

Regulation of crypto assets: International crypto asset regulations




What is "crypto"? - Basic concepts

- Digital assets are digital currencies/tokens supported by blockchain technology.
- All the transactions are visible on the blockchain
- However, blockchains do not contain real-world identities.
- Therefore, associating these activities with real-world entities and stopping criminals is an ongoing challenge.

What is a Digital Asset?

A digital Asset is any asset that can be issued and/or transferred using Distributed Ledger Technology (DLT) or Blockchain Technology.





What is a Digital Asset?

Crypto Assets

- Digital store of value or medium of exchange.
- Employed for both investments and payments in various industries.

Stablecoins

- Cryptocurrencies designed for price stability.
- Linked to fiat currencies, commodities, or other crypto assets.
- Facilitate stability in the volatile crypto market.

Non-Fungible Tokens (NFTs)

- Tokens representing ownership of unique digital items.
- Can include works of art, government IDs, specific production units.
- Each NFT is distinct and irreplaceable.

What is a Digital Asset?



Central Bank Digital Currencies (CBDCs)

Represents a nation's fiat currency, backed by the Central Bank.

Enables cross-border payments and transfers, enhancing financial transactions at a national level.



Security Tokens

Digital assets categorized as securities or financial investments.

Tokenized versions of stocks, bonds, real estate, and precious metals.

Facilitates the fractional ownership of traditional assets in a digital format.

Institutions combatting financial crime



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A closer look at the Financial Action Task Force



FATF Recommendations (March 2022)

<https://www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/FATF%20Recommendations%20202012.pdf>

FATF Report on Virtual Assets – Red Flags Indicators (September 2020)

<https://www.fatf-gafi.org/media/fatf/documents/recommendations/Virtual-Assets-Red-Flag-Indicators.pdf>

FATF Guidance on Proliferation Financing Risk Assessment and Mitigation (June 2021)

<https://www.fatf-gafi.org/media/fatf/documents/reports/Guidance-Proliferation-Financing-Risk-Assessment-Mitigation.pdf>




- Interpretive Note to recommendation 15 clarifies the application of AML/CFT standards to crypto assets
- VASPs (Virtual Asset Service Providers) must comply with AML/CFT requirements as traditional financial institutions
- Travel Rule: transactions above a designated threshold (USD/EUR 1000) require VASPs to conduct CDD (Customer Due Diligence)
- Countries must ensure that beneficiary VASPs obtain, hold and make available originator and beneficiary information for virtual asset transfers
- Information must be available on request to appropriate authorities.

United States of America

- The U.S. announced a new framework in 2022 that opened the door to further regulation.
- Biden's March 9 Executive Order (EO) on Ensuring Responsible Development of Digital Assets outlined the first whole-of-government approach to addressing the risks and harnessing the potential benefits of digital assets and their underlying technology.
- Six key priorities identified in the EO: consumer and investor protection; promoting financial stability; **countering illicit finance; U.S. leadership in the global financial system and economic competitiveness; financial inclusion; and responsible innovation.**
- The new directive handed power to existing market regulators such as the Securities and Exchange Commission (SEC) and the Commodity Futures Trading Commission (CFTC).

United States of America



Crypto Tea 

@CryptoTea_ ...

the FBI calls crypto money so they can arrest you for money laundering

the IRS calls it property so they can tax you on capital gains

the SEC calls it a security so they can sue every exchange

the CFTC calls it a commodity so you can't use it as a currency

6:36 PM · Apr 26, 2024 · **62.2K** Views

United
States of
America



Senator Cynthia Lummis

@SenLummis

I am deeply concerned by the Biden administration criminalizing core tenants of the Bitcoin network and decentralized finance.

My full statement. [↓](#)

“

I am deeply troubled by the Department of Justice’s hyper-aggressive argument that non-custodial software can constitute a money transmission service. This stance contradicts existing Treasury guidance, common sense and violates the rule of law. Arguments against self-custody software threaten the fundamental property rights that are core to being an American. I will do everything I can to fight for your rights to hold your own keys and run your own node.

”



6:40 PM · May 1, 2024 · 311.3K Views

United States of America

Table 1: Spot Bitcoin ETFs Listed in the U.S. as of April 10, 2024

Source: CFRA Data

| Ticker | Name | Issuer | Expense Ratio | Net Assets (\$M) | 3-Month Flows (\$M) |
|--------|-----------------------------------|-----------|--------------------|------------------|---------------------|
| IBIT | iShares Bitcoin Trust | Blackrock | 0.25% ¹ | 18,327 | 14,915 |
| FBTC | Fidelity Wise Origin Bitcoin Fund | Fidelity | 0.25% ² | 10,383 | 7,752 |
| ARKB | Ark 21Shares Bitcoin ETF | 21Shares | 0.21% ³ | 3,000 | 1,993 |
| BITB | Bitwise Bitcoin ETF | Bitwise | 0.2% ⁴ | 2,273 | 1,411 |
| HODL | Vaneck Bitcoin Trust | Van Eck | 0.25% ⁵ | 623 | 459 |
| BRRR | Valkyrie Bitcoin Fund | Valkyrie | 0.25% ⁶ | 594 | 462 |
| BTCO | Invesco Galaxy Bitcoin ETF | Invesco | 0.25% ⁷ | 414 | 214 |

