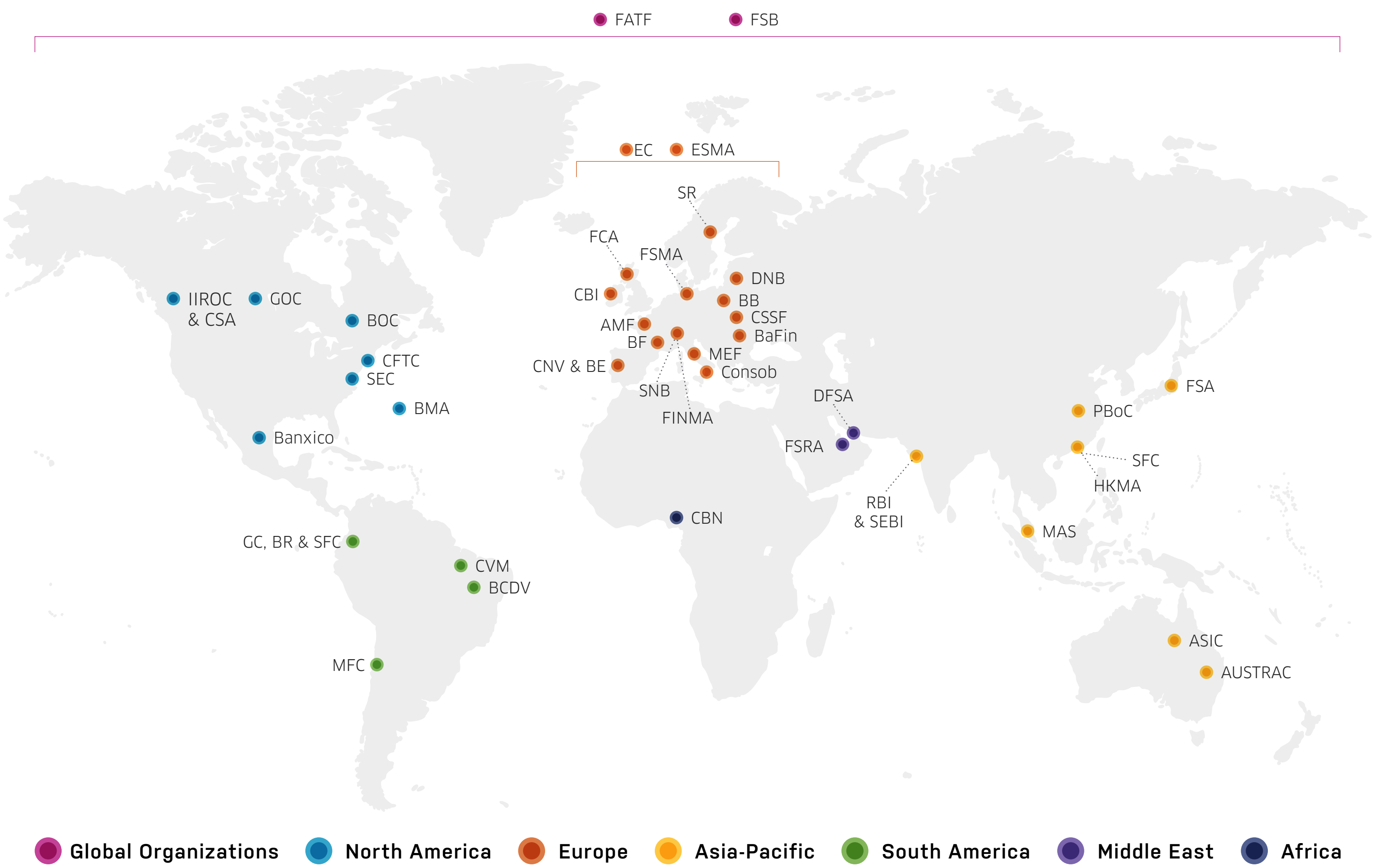
Cryptocurrency Regulation Summary: 2022 Edition

The **IMF's Global Financial Stability Report**, published in October 2021, noted that the market capitalization of crypto assets has grown significantly amid large bouts of price volatility. Through early May, the market capitalization almost tripled in 2021 to an all-time high of US$2.5 trillion. This was followed by a 40% fall in the same month as concerns from institutional holders about the environmental impact of crypto assets grew and global regulatory scrutiny of the crypto ecosystem escalated. Moreover, the market capitalization of stablecoins has quadrupled in 2021 to more than US$120 billion.

