Effects on the Cryptocurrency Industry

Although many Chinese crypto exchanges have moved their bases overseas after the 2017 *Announcement on the Prevention of Token Issuance and Financing Risks* (关于防范代币发行融资风险的公告), the Notice puts additional pressure on all crypto currency trading platforms and service providers that serve Chinese clients resident in mainland China. After the Notice was released, many crypto exchanges and tools providers have actively taken action to limit their interaction with China-based clients:

- **Binance**, the world’s biggest crypto exchange in terms of daily trading volume of cryptocurrencies, halted new registrations for users from mainland China and announced on October 13, 2021 that it will delist the CNY trading zone on December 31, 2021. Mainland Chinese investors’ accounts will be switched to “withdraw only mode” thereafter.
- **OKEx** announced on October 13, 2021, that it has shifted its businesses to foreign markets and will not build up operation teams in mainland China any longer.
- **Sparkpool**, the leading Ethereum mining pool, based in Hangzhou, announced that it will cease its operation by September 24, 2021.
- **NBminer**, a cryptocurrency mining software that supports optimizing the use of graphics cards designed by the Chinese developers, announced that it will stop providing technical supports to users in mainland China.

Other non-trading cryptocurrency service providers, such as the trading price quotation websites, DeBank and CoinMarketCap, and crypto wallet service providers, such as TokenPocket, also terminated some functions and services for users in mainland China one after another by the end of September.

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Given the flood of regulations recently adopted on prohibiting cryptocurrency mining and trading, foreign cryptocurrency platforms or service providers which have not yet acted in response to the Notice, especially those that have operations in China, should review, identify and figure out how to deal with Chinese users and their staff in mainland China (if any) as soon as possible.

For more information, please visit our [China Updates](#) page or see the following resources:

- [China's Amended Administrative Penalty Law Took Effect on July 15](#), October 8, 2021
- [China Issues New Rules Regulating Personal Information Collection by Mobile Apps](#), April 28, 2021
- [A New Gateway to China – Recent Policy Developments in the Hainan Free Trade Port](#), April 6, 2021
- [China Issues Measures for the Security Review of Foreign Investments, February 9, 2021](#)
- [China Patent Law Fourth Amendment—Impact on Foreign Companies](#), January 26, 2021
- [China Regulators Remove Restrictions on Insurance Fund Investment](#), December 14, 2020
- [China Adopts Interim Provisions on the Review of Concentrations of Business Operators for the Anti-Monopoly Law](#), November 30, 2020
- [China Releases Draft Personal Data Protection Law for Comments](#), November 12, 2020
- [China Adopts Export Control Law](#), November 5, 2020
- [China Releases New QFII/RQFII Rules](#), October 27, 2020
- [China Releases Provisions on Strengthening the Supervision of Private Equity Investment Funds \(Draft\)](#), October 15, 2020
- [China Releases Provisions on the Unreliable Entity List](#), October 5, 2020
- [China Releases Revised Measures on Handling Complaints of Foreign-Invested Enterprises](#), September 23, 2020
- [China Releases Administrative Measures for Strategic Investment by Foreign Investors in Listed Companies](#), September 10, 2020
- [China Releases Draft Data Security Law](#), September 8, 2020
- [China Releases Circular on Further Stabilizing Foreign Trade and Foreign Investment](#), August 24, 2020
- [China Releases Draft Measures for the Administration of Imported and Exported Food Safety](#), August 18, 2020
- [U.S. Listed Chinese Companies: Regulatory Scrutiny and Strategic Options](#), July 30, 2020
- [China Passes Controversial Hong Kong National Security Law](#), July 9, 2020
- [China's Relaxed Financial Sector May Aid Foreign Investors](#), June 18, 2020
- [Is There a Law in China Similar to the US Defense Production Act?](#), May 8, 2020
- [Coronavirus Brings Force Majeure Claims to LNG Contracts](#), March 4, 2020
- [The Rise of China](#), March 4, 2020
- [Coronavirus Fears Cast Cloud Over Dealmaking](#), February 27, 2020

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