

Gambling on the Blockchain: How the Unlawful Internet Gambling Enforcement Act Has Opened the Door for Offshore Crypto Casinos

ABSTRACT

Online cryptocurrency casinos have seen a dramatic rise in popularity over the past thirty years as the rate of ownership of cryptocurrencies has risen almost as quickly as the US monetary value of a single Bitcoin. Current US laws and regulations are outdated; the only piece of federal legislation that provides oversight in the area of virtual gambling originated in 2006, more than fifteen years before the publication of this Note. Previous scholarship suggests that a lack of federal action has resulted in a surge of criminal activity, such as money laundering and tax evasion, as well as significant missed opportunities now that cash-strapped states are seeking to fill falling tax revenues in the aftermath of the COVID-19 pandemic. This Note expands on these arguments and offers a real and tangible solution that provides clarity to innocent gamblers and puts organized crime syndicates on notice.

Since federal and state legislatures in the United States have failed to address the use of cryptocurrencies as a gambling medium, this Note illustrates why leaving the virtual gambling space largely unregulated is a net-negative for American society. By exploring this gap in the law, this Note aims to inform both federal and state legislators about the importance of governmental oversight in cryptocurrency gambling.

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In the early hours of a July 2020 morning, Reddit moderator u/dom555 published a groundbreaking collection of posts on the subreddit r/Roobet, which detailed how to purchase Bitcoin and deposit it into a digital cryptocurrency wallet on a website called Roobet.com (Roobet).¹ Roobet, an online cryptocurrency casino (crypto casino), brands itself as “Crypto’s Fastest Growing Casino.”² The moderator’s three-step guide received overwhelmingly positive feedback and support on the subreddit forum, with users expressing their gratitude for the simplified steps describing how to gamble from the comfort of their homes with virtual currency.³ While this exchange may seem harmless, some of the user comments paint a startling picture.⁴ One user indicated his appreciation for the guide and then asked other users whether this practice was legal in the United States where the user

1. ROOBET, <https://roobet.com> [<https://perma.cc/33MS-8VVF>] (last visited Jan. 29, 2022); see u/dom555, *How to Buy Bitcoin and Deposit on Roobet Full Tutorial*, REDDIT: R/ROOBET (July 26, 2020, 2:28 PM), https://www.reddit.com/r/Roobet/comments/hyd26s/how_to_buy_bitcoin_and_deposit_on_roobet_full/ [<https://perma.cc/K4GJ-KCM3>].

2. ROOBET, *supra* note 1.

3. See, e.g., u/dom555, *supra* note 1; u/DoctorHellcat, Comment to *How to Buy Bitcoin and Deposit on Roobet Full Tutorial*, REDDIT: R/ROOBET (July 26, 2020, 8:48 PM), https://www.reddit.com/r/Roobet/comments/hyd26s/how_to_buy_bitcoin_and_deposit_on_roobet_full/ [<https://perma.cc/K4GJ-KCM3>]; u/Revotur, Comment to *How to Buy Bitcoin and Deposit on Roobet Full Tutorial*, REDDIT: R/ROOBET (Oct. 6, 2020, 4:54 PM), https://www.reddit.com/r/Roobet/comments/hyd26s/how_to_buy_bitcoin_and_deposit_on_roobet_full/ [<https://perma.cc/K4GJ-KCM3>].

4. See, e.g., u/Xposedhim, Comment to *How to Buy Bitcoin and Deposit on Roobet Full Tutorial*, REDDIT: R/ROOBET (Aug. 6, 2020, 7:26 AM), https://www.reddit.com/r/Roobet/comments/hyd26s/how_to_buy_bitcoin_and_deposit_on_roobet_full/ [<https://perma.cc/K4GJ-KCM3>].

resided.⁵ Another user indicated that they had “[b]een winning like crazy” off of their virtual proxy networks (VPNs).⁶ Others disclosed that they preferred to enable their computer networks to appear in countries such as Germany and Canada, where online gambling is unregulated and legal.⁷ Towards the end of the forum posts, one user asked the question that others were afraid to answer: “How is it illegal[?]”⁸

While this question may appear simple, the premise holds significant weight. Websites like Roobet operate as fully functioning online gambling services and use cryptocurrency as the primary vehicle for gambling.⁹ The websites are able to do so because cryptocurrency has not received any official recognition from federal or state legislatures in the United States.¹⁰ Online gambling websites operate by accepting forms of cryptocurrency like Bitcoin and Ethereum and encourage players to use these currencies through their virtual platforms that offer a full host of slots, Blackjack, Texas Hold ‘Em, and a litany of other gambling games found in traditional casinos.¹¹ Websites such as SatoshiDice, Bitzino, SatoshiBet, and StrikeSapphire account for a large percentage of the crypto-gambling market.¹²

5. u/DoctorHellcat, *supra* note 3.

6. u/baconspaceman, Comment to *How to Buy Bitcoin and Deposit on Roobet Full Tutorial*, REDDIT: R/ROOBET (July 29, 2020, 8:23 AM), https://www.reddit.com/r/Roobet/comments/hyd26s/how_to_buy_bitcoin_and_deposit_on_roobet_full/fzd3ihb/ [<https://perma.cc/KFM5-MJP8>].

7. u/bdtucker25, Comment to *How to Buy Bitcoin and Deposit on Roobet Full Tutorial*, REDDIT: R/ROOBET (Aug. 26, 2020, 7:29 PM), https://www.reddit.com/r/Roobet/comments/hyd26s/how_to_buy_bitcoin_and_deposit_on_roobet_full/ [<https://perma.cc/K4GJ-KCM3>]; u/Sexy_Authy, Comment to *How to Buy Bitcoin and Deposit on Roobet Full Tutorial*, REDDIT: R/ROOBET (Oct. 29, 2020, 10:08 PM), https://www.reddit.com/r/Roobet/comments/hyd26s/how_to_buy_bitcoin_and_deposit_on_roobet_full/ [<https://perma.cc/K4GJ-KCM3>].

8. u/Jasonv0916, Comment to *How to Buy Bitcoin and Deposit on Roobet Full Tutorial*, REDDIT: R/ROOBET (Aug. 9, 2020, 12:23 PM), https://www.reddit.com/r/Roobet/comments/hyd26s/how_to_buy_bitcoin_and_deposit_on_roobet_full/ [<https://perma.cc/K4GJ-KCM3>].

9. See David Bright, *All You Need to Know About Bitcoin Gambling in USA*, TIMES OF CASINO (Nov. 4, 2020), <https://www.timesofcasino.com/all-you-need-to-know-about-bitcoin-gambling-in-usa/> [<https://perma.cc/Z5JC-BESA>].

10. See *id.* (explaining the current lack of regulation in the United States of online casinos that accept cryptocurrencies, like Bitcoin, as gambling currency).

11. See *A Complete Guide to Cryptocurrencies*, GAMBLINGSITES.COM, <https://www.gamblingsites.com/cryptocurrency/> [<https://perma.cc/T9WT-R5EY>] (last visited Jan. 25, 2022).

12. See Shobhit Seth, *How Bitcoin Casinos Work*, INVESTOPEDIA, <https://web.archive.org/web/20210131043537/https://www.investopedia.com/articles/investing/102214/how-bitcoin-casinos-work.asp> (Aug. 27, 2020); see also Jamie Redman, *Bitcoin Gamblers Have Wagered \$4.5 Billion in BTC Since 2014*, BITCOIN.COM (Apr. 11, 2017), <https://news.bitcoin.com/bitcoin-gamblers-wagered-4-5-billion-btc-2014/> [<https://perma.cc/RX6J-TTQS>].