Issuance and trading activity has been tolerated in many countries around the world. While authorities such as central banks and financial regulators do not want to stunt innovation, the large number of high profile cases alleging fraud and money laundering is worrisome. To this end, they are now tasked with creating a legal framework that is modern and accommodative but also prudent. They are challenged to define token types and uses, figure out how they fit into existing law, and develop a licensing structure.

Here is a snapshot of recent developments in key markets. Click on the dots to navigate to the desired regulation.



GLOBAL ORGANIZATIONS

Organization: Financial Action Task Force (FATF)

FATF is an intergovernmental organization that develops policies to combat money laundering; however, its policies are not legally binding.

Recent developments: In July 2021, the Financial Action Task Force (FATF), the global anti-money laundering (AML) watchdog, completed a second 12-month review of the implementation of its revised standards on virtual assets and virtual asset service providers (VASPs). According to the report, 58 out of 128 reporting jurisdictions advised that they have now implemented the revised FATF Standards, with 52 of these regulating VASPs and six of these prohibiting the operation of VASPs. The other 70 jurisdictions have not yet implemented the revised standards in their national law.

Organization: Financial Stability Board (FSB)

Recent developments: In October 2021, the FSB published Regulation, Supervision and Oversight of "Global Stablecoin" Arrangements: Progress Report on the implementation of the FSB High-Level Recommendations. The report discusses key market and regulatory developments since the publication of the FSB high-level recommendations in October 2020. It takes stock of the implementation of the FSB high-level recommendations across jurisdictions. It describes the status of the review of the existing standard-setting body (SSB) frameworks, standards, guidelines and principles in light of the FSB high-level recommendations. In addition, it identifies areas for consideration for potential further international work.

NORTH AMERICA

BERMUDA

Regulator: Bermuda Monetary Authority (BMA)

Policy: Bermuda aims to have best-in-class digital asset regulation that can serve as a model for other jurisdictions. Passed in May 2018, the ICO Act regulates offerings of digital assets including digital coins and tokens that are issued as ICOs. Bermuda is one of the only jurisdictions to address crypto custody in depth. The Digital Asset Business Act 2018 prescribes requirements relating to safeguarding client assets. Further, the Digital Asset Code of Practice 2018 prescribes that a Digital Asset Business (DAB) must ensure that any assets belonging to clients are kept segregated from the DAB's own assets. The Digital Asset Business Amendment Act 2019 came into effect on October 8, 2019. It amends the existing legislation, expanding the scope of the licensing regime to include digital assets derivatives, digital asset benchmark administrators and digital asset trust service providers.

Recent developments: The BMA issued guidance on June 8, 2021 relating to the DAB sector in Bermuda. It includes FAQs on the Digital Asset Business Act 2018 (DABA), guidance on the head office requirements under DABA, and guidance on the expected product due diligence to be conducted under DABA. In July 2021, OTC trading platform 24 Exchange acquired a "Class T" digital asset business license from the BMA to roll out cryptocurrency trading on its institutional-grade platform. The exchange completed its first physical cryptocurrency trade in September 2021.

CANADA

Regulator: Government of Canada

Policy: Canada implemented the world's first national digital currency law in June 2014, which focuses on anti-money laundering and suspicious transaction reporting. The Canadian government released an official draft of new regulations on crypto exchanges and payment processors in June 2018. In August 2018, the government postponed the release of its final regulations for virtual currency and blockchain companies until late 2019.

Recent developments: The government modified its guidelines for cryptocurrency users and tax professionals in June 2021. Guidance also came into effect for reporting large virtual currency transactions to the Financial Transactions and Reports Analysis Centre of Canada (FINTRAC).

Regulator: Bank of Canada (BoC)

Policy: The BoC is monitoring developments in crypto-assets, cryptocurrencies and the underlying technology, as well as how they could affect core central bank functions.

