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Digital Currency as An Electronic Payment Method: A Legal Approach

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ABSTRACT: *The digital currency has made a qualitative impact as a means of economic exchange, and its circulation has expanded daily, without taking legal cover, as most of the countries of the world have not yet authorized dealing with it. Even those that I authorized did not regulate it or have a legal rule that allows it to be dealt with as an official currency, where it is misled to take it with confidentiality and is considered a symbol of non-transparent financial transactions, Like its use in money laundering and tax evasion crimes, and despite the seriousness of this currency, its realistic existence necessitates its legal approval and regulation and issuance by a central authority that supervises it. Especially since the text of Article 39 of the Law of the Central Bank of Iraq No. 56 of 2004 allows it to approve payment systems commensurate with the international economic development.*

Keywords: *Digital Currency, Electronic Payment, Bitcoin, Legitimacy*

Introduction

Central banks have an important place in the economic thinking in the past and in recent times, and this importance increases with the expansion of its role in drawing monetary policies for the state, as well as with the development of the economic activity on the one hand, and the financial needs of the government on the other .The economic thought was concerned with the definition of central banks since the outbreak of the global financial crisis in 2008, when governments interfered with the role of the central banks in drawing up monetary policy, which put the independence of these banks at stake.

1. Literature Review

In this regard , we will focus on the important issue which is one of the powers or functions of the Central Bank, namely the right to issue the currency and the administration, This was stressed in the Article 32 of the law of Iraqi Central Bank 's in force, where this article give it the right to issue paper and coin currency for the purpose of trading In Iraq, as these currencies are in no way considered promissory notes ,bills of exchange, or any type of commercial paper in force under the commercial law.

1.1. The Concept of Digital Currencies

The electronic means of payment had varied, which took the place of traditional money, and we will explain this later when we address the types of payment systems that we distinguish from the subject of our study in the second topic, from credit card, electronic money, bank cards, etc. until the emergence of what is called the digital currency in the economic existence. That represented a departure from the control of the central banks and their

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uniqueness in issuing the currency .To clarify and define the concept of this currency, we will divide this topic into four requirements that show the definition of the digital currency, the historical development of the digital currency, the types of currency, and finally the characteristics of the digital currency as follows .

1.2. The Definition of Digital Currency

The digital currency is a medium of exchange for obtaining goods and services in return and has nowadays largely replaced the money. At the beginning, money is defined economically as anything that is generally acceptable as a medium for exchange and a measure of value (Issa, 1993, p. 19) . It is a means of exchange and a measure of value and must have general acceptance by the society as a whole. Money has a meaning among the lawmen, as they make it more general than the currency when they call everything that the authority considers money. The term coin and this same authority gives money the characteristic of clearing it with it. Money includes the currency and any medium used for exchange and has a value (El-Ghazali & Borai, p. 158). In addition, the money types are represented by commodity money, which disappeared after the disappearance of the barter, and metal coins such as copper , bronze, gold and silver, as well as the regular metal coin other than the aforementioned metals and due to the difficulty of carrying them, so many people stopped using it as an exchange tool. Paper money has appeared since the First World War (Hassan, 1999, p. 121). As a result of the development of economic life and the large number of commercial transactions, the start of dealing after that is directed towards commercial papers such as transfer, bill, and the instrument (Shafi'i, 1983, p. 65). By exchange under these papers, provided that the parties accept them ,they are not bound by them, as is the case with paper or metal money issued by the Authority .And not long ago, so-called electronic money emerged, which was considered an official payment system, as no country prohibited dealing with it as a means of exchange, but rather many of them provided the technological means to ensure the existence of these systems and work to develop them .And then the digital currency appeared in the year 2007 in mysterious circumstances and on a timid scale at the beginning until it had a high material value competing with many strong global currencies so that its value represents many times the value of the aforementioned currencies.