Between the years 2014 and 2017, these websites accepted over twenty-four billion bets, the equivalent of more than four billion US dollars.¹³

However, the legality of online gambling with cryptocurrencies in America is a murky topic as the US government has been inconsistent in communicating a clear federal response to gambling with cryptocurrency.¹⁴ While other countries such as the United Kingdom, Canada, and New Zealand directly regulate casinos that deal in virtual currencies, the United States offers a complex and confusing regulatory scheme that leaves many questions unanswered.¹⁵ Congress attempted to address the issue in 2006 when it passed the Unlawful Internet Gambling Enforcement Act (UIGEA).¹⁶ This law did not specifically make crypto casinos illegal, but rather created burdens and barriers for banking institutions to process the transaction of cryptocurrencies from website platforms to American users.¹⁷ The 2006 law effectively barred businesses from processing these transactions without actually speaking to the realities of crypto casinos or attempting to legislate them at all.¹⁸ While the UIGEA provides a cursory overview of online gambling, Congress did not directly address the use of cryptocurrency for gambling online.¹⁹ Although various state laws generally regulate online gambling, no states have specifically created legislation for gambling with cryptocurrencies.²⁰

To that end, this Note analyzes the problems that arise due to the lack of legislation in this area and addresses the potential harms of allowing states to self-regulate online gambling. Part I provides a legal and historical context of how the United States has reached this crossroads and details the varying legal approaches that have emerged

13. See Redman, *supra* note 12.

14. See Jamie Redman, *Why You Can't Bet with Bitcoin at Online Casinos in the US*, BITCOIN.COM (July 20, 2019), <https://news.bitcoin.com/why-you-cant-bet-with-bitcoin-at-online-casinos-in-the-us/> [<https://perma.cc/NNP5-VYKN>].

15. See Ross Cormack, *Legality of Gambling on the Blockchain*, MEDIUM: EDGEFUND (Mar. 3, 2018), <https://medium.com/edgefund/legality-of-gambling-on-the-blockchain-26599785700f> [<https://perma.cc/AD3B-DPZQ>].

16. Unlawful Internet Gambling Enforcement Act of 2006, 31 U.S.C. §§ 5361–5367.

17. See Cormack, *supra* note 15.

18. See *Is Bitcoin Gambling Legal in the USA?*, USA BITCOINCASINO, <https://usabitcoincasino.io/faq/is-bitcoin-gambling-legal-in-the-usa/> [<https://perma.cc/3FUB-LK6L>] (last visited Jan. 29, 2022).

19. See MintDice, *Are Bitcoin Casinos Legal in the USA?*, MEDIUM: BITCOIN NEWS TODAY & GAMBLING NEWS (Dec. 12, 2019) <https://medium.com/bitcoin-news-today-gambling-news/are-bitcoin-casinos-legal-in-the-usa-a12477e3b2e6> [<https://perma.cc/E6LE-GUGD>] (explaining how there is no current federal response or clarification as to online gambling with cryptocurrency in the United States).

20. See *id.*

across jurisdictions. Part II analyzes the disadvantages present in the status quo in light of the UIGEA, and how the failure to apply uniform legal standards promotes criminal activity through forms of white-collar crime. Part III proposes tangible solutions that provide immediate solvency to all impacted parties, such as the nation's courts, states, and gamblers. Finally, Part IV explores additional considerations that pave the way for legislation that can offer clarity to the millions of Americans who hold cryptocurrency.

I. HISTORICAL AND LEGAL FOUNDATIONS

The concept of virtual currency is not a new phenomenon—earlier prototypes of digital cash date back to the late nineties with the launch of ventures such as Flooz.com and Beanz.com.²¹ While these ventures were ultimately unsuccessful due to their timing, they still demonstrated early interest in what would soon become a dominating industry a decade later.²² In order to analyze the issues with crypto casinos and offer solutions to those problems, it is critical to explore the context surrounding the origins of cryptocurrencies and the legal standards in place that allowed these currencies to be used as a virtual gambling medium. Thus, this section will look to the history of the first crypto-coin, examine how a crypto casino operates, and subsequently explore the current regulatory landscape impacting the legality of crypto casinos in the United States.

A. Cryptocurrencies Explained

Put simply, a cryptocurrency can be considered and classified as a digital asset that is constructed to function as a medium of exchange without a centralized bank.²³ Bitcoin, the most well-known form of cryptocurrency, was marketed at its launch in January 2009 as the first “Peer-to-Peer Electronic Cash System.”²⁴ The developers described the newfound currency as completely decentralized, meaning it had no

21. See Jake Rossen, *Before Bitcoin: The Rise and Fall of Flooz E-Currency*, MENTAL FLOSS (Dec. 14, 2017), <https://www.mentalfloss.com/article/517911/bitcoin-rise-and-fall-flooz-e-currency> [<https://perma.cc/9HZM-B9CC>].

22. See *id.*

23. Ameer Rosic, *What Is Cryptocurrency? [Everything You Need to Know!]*, BLOCKGEEKS, <https://blockgeeks.com/guides/what-is-cryptocurrency/> [<https://perma.cc/T5GJ-SZVD>] (Nov. 25, 2020); see Usman W. Chohan, *Cryptocurrencies: A Brief Thematic Review 6* (Jan. 8, 2022) (unpublished discussion paper), https://papers.ssrn.com/SOL3/PAPERS.CFM?ABSTRACT_ID=3024330 [<https://perma.cc/7W4R-CAS2>].

24. See Rosic, *supra* note 23.

server or central authority; this characteristic granted Bitcoin an anonymity that future users would grow to cherish.²⁵

In a groundbreaking white paper, cryptocurrency pioneer Satoshi Nakamoto solved the problem that is central to the formation of any new currency—trust.²⁶ In a normal currency system, the exchange of liquid cash for goods is “the most universal and most efficient system of mutual trust ever created.”²⁷ If one accepts the premise that the exchange of money is predicated on trust, then it is easy to recognize the difficulties in creating a digital currency that a community would accept in exchange for goods or services. However, attempting to replace the main vehicle of the global economy was no easy task, and early critics of Bitcoin commented that virtual currencies are not assets based on anything tangible or physical.²⁸ In response, the Bitcoin white paper pointed out that while most currencies received legitimacy as a medium of exchange from a central government, Bitcoin would become the first currency to gain legitimacy through a community of users’ investment.²⁹

Bitcoin grew in popularity over the next several years and heavily contributed to the “finance counterculture.”³⁰ By September 2017, the total value of the cryptocurrency market was in excess of \$177 billion.³¹ However, this drastic increase in market share came with drawbacks.³² Specifically, the fluctuation of value was critiqued by financial analysts and scholars alike.³³ While the volatile value of cryptocurrencies is difficult to explain, industry experts believe the volatility inherent to the crypto-market is largely controlled by the virtual-currency developers of each individual virtual currency who

25. *See id.*

26. *See* KEVIN WERBACH, *THE BLOCKCHAIN AND THE NEW ARCHITECTURE OF TRUST* 33–34 (Sandra Braman ed., 2018).

27. *See id.* at 34 (quoting YUVAL NOAH HARARI, *SAPIENS: A BRIEF HISTORY OF HUMANKIND* 180 (John Purcell & Haim Watzman trans., HarperCollins 2015) (2011)).

28. *See* WERBACH, *supra* note 26, at 34.

29. *See id.*; *see also* SATOSHI NAKAMOTO, *BITCOIN: A PEER-TO-PEER ELECTRONIC CASH SYSTEM* 1–2 (2008), <https://bitcoin.org/bitcoin.pdf> [<https://perma.cc/LV5N-QLTB>].

30. *See* Elizabeth Lopatto, *How Bitcoin Grew Up and Became Big Money*, *THE VERGE* (Jan. 3, 2019, 11:00 AM), <https://www.theverge.com/2019/1/3/18166096/bitcoin-blockchain-code-currency-money-genesis-block-silk-road-mt-gox> [<https://perma.cc/S6YG-FZ33>].

31. *See id.*; *see also* Jeff Desjardings, *One Chart Shows Just How Huge the Cryptocurrency Explosion Has Been*, *BUS. INSIDER* (Sept. 5, 2017, 3:56 PM), <https://www.businessinsider.com/cryptocurrency-explosion-in-one-chart-2017-9> [<https://perma.cc/S2SY-ZWFT>].

32. *See* Desjardings, *supra* note 31.

