



## WARNING

### ESMA, EBA and EIOPA warn consumers on the risks of Virtual Currencies

The European Securities and Markets Authority (ESMA), the European Banking Authority (EBA) and the European Insurance and Occupational Pensions Authority (EIOPA) (hereafter referred to as 'the three ESAs') are warning consumers on the high risks of buying and/or holding so-called Virtual Currencies (VCs).

The VCs currently available are a digital representation of value that is neither issued nor guaranteed by a central bank or public authority and does not have the legal status of currency or money. They are highly risky, generally not backed by any tangible assets and unregulated under EU law, and do not, therefore, offer any legal protection to consumers. The three ESAs are concerned by the fact that an increasing number of consumers buy VCs particularly with the expectation that the value of VCs will continue to grow but without being aware of the high risk of losing their money invested.

VCs such as Bitcoin, Ripple, Ether and many others have been highly volatile of late, meaning that there have been significant daily fluctuations in their prices. For example, the value of Bitcoin increased sharply in 2017 from around €1,000 in January to over €16,000 in mid-December and then fell almost 70% to €5,000 in early February. It has more recently recovered some 40% from the low, and is currently trading at around €7,000. The total market capitalisation of the 100 largest VCs is said to exceed the equivalent of €330 billion globally today.

#### Why is it risky for consumers to buy VCs?

The three ESAs warn consumers that VCs can be extremely risky and are usually highly speculative. If you buy VCs, you should be aware that there is a high risk that you will lose a large amount, or even all, of the money invested. When buying VCs, or financial products giving consumers direct exposure to VCs, you are exposed to a number of risks, including the following:

- **Extreme volatility and bubble risk** – Most VCs are subject to extreme price volatility and have shown clear signs of a pricing bubble. If you decide to buy VCs or financial products with VCs as underlying, you should be aware that you could lose a large amount, or even all, of the money invested.
- **Absence of protection** – Despite EU anti-money laundering requirements that will enter into force later in 2018 and which will become applicable to wallet providers and VCs exchange platforms, VCs remain unregulated under EU law. Similarly, exchanges

where VCs are traded and digital wallets used to hold, store and transfer VCs are unregulated under EU law, too. This means, that if you buy or hold VCs, you will not benefit from the guarantees and safeguards associated with regulated financial services. For example, if a VC exchange platform or a digital wallet provider fails, goes out of business, or is subject to a cyber-attack, funds embezzlement or asset forfeiture as a result of law enforcement actions, EU law does not offer any specific legal protection that would cover you from losses or any guarantee that you will regain access to your VCs holdings. These risks have already materialised on numerous occasions around the world.

- **Lack of exit options** – If you decide to buy VCs, you are at risk of not being able to trade your VCs or to exchange them for traditional currencies, such as the Euro, for a long period of time. You may therefore suffer losses in the process.
- **Lack of price transparency** – The price formation of VCs is often not transparent. There is therefore a high risk that you will not receive a fair and accurate price when buying or selling VCs.
- **Operational disruptions** – Some VC exchanges have suffered severe operational problems, such as trading disruptions. During these disruptions, consumers have been unable to buy and sell VCs at the moment they intended to and have suffered losses due to the price fluctuation of VCs held during the period of disruption.
- **Misleading information** – The information made available to consumers wishing to buy VCs, where such information is at all provided, is in most cases incomplete, difficult to understand, does not properly disclose the risks of VCs and may therefore be misleading.
- **Unsuitability of VCs for most purposes, including investment or retirement planning** – The high volatility of VCs, the uncertainty about their future and the unreliability of the VC exchange platforms and wallet providers makes VCs unsuitable for most consumers, including those with a short-term investment horizon, and especially those pursuing long-term goals like saving for retirement.

### **What can you do to protect yourself?**

If you decide to buy VCs or financial products giving direct exposure to VCs, you should fully understand their characteristics and the risks you take. You should not invest money you cannot afford to lose. You should make sure that you maintain adequate and up to date security precautions on the devices and hardware you use for accessing your VCs or for buying, storing or transferring VCs. Also, you should be aware that buying VCs from a firm regulated for financial services does not mitigate the above risks.

## Background information

This Warning is based on Article 9(3) of the three ESAs' founding Regulations and follows the publication of two statements by ESMA on Initial Coin Offerings<sup>12</sup> in November 2017 and an earlier Warning<sup>3</sup> to consumers and two Opinions<sup>45</sup> on VCs published by EBA in December 2013, July 2014 and August 2016.

VCs come in many forms. The first VC was Bitcoin, launched in 2009. Since then, many other VCs, such as Ripple, Ether or Litecoin have emerged. Most of them leverage on the distributed ledger technology, which is also commonly referred to as 'Blockchain'<sup>6</sup>. This warning does not take a view on this technology, nor on other potential applications of it.

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<sup>1</sup> [https://www.esma.europa.eu/sites/default/files/library/esma50-157-828\\_ico\\_statement\\_firms.pdf](https://www.esma.europa.eu/sites/default/files/library/esma50-157-828_ico_statement_firms.pdf)

<sup>2</sup> [https://www.esma.europa.eu/sites/default/files/library/esma50-157-829\\_ico\\_statement\\_investors.pdf](https://www.esma.europa.eu/sites/default/files/library/esma50-157-829_ico_statement_investors.pdf)

<sup>3</sup> <https://www.eba.europa.eu/documents/10180/598344/EBA+Warning+on+Virtual+Currencies.pdf>

<sup>4</sup> <http://www.eba.europa.eu/documents/10180/657547/EBA-Op-2014-08+Opinion+on+Virtual+Currencies.pdf>

<sup>5</sup> <https://www.eba.europa.eu/documents/10180/1547217/EBA+Opinion+on+the+Commission's+proposal+to+bring+virtual+curren+cy+entities+into+the+scope+of+4AMLD>

<sup>6</sup> [ESMA published a report on the possible applications, benefits and risks of the distributed ledger technology in February 2017](#)