The digital currency has been defined as an encrypted digital unit that has a denominated financial value that is not related to any other currency and its inventor and its system is unknown and managed by its user without an intermediary or central authority and this is done through electronic media and issued by mining, and it performs all the functions performed by the paper money (Al-Sheikh, 2019, p. 31). It was also known as crypto currencies to allow users to send money to each other over the Internet via a network peer to peer (Peer to peer) without the need for a central authority to monitor payment or transfer operations, and this while maintaining its anonymity (Soelhi, 2018, p. 221). The issuers of this currency are working to limit their quantities in the issue in order to protect their value and for fear of its collapse against other currencies. It is said that the amount of its issuance will stop at the limit of 21 million units only (Al-Bahouth, 2017, p. 27).

1.3. The Emergence of Digital Currency

By extrapolating the studies presented in the field of digital currency, it appears to us that the digital currency is a newly created currency, as it dates back to 2007, and in fact it is not known who is its real discoverer . And popularized as a Japanese man called (Satoshi), where he created a website that promotes this currency and publishes articles that explain how this currency works and how to protect it from counterfeiting and double spending (Al-Aqeel, 2017, p. 12). The digital currency was discovered as a way to get rid of the central authority's control over the process of issuing the currency, and this coin was encrypted for the same reason, so it was a crypto currency that could not be reached by the way it was issued or the person who issued it. After a year of its discovery, i.e. in the year 2009 This currency was mined, and (50) units have been converted into training in the actual programmer of the Bitcoin system .The value of Bitcoin against the US dollar has reached (1309) units per dollar, and this value is calculated by the value of the electric energy used in the currency production process, and the matter has evolved at the present time, so what determines the value of the currency is the price of supply and demand, and the value of the currency increased to reach one billion dollars in 2013 And until the European Union was forced, in front of the large value of the bitcoin currency, to grant a license to the first European exchange institution to issue this currency .The same applies to many countries, some of whom considered it private money, but taxes were imposed on its possession as Germany and some of those who allowed the establishment of money transfer companies for this currency, and some of them established a cashier for the currency, such as the state of San Diego, USA .But despite all the corrosion of dealing with this currency, and despite the many types that appeared in each country where each country created a virtual currency of its own, we say that despite this, it is still legally possible to deal with this currency is against the law and an accountant for it, so the process of mining the truancy and trading it is one of the Secret operations The currency is protected by a set of complex cipher codes and requires highly efficient equipment for its mining process .

Some suggest that behind this currency there are organizations and governments, not just someone who wanted to bring something new to the economic world (Al-Shammari, 2019, p. 68).

1.4. The Types of Digital Currencies

In fact, there are many digital currencies, because most countries of the world issued their own digital currencies that are traded and dealt with, but the oldest and most famous of the digital currencies is the bitcoin currency. Before we talk about this important currency we say that digital currencies are divided according to the possibility of converting them into cash money into Open and closed currencies (alvexo, 2019) ,closed currencies are currencies that cannot be converted into real money and used in virtual reality only, as is the case with currencies that are purchased for the purposes of electronic games, or downloading applications that are not free, and to obtain this currency it is purchased with real money through specific cards and It is not possible to reverse, by buying real value of these cards or converting them into money, for example, and an example of these currencies is a currency gold (Which is used among people of the game) (world of war craft) And other currencies. As for the open digital currencies that are being converted into real cash money through the ATM, and one of the most prominent types of these currencies and the most famous in the world is the Bitcoin currency **(Bitcoin)** It is the first decentralized currency in the world and was discovered twelve years ago from now, where it was discovered in 2008 and promised in 2009. This currency is characterized by low transaction fees and fast transfer rates, and these features stand behind the great spread of this currency and the amazing interest in dealing with it.

The other type of open currency is Ethereum **(ethereum)** This is characterized by being a currency and trading platform at the same time, and was discovered by a Russian programmer in 2013 and it is also a highly decentralized currency, as it reached in 2016 $ 116 billion and comes second after the bitcoin currency in terms of importance and market value (Taifouri, 2018). The third currency is the Ripple **(ripple)** It was discovered in 2013 and is characterized by being a low cost on the one hand and a means for the settlement of cross - border payments on the other .This coin is produced by a company called **(open coin).** As mentioned above, there are a lot of digital currencies in all countries of the world, but the types mentioned above are the most famous and the most valuable against the dollar and the most widely traded.