Recent developments: In February 2019, the Bank of Canada published a staff discussion paper, Crypto "Money": Perspective of a Couple of Canadian Central Bankers. Among its conclusions and topics for further study, the paper noted that it is unlikely that a cryptocurrency could form the basis of a stable or desirable monetary policy regime. However, the Bank of Canada is pursuing an active research agenda on whether a central bank should issue its own digital currency. In a February 2021 speech on Payments innovation beyond the pandemic, BoC Deputy Governor Tim Lane reiterated the position in the discussion paper, but was more open to the stablecoin concept.

Regulator: Investment Industry Regulatory Organization of Canada (IIROC) and the Canadian Securities Administrators (CSA)

Policy: In December 2017, IIROC announced that it was prescribing greater margin requirements for virtual currency futures contracts that trade on commodity futures exchanges compared to margin requirements on other contracts. Dealer Members must mark to market and margin them daily at the greatest of: (i) 50% of market value of the contracts (ii) the margin required by the futures exchange on which the contracts are entered into (iii) the margin required by the futures exchange's clearing corporation (iv) the margin required by the Dealer Member's clearing broker.

Recent developments: In February 2021, the Ontario Securities Commission approved the world's first physically settled bitcoin ETF. In March 2021, The CSA and IIROC published a notice outlining securities law requirements that apply to crypto asset trading platforms (CTPs) and how they may be tailored by regulators for the CTPs business model. In September 2021, the CSA and IIROC published guidance to help crypto trading platforms understand and comply with requirements under securities law and IIROC rules for advertising, marketing and social media use.

MEXICO

Regulator: Bank of Mexico (Banxico)

Policy: With a permit, cryptocurrency exchanges and related storage providers may provide fiat currency liquidity, guaranteed by the central bank, to all customers. To obtain a permit, companies must provide a detailed business plan to Banxico – including a description of operations, staff roles and activities, commissions charged per trade and the procedure for a KYC mandate. Banxico will not provide liquidity to customers on the same day of opening exchange accounts to prevent money laundering and other illicit activities. Additionally, all entities conducting business must prove the legitimacy of all customers and corporations involved in each trade. Mexico is the headquarters of Bitso, the largest cryptocurrency exchange in Latin America. In May 2021, the company raised $250 million in its Series C funding round and reached a $2.2 billion valuation.

Recent developments: In a June 2021 joint statement, the Central Bank of Mexico, the finance secretary and the National Banking and Securities Commission specified that cryptocurrencies are neither legal tender assets nor currencies under the current legal framework. In addition, they warned about the risks of using cryptocurrencies. Financial institutions in Mexico are not authorized to deal with virtual assets.

U.S.

Regulator: The Securities and Exchange Commission (SEC)

Policy: The SEC uses the "Howey Test" to determine whether a virtual currency is a security. All initial coin offerings (ICOs) are treated as securities, except ethereum and bitcoin.

Recent developments: At a Senate hearing in September 2021, SEC Chairman Gensler assured lawmakers that the regulator is working on a set of rules to oversee the cryptocurrency markets while balancing the interests of American innovators. Further, in October, 2021 Gensler told the House Committee on Financial Services that the SEC has no plans to ban crypto. Fed Chairman Jerome Powell made a similar remark to the House Committee days earlier. Gensler reiterated that crypto exchanges need to register with the SEC but added that decentralized exchanges (DEXs) would also be subject to regulations. He expanded on his stance on stablecoins, which he has previously called the "poker chips" at the crypto "casino." He added that he viewed stablecoins as a systemic risk to the economy. In October 2021, the SEC approved the first bitcoin futures ETFs in the U.S., based on CME bitcoin futures contracts.

Regulator: The Commodity Futures Trading Commission (CFTC)

Policy: The CFTC interprets the term "virtual currency" as any digital representation of value (a "digital asset") that functions as a medium of exchange, as well as any other digital unit that acts as a form of currency regardless of its format (tokens, coins or digital units distributed through smart contacts). The CFTC has limited regulatory oversight over virtual currency spot markets. However, it has full authority to engage in anti-fraud and anti-manipulation enforcement actions on commodities markets where virtual currencies are traded as a commodity in interstate commerce or traded for future rather than immediate delivery. The CFTC favors close monitoring of market developments, especially through its LabCFTC fintech innovation hub while not hindering the introduction of new products such as Bitcoin futures.