33. *See* Nathan Reiff, *Why Is Bitcoin Volatile?*, *INVESTOPEDIA*, <https://www.investopedia.com/articles/investing/052014/why-bitcoins-value-so-volatile.asp> [<https://perma.cc/2TWH-QENG>] (Jan. 4, 2022).

authorize decisions to limit production to fixed quantities.³⁴ An analogous scenario is when the US treasury stops printing money to prevent inflation.³⁵

Since Bitcoin's release, a multitude of other cryptocurrencies have emerged, many of which are based on the systems set forth in Nakamoto's white paper.³⁶ To date, there are currently over 1,500 different cryptocurrencies available for purchase on exchanges such as Coinbase and Robinhood.³⁷ While not all of these currencies are successful, the industry as a whole is booming, with the ten most popular cryptocurrencies sporting a market cap in excess of one trillion US dollars.³⁸ This massive surge in popularity has occurred in just twelve years, making cryptocurrencies one of the fastest-growing commodities in history.³⁹

B. Crypto Casinos Simplified

Online gambling platforms that exclusively operate with forms of cryptocurrencies, such as Bitcoin and Ethereum, are colloquially referred to, by online users, as "crypto casinos."⁴⁰ These casinos offer a wide variety of gambling experiences to users across the globe, including online sports betting, online poker, and even virtual slots.⁴¹

34. See *id.* (comparing the limitations of cryptocurrency production to the limitations of the US Treasury placing freezes and controls on the US dollar printing schedule).

35. See John P. Kelleher, *Why Do Bitcoins Have Value?*, INVESTOPEDIA, <https://www.investopedia.com/ask/answers/100314/why-do-bitcoins-have-value.asp> [https://perma.cc/HK5R-4YUQ] (Dec. 25, 2021).

36. See Nina Bambyshva, *Satoshi & Company: The 10 Most Important Scientific White Papers in Development of Cryptocurrencies*, FORBES (Feb. 13, 2021, 10:00 AM), <https://www.forbes.com/sites/ninabambyshva/2021/02/13/satoshi-company-the-10-most-important-scientific-white-papers-in-development-of-cryptocurrencies/?sh=4275a2220571> [https://perma.cc/33LW-GAY4] (explaining how the Satoshi white paper has been considered as the seminal publication for other cryptocurrency creators).

37. See Daily Statistics on the Cryptocurrency Market, COINBASE, <https://www.coinbase.com/price> [https://perma.cc/V8UF-WL2Z] (last visited Jan. 29, 2022); see also *Crypto Wallets*, ROBINHOOD, <https://robinhood.com/us/en/support/articles/cryptocurrency-wallets/> [https://perma.cc/DJA7-YPJC] (last visited Jan. 29, 2022).

38. See *All Cryptocurrencies*, COINMARKETCAP, <https://coinmarketcap.com/all/views/all/> [https://perma.cc/WQ8B-Z9JS] (last visited Jan. 29, 2022).

39. See Lopatto, *supra* note 30.

40. See, e.g., *The Best Crypto Casinos that Accept Bitcoin, Ethereum, and Altcoins*, MERCURY NEWS, <https://www.mercurynews.com/2021/09/17/10-best-bitcoin-casinos-and-cryptocurrency-gambling-sites/> [https://perma.cc/TR3K-JGRC] (Sept. 20, 2021, 8:20 AM).

41. See Information on Crypto Casinos and Online Gambling, COINGAMBLING, <https://coingambling.info> [https://perma.cc/2BHH-PCNV] (last visited Feb. 9, 2022); see also *Bitcoin Casinos Are a Real Thing – Here's Everything You Need to Know*, COIN INSIDER

Because more than three hundred cryptocurrency transactions occur every second by online gamblers, it is critical to review how crypto casinos were formed and are regulated today.⁴² Bitcoin experts largely agree that the summer of 2016 saw the most dramatic spike in the facilitation and promotion of cryptocurrency (rather than credit card) transactions by online casinos.⁴³ This movement to Bitcoin revolutionized the industry because, for the first time, reputable and established casinos were entering the crypto-space—a landscape that was previously occupied by un reputable, smaller virtual platforms with limited success.⁴⁴ Since 2016, the host of perks and benefits offered by crypto casinos has exploded in an attempt to garner a larger portion of users, with many websites offering free spins, match-deposit welcome bonuses, and bonuses for specific cryptocurrency transactions.⁴⁵

C. The Status Quo: The Regulatory Landscape Taking Center Stage

As mentioned, the UIGEA is the sole piece of federal legislation that even remotely addresses the legality of crypto casinos in the United States.⁴⁶ The statute does this by “prohibit[ing] gambling businesses from knowingly accepting payments . . . in a bet or wager that involves the use of the Internet and that is unlawful under any federal or state law.”⁴⁷ This broad language encompasses a wide variety of forms of online gambling regardless of the type of currency used.⁴⁸ In addition, the UIGEA exempts some fantasy sports, skill games, and legal

(May 25, 2018), <https://www.coininsider.com/what-you-need-to-know-about-bitcoin-casinos/> [<https://perma.cc/8RDW-7ZMV>].

42. See Dusan Vasic, *The Short History and Impressive Rise of Bitcoin Gambling*, BITCOINPLAY (Dec. 26, 2017), <https://bitcoinplay.net/short-history-impressive-rise-bitcoin-gambling/#gref> [<https://perma.cc/M7UJ-WVVD>].

43. See *Online Casinos and Bitcoin – a Brief History and Understanding*, BEST BITCOIN EXCH., <https://bestbitcoinexchange.com/casinos/> [<https://perma.cc/9TES-USQC>] (last visited Feb. 8, 2022).

44. *Id.*

45. See generally *Guide to the Best Crypto Casinos in 2022 – Gamble with Crypto*, TOP10-CASINOSITES, <https://www.top10-casinosites.net/top-10-cryptocoin-casinos/> [<https://perma.cc/TS2B-HZBU>] (last visited Feb. 8, 2022).

46. See *supra* p.538 and notes 16–20; *UIGEA: Unlawful Internet Gambling Enforcement Act*, GAMBLINGSITES.ORG, <https://www.gamblingsites.org/laws/united-states/uigea/> [<https://perma.cc/5XX3-VQNL>] (last visited Feb. 8, 2022).

47. NAT’L CREDIT UNION ADMIN., 10-RA-08, UNLAWFUL INTERNET GAMBLING ENFORCEMENT ACT OF 2006 (2010), <https://www.ncua.gov/regulation-supervision/letters-credit-unions-other-guidance/unlawful-internet-gambling-enforcement-act-2006> [<https://perma.cc/S3MD-TU87>]; see Unlawful Internet Gambling Enforcement Act of 2006, 31 U.S.C. § 5363.

48. See 31 U.S.C. § 5363.

intrastate and intertribal gaming.⁴⁹ Significantly, Congress declined to extend this exemption to include the use of cryptocurrencies in online casinos.⁵⁰ Thus, with no express language that addresses the use of cryptocurrencies, the legality of crypto casinos remains ambiguous.

In practice, the statute's inclusion of "unlawful under any applicable Federal or State law" places the burden on future congressional sessions and state legislatures to further define their own laws related to cryptocurrency gambling, essentially creating an ad hoc, federalist system.⁵¹ Currently, Delaware, Nevada, New Jersey, and Pennsylvania are the only states that allow their citizens to access crypto casinos, as long as the gamblers are residents of these respective states.⁵² While this clarification is a helpful starting point, it does not assist citizens of the aforementioned states because online crypto casinos have essentially stopped transacting with anyone whose internet protocol address is registered in the United States.⁵³ The willingness of virtual casino platforms to distance themselves from American consumers is arguably perpetuated by the transaction ban provided by the UIGEA.⁵⁴ Thus, the state legislatures that legalize cryptocurrency gambling are largely acting in vain, as the UIGEA has disincentivized businesses from conducting operations with US citizens.⁵⁵

Furthermore, stories on online forums such as Reddit paint a dark picture of Americans who utilize VPNs to access crypto casinos regardless of state regulations and engage in virtually untraceable gambling activity.⁵⁶ In other words, users are able to review short internet guides instructing them on how to download and install VPNs, which essentially allows any person with an internet connection to mask their location in order to access a crypto casino.⁵⁷ Therefore,

49. See *id.* § 5362.

50. See *UIGEA Explained*, BETTINGUSA.COM, <https://www.bettingusa.com/laws/uigea/#0-uigea-exemptions> [<https://perma.cc/3DMQ-6GRM>] (last visited Feb. 8, 2022).

51. 31 U.S.C. § 5362(10)(A); see *What Is the UIGEA?*, LEGAL SPORTS BETTING, <https://www.legalsportsbetting.com/what-is-the-uigea> [<https://perma.cc/74A8-J8UH>] (last visited Feb. 8, 2022).

52. See *Is Bitcoin Gambling Legal in the US?*, KATIEWAGER.COM, <https://www.katiewriter.com/bitcoin-gambling-in-usa> [<https://perma.cc/Z6HT-8CGD>] (last visited Feb. 8, 2022).