China

- The People's Bank of China (PBOC) bans crypto enterprises from operating in the country, stating that they facilitate public financing without approval.
- China banned Bitcoin mining in May 2021.
- In September 2021, cryptocurrencies were banned outright.
- Still, China remains a leading player in bitcoin mining, second only to the U.S.
- Hong Kong Bitcoin ETFs launched (in kind redemption)

Russia

“The need for a ban is due to the fact that today, cryptocurrency is a quasi-currency that replaces the ruble in the country. But only the Russian ruble fulfills the mission of a monetary unit, which is why this decision was made.” - Anatoly Aksakov, Chairman of the State Duma Committee on the Financial Market

Canada

- Canada, while not considering crypto as legal tender, leads in crypto regulation. It pioneered Bitcoin ETF approval, with many listed on the Toronto Stock Exchange.
- Purpose Investments made history launching the world's first Bitcoin ETF in 2021.
- Crypto trading platforms in Canada must register with provincial regulators, overseen by the CSA and IIROC.
- All crypto investment firms in Canada are classified as MSBs and must register with FINTRAC.
- Canada taxes cryptocurrency akin to other commodities.

United Kingdom

- In October 2022, the British Parliament recognized crypto assets as regulated financial instruments.
- The Financial Services and Markets bill, passed in June 2023, extended laws on crypto assets, services, and providers.
- Crypto transactions in the UK are subject to specific reporting requirements, including KYC, AML, and CFT standards.
- Investors pay capital gains tax on crypto trading profits, with taxability varying based on the nature of crypto activities and participants.

Japan

- Japan recognizes cryptocurrencies as legal property under the Payment Services Act (PSA)
- Crypto exchanges in Japan must register with the Financial Services Agency (FSA) and adhere to AML/CFT obligations.
- The Japanese Virtual Currency Exchange Association (JVCEA), established in 2020, includes all crypto exchanges, enhancing industry standards and collaboration.
- Japan categorizes trading gains from cryptocurrency as miscellaneous income, subjecting investors to appropriate taxation.
- Japan continues to refine regulations, including taxation. In September 2022, plans were announced to introduce remittance rules by May 2023, enhancing anti-money laundering measures.

Australia

- ASIC introduced regulations for ICOs in 2019 and prohibited exchanges from offering privacy coins.
- Australia announced plans in 2021 to establish a licensing framework for cryptocurrencies and explore the possibility of launching a central bank digital currency (CBDC)
- In October 2023, the Australian treasury revealed intentions to introduce a regulatory framework, with a draft expected in 2024. A 12-month transitionary period will follow if the framework is approved and implemented.
- Australia recognizes cryptocurrencies as legal property, subjecting them to capital gains tax. Exchanges must comply with AUSTRAC registration and AML/CTF obligations.

Singapore

- Singapore treats cryptocurrency as property but not legal tender.
- MAS licenses and regulates exchanges under the Payment Services Act (PSA).
- In 2022, Singapore issued guidance warning DPT providers against public advertising.
- MAS announced a regulatory framework in August 2023 for stablecoins, requiring issuers to meet specific criteria and obtain MAS approval.
- Singapore exempts long-term capital gains from taxation but taxes companies regularly transacting in cryptocurrency as income.

South Korea

- Cryptocurrency exchanges and virtual asset service providers in South Korea must register with the Korea Financial Intelligence Unit (KFIU), under the Financial Services Commission (FSC).
- South Korea prohibited privacy coins from exchanges in 2021.
- Act on Protection of Virtual Asset Users: Implemented in 2023, this Act designated the Financial Services Commission as the regulator for virtual assets in South Korea. It defined legal and illegal uses and mandated user protection measures for issuers and service providers.

India

- India remains indecisive on crypto regulation, with no clear stance on legalization or penalties.
- A bill under circulation aims to ban all private cryptocurrencies, pending a vote.
- Crypto investments are subject to a 30% tax, with a 1% Tax Deducted at Source (TDS) on trades.
- Finance Bill of 2022: This bill classified virtual digital assets as property and specified tax obligations for income derived from them.