Recent developments: In August 2021, Commissioner Dawn Stump released a statement regarding the CFTC's regulatory authority applicable to digital assets. "The CFTC does not regulate commodities (regardless of whether or not they are securities); rather, it regulates derivatives–and this is true for digital assets just as for any other asset class," she said. In September 2021, the CFTC ordered Kraken to pay $1.25 million civil monetary penalty for illegally offering margined retail commodity transactions in digital assets, including Bitcoin, and failing to register as a futures commission merchant (FCM). Kraken, founded in 2011, is one of the largest digital asset exchanges in the U.S. The regulator also filed charges against 14 entities for either failing to register as futures commission merchants (FCMs) or else making false and misleading claims of having CFTC registration and National Futures Association (NFA) membership.

EUROPE

Regulator: European Commission

Recent developments: In June 2021, EU policymakers proposed that companies that transfer bitcoin or other crypto assets must collect details of senders and recipients to help authorities crack down on dirty money. Known as the travel rule, this would make crypto transactions traceable. As of July 2021, the EU was negotiating the Regulation on Markets in Crypto Assets (MiCA). The regulation applies to cryptocurrencies that do not qualify as financial instruments, including utility and payment tokens, and the main focus is on stablecoins.

Regulator: European Securities and Markets Authority (ESMA)

Recent developments: The ESMA Report on Trends, Risks and Vulnerabilities, published in 2021, includes a section on Cryptoasset prices at all-time highs. (page 54) It says: "Yet CAs are highly volatile and bear high risks for investors, as already highlighted by the three ESAs [European Supervisory Authorities] in their 2018 warning. The legislative proposal on CAs published by the European Commission in September 2020 is intended to address these risks."

BELGIUM

Regulator: Financial Services and Markets Authority (FSMA)

Policy: Cryptocurrencies do not have legal tender status in Belgium. The FSMA has issued fraud warnings pertaining to cryptocurrencies.

Recent developments: According to an FSMA press release dated 10/4/21, the number of fraudulent online platforms that offer trading in certain products, including cryptocurrencies, continues to grow. FSMA tracks unlawful offers of financial products and services. 88 reports or questions about cryptocurrencies were received from consumers in the first half of 2021, up 54% from the first half of 2020. The increase can be explained by the significant number of questions about the reliability of service providers offering virtual currencies and more generally about the topic of virtual currencies. FSMA said a characteristic of these platforms is that they attract consumers via fake advertisements using photos of celebrities on social media.

FRANCE

Regulator: Banque de France

Policy: France is generally "crypto friendly," and the government is working to establish a legal framework for virtual currencies. Currently, there are no specific regulations governing virtual currencies. However, the Banque de France does not consider virtual currencies equivalent to domestic or foreign fiat currencies, and it uses the term "crypto-asset" exclusively to delineate this difference. It maintains that crypto-assets are too volatile to be used as "units of account;" they are not as efficient as fiat currencies; and they have no intrinsic value, so they cannot be used as reserve in value. Crypto-assets cannot be considered a means of payment or electronic money under French law.

Recent developments: In June 2021, the Banque de France hosted a webinar: What will shape the future of crypto assets? The two themes were crypto-assets: risks and regulation, and crypto-assets: what will become a standard? Also in June 2021, the central bank successfully conducted an experiment with SEBA Bank using a central bank digital currency in the settlement of listed securities and trigger their delivery in T2S. This was part of a 10-month initiative, launched in 2020. Finally, François Villeroy de Galhau, the Governor of the French Central Bank, Banque de France, called upon Europe to introduce a regulatory framework for cryptocurrencies. He said that Europe must be prepared to act quickly when it comes to digital currencies or payments. He added that failure to give this matter the attention it deserves might see Europe lose its grip on monetary sovereignty.

Regulator: Autorité des Marchés Financiers (AMF)

Policy: France intends to urge the EU to adopt its regulatory framework for cryptocurrency.

Recent developments: In July 2021, the AMF published proposals as part of the European Commission's consultation on supervisory convergence – some could apply to the crypto markets. It listed four major action points in its suggestion for creating a level playing field for all market participants and minimizing regulatory arbitrage. One action point is centralized supervision within ESMA for new unregulated activities and "of certain categories of entities and activities on account of their cross-border nature, or their significant or systemic impact." In October 2021, the AMF and the Autorité de Contrôle Prudentiel et de Résolution (ACPR) blacklisted 16 brokers that were scamming people by inviting them to invest in fiat and cryptocurrencies without authorization to carry out business in their jurisdiction. Four of them offer crypto-assets derivatives.

