

Will the Gaming Industry Go All in on Crypto?

Article By:

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The popularity of cryptocurrency exploded in 2021 and consumer interest continues to grow. One prospect of particular interest for investors is the use of cryptocurrency in the gaming industry, and for sports betting in particular.¹ State legislators, regulators, and gaming operators are thus far taking a cautious approach.²

Wyoming became the first state to permit the use of cryptocurrency for sports betting transactions when it launched sports betting in September 2021.³ Wyoming law permits sports betting platforms to accept cryptocurrencies provided that the currency can be converted into a cash-based currency.⁴ Colorado passed the Digital Token Act in early 2022 which, among other things, permits residents to use cryptocurrency for sports betting and even to make tax payments.⁵ Colorado has strict licensing standards for gaming operators who want to accept cryptocurrency.⁶ Other states, including North Carolina and Texas, have proposed legislation that would permit the use of digital, crypto, and virtual currency, respectively, in sports betting.⁷ Industry commenters have predicted that sportsbooks will partner with crypto exchanges to provide digital wallets and enable betting with digital currencies.⁸

Despite significant customer demand, gaming operators have yet to embrace cryptocurrency in the U.S. even where legal.

Regulatory Hurdles Slow the Integration of Crypto in the Gaming Market

As a general matter, gaming operators are highly regulated and must work with regulators to create opportunities for innovation. To date, the entry of cryptocurrency into the U.S. gaming market has been somewhat limited due in part to the lack of a specific gaming regulatory framework at the state level, the friction between the anonymity of crypto and Know Your Customer (“KYC”) requirements, and anti-money laundering (“AML”) regulations.⁹

A precursor to acceptance of cryptocurrency is cashless gaming. In May 2022, Las Vegas became home to the first, fully integrated cashless resort casino.¹⁰ This casino allows patrons to use their mobile wallets for all on-property purchases and gaming.¹¹ This major advancement marked the first step towards expanded use of digital payments, mobile technology, and cryptocurrencies in the casino setting. Significant state and federal regulatory hurdles, and uncertainty, must be overcome before casinos can accept direct wagers in cryptocurrency. Recent actions by the Nevada Gaming

Control Board demonstrate progress, however.

In January 2022, the Nevada Gaming Control Board approved a regulation change that would allow customers to use an app to create and fund a cashless account.¹² This makes it easier for customers to utilize cashless casino gaming. Prior to the regulatory change, customers who wanted to use a digital wallet in the casino were required to verify their identity in person at the casino prior to funding the digital accounts for use. Voting in favor of the regulation, one Gaming Control Board commissioner observed that consumers may have a much different view and experience of what may otherwise appear to be a minor regulatory requirement.¹³

Notably, the Nevada Gaming Control Board's proposed regulation came after the Nevada Deputy Attorney General opined that such regulation would not conflict with federal anti-money laundering laws, clearing the regulatory path for the Gaming Control Board to act.¹⁴ The Gaming Control Board recognized the need to balance the integrity of the game with incorporation of advances in technology.¹⁵

This cautious and deliberate action underscores how, even in a gaming-friendly jurisdiction such as Nevada, it is imperative for operators seeking to innovate to engage with and educate regulators on how best to navigate and reform the regulatory landscape to embrace digital currency.

Examples of early adopters of cryptocurrency include a small group of casinos that have added cryptocurrency exchange kiosks at their properties, which allow customers to convert their crypto holdings into U.S. dollars.¹⁶ A casino on the Las Vegas Strip permits verified customers to use a cashless account through a mobile app.¹⁷ Last year, the casino started accepting wagers from customer's crypto wallets.¹⁸ Wagers are not made in cryptocurrency, however. Rather, the cryptocurrency is converted to U.S. dollars. This casino announced a partnership with a cryptocurrency exchange to explore the use of cryptocurrency in gaming, which currently lacks regulatory approval in Nevada.¹⁹ The Gaming Control Board Chairman informed the Nevada Legislature's Joint Interim Standing Committee on Revenue that the Board welcomes proposals from cryptocurrency industry participants and gaming companies.²⁰

An online sportsbook operating in Colorado is taking advantage of the Digital Token Act by allowing crypto deposits in gaming wallets facilitated by a third-party payment provider.²¹ To provide some protection against the volatility of cryptocurrency, this operator locks in the exchange rate of the cryptocurrency against fiat for 15 minutes while the customer decides whether to make a deposit into their sports betting account. But there are limits – no betting or withdrawals in crypto.²² A resort in Mississippi recently added cryptocurrency ATMs on the casino floor permitting customers to access bitcoin in their crypto wallet and convert the coin to U.S. dollars.²³ Other gaming-friendly jurisdictions, such as Wyoming and Nevada, remain states to watch as lawmakers and regulators attempt to create a legal structure for gaming and sports betting operations that involve cryptocurrency.