53. See Redman, *supra* note 12.

54. See *UIGEA Explained*, *supra* note 50.

55. See *id.*

56. See ROOBET, *supra* note 1.

57. See, e.g., u/bealan, *VPN/USA Roobet Experience Today*, REDDIT: R/ROOBET (Aug. 25, 2020, 6:53 AM), https://www.reddit.com/r/Roobet/comments/igan15/vpnusa_roobet_experience_today/ [<https://perma.cc/89JN-4GFS>].

reforms to the UIGEA are necessary to clarify this currently ambiguous area of the law, as American gamblers are already poking holes in the current regulatory scheme.

II. ISSUES SURROUNDING CRYPTO CASINOS

After reviewing the history of cryptocurrencies, crypto casinos, and the current regulatory landscape surrounding online crypto-gambling, it is critical to turn to issues that impact crypto casinos themselves before offering tangible solutions. Thus, this Part will explore the connection between cryptocurrency and crime, as well as potential issues with further regulation.

A. The Connection Between Cryptocurrency and Crime

Cryptocurrency is often used in white-collar crimes; the Internal Revenue Service (IRS) has even stated that virtual currencies are “an immediate concern” in addressing major criminal activity such as tax evasion.⁵⁸ Previous scholarship on the subject has indicated that organized crime syndicates, terrorist groups, and even foreign countries value cryptocurrencies for the anonymity it provides in transactions.⁵⁹ In 2018, it was estimated that over \$800 million worth of Bitcoin was spent on the dark web.⁶⁰ However, it has been suggested that these currencies are not just tools by which criminals illegally purchase goods and services; rather, the transportation of these currencies constitutes criminal activity in and of itself.⁶¹ Cryptocurrencies are often the preferred method for money laundering and tax evasion—two white-collar crimes that historically have been conducted with traditional currencies.⁶²

58. Kevin F. Sweeney, *Keeping a Lid on the Crypt: Protecting Taxpayers' Fifth Amendment Rights to Not Produce Incriminating Crypto Records*, J. TAX PRAC. & PROC., Oct.–Nov. 2018, at 27, 28; see Chelsea Pieroni, *La Crypto Nostra: How Organized Crime Thrives in the Era of Cryptocurrency*, 20 N.C. J.L. & TECH. 111, 122 (2018).

59. *Id.* at 135–38.

60. *Id.* at 134; Aditi Kumar & Eric Rosenbach, *The Truth About the Dark Web*, FIN. & DEV., Sept. 2019, at 22, 24.

61. See YAYA J. FANUSIE & TOM ROBINSON, FOUND. FOR DEF. OF DEMOCRACIES, CTR. ON SANCTIONS & ILLICIT FIN., BITCOIN LAUNDERING: AN ANALYSIS OF ILLICIT FLOWS INTO DIGITAL CURRENCY SERVICES 11 (2018), <https://cdn2.hubspot.net/hubfs/3883533/downloads/Bitcoin%20Laundering.pdf> [<https://perma.cc/MX6H-NBN4>].

62. See *id.* at 3; see also Omri Marian, *Are Cryptocurrencies Super Tax Havens?*, 112 MICH. L. REV. FIRST IMPRESSIONS 38, 39 (2013).

1. Money Laundering

The practice of money laundering has never been easier than it is now due to the advancement of cryptocurrencies.⁶³ The process of laundering is quite simple; perpetrators follow a straightforward process by (1) purchasing a form of cryptocurrency through digital currency exchanges, (2) transferring tangible currency from a traditional banking account, and (3) “cleansing” the illicit funds.⁶⁴ This cleansing process occurs by transferring assets between various types of cryptocurrencies in an effort to compound a chain of almost completely untraceable cryptocurrency transfers.⁶⁵ While it is nearly impossible to calculate the monetary value of money laundering through blockchain technologies, reports indicate that over \$750 million in stolen funds were laundered in 2018 alone.⁶⁶ This number likely represents a fraction of the percentage of the total laundered value since dark web transactions are so difficult to trace and report.⁶⁷

The cleansing process is not just isolated to private transactions by gamblers but can also be accomplished by gambling with cryptocurrencies, which makes crypto casinos a prime target for white-collar criminals.⁶⁸ There are a variety of factors that make online gambling particularly susceptible to money laundering, including: (1) the virtual nature of the cash flows, (2) the international nature of the cash flows, (3) the complexity of the payment processing, (4) the vast amount of legal and illegal players on the market, and (5) the high payout percentages.⁶⁹ These factors make it clear that online gambling is the ideal vessel for organized crime to cleanse their profits from illegal transactions, which essentially leads crypto casinos to function as untraceable international currency exchanges.⁷⁰

63. See Andrea Rebor, *The Use of Cryptocurrency for Money Laundering*, MEDIUM: COINMONKS (Dec. 29, 2019), <https://medium.com/coinmonks/the-use-of-cryptocurrency-for-money-laundering-e94131748cc7> [<https://perma.cc/F7UG-54HE>].

64. *Id.* (explaining the process by which a criminal can launder money with crypto currency).

65. *Id.*

66. *Id.*

67. *See id.*

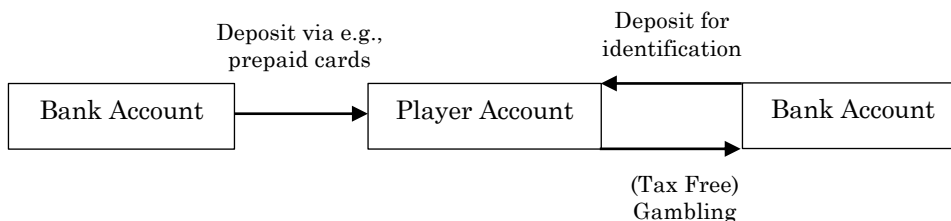
68. CIPHERTRACE, 2018 Q2 CRYPTOCURRENCY ANTI-MONEY LAUNDERING REPORT 8–9 (2018), https://ciphertrace.com/wp-content/uploads/2019/07/crypto_aml_report_2018q2.pdf [<https://perma.cc/U9GZ-DPMG>].

69. See Ingo Fiedler, *Online Gambling as a Game Changer to Money Laundering?* 1 (Apr. 30, 2013) (unpublished article), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2261266 [<https://perma.cc/PTZ5-TQXE>].

70. *Id.* at 3.

How can online casinos be used to cleanse money? Previous scholarship suggests two primary methods that organized crime syndicates use to effectively clean their cash.⁷¹ As evidenced by the graph below, the first method involves a perpetrator taking money that would otherwise be considered unclean and then using that cash to buy prepaid gift cards.⁷² The criminal uses these prepaid gift cards to deposit credits into his or her online gambling account and then uses that gambling credit to play games in virtual casinos.⁷³ Any wins made by the criminal would then be available for withdrawal at any time, completely free from liability.⁷⁴ This method is not foolproof, as the online gambler would then have to process this money through the casino by continuously winning. The figure below provides a visual illustration of how this method works in practice by showcasing the simple three-step process that criminals use to cleanse “dirty” money.

Figure 1: Money Laundering Where an Illegal Transaction Already Occurred⁷⁵



The second method is commonly referred to as a “player to player transfer” and requires that a perpetrator utilize virtual casino platforms to deposit traditional currency into player accounts and consequently send that currency to other users on the same casino platform through virtual wallets provided by the casino platform.⁷⁶ The recipient of these funds can then play online games to generate winnings, thus converting the previously dirty cash into a tax-free gambling win.⁷⁷

71. *Id.*

72. *See id.* at 3–4.

73. *See id.* at 4.

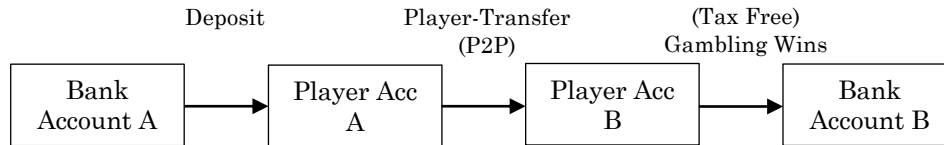
74. *Id.*

75. *Id.* at 4, fig.1.

76. *See id.* at 3–4.

77. *See id.* at 4.