GERMANY

Regulator: The Deutsche Bundesbank

Policy: Germany's central bank is open to innovation, including in crypto-assets. However, it also has taken the stance that global regulators should ensure that security standards as well as monetary and financial stability are not negatively affected, and payment transactions are not compromised.

Recent developments: The Bundesbank has evaluated potential advantages and shortcomings of central bank digital currencies (CBDCs), as well as stablecoins. At a BIS innovation summit in March 2021, Jens Weidmann, president of Deutsche Bundesbank, commented: "CBDC would become a very close substitute for bank deposits and in times of stress, the attractiveness of CBDCs versus a bank deposit will even increase. This could mean that the danger of a bank run increases. It also means that we will have stronger reliance on refinancing through the central bank. It means that the footprint of the central bank increases, our balance sheet increases in size and also the risks of our balance sheet might become larger." He added that before the implementation of any eurozone CBDC, the "legal basis will be sound."

Regulator: Federal Financial Supervisory Authority (BaFin)

Policy: Virtual currencies are not considered legal tender, currencies, foreign notes, coins or e-money. Generally, virtual currency brokers, multilateral trading facilities, exchanges – and miners in some cases – must be authorized by BaFin, and failure to do so is a criminal offense.

Recent developments: In April 2021, BaFin warned that Binance, one of the world's largest cryptocurrency exchanges, risked being fined for offering its securities-tracking digital tokens without publishing an investor prospectus. In June 2021, BaFin issued the first crypto custody business license for Coinbase's Germany arm. The regulator said due to the lack of precedent, it would be forming an interdisciplinary, cross-divisional and cross-departmental team to handle any issues related to crypto custody.

IRELAND

Regulator: Central Bank of Ireland

Policy: The central bank has not issued specific guidance about cryptocurrencies, but it has issued consumer warnings about them. It is concerned about retail funds' ability to cover the risks associated with the asset class. It has noted that it's difficult for depositaries to provide safekeeping where direct investments are involved. In addition, it sees conflicts with Europe's sustainable finance agenda given cryptocurrencies' disproportionate draws on non-renewable energy resources.

Recent developments: In July 2021, Central Bank Governor Gabriel Makhlouf warned that the risks to financial stability and consumer protection posed by cryptocurrencies are increasing as more individuals become involved in trading them. He also endorsed the technical architecture behind cryptocurrencies such as bitcoin and ethereum and said the arrival of a digital euro was a matter of "how and when" rather than "if". In September 2021, Binance registered three firms in Ireland.

ITALY

Regulator: Ministry of Economy and Finance

Policy: Cryptocurrency exchanges and investors, must be registered by the Institution of Agents and Mediators by providing documentation data and the websites of businesses.

Recent developments: Consultations on registration of blockchain and cryptocurrency companies was completed in February 2018. Cryptocurrency issuers must mention that the coin is not issued by the central bank or any other public authority. Entities opting for cryptocurrencies must collect information from parties and submit a full report to the authorities.

Regulator: The Commissione Nazionale per la Societa e la Borsa (Consob)

Policy: Consob is the authority responsible for supervising markets and listed companies as well as investor protection in Italy. It defines crypto-assets as "digital registrations which incorporate rights connected to investments in entrepreneurial projects". Regarding crypto-asset platforms, it is seeking to establish a regulatory framework for the conduct of offerings upon the issue of crypto-assets from the perspective of investor protection. This will take into account initiatives on the EU level.

Recent developments: In June 2021, Consob Chairman Paolo Savona voiced concerns regarding cryptocurrency. He noted that there are some 4,000-5,000 cryptocurrencies in circulation without any form of real regulation. The watchdog's yearly report said: *"Without proper oversight there could be a worsening in market transparency, the basis of legality and rational choice for (market) operators… If it takes too long at a European level to come up with a solution, (Italy) will have to take its own measures."* In July 2021, Italy blocked consumers from investing in cryptocurrencies through Binance on all of its platforms.