Brazil

- Bitcoin is not legal tender in Brazil, but a law was passed legalizing cryptocurrencies as payment methods nationwide, encouraging their widespread adoption.
- Brazil's Chamber of Deputies approved a regulatory framework on Nov. 29, 2022, allowing the use of cryptocurrencies for payments.
- This bill became Law No. 14,478, the "Legal Framework for Virtual Assets," effective from June 20, 2023.
- The Brazilian Central Bank is responsible for regulating, authorizing, and overseeing cryptocurrency exchanges as per Decree No. 11,563 issued on June 13, 2023.

European Union

- Cryptocurrency legality in the European Union (EU) varies by member state, with individual regulations governing exchanges. The EU's Fifth and Sixth Anti-Money Laundering Directives (5AMLD and 6AMLD) have bolstered Know Your Customer (KYC) and Counter-Terrorist Financing (CTF) requirements. The Markets in Crypto-Assets Regulation (MiCA), proposed in September 2020, enhances consumer protections, establishes industry standards, and introduces licensing criteria.
- In April 2023, the EU Parliament sanctioned measures mandating certain crypto service providers to obtain operating licenses. MiCA, provisionally agreed upon in 2022, became effective in July 2023, aiming to equip regulators with tools to combat illicit activities involving cryptocurrencies while safeguarding users.
- Taxation across the EU ranges from 0% to approximately 48%.

What is a Crypto Asset? (MiCAR)

As per the EU Regulation on Markets in Crypto Assets (MiCAR):

- A crypto asset is a digital representation of a value or right, that is able to be transferred and stored electronically, using distributed ledger or similar technology.
- MiCAR's broader definition aims to capture all types of crypto-assets currently falling outside the scope of EU legislation on financial services.

What is a Utility Token? (MiCAR)

Utility token means a type of crypto asset which is only intended to provide access to a good or a service, supplied by the issuer of that token.

What is a Asset-referenced Token? (MiCAR)

Asset-referenced token means a type of crypto-asset that:

Is not an electronic money token, and purports to maintain a stable value by referencing to another value, or another right, or a combination thereof, including one or more official currencies.

What is Electronic Money Token? (MiCAR)

Electronic money token or e-money token means a type of crypto-asset that purports to maintain a stable value, by referencing to the value of one official currency.

Official currency means an official currency of a country issued by a central bank or other monetary authority.

Current AML/CTF Compliance Globally

Current compliance stages by region



Compliance timeline by region



Key Areas of Focus for institutions and regulators

| | |
|-------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Risk Assessment | Inadequate time is allocated to comprehend the risks associated with customers, products, channels, and geographical regions. This hampers the effectiveness of financial crime controls. |
| KYC processes and onboarding | KYC processes require enhancement, and there is room for improvement in analyzing and comprehending the collected documentation. |
| Sanctions screening | Multiple jurisdictions identify deficiencies in sanctions screening, emphasizing the importance of high-quality KYC information for accurate screening. |
| Technical understanding | Some institution staff members need to acquire a better understanding of financial crime controls, particularly in the context of cryptocurrencies. |
| Periodic review | Risk assessments should be regularly re-evaluated, including the renewal of KYC procedures. |
| Documentation and record retention | Insufficient record-keeping hinders effective investigations and issue resolution, potentially resulting in the improper clearance of alerts. |
| Training | Regulators prioritize training, yet there is a need to improve the quality, timeliness, and effectiveness of training programs in many cases. |

Emerging Themes in Digital Asset Financial Crime Compliance

| | |
|-----------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------|
| Beneficial Ownership Registries/Utilities | Emergence of shared beneficial ownership registries/KYC utilities |
| Holistic Financial Crime Compliance | Linkage across all types of fraud risks, investigations, alert monitoring. Better use of cross-corporate data enables better pattern and trend analysis |
| Blockchain/cryptocurrencies | Emergence of new technologies creates new risk and new control |
| Sanctions outside FS sector | Existing controls outside financial sector will require enhancement |
| Predicate Offences working groups | New focus on key areas such as human trafficking, wildlife trafficking to define the links with ML and particularly terrorist financing |
| Gateway Providers | Increased focus on lawyers and accountants who assist with complex structures |
| Shipping and Logistics tracking and value indexing | Collaboration between logistics providers, regulators and e.g., trade finance providers or MNCs to better understand practical issues |
| Market Surveillance | Enhanced focus on trading floor surveillance, voice pattern and terminology analysis |
| Trade Based Money Laundering | Renewed focus on a consistent theme |

Conclusion

- Cryptocurrency regulations are still being researched and developed worldwide. Many countries are creating policies and legislation, while others lag for various reasons.
- While cryptocurrency has existed since 2009, governments and regulators globally are still working out ways to govern its uses. Consumers and businesses must be protected from fraudulent activity, and preventative measures must be implemented to fight illicit crypto uses. Many countries are progressing, but it is a slow and controversial process.