Figure 2: Online Gambling as a Payment Tool for Illegal Transaction⁷⁸



After exploring the ways in which money can be laundered via virtual casinos, it is a more daunting task to understand the true gravity of money laundering via online gambling in the United States.⁷⁹ The amount of money laundered in the United States annually has skyrocketed over the past several decades—in the late 1990s, over \$380 million was laundered, while an estimated \$300 billion was laundered in 2015.⁸⁰ The Treasury Department’s 2015 National Money Laundering Risk Assessment cites the rise of online casinos as a major factor behind this incredible increase in money laundering.⁸¹

In reality, it is practically impossible to know how many transactions are facilitated by online gambling platforms because these sites have no customer data acquisition regulations, which makes it extremely difficult for law enforcement agencies to track funds that are illegally laundered through these sites.⁸² Thus, in theory, criminals can establish accounts with one of the hundreds of online gambling sites and move as much cryptocurrency through these websites as they desire because there are no limits on withdrawals and deposits.⁸³

78. *Id.* at 4, fig.2.

79. See PETER REUTER & EDWIN M. TRUMAN, CHASING DIRTY MONEY: THE FIGHT AGAINST MONEY LAUNDERING 9 (2004).

80. See *id.* at 9–10; see also U.S. DEP’T OF THE TREASURY, NATIONAL MONEY LAUNDERING RISK ASSESSMENT 2 (2015), <https://home.treasury.gov/system/files/246/National-Money-Laundering-Risk-Assessment-06-12-2015.pdf> [<https://perma.cc/725Y-P6SN>].

81. See U.S. DEP’T OF THE TREASURY, *supra* note 80, at 48.

82. See Joel Khalili, *The Weird and Rarely Wonderful World of Crypto Casinos*, TECHRADAR (Dec. 11, 2020), <https://www.techradar.com/news/the-weird-and-rarely-wonderful-world-of-crypto-casinos> [<https://perma.cc/ZWN6-8LAW>] (detailing the standards and requirements mandated by the American Gaming Association, such as “anti-money laundering” and “know your customer” requirements).

83. See Fiedler, *supra* note 69, at 5–6.

2. Tax Evasion

Another white-collar crime facilitated by crypto casinos is tax evasion, which often involves millions of dollars in blockchain assets.⁸⁴ For example, in October 2020, notorious Bitcoin investor John McAfee was arrested and charged with tax evasion for failing to file tax returns between 2014 and 2018.⁸⁵ During this time, the Department of Justice (DOJ) alleged McAfee avoided tax burdens and penalties by channeling his income into cryptocurrency exchange accounts, which allowed him to conceal the true extent of his income.⁸⁶ Immediately following his arrest, the Securities and Exchange Commission (SEC) accused McAfee of failing to disclose over \$23 million worth of cryptocurrencies on his annual tax return.⁸⁷

While stories like McAfee's do not apply specifically to crypto casinos, the same line of reasoning detailed above for money laundering can also be applied to instances of tax evasion.⁸⁸ While users of crypto casinos have often utilized cryptocurrencies to avoid capital gains tax in the United States,⁸⁹ the IRS is partially to blame for this evasion because the agency cannot collect cryptocurrencies as forms of payment for taxes paid on liquid assets.⁹⁰ Thus, Americans who seek to pay taxes on the capital gains of their cryptocurrency purchases are required to do so with US dollars or, instead, exchange a portion of their cryptocurrency into US dollars to pay tax bills.⁹¹ This reality is problematic for both tax collection agencies and cryptocurrency owners,

84. See, e.g., *Anti-Virus Creator John McAfee Arrested over Tax Evasion Charges*, BBC NEWS (Oct. 6, 2020), <https://www.bbc.com/news/world-europe-54431726> [<https://perma.cc/3APR-TVDM>].

85. See *id.*

86. See U.S. DEP'T OF JUST., RELEASE NO. 20-152, JOHN MCAFEE INDICTED FOR TAX EVASION (2020), <https://www.justice.gov/opa/pr/john-mcafee-indicted-tax-evasion> [<https://perma.cc/9CNL-NFPX>].

87. See *SEC Sues John McAfee over Promoting Cryptocurrency Offerings on Twitter*, CNBC (Oct. 5, 2020, 5:45 PM), <https://www.cnbc.com/2020/10/05/sec-sues-john-mcafee-over-promoting-cryptocurrency-offerings-on-twitter.html> [<https://perma.cc/M7TA-C6NQ>].

88. See *id.*; see also discussion *supra* Section II.A.1.

89. See Thomas Slattery, *Taking a Bit Out of Crime: Bitcoin and Cross-Border Tax Evasion*, 39 BROOK. J. INT'L L. 829, 847–49 (2014).

90. See *Virtual Currencies*, INTERNAL REVENUE SERV., <https://www.irs.gov/businesses/small-businesses-self-employed/virtual-currencies> [<https://perma.cc/436E-J9TJ>] (Apr. 30, 2021).

91. See William Perez, *How Bitcoin Is Taxed*, THE BALANCE, <https://www.the-balance.com/how-bitcoins-are-taxed-3192871> [<https://perma.cc/AR7J-KS9Y>] (Jan. 24, 2022); see also Darla Mercado, *Bitcoin Hit the \$19,800 Mark. What the IRS Wants to Know About Your Holdings*, CNBC (Dec. 1, 2020, 9:00 AM), <https://www.cnbc.com/2020/12/01/bitcoin-hit-the-19800-mark-how-this-could-affect-your-2020-taxes.html> [<https://perma.cc/3D3D-GJ8N>].

as the IRS is less likely to collect on the gains from an asset that is not easily converted, thus causing the crypto casino user to be more likely to commit tax evasion than pay the capital gains for their rapidly appreciating cryptocurrency.⁹²

Like asset appreciations, gambling winnings must be reported as income, even if acquired through illegal measures.⁹³ Since, according to the IRS, gambling winnings count as taxable income, failing to report winnings from crypto casinos classifies as tax evasion.⁹⁴

B. Regulatory Difficulties

In the United States, state gambling boards have limited ability to offer gambling licenses to online vendors due to issues with the “know your customer” requirement.⁹⁵ For example, the American Gaming Association (AGA) provides guidelines and directives for state gambling boards on how to regulate and evaluate traditional and virtual casinos.⁹⁶ One directive requires US gamblers who register with an online casino to provide a wide variety of identifying information, including their social security number, full legal name, and residential address; these requirements place emphasis on an individual gambler rather than any casino or gambling entity.⁹⁷ However, requiring personal information from cryptocurrency gamblers using online casinos is not the industry standard.⁹⁸ Popular websites like Roobet

92. See Alex Gailey & Kendall Little, *Yes, Your Crypto Is Taxable. Here’s how to Report Cryptocurrency to the IRS in 2022*, TIME: NEXTADVISOR (Jan. 17, 2022), <https://time.com/nextadvisor/investing/cryptocurrency/cryptocurrency-tax-guide/> [<https://perma.cc/8UHK-BK7K>].

93. See *Online Gambling Tax Guide (Updated for 2021)*, LETSGAMBLEUSA, <https://www.letsgambleusa.com/online-gambling-taxes/> [<https://perma.cc/SW4X-JE6R>] (last visited Feb. 8, 2022); *Question: How Do I Report Gambling Winnings and Deduct Gambling Losses?*, H&R BLOCK, <https://www.hrblock.com/tax-center/income/other-income/reporting-online-gambling-winnings-and-losses/> [<https://perma.cc/N977-N836>] (last visited Oct. 30, 2020).

94. See *How the IRS Audits Non-Reported Offshore, Crypto and Gambling Accounts*, FAS CPA & CONSULTANTS, <https://fascpaconsultants.com/how-the-irs-audits-fbar-returns-for-non-reported-offshore-crypto-and-online-gambling-accounts/> [<https://perma.cc/8LSL-ZDCB>] (last visited Feb. 8, 2022).

95. See *supra* note 82 and accompanying text.

96. See AM. GAMING ASS’N, *BEST PRACTICES FOR ANTI-MONEY LAUNDERING COMPLIANCE 2019–2020*, at 1 (2019), https://www.americangaming.org/wp-content/uploads/2019/12/AGA-AML-Best-Practices_12-9.pdf [<https://perma.cc/HE8N-25QG>].