1.5. The Characteristics of Digital Currencies

Digital currencies, have what distinguishes them from the characteristics of other traditional currencies, whether paper or electronic, and we explain it as follows :

1- The first thing that should be indicated in this field is that it does not have a physical presence as it is not tangible, as it is coded codes issued by an unknown party, so it is not possible to actually identify when dealing with who is the opposite side as the digital portfolios are usually coded and its owner cannot be reached even If the movement to transfer money to this currency was tracked.

2- Digital currencies are decentralized currencies, government agencies do not interfere with their issuance and have no ability to control or track them or charge those who deal with them because of the secrecy through which transactions are made against which a digital currency is made, and for the same reason we find that the exchange rates of these currencies are not an income for governments In drawing or controlling it, it is done through digital trading platforms called (Block Station) , so this currency would facilitate international trade.

3- The completion of trade exchange via digital currencies is done without a broker, such as a bank (Odeh, 2019, p. 202) ,whether this bank is governmental or private, which at the same time provides privacy for its customers, which gave it great acceptability in dealing with ease, simplicity and speed, as it facilitates the conclusion of huge financial deals related to, for example, the purchase of real estate and lands across countries.

4- These currencies are characterized by the ignorance that accompanies them starting from their acquisition and use to their circulation and they have no assets like the other known currencies or any real balances, and this characteristic is considered a reason for not legalizing them in legal and legislation terms, as we will see that later.

5- Since these currencies are unofficial, we do not expect them to be subject to any legal controls, and therefore the use of these currencies is mostly in the form of activities that are opaque and in violation of the law ,especially since those who issue them are unidentified persons with false names.

6- High encryption techniques are used in issuing these currencies, and therefore they enjoy caution and safety for their users and ensure that there is no fraud or tampering with them.

7- Payment is made using this currency via computer programs or smart phones ,which means lower costs and fees for obtaining them, and the process of paying them is much easier than paying with traditional currencies or even credit cards .

2. The Methodology and Model

Our study follows the analytical research method of the legal rules governing the digital currency, whether those contained in the Central Bank of Iraq Law No. 56 of 2004 or other related commercial laws. With the attempt to establish and establish it legally to regulate it according to what is in practice in terms of transactions, by distinguishing the digital currency from other electronic payment methods.

3. Distinguishing Digital Currencies from Other Electronic Payment Methods

Digital currencies are a means of exchange between individuals, they are offered in exchange for obtaining a specific good or service, and in this sense you may suspect other means of payment that societies have recently known due to the interference of the technological means in many civil and commercial transactions locally and internationally where the web has made many legal requirements to conclude such behavior without a real meeting between its parties .We will try in this topic to clarify some of these methods to distinguish them from digital currencies and to explain the reason for the legality of dealing legally and illegality in relation to the digital currency . Where we will allocate the first demand for the statement of smart cards ,while the second requirement will show the electronic bank transfer, and we will allocate the third requirement for the statement of electronic money.

3.1. The Smart Cards

The use of the smart cards is one of the most important forms of computer use in the economic field and financial transactions. To clarify these cards, the requirement must be divided into branches that show first the definition of the smart card and then we show in a second branch its legal nature and finally we show the uses of the smart card.

3.1.1. The Definition of Smart Card

The emergence of the smart card has gone through many stages, up to its current form, and these cards first appeared in the year 1950 as an alternative to the money and began issuing them through an institution that included their joint restaurants in exchange for a specific commission paid by clients with the cards issued by them to pay the bills immediately and then send a copy to The institution takes charge of paying the account in exchange for registering this on the customer’s account and sends a monthly account to him and calls this card to the dinner club card (Bussaila, 1995, p. 9) ,then the smart cards then entered the banks, which was a factor of support and strength for these cards economically. The credit card is defined as a rectangular poly-vinyl chloride plastic card with a prominent shape printed on its face prominently with its number, holder's name and expiration date, and the name and logo of the global organization sponsoring the card and the issuing bank and at the bottom of the card writes the address and phone number of the issure bank (Saeed, 1993, p. 3). It was also defined as a banking tool to fulfill the obligations widely accepted by individuals and merchants as a substitute for cash to pay the value of goods and services provided to the cardholder in exchange for signing a receipt for the value of his commitment arising from his purchase of the good or service provided that he collect the service from the card issuing bank (Omar, 1997, p. 15). Also, a side of jurisprudence (Jamal Al-Din, 1981, p. 663). Define it, as a card issued by a bank or investment company that is difficult to tamper with or misrepresent its data and mention the customer's name (its owner), address, and account number with the issuing body, and this card is deducted when purchasing a good or service instead of paying it directly.