LUXEMBOURG

Regulator: Commission de Surveillance du Secteur Financier (CSSF)

Policy: Luxembourg does not have specific cryptocurrency regulation. However, CSSF was a pioneer in the EU with its official "Bitcoin Communiqué 2014." This stated that even if there is no specific legal framework, the existing traditional financial regulation may apply. Additionally, bitcoin may qualify as "scriptural money" if broadly adopted as a means of payment by its user network. CSSF licensed the first-ever EU-licensed crypto firm, Bitstamp, and opted to issue it a payment institution license. It issued bitFlyer the same license in 2018, and an EU-compliant electronic money institution Directive license to Snapswap. CSSF has a rigorous vetting process and will only license companies that have proven their potential and commitment to strong KYC policies and anti-money laundering/countering financing of terrorism (AML/CFT) checks.

Recent developments: In July 2021, Karen O'Sullivan, head of innovation, payments, market infrastructures and governance at the CSSF, called for a more developed and harmonized regulatory framework for the crypto and digital asset market. She also referenced the need for a flexible approach that will "give certainty to the market and the players but won't impede further innovation in the sector". Also in July 2021, Azimut, with its Luxembourg-based product platform Azimut Investments SA, obtained authorization from the CSSF to manage investment strategies based on virtual assets such as bitcoin, ethereum, and other sub-asset classes such as DeFi tokens.

NETHERLANDS

Regulator: De Nederlandsche Bank (DNB)

Policy: Cryptocurrencies are not recognized as legal tender, but they are not banned in the Netherlands.

Recent developments: In February 2021, the DNB responded to a letter from the Dutch Association of Bitcoin Companies, which raised questions regarding the supervision of crypto service providers and compliance with sanctions legislation. In May 2021, the DNB canceled some KYC verification procedures that it imposed on crypto service providers in fall 2020 after a local exchange, Bitonic, took the matter to court. In August 2021, the DNB said Binance was providing its services in the Netherlands without the required registration.

SPAIN

Regulator: Comisión Nacional de Valores (National Securities Commission) and the Banco de España (Bank of Spain)

Policy: In a joint statement released in February 2018, Comisión Nacional de Valores and the Banco de España noted that virtual currencies are not issued, registered, authorized or verified by any regulatory agency in Spain. Virtual currencies purchased or held in Spain are not backed by any of the guarantees or safeguards provided by regulations applicable to banking or investment products. In other words, they are not legal tender.

Recent developments: In February 2021, the CNMV and Bank of Spain issued a statement on cryptocurrency investment risks, warning of their potential lack of liquidity and other liabilities they may pose to small-scale investors. The approval of Royal Decree-Law 5/2021 in March 2021 grants the CNMV administrative powers to oversee the advertising of crypto-assets. Despite these assets not being covered by the Spanish Securities Market Act, the new Decree-Law makes a modification via Article 240 bis. In April 2021, the CNMV invited a public consultation to gather opinions related to the regulation of advertising around cryptocurrency investing. In August 2021, the CNMV warned that Huobi, Bybit, Dsdaq Market, Markets Cube and Expertise Trader; crypto token issuer N2 Group; trading platforms Markets EU, Profit Assist and Financial Resident and other exchange firms are operating in the country without proper registration.

SWEDEN

Regulator: Sveriges Riksbank

Policy: Sweden's central bank issued a report of its E-krona Project in September 2017, which examines the possibility of a central bank digital currency (CBDC) to complement physical cash, which is declining in usage. As of 2021, the E-krona is being tested. However, the central bank has issued warnings about the risks associated with cryptocurrencies.

Recent developments: In May 2021, Stefan Ingves, governor of the Sveriges Riksbank, commented that regulation of bitcoin and other cryptocurrencies is looking more likely as they become more mainstream. Moreover, regulation will develop at different speeds in different markets. In September 2021, Ingves warned that trading in bitcoin is "like trading stamps," and "private money usually collapses sooner or later."

Regulator: Financial Supervisory Authority (FSA)

Policy: The FSA has issued warnings about cryptocurrencies and stated that they present a high risk of investors losing their money.