97. See *Identity Verification for Online Casinos – the 2021 Guide*, GETID (Jan. 22, 2020), <https://getid.ee/a-guide-to-identity-verification-for-online-casinos/> [<https://perma.cc/PJ8E-NNSE>] (explaining the list of requirements in the United States for gamblers to use online casinos).

98. See Kevin Horridge, *How Cryptocurrencies Are Revolutionizing Online Gambling*, CASINO.ORG (Sept. 15, 2017), <https://www.casino.org/blog/cryptocurrencies-revolutionizing-online-gambling/> [<https://perma.cc/8XGJ-FVGK>].

simply require an email address for verification.⁹⁹ Therefore, crypto casinos run the risk of non-compliance with AGA standards if they fail to require more personal information from online gamblers.¹⁰⁰ In order for this Note's solution to be effective, crypto casino providers will need to improve their platforms and data collection practices.

III. POTENTIAL LEGAL RESPONSES

When considering a policy recommendation, it is necessary to reconcile all the above factors, including the potential for white-collar crime, the anonymous nature of cryptocurrencies, and the difficulty of enforcement under the UIGEA. Before proposing how the US government should regulate crypto casinos, this Note will review multiple potential solutions, exploring both their advantages and limitations. Thus, the forthcoming part will explore: (1) an outright ban; (2) full legalization; and (3) a middle-ground approach that balances the interests of both gamblers and the law.

A. *Solution I: A Crypto Casino Ban*

At first glance, the easiest solution is for Congress to amend the UIGEA in order to ban crypto casinos. By explicitly defining these institutions and consequently regulating them, the federal government sends a clear message to state legislatures and citizens. This regulation could be modeled after current copyright infringement penalties for those who violate media piracy laws, which include hefty fines and imprisonment.¹⁰¹

First, this clarity will be helpful for state legislatures who have failed to provide a legislative response to the growing number of citizens in their state who use crypto casinos. While states like New Jersey and Nevada have generally legalized online casinos, none have gone so far as to (1) recognize that cryptocurrency is used as a gambling medium

99. See, e.g., *Bitcoin Gambling Guide - How to Buy, Send & Gamble w/BTC*, PRO. RAKEBACK, <https://professionalrakeback.com/how-to-set-up-bitcoin-for-online-gambling> [<https://perma.cc/W5RZ-FD4Z>] (last visited Jan. 16, 2022) (explaining the ease of setting up an account); u/dom555, *How to Create a Roobet Account*, REDDIT: R/ROOBET (July 26, 2020, 3:18 PM), https://www.reddit.com/r/Roobet/comments/hydyap/how_to_create_a_roobet_account/ [<https://perma.cc/LC5Q-CWGN>] (providing a detailed tutorial on how to sign up for the popular cryptocurrency casino Roobet).

100. See *Identity Verification for Online Casinos – the 2021 Guide*, *supra* note 97.

101. See *About Piracy*, RECORDING INDUS. ASS'N OF AM., <https://www.riaa.com/resources-learning/aboutpiracy/#:~:text=A%20civil%20lawsuit%20could%20hold,You%20may%20find%20t> his%20surprising [<https://perma.cc/Y47X-PZG2>] (last visited Feb. 8, 2022).

or (2) regulate any type of casino that is primarily operated by cryptocurrency.¹⁰² If Congress chose to implement this solution, citizens of these states would finally know if they were allowed to gamble on crypto casinos.

Second, by implementing this policy, Congress will set forth clear enforcement policies for users that access crypto casinos despite warnings and regulations. By providing an enforcement mechanism, Congress creates another recourse for would-be white-collar criminals and crime syndicates by explicitly stating that the United States will not tolerate the use of crypto casinos to facilitate criminal activity.

However, there are some downfalls to this solution. A federal ban on cryptocurrencies limits the freedoms of law-abiding citizens who otherwise may enjoy the use of crypto casinos—for example, immune-compromised citizens that cannot patronize traditional casinos due to the COVID-19 pandemic. Additionally, by committing to an outright ban, Congress takes an anti-business stance by limiting commercial activities operating within the United States. This solution would likely deprive citizens of the ability to engage in conduct that would otherwise be legal if they went to a casino in person, which places undue burdens on those with disabilities or physical limitations.¹⁰³ Thus, it is necessary to explore additional solutions.

B. Solution II: Legalize and Legislate

A less harsh but potentially equally effective policy alternative is for Congress to amend the UIGEA to fully legalize crypto casinos in the United States. Congress could do this by explicitly naming cryptocurrency as an acceptable form of currency to be used in online gambling. While it is unlikely that Congress will legalize crypto casinos across the board, it is nonetheless worth exploring.

102. See *Nevada Online Gambling & Casinos*, GAMBLING.COM, <https://www.gambling.com/us/nevada#:~:text=Yes%2C%20online%20gambling%20in%20Nevada,is%20not%20licensed%20or%20regulated> [https://perma.cc/X284-QETP] (Feb. 8, 2022) (explaining that online gambling in Nevada is perfectly legal); see also Bill Grinstead, *NJ Gambling Laws: The Law Legalizing Online Casino, Poker and Sportsbooks*, NJ ONLINE GAMBLING, <https://www.njonlinegambling.com/a2578/> [https://perma.cc/3F44-REXM] (Aug. 4, 2021) (explaining that the New Jersey legislature legalized online gambling in 2013).

103. See Ellen Shepard, *Online Casinos for Elderly, Seniors and Disabled*, DISABLED WORLD, <https://www.disabled-world.com/entertainment/games/online-casinos.php> [https://perma.cc/RG37-WQNW] (Mar. 11, 2011) (explaining how it is impossible for the elderly and physically disabled to have the same access to entertainment venues like casinos as do individuals in physically stable condition).

Several advantages of legalization immediately stand out, namely (1) taxation benefits and (2) US gambling freedoms. First, the taxation benefits from full legalization would be astronomical; traditional US casinos have empowered communities and funded public works projects.¹⁰⁴ In the United States, traditional casinos pay a Gross Gaming Revenue (GGR) tax to their respective states of licensure on all income received through gambling activities.¹⁰⁵ These tax rates and revenues vary wildly by state.¹⁰⁶ Casino-heavy jurisdictions like Nevada report annual taxable revenues over \$7 billion, while smaller states like New Mexico report only \$53 million.¹⁰⁷ Nevada significantly augments its annual revenue fund by implementing a nearly seven percent tax on casinos, which, on average, amounts to close to thirty-eight percent of the state's entire annual revenue.¹⁰⁸ These taxed gambling revenues are weighty, as they are often used to fund public projects such as education, infrastructure, and healthcare subsidies.¹⁰⁹ If Congress adopts this policy, states across the country can increase their annual revenues because crypto casinos would theoretically be subject to the same GGR tax imposed upon traditional casinos.

Second, implementation of this policy strengthens the rights of the American consumer, who can now conduct his or her gambling affairs without unnecessary government intervention. Legalizing crypto casinos will empower Americans with a newfound enumerated right: the right to gamble in a new way.

On balance though, there are significant limitations to a solution focused on pure legalization. For example, congressional action that fails to provide safeguards or more rigorous regulation could communicate a policy of non-aggression towards criminals who use crypto casinos for nefarious activities like tax evasion and money

104. See LUCY DADAYAN, ROCKEFELLER INST. OF GOV'T, STATE REVENUES FROM GAMBLING: SHORT-TERM RELIEF, LONG-TERM DISAPPOINTMENT 14 (2016), https://rockinst.org/wp-content/uploads/2017/11/2016-04-12-Blinken_Report_Three-min.pdf [<https://perma.cc/PCN4-UX5L>] (explaining how casinos in the United States have generated tax revenue for state legislatures).

105. See *id.*; Brooke Keaton, *The Highest and Lowest Gambling Taxes Around the World*, CASINO.ORG (June 26, 2020), <https://www.casino.org/blog/comparing-gambling-taxes-around-the-world/> [<https://perma.cc/JH3U-RYRF>].

106. See CTR. FOR GAMING RSCH., UNIV. OF NEV. L.V., UNITED STATES COMMERCIAL CASINO GAMING: MONTHLY REVENUES (2022), https://gaming.unlv.edu/reports/national_monthly.pdf [<https://perma.cc/LK5S-E3U9>] [hereinafter U.S. COMMERCIAL CASINO GAMING REVENUES].