3.1.2. The Legal Nature of Smart Card

We indicated in a previous paragraph that the smart card is mostly triple, so to determine its legal nature we must show it according to the contract that links its issuer to the holder on the one hand and the bearer of it on the other hand, as the contract between the card issuer and the merchant (midwife) may be a guarantee contract where The issuer of the card guarantees its holder to pay the value of the purchases if he does not pay, and ad jested the contract as a commission agency (Yunus, 1990, p. 45) ,while some found that it was an irrevocable credit opening contract by the card issuer for the interest of the merchant within the limits of the permitted amount (Radwan, 1990, p. 79). While the relationship between the card issuer and its holder, it is governed by the accession contract, which depends on the card issuer opening a credit for the benefit of the holder, and this contract is one of the credit opening contracts (Saudi, 2002, p. 81).

As for the smart card, the most prominent opinions regarding determining its legal nature are that it is a type of money that is electronic and not ordinary money. Some think that the smart card cannot be returned to the traditional rules to determine the reason for fulfillment. It is a modern, independent and innovative method that differs from the known systems, and therefore it is necessary to find a system of its own that includes special organizational rules (Abdel Hafeez, 2007, p. 45).

3.1.3. The Uses of Smart Card

The smart card has many uses in all civil and commercial transactions as it is sometimes a payment method that is made through the ATM machine and this device is a machine in which the money is kept in a certain way and it is a programmed machine that recognizes its card and allows the introduction of a covered amount in the balance of the card holder's account (Safar, 2006, p. 156) or the opposite occurs when cash is withdrawn from the card's balance through an ATM. The card is also used in petrol stations and car maintenance contracting with the bank that issued the card, in addition to its widespread use at the present time in the payment of salaries because most of the business men and the Banks prefer to use the card instead of paper money, as it costs the national economy high costs represented by the printing of safe papers and people who carry out the task of counting and storing banknotes in addition to transport and guarding works (Abdel Hafeez, 2007, p. 17) . Also, among its most important recent uses is electronic trading of securities, so most electronic commerce companies are trading securities electronically, because this method of trading provides a reduction in subscription fees and the lack of the need for brokers or brokerage firms. In sum, we found that the smart card has a physical presence, it is a magnetic plastic card that has a specific code while the digital currency does not exist, in addition to that the parties to the smart card are known, the card issuer is a global financial entity and a well-known merchant meets them as well. As for the digital currency it is issued by an unknown party which is a fully encrypted currency that cannot be accessed with any existing technology, while the smart card uses are mostly in sound and legitimate transactions, unlike what we found with regard to digital currencies that are likely to be used in an opaque manner for money laundering purposes, for example or for other unclear reasons.

3.2. The Electronic Bank Transfer

Electronic bank transfer contracts are one of the most important and widespread banking operations, and for this process to be compared to the digital currency, the definition of electronic financial transfer must be clarified and its forms defined, then the legal nature of it is defined through the following branches.

3.2.1. The Definition of Electronic Bank Transfer

Article 2 of the Model Law on International Funds Transfer issued in 1985 by the United Nations Committee (UNCITRAL)(uncitral model law on international commercial arbitration1985 with amendments as adopted in united nation viena 2008) defines bank transfer as the set of operations that begin with the order of payment issued by the ordered with the aim of placing the value of the transfer at the disposal of the beneficiary, and the definition includes any payment order issued by the ordering bank or any A broker bank aims to execute the order of payment issued by the order .A traditional bank transfer is a contract whereby the issuing bank is obliged to pay an amount of cash equivalent to the value of the transfer to the beneficiary. The bank is not obligated to pay the same cash that it received from the order. As for electronic bank transfer, it is a process of transferring money that begins or is implemented through an electronic means such as a phone, computer, or magnetic tape with the aim of ordering, directing ,or authorizing a financial institution to make a credit or debit entry in the account .So, the difference between a bank transfer contract and an electronic is the method by which the contract is made. The electronic one is done by means of remote communication.