Recent developments: In February 2021, the regulator published a report, Financial instruments with crypto-assets as underlying asset. It also cautioned investment firms against selling bitcoin ETFs to average consumers. In October 2021, the FSA said it will investigate how firms that trade crypto-currencies implement regulations aimed at preventing money laundering and the financing of terrorism.

SWITZERLAND

Regulator: Swiss National Bank (SNB)

Policy: Switzerland is recognized as a cryptocurrency and blockchain-friendly country due to the activity in "Crypto Valley," located in Zug.

Recent developments: As of June 2021, the Swiss central bank is participating in Project Jura, an initiative to evaluate the potential benefits and challenges of a CBDC in settling cross-border payments and digital financial instruments. It is collaborating with Banque de France, the BIS Innovation Hub and a coalition of partners led by Accenture that includes Credit Suisse, Natixis, R3, SIX Digital Exchange and UBS. However, it sees no need for a digital franc.

Regulator: Swiss Financial Market Supervisory Authority (FINMA)

Policy: FINMA recognizes the innovative potential of blockchain technology and supports the federal government's Blockchain/ICO Working Group. In February 2018, FINMA published guidelines on how it intends to apply financial market legislation in handling enquires from ICO organizers. Circumstances must be considered on a case-by-case basis. Currently, there is no ICO-specific regulation or relevant case law consistent with legal doctrine. In assessing ICOs, FINMA will focus on the economic function and purpose of the tokens (payment tokens, utility tokens and asset tokens). Depending on the function, the tokens must comply with anti-money laundering regulations, securities law requirements and civil law requirements under the Swiss Code of Obligations.

Recent developments: In September 2021, FINMA approved the first crypto fund according to Swiss law. The fund, which is restricted to qualified investors, invests primarily in crypto-assets.

U.K.

Regulator: Financial Conduct Authority (FCA)

Policy: The FCA has jurisdiction over AML and counter-terrorism regulations. As such, it is the major regulator of the cryptocurrency market in the U.K., at least on an organizational level. It has asked crypto firms to register with it before they can operate in the region. In the first six months of 2021, it only registered six firms, but it is assessing dozens more. Crypto platforms that registered in December 2020 are eligible to receive the Temporary Registrations Regimes (TRR). With the TRR, they can continue offering their services while the FCA assesses their registration. However, many platforms have withdrawn their applications due to the U.K.'s tight AML regulations. The FCA has issued several warnings to consumers about the risks of cryptocurrency trading.

Recent developments: Effective in January 2021, the U.K. banned the sale of derivatives and ETNs "that reference certain types of crypto assets to retail consumers." In June 2021, the FCA banned Binance from operating in the U.K. In September 2021, the FCA called for powers to govern the online promotion – including on social media platforms – of crypto assets to combat a flood of "problematic content," which it said has no value.

ASIA-PACIFIC

AUSTRALIA

Regulator: Australian Transactions and Analysis Centre (AUSTRAC)

Position: Virtual currencies and exchanges have been legal in Australia since 2017. Digital currency exchange providers must be enrolled on AUSTRAC's Digital Currency Exchange (DCE) Register. Similar to a bank, the exchange must also identify and verify the identities of their customers, and report suspicious matters, international transactions, and transactions involving physical currency that exceeds AU$10,000 to AUSTRAC.

Recent developments: As of May 2021, AUSTRAC has registered 456 cryptocurrency exchanges. In August 2021, heads of Australia's largest cryptocurrency exchanges appealed to the Senate Committee on Australia as a Technology and Financial Centre to recommend legislation to protect investors and require minimum operating standards for exchanges. Further, the lack of regulation locally has made banks skeptical about dealing with cryptocurrency businesses, so many of these businesses are being "unbanked." They point to concerns about anti-money laundering and counter terrorism financing laws.

Regulator: Australian Securities and Investments Commission (ASIC)

Position: ASIC is responsible for overseeing ICOs. In 2017, it issued guidelines indicating that the structure of tokens (security or utility) will determine their legal treatment under general consumer law and the Corporations Act.