107. See *id.*

108. See UNLV Center for Gaming Research, *Nevada Gaming Summary*, (last visited Apr. 20, 2022), https://gaming.library.unlv.edu/abstract/nv_main.html#strip.

109. See DADAYAN, *supra* note 104, at 31.

laundering. Others could argue that insufficient research has been conducted on the ramifications of full legalization to warrant such a radical change from the current approach. Thus, a third solution that finds a middle ground between criminalization and legalization is necessary.

C. Solution III: A Balanced Approach

The best solution must recognize the need for regulation and allow states to continue to operate as “laboratories of democracy.”¹¹⁰ The legislation will likely be bipartisan in nature, as it would require both law and order restrictions, as well as common-sense clarifications and concessions. Thus, this Note recommends that Congress should: (1) amend the UIGEA to enumerate crypto casinos as an acceptable mode of online gambling; (2) amend the UIGEA to criminalize both money laundering and tax evasion through crypto casinos; (3) maintain the current policy that allows state legislatures to determine whether to legalize online gambling within their respective states; (4) mandate a GGR tax requirement for each state that legalizes crypto casinos; and (5) provide additional resources to white-collar crime units in federal law enforcement agencies like the Federal Bureau of Investigation (FBI) and IRS.

The posture of this Note is simple. Congress should amend the UIGEA to include cryptocurrency as an acceptable gambling medium and crypto casinos as acceptable gambling forums. The advantages to this policy are substantial, specifically an increase in US consumer rights and states’ annual revenues due to growth in the gambling tax base for those states that allow online gambling.¹¹¹ Congress, by specifically enumerating the penalties for those who utilize crypto casinos to conduct white-collar crimes, accomplishes its goal of deterring criminal behavior by providing real recourse and penalties for those who seek to abuse the system. Not to mention, this solution avoids the danger of political gridlock by deliberately maintaining the current federal policy that lets state legislatures choose whether to legalize online gambling.¹¹²

110. See *supra* Sections III.A, III.B; Bradley A. Blakeman, *States Are the Laboratories of Democracy*, HILL (May 7, 2020, 7:30 AM), <https://thehill.com/opinion/judiciary/496524-states-are-the-laboratories-of-democracy> [<https://perma.cc/PQF8-VUKC>] (explaining how Justice Brandeis referred to states as the “laboratories of democracy”).

111. See *supra* Part III.

112. See *generally* Unlawful Internet Gambling Enforcement Act of 2006, 31 U.S.C. § 5361.

This solution can also fight against the potential for white-collar crime by mandating oversight of crypto casinos by government organizations such as state gambling review boards, the IRS, or the FBI. If online casinos wish to operate in the US market, they will have to abide by federal and state agency regulations. Thus, the potential for white-collar crime will be diminished due to the presence and supervision of crime prevention units. While federal oversight of crypto casinos will not abolish money laundering or tax evasion completely, it is a welcome step in the right direction and seeks to mend a growing area of concern.

Additionally, a mandated GGR tax could assist financially-strapped states that rely on similar structures (i.e., lotteries) to fund public works like infrastructure and education.¹¹³ For example, in rural economies like West Virginia, the state lottery commission paid nearly \$10 billion in tax revenue to the state legislature's general revenue fund for the past three decades; this provided over \$3 billion in additional revenue for public school funding.¹¹⁴ For a state that ranks in the bottom half of public education funding per student, the West Virginia lottery revenues are necessary to fund essential education tools such as teacher salaries, public employee pensions, and construction costs for new schools and buildings.¹¹⁵ Stories like West Virginia's are not uncommon—state lottery revenues subsidize the growing costs of public education in almost every state.¹¹⁶ Thus, if one views playing a lottery as a form of luck-based gambling, a similar model could be applied to the introduction of online crypto casino gambling in each state. While it is impossible to predict the potential tax revenue that this newfound gambling experience could create, examples like Nevada and West

113. See *How Gaming Benefits Nevada: Taxes*, NEV. RESORT ASS'N, <http://nevadaresorts.org/benefits/taxes.php> [<https://perma.cc/S7FM-ZB9P>] (last visited Feb. 14, 2021) (explaining how the GGR from casinos in the state of Nevada impacts funding for public works and services such as education, infrastructure, and other agenda items).

114. See W. VA. LOTTERY, COMPREHENSIVE ANNUAL FINANCIAL REPORT FOR THE FISCAL YEARS ENDED JUNE 30, 2016 AND 2015 (2016), <https://wvlottery.com/wp-content/uploads/2018/08/WVL2016AR.pdf?daeaccece> [<https://perma.cc/N57T-FPPV>].

115. See Ted Boettner, *Does West Virginia Invest Enough in Education? A Closer Look at the Data*, W. VA. CTR. ON BUDGET & POL'Y (June 6, 2019), <https://wvpolicy.org/does-west-virginia-invest-enough-in-education-a-closer-look-at-the-data/> [<https://perma.cc/46D3-NVY2>].

116. See generally Kevin P. Brady & John C. Pijanowski, *Maximizing State Lottery Dollars for Public Education: An Analysis of Current State Lottery Models*, 7 J. EDUC. RSCH. & POL'Y STUD. 20 (2007).

Virginia indicate how lucrative this solution could be for states seeking additional revenues.¹¹⁷

IV. ADDITIONAL CONSIDERATIONS REQUIRED FOR POLICY IMPLEMENTATION

While Solution III seeks to implement a middle-of-the-road approach to the legalization of crypto casinos,¹¹⁸ there are additional considerations to explore that impact the effectiveness of a federal response. These considerations include: (1) foreign crypto casino compliance, (2) elevating white-collar crime divisions of the IRS and FBI, and (3) the difficulty of passing legislation in today's political climate.

A. Crypto Casino Transparency

Encouraging foreign-based owners and operators of crypto casinos to comply with new US regulations may be difficult. After all, these operators have access to other lucrative markets that have little to no government oversight or regulation.¹¹⁹ For example, according to online records, TekHou5—the company that owns and manages the popular crypto casino Roobet—was incorporated in Belize in April 2019, but virtually no other information can be found on the managing company outside of their information on file with the Business Companies Registry of Belize.¹²⁰ Roobet processes millions of transactions each year;¹²¹ therefore, the lack of publicly available corporate information may trouble US regulators. Thus, the success of any legislation that legalizes crypto casinos requires that these businesses comply with US filing requirements.¹²²

117. See *id.*; U.S. COMMERCIAL CASINO GAMING REVENUES, *supra* note 106.

118. See *supra* Section III.C.

119. See John Wanguba, *Are Bitcoin Casinos Legal?*, E-CRYPTO NEWS (Aug. 4, 2020), <https://e-cryptonews.com/are-bitcoin-casinos-legal/> [<https://perma.cc/XMB5-8JQA>] (showcasing an example of cryptocurrency casinos operating freely in a country with little to no regulation or oversight).

120. See *TekHou5 Limited*, OPENCORPORATES, https://opencorporates.com/companies/bz/RA000693_171902 [<https://perma.cc/RL3B-QJUC>] (Feb. 9, 2022).

121. ROOBET, *supra* note 1.

122. See Daniel Kuhn, *FinCEN Director Reminds Casinos of Crypto Compliance Requirements*, COINDESK, <https://www.coindesk.com/markets/2019/08/16/fincen-director-reminds-casinos-of-crypto-compliance-requirements/> [<https://perma.cc/M4NV-A9CZ>] (Sept. 13, 2021, 6:20 AM).

B. National Security Issues

In 2018, then US Attorney General Jeff Sessions created the federal Cyber-Digital Task Force, which identifies (1) critical national security issues inherent to emerging technologies and (2) other cyber threats that could pose challenges to US national security.¹²³ In its 2019 annual report, the task force stated that crypto casinos had the potential to facilitate criminal ventures and thus required further response strategies.¹²⁴ The strategies listed included: (1) promoting federal and state law enforcement awareness and expertise, (2) fostering cooperation with state authorities, (3) enhancing international cooperation and consistent international regulation, and (4) conducting private sector education and outreach through the DOJ and private cybersecurity contractors.¹²⁵ Essentially, the measures aim to ensure that cryptocurrencies are not used as a platform for illegality, but instead as a medium of exchange. The report further stated that these strategies are critical to “promote public safety and protect national security.”¹²⁶ Thus, the issue becomes one of money—the DOJ will need to acquire additional funds to accomplish these objectives.¹²⁷ If Congress wants to ensure that crypto casinos in the United States remain online entertainment spaces free from white-collar crimes, it must allocate funds to the Cyber-Digital Task Force.