3.2.2. The Electronic Bank Transfer Images

Electronic bank transfer, has different images. The first of these images is the so-called transfer between the banks that enter the contract when the transfer takes place either between two accounts in one bank or between two accounts in two different banks. And the first image in which the bank deducts the amount of the transfer from the commander's account and added it to the beneficiary's account and arranged accordingly The side of the commander's assets has decreased to the same extent that the beneficiary's account increase with the stability of the bank's total balances (Al-Jabr, 1997, p. 235). As for the second image, the commanding bank deducts the value of the transfer from the commander's account, and in return the beneficiary's bank records the value of the transfer in the beneficiary's account, and then the settlement process takes place between the two banks. Also ,the transfer may take place when the commanding customer transfers funds from his creditor account in one of the banks to his debit account in the same bank, because the different accounts, if they were for one person, then they remain independent from each other, so the customer may need to cover one of the accounts that are exposed or exceed the limits of withdrawal From another account to avoid the interest imposed on those accounts. Remittances provided by companies specialized in the remittance service are among the fastest electronic bank transfers, and these transfers are practiced by several companies that have a wide network of agents all over the world linked to one closed network for this company, and the beneficiary can receive the value of the transfer within minutes from the time of issuing the transfer order For the issuing bank, and these transfers are characterized by high cost .In practice, there are other forms of electronic bank transfer other than what was mentioned.

3.2.3. The Legal Nature of The Electronic Bank Transfer Contract

The jurists differed in determining the legal nature of the bank transfer contract, including them (Fahim, 1982, p. 204) Whoever considers it a complex process with several elements, each of which has its legal nature, as it is for the order of the transfer in fulfillment of the debt that it owes to the beneficiary and the payment of its debt with the bank, and for the converting bank a process of paying off a debt in his possession of the order and a new obligation that arises in his discharge for the benefit of the beneficiary, but for the beneficiary it is The process of payment of a debt owed by the order and depositing the amount received by the bank. Another aspect of jurisprudence found (Abdel-Rahim, 1982, p. 1051) Bank transfer is a formality process based on the idea of double entry on the debit side of a commander's account and on the creditor side of the beneficiary account. From all the above it is obvious clear to us that electronic bank transfer is a banking process that takes place via a contract between the transfer order and the issuer of the transfer, and the latter is obliged to pay himself or through others an amount of cash equivalent to the amount of the transfer to the beneficiary of the transfer in exchange for an agreed commission . It is carried out in multiple forms, and its legal nature has not been determined precisely and definitively because it is a multi-party contract and is carried out with multiple operations .However ,it is clear that it differs greatly from digital currencies, the mechanism for issuing them, the existence of encryption in issuing them ,and the anonymity of their issure, as well as with respect to their undeclared uses, which are often illegal .Therefore ,it can be said that an electronic transfer of the digital currency cannot be expected in a clear and frank manner by official banks until the official recognition and legitimacy of the digital currencies is recognized.

4. The Electronic Money

Electronic money is one of the distinctive and widely used electronic payment means at the present time in the world, and according to its name it is very similar to the digital currency, so we had to allocate a requirement to indicate this means, by explaining its definition ,characteristics and types through three branches as follows.

4.1. The Definition of Electronic Money

We do not aim to provide a verbal definition of electronic money here, but it must be said that it consists of an additional compound consisting of two terms, namely (money) and (electronic), and each of them has a verbal and idiomatic meaning distinct from the other .Money has defined multiple definitions, each definition is viewed from an aspect Different from the other, for example it is ((the financial return for all economic activities (Boraie, Money and Economic Balance, 2000, p. 50) .Also known as ((the tool that enables the payment of obligations .Some people saw that it is (Boraie, ash and Banking Systems, 1994, p. 47) ((anything that receives general acceptance as an exchange medium and at the same time uses a measure of values and a repository of it (Tadros, 1983, p. 21). As for electronic, it is a word derived from an electron, which means ((a particle that forms part of an atom that carries a negative charge (Larousse Encyclopedia, 2002, p. 24). Combining the two terms, electronic money was known as)): A set of protocols and digital signatures that allow an electronic message to physically replace the exchange of paper currencies, i.e. the electronic equivalent of regular traditional money (Safar, 2006, p. 41).