Federal Cryptocurrency Regulation

At the federal level, the Biden Administration has taken an interest in the regulation of cryptocurrency.²⁴ As this firm wrote in March, President Biden issued an Executive Order on Ensuring Responsible Development of Digital Assets, which seeks to develop a comprehensive federal framework around digital assets. The FBI announced a digital currency unit earlier this year and the Department of Justice established a new national cryptocurrency enforcement team.²⁵ FinCEN has specifically highlighted money laundering risks associated with the use of crypto in sports betting.²⁶

Given that states have historically been the primary regulators of the gaming industry, there may be some challenges reconciling future guidance and regulation at the federal level with the developing body of state gaming law regulating cryptocurrency. For gaming operators, this presents an opportunity to engage with regulators in the jurisdictions in which they operate or plan to operate, to offer assistance in establishing and amending the regulatory framework with respect to cryptocurrency in the gaming industry.

The Path Forward

There is clearly a market for gaming and sports betting that incorporates cryptocurrency. Consumer curiosity and engagement with respect to blockchain and cryptocurrency will continue to fuel the integration of this technology into daily life. If operators can work to fill regulatory gaps in this area at the state and federal levels, they will have the opportunity to draw these customers into the regulated gaming industry.

FOOTNOTES

1. According to the National Institute of Standards and Technology of the U.S. Department of Commerce “cryptocurrency” includes “digital

asset/credit/unit within the system, which is cryptographically sent from one blockchain network user to another. In the case of

cryptocurrency creation (such as the reward for mining), the publishing node includes a transaction sending the newly created

cryptocurrency to one or more blockchain network users. These assets are transferred from one user to another by using digital signatures

with asymmetric-key pairs.” See NIST Glossary, [Cryptocurrency](#). Other regulators including the U.S. Securities and Exchange Commission

blockchain technology.” *Statement on Digital Asset Securities Issuance and Trading*, Division of Corporation Finance, Division of Investment Management, and Division of Trading and Markets, SEC (Nov. 16, 2018), available [here](#). As the SEC has noted, digital assets include, but

are not limited to virtual currencies, coins, and tokens. *Id.* A digital asset may in certain instances be deemed a security under the federal

securities laws. While not defined in the securities laws, the SEC often refers to digital assets that are securities as a “digital asset

securities.” *Id.*

2. See Pat Evans, [Cryptocurrency in Legal Sports Betting: What's Next?](#), Legal Sports Report, (June 9, 2022).

3. Matt Rybaltowski, [SportsHandle, Wyoming, South Dakota Approve Sports Gambling Rules](#), (Aug. 2, 2021); Zack Jones, [The Next Frontier For US Sports Betting Is Crypto And Blockchain Technology](#), Forbes (September 12, 2021).

4. Jones, *supra*.

5. Matt Rybaltowski, [U.S. Sports Betting Industry Warming Up to Crypto, But Concerns Remain](#), SportsHandle (July 28, 2022).

6. *Ibid.*

7. Heather Morton, [Cryptocurrency 2021 Legislation, National Conference of State Legislatures](#), (Dec. 16, 2021).
8. Jones, *supra* n.3.
9. *See supra* n.5.
10. Steve Ruddock, BettingUSA.com, [Resorts World Casino Goes Cashless with Play+](#), (Jun. 16, 2021).
11. *Ibid.*
12. Colton Lochhead, [Nevada Regulators Approve Cashless Gaming Rules](#), Las Vegas Review-Journal, (Jan. 21, 2022).
13. *Ibid.*
14. Howard Stutz, The Nevada Independent, [Nevada Gaming Commission Approves Regulation Allowing Cashless Registration](#), (Jan. 20, 2022).
15. *Ibid.*
16. Howard Stutz, The Nevada Independent, [Experts: Nevada Casino Industry Can't 'Bury its Head' Over Cryptocurrency](#), (Feb. 28, 2022).
17. Steve Bittenbender, Casino.org, [Nevada Gaming Commission OKs Mobile Verification for Cashless Gaming Accounts](#), (Jan. 21, 2022).
18. Steve Schult, Card Player, [New Las Vegas Strip Casino to Accept Cryptocurrency as Payment](#), (May 10, 2021).
19. *Ibid.*
20. [Nevada Regulator Weighs Cryptocurrency In Gaming Floors. Calls It a "Complex" Topic Due to Pricing Fluctuations](#), (Jun. 6, 2022).
21. *See supra* n.5.
22. *Ibid.*
23. Yasmin Moore, Gambling News, [Mississippi Sees First Cryptocurrency ATM Installed at Casino](#), (Nov. 3, 2021).
24. Ryan Haar, [U.S. Officials Send Mixed Messages on Crypto Regulation. Here's What It All Means for Investors](#), NextAdvisor, (April 18, 2022).
25. Sarah N. Lynch and Chris Prentice, [FBI to Form Digital Currency Unit, Justice Dept Taps New Crypto Czar](#), Reuters, (February 17, 2022).
26. *See supra* n.5.