123. See Dustin Volz, *Sessions Forms U.S. Cyber Task Force After Election Warnings*, REUTERS, <https://www.reuters.com/article/us-usa-cyber-taskforce/sessions-forms-u-s-cyber-task-force-after-election-warnings-idUSKCN1G42RB> [<https://perma.cc/4ESH-69KD>] (Feb. 20, 2018, 2:43 PM).

124. See U.S. DEP’T OF JUST., REPORT OF THE ATTORNEY GENERAL’S CYBER DIGITAL TASK FORCE 37 (2020), <https://www.justice.gov/archives/ag/page/file/1326061/download> [<https://perma.cc/3F4S-LYAL>].

125. *Id.* at 44–51.

126. *Id.* at 52.

127. See generally U.S. DEP’T OF JUST., RELEASE NO. 19-208, DEPARTMENT OF JUSTICE FY 2020 BUDGET REQUEST (2019), <https://www.justice.gov/opa/pr/departments-justice-fy-2020-budget-request> [<https://perma.cc/97QN-ZBVH>] (showcasing that the DOJ requested additional funds to enhance new or novel national security missions related to cybercrime).

C. Political Barriers

Federal governmental entities have regulated vices and substances for close to a century,¹²⁸ and these federal responses have often been subject to political scrutiny in the United States.¹²⁹ Take, for instance, the Eighteenth Amendment’s alcohol prohibition in 1919 or the recent Food and Drug Administration’s regulation of e-cigarettes and other vaping devices.¹³⁰ The legalization of crypto casinos will likely be no exception. Like the alcohol prohibition and vaping bans, political divisions will likely dominate the conversation around the legalization and regulation of crypto casino gambling.¹³¹

As of this Note’s publication, Congress is uniquely positioned to act swiftly to implement the aforementioned policy proposal.¹³² Previous literature indicates that a democratic “trifecta” has the potential to change gambling regulation through (1) reforms to the Federal Wire Act of 1961, (2) the introduction of the Sports Wagering Market Integrity Act of 2018, and (3) new initiatives to repeal excise taxes placed on legal sports bets—thus suggesting that Congress is interested in changing policy and legislative attitudes towards gambling, which could culminate in amendments to the UIGEA.¹³³

Additionally, the COVID-19 pandemic has led many cash-strapped states to seek new streams of income to account for losses in general tax revenue due to lockdown restrictions.¹³⁴ According to some analysts, Republicans in Congress would be unlikely to oppose

128. See *id.*; LISA N. SACCO, CONG. RSCH. SERV., R43749, DRUG ENFORCEMENT IN THE UNITED STATES: HISTORY, POLICY, AND TRENDS 2–4 (2014).

129. See LISA N. SACCO, CONG. RSCH. SERV., R43749, DRUG ENFORCEMENT IN THE UNITED STATES: HISTORY, POLICY, AND TRENDS 4–5 (2014).

130. See U.S. CONST. amend. XVIII; Ned Sharpless, *How FDA Is Regulating E-Cigarettes*, U.S. FOOD & DRUG ADMIN. (Sept. 10, 2019), <https://www.fda.gov/news-events/fda-voices/how-fda-regulating-e-cigarettes> [<https://perma.cc/WX3P-YEDE>].

131. See, e.g., Sheryl Gay Stolberg, *House Votes to Ban Flavors in Cigarettes and E-Cigarettes*, N.Y. TIMES (Feb. 28, 2020), <https://www.nytimes.com/2020/02/28/us/politics/flavored-cigarettes-vaping-ban.html> [<https://perma.cc/3ZLC-929C>]; Todd C. Frankel, Jeff Stein, Jacqueline Alemany & Hamza Shaban, *How Cryptocurrency Became a Powerful Force in Washington*, WASH. POST (Aug. 7, 2021, 7:17 PM), <https://www.washingtonpost.com/business/2021/08/07/cryptocurrency-infrastructure-bill-lobby-bitcoin/> [<https://perma.cc/29Y4-CYF3>]; Jack S. Blocker Jr., *Did Prohibition Really Work? Alcohol Prohibition as a Public Health Innovation*, 96 AM. J. PUB. HEALTH 233, 234–35, 241 (2006).

132. See *supra* Section III.C.

133. See Brett Smiley, *A Biden-Harris Administration, Democratic Senate Paints Rosier Picture for Sports Betting Nationwide*, SPORTS HANDLE (Oct. 15, 2020), <https://sportshandle.com/biden-harris-administration-sports-betting/> [<https://perma.cc/3JR7-NLL9>].

134. See *id.*

potential vehicles for additional tax revenue that could aid struggling states.¹³⁵ While it is true that divisive issues like gambling can lead to legislative gridlock, in the current environment of economic insecurity, legislators might feel pressure to support new revenue streams such as virtual gambling legalization in impoverished states that desperately need additional funds.¹³⁶

V. CONCLUSION

After reviewing the current legal framework that encompasses online gambling, issues surrounding crypto casinos, and several alternatives for policy recommendations, this Note offered a tangible solution to hold white-collar criminals accountable and increase the rights of US consumers. The implementation of Solution III would empower state legislatures to decide whether legalizing and consequently taxing crypto casinos would be a choice in their own best interest. This Note also explored issues that must be addressed by additional scholarship, including enhancement of governmental oversight and regulation of cryptocurrency transactions, and compliance of foreign-based crypto casino providers with US law.

Throughout history, Congress has enacted legal constraints on industries and segments of the economy that require additional scrutiny due to their duty to provide for and protect the American people. This protection often manifests itself in the regulation of actions or business activities that may be secretive or otherwise morally problematic.¹³⁷ The regulation of online crypto casinos is no exception.¹³⁸ The United States can enumerate the rights of US gamblers and eliminate a format used by white-collar criminals and crime syndicates to launder money by placing explicit regulations on these institutions. While crypto casinos may not be high on the

135. *See id.*

136. *See id.* (discussing how it would be an unpopular position for legislators to oppose legislation that would limit tax revenue for states struggling to handle economic issues posed by COVID-19).

137. *See* Mark Thornton, *Alcohol Prohibition Was a Failure*, CATO INST. (July 17, 1991), <https://www.cato.org/policy-analysis/alcohol-prohibition-was-failure> [https://perma.cc/N2DN-6QSK] (explaining Congress's intent to legislate the prohibition of alcohol due to its ability to manifest itself as a problematic moral vice); *see also* Protecting American Lungs and Reversing the Youth Tobacco Epidemic Act of 2020, H.R. 2339, 116th Cong. (2020) (showcasing Congress's willingness to legislate the regulation of tobacco as being a danger to public health).

138. *See* Georgette Fernandez Laris, *Bitcoin: To Regulate or Not to Regulate?*, SEVEN PILLARS INST. (Aug. 18, 2017), <https://sevenpillarsinstitute.org/bitcoin-regulate-not-regulate/> [https://perma.cc/M99Q-YZWJ].

Congressional agenda, they are still worthy of legislative consideration.¹³⁹

This Note posed the argument that cryptocurrency holds value, not only in the eyes of society, but also as a medium for virtual exchange, whether that exchange be in a commercial setting or for online gambling. This Note then further explored the issues surrounding crypto casinos, including the propensity for criminal activity, difficulties with regulation, and the potential for generating tax revenue for impoverished communities. Legalization of crypto casinos has the potential to change the US entertainment market and could revolutionize the way state legislatures generate tax revenue. Thus, Congress must act swiftly by researching and exploring these issues so it can be better equipped to legislate for them. After all, the power of an individual holding free will to exchange *any* form of currency in the marketplace is powerful and warrants elected representatives' attention and, consequently, legislative action.

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139. See William F. Meehan III, *Solutions to America's 7 Biggest Problems for We, the People*, FORBES (Feb. 14, 2020, 11:28 AM), <https://www.forbes.com/sites/williammeehan/2020/02/14/solutions-to-americas-7-biggest-problems-for-we-the-people/?sh=291c06ae61b6> [<https://perma.cc/D6U9-3QUH>] (explaining issues of importance to the United States that Congress will likely seek to legislate for in the next legislative session).

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