The European Central Bank defined electronic money as electronic storage of financial value on a technical pillar .As it was defined by the European Commission in (Article One / Second Paragraph) of the European Directive for electronic money project, it is a financial value stored on an electronic pillar such as cards with memory or on computer memory and is acceptable as a means of payment by projects and merchants issued to be in the position of consumers and electronically resolved Replace paper money and written money (Ghannam, 2007, p. 33). Electronic money is issued by programs consisting of a series of consecutive numbers organized by complex algorithms that determine the monetary value represented by this money, provided that this work is authorized according to a secure encryption system so that an instance of it can be issued only once .And dealing with electronic money requires only a few seconds and all stages of dealing with it are done through the internet.

4.2. The Characteristics of Electronic Money

Through the definitions we have provided that determine the identity of electronic money, we can determine the characteristics of money by means of the following:

- **First** :Electronic money represents a monetary value, and the consumer can use it to pay for the prices of goods and services, and it is thus different from mobile cards. These are only valid for paying the value of the connection (Musa, 2001, p. 237).
- **Second** :Electronic money is issued to pay for the value of goods and services purchased by the consumer, as it does not exist before the payment process, as is the case with real money.
- **Third** :To say that there is electronic money, there must be three parties ,namely the consumer, the issuer, and the merchant, and the issuer here does not play the role of the central bank that issues the paper money ,since the electronic money issued by the issuer here is paid to him by the consumer and deposited with him in paper money, and the issuer provides him with electronic money that takes Multiple forms.
- **Fourth** :E-money is not utilized by its issuer except after converting it into ordinary paper money, as it does not have the ability to trade it in electronic platforms, but rather transfers it to the equivalent amount of money, and this is called the process of destroying or recovering electronic money (Ghannam, 2007, p. 36) .
- **Fifth** :Electronic money is issued in different categories, and each unit is expressed in a specific number according to the desire of the consumer .It is heterogeneous and not uniformed with each other.

4.3. The Issuance of Electronic Money

Electronic money can be issued by financial institutions, banking or non-banking, or even non-financial institutions, and this is related to the extent of the technological dimension and its relationship to the economic dimension and employing each other in the field of its development and use. (Al-Shafei, 2003, p. 53) argues that the power to issue electronic money should be made exclusively in the hands of the state, and this can be done either through the central bank taking over the process of issuing electronic money, and this matter spares the state losing the income resulting from minting the currency and enables it to control the amount of electronic money and thus ensure its control over Money-related policies which reduce the chances of tax evasion and money laundering. From all the foregoing, we can say that the most important thing that distinguishes electronic money from digital currency is the possibility of converting it into real money unlike the digital currency, as well as the presence of three parties who are the issuer of the money and the consumer who pays its value in advance, as well as the dealer dealing under electronic money, while the digital currency is represented by a productive person The currency and consumer who intends to deal in this currency and obtain it, furthermore electronic money cannot be traded electronically unlike the digital currency being traded on digital trading platforms, and finally, it can be said that the ability to issue electronic money by the state Represented by the Central Bank or the digital financial and non-financial institutions conferred by the state, while the digital currency is not submit to the authority of the state in the process of issuing it.

5. Electronic Instruments

After the great information revolution that the world witnessed, which led to a set of electronic transactions at various levels, which led to the emergence of an increased need for legal societies to develop the legal base for these transactions, and therefore the need to prove these civil and commercial transactions by means of electronic documents or bonds that represent in their entirety Electronic data or scripts appended to an electronic signature .In this requirement, we clarify the definition of electronic instruments issuer of their issuance, and how they are traded by dividing the demand into three branches.

5.1. The Definition of Electronic Instruments

Electronic instruments represent data and information based on electronic supports that are only read through a computer, and they relate to electronic transactions and contracts that take place remotely. Electronic instruments may take the form of bonds or documents used in civil transactions, whether they are official electronic bonds or unofficial (informal) electronic bonds, or they may be electronic commercial papers (transfer, bond, order, instrument), also these instruments may be financial Electronic papers (stocks, bonds). Electronic instruments have certain characteristics, as follows:

- **First** :Electronic instruments are an important and powerful tool for exchanging of all kinds. It is one of the regulated electronic payment means, even partially, in the Electronic Signature and Electronic Transactions Act No. 78 of 2012 .
- **Second** :Electronic instruments need the Internet, as the Internet is an interactive medium for the business environment in general. It is an appropriate environment for accomplishing banking operations in general and it provides the bank user the banks that reduce operational costs ,and thus lead to increasing profits, stimulating services and attracting customers (Hashem & Hamdan, 2018, p. 3).
- **Third** :The electronic instrument represents a hypothetical form of the paper instrument and contains the same information as it is, however, it is done through an intermediary that determines the mechanism of electronic payment.
- **Fourth** :The electronic instrument contains a device for the reader of magnetic instruments and this device uses the technology of reading and identification of paper documents by electronic devices and it is a technique for identifying letters written in magnetic ink and used primarily by the banking sector and it can scan the instruments and read their data and convert it into a digital form and send The information for the server computer (Hashem & Hamdan, 2018, p. 3).
- **Fifth**: Electronic instruments rely heavily on electronic signature, and this is what we will show later.

5.2. The Types of Electronic Instruments

As mentioned above, electronic instruments are divided into multiple groups of electronic bonds and documents, and this is what we will explain the following:

- **The Electronic Commercial Papers**

Electronic commercial papers are defined as "electronic or partially processed electronic editors that truly represent the subject matter of a sum of money that can be traded by commercial methods or payable upon review or after a short term, and the position of money is fulfilled in fulfillment" (Taha & Bondouk, 2009, p. 343). According to the dealings in electronic commercial papers, they are divided into a draft, transfer and electronic instrument, all of which do not differ from the commercial paper except in terms of the presence of an electronic processor .Some point out that the electronic commercial transfer took place first in the year 1973 in France (Qaid, 2001, p. 7) A juristic dispute has arisen regarding the subjection of electronic commercial transfer to the principles of morphological law (Sami & Al-Shamaa, 1992, p. 10). Some have denied the possibility of being subject to these rules or principles because they belong to regular, not electronic, editors (Dowidar, 2003, p. 12) . Some other went to the possibility of applying it on the electronic papers, because the legislator did not require to be the editor is on paper, the word editor is not limited to what is written on paper only (Lutfi, 2002, p. 26). This is confirmed by electronic signature law and electronic transactions No. 78 for the year 2012 , when authorized to place transactions through the electronic medium has been known electronic transactions in Article 1 / VI electronic transactions as applications, documents and transactions means, has been confirmed by Article 13 / Firstly, when it states)) :Electronic documents, electronic writing and electronic contracts with legal authority for their paper counterpart shall be .(..... Among the documents that this law specified to be applicable to it are electronic and commercial securities, in Article 3 / First / C of it.

As for the bond of the electronic order, it is a dual formally and electronically processed editor to tally and partially, that includes a pledge from its editor to pay a sum of money on a specific date for the benefit of a person called the beneficiary. There is no specific privacy for this electronic bond, as it does not differ from the (traditional) paper except in terms of the presence of an intermediary Electronic. As for the electronic instrument, it is a triple-edited electronically processed , in which the withdrawn bank is most likely an electronic one, and it is considered one of the most used and popular electronic commercial papers dealing with it, since the presence of the bank as a main party to it, it is subject to the same rules that the ordinary (traditional) instrument is subject to. And the last thing that we can show in this field is that the issuer of electronic commercial papers may be natural or legal persons (commercial banks).

- **Second: Electronic Documents and Bonds**

An electronic bond is an electronic writing and an electronic signature and this bond may be formally required to be certified by an official authority and it may be a regular (customary) bond whose proof value is less than the first. As for the official electronic bond, it is a bond that must be certified by a competent third party, who may be a legal person (A specific department) or a naturalist who has a government license (notary) or a global license, so the evidentiary power of an official electronic bond outweighs the regular electronic bond, and electronic commerce laws have given electronic bonds and editors of both kinds the same power of proof as paper bonds in a font Civil and commercial transactions are a condition that these bonds meet the requirements of the privacy standards established by the laws (Safar, 2006, p. 15).

- **Third: Electronic Securities**

These securities are the set of shares or equity traded on the financial market. The shares are usually issued by the companies and each shareholder is an owner and has influence in the management of the company according to the number of shares he owns. They also have voting rights and the right to win the company according to these shares as well .The shares are characterized by being of equal value and not divisible and all shares are subject to trade. As for the bonds issued by the company when it need money to follow up on its activity that it seeks to achieve, so that it resorted to borrowing from the public in a group borrowing method, and the borrowed amount is divided into equal parts, each of which represents a bond in which the company's debt is proven, and the bonds are characterized by their ability to trade and every bond represents a creditor's right to the company, The bond represents a collective long-term loan. The owner of the bond has the right to obtain interest on fixed dates and to recover the value of the bond in the specified term (Merton, 2007, p. 121). These bonds can be traded electronically through the financial markets, and the financial markets are the markets for dealing in buying and selling securities, and it is one of the important sectors of the invested capital, as it transforms the securities through it into present money and vice versa (Abdel Hakim & Dalloul, 2016, p. 253). The electronic trading of securities began in the United States of America in the year 1971, and after that it was used in many other countries ,then it reached the Arab world in the year 1990 when the so-called electronic system of stock information appeared in Saudi Arabia. Electronic trading has been defined as a communication system between trading parties that begins by accepting traders' messages in the form of orders to buy and sell, collects them in the record of orders and installs them in the form of offers and requests and executes them under clear priority rules and ends with the settlement of transactions executed through computers (Al-Suhaibati, 2007, p. 1).

5.3. The Trading Electronic Instruments

The circulation of electronic bonds means the method of transferring their ownership from one person to another, and this process differs according to the type of electronic bonds, as for electronic commercial papers transmitted through electronic endorsement and this is done directly through the electronic signature and they are transferable once the data and information have been completed in accordance with the provisions of the law, , and the same is true for electronic securities. Of it is transmitted through the capital markets through electronic trading in the previous reference, Iraq has stored the electronic trading in capital markets in 2009, where plastic flaps stations where replaced by trading electronic market headquarters as well as at sites brokerage firms outside the market building trading is through a network(wan), so that the issue of transferring the ownership of shares and bonds became instant and fast, and all financial settlements are made immediately after the trading session (Abdel Hakim & Dalloul, 2016, p. 252).

6. Summary and Conclusions

Through our discussion of the issue of the concept of digital currency, we reached a set of results and recommendations, such as that the digital currency is an innovative means of exchange ,and it performs a set of functions performed by traditional money ,as well as electronic money, and it has specific characteristics in which it differs from other money and real currencies known in dealing .The digital currency does not have a tangible physical presence, it is completely confidential codes and symbols.The digital currency is not issued by central banks, as is the case with legal currencies. Rather, people and unidentified persons are completely ignorant of them, which adds additional secrecy to them.Dealing in the digital currency does not need a mediator between its user and its issuer as is the case with electronic money, but rather it is used under the peer-to-peer policy without any medium.The digital currency is distinguished from other electronic payment methods with many characteristics despite their similarity in that they are considered a means of payment, exchange and settlement of transactions ,as is the case with smart card, electronic instruments, electronic money transfer contract and other electronic payment methods.As for recommendations that is Given the existence of the digital currency as a real economic and effective way to settle obligations in general and electronic in particular, we suggest legislative treatment and placing it within the monetary policy plans of the Central Bank of Iraq, as it represents one of the best solutions to get out of some economic crises efficiently.We must suggest proposing a local digital currency that is an electronic payment method for commercial transactions concluded over the network ,to give some centralization to the existence of such currencies and to be a way to combat tax evasion or money laundering crimes that are done through the circulation and use of internationally known digital currencies.Through the text of Article (39) of the Central Bank of Iraq Law No. 56 of 2004 we can say that in the ethnic law there is a legal basis through which it can be said to allow the existence of such a currency through the Central Bank of Iraq ,especially as it is only valid to issue currencies of all kinds and determine the mechanism of their circulation According to Article (32) of the Central Bank of Iraq Law.

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