Recent developments: In June 2021, ASIC released Consultation Paper 343: Crypto-assets as underlying assets for ETPs and other investment products, which calls for submissions on ASIC's proposed approach to regulating exchange traded products that invest in, or provide exposure to, crypto-assets. CP343 is limited to proposing good practices for ETPs and other investment products providing exposure to crypto-assets under the current regulatory framework. ASX and the NSX have taken a very cautious approach to entities that have any involvement with crypto-assets. As of July 2021, DigitalX is the only ASX-listed company with crypto-related assets, and the ASX and NSX have yet to approve the listing of any crypto-related ETPs. Most crypto assets that are currently available to Australian retail investors fall outside of ASIC's regulatory perimeter, so companies offering these products do not need to hold an AFS license or a market license. As such, in October 2021, the Senate Committee on Australia as a Technology and Financial Centre has recommended creating a new category of market license that enables DCEs to demonstrate a high level of commitment to consumer protection and operational integrity. The Committee recommended for the Treasury Department to conduct a token mapping exercise to classify the various types of crypto asset tokens and other digital assets being developed in the market. It also recommended for government to establish and formally recognize Decentralized Autonomous Organization company structures, which has been used more often in the digital assets space.

CHINA

Regulator: People's Bank of China (PBoC)

Policy: In July 2019, China's Hangzhou Internet Court found bitcoin is a commodity because it carries value, it is scarce, and it can be used to transfer value. However, bitcoin is not legal tender. Moreover, the state-owned Bank of China posted an infographic on its web site explaining the history of bitcoin and how cryptocurrencies work. As of June 2020, the Shanghai No.1 Intermediate People's Court ruled that bitcoin is an asset protected by law, and the Shenzhen Futian District People's Court ruled that ethereum is legal property with economic value. In addition, China passed the Civil Code in May 2020, which protects cryptocurrency inheritance.

Recent developments: In May 2021, China banned financial institutions and payment companies from providing services related to cryptocurrency transactions. It had issued similar bans in 2013 and 2017. In September 2021, regulators issued a blanket ban on all crypto transactions and mining. Ten agencies, including the central bank, financial, securities and foreign exchange regulators, vowed to work together to root out "illegal" cryptocurrency activity, the first time the Beijing-based regulators have joined forces to explicitly ban all cryptocurrency-related activity.

HONG KONG

Regulator: Securities and Futures Commission (SFC)

Position: The SFC's regulatory remit is overseeing securities only. Funds with virtual assets exceeding 10% of aggregate assets must be licensed by the SFC. In November 2020, the SFC issued a position paper setting out a new regulatory framework for virtual asset trading platforms. Platforms which operate in Hong Kong and offer trading of at least one security token may apply to be licensed by the SFC. The SFC's new regulatory framework is aligned with the recommendations of international standard setting bodies. Dozens of cryptocurrency exchanges operate in Hong Kong, including some of the world's largest. The city currently has an "opt in" approach under which exchanges can apply to be licensed by the SFC, but it is not a requirement.

Recent developments: In July 2021, the SFC said no entity in the Binance Group is licensed or registered to conduct "regulated activity" in Hong Kong. In September 2021, Deputy Chief Executive Liang Fengyi said the SFC is obligated to expand the scope of cryptocurrency supervision in Hong Kong, especially as it pertains to unlicensed trading. Since crypto assets are not recognized as securities or payment methods, they fall outside the jurisdiction of the SFC. As a result, many investors who have participated in the asset class have suffered significant losses.

Regulator: Hong Kong Monetary Authority (HKMA)

Position: The HKMA has said that it does not regulate cryptocurrencies such as bitcoin, which is regards as a virtual "commodity" and not as legal tender, or as a means of payment or money. Hong Kong's banking laws and regulations therefore do not apply to entities accepting or dealing in cryptocurrencies.

Recent developments: In October 2021, the HKMA issued a white paper exploring the prospect of issuing a retail CBDC in Hong Kong, covering both technical and policy considerations, and aims to come up with an initial view by the middle of 2022.

Regulator: Hong Kong Financial Services and Treasury Bureau (FSTB)

Policy: The FSTB has been consulting the market on changes to crypto exchange licensing rules. It intends to propose legislative changes to turn its proposals into law in the 2021-22 session of the city's legislative assembly.

Recent developments: In May 2021, The FSTB said in its consultation conclusions all virtual asset (crypto currency) exchanges should be licensed if they wished to operate in Hong Kong. It also said "confining the services of a VA exchange to professional investors… is appropriate at least for the initial stage of the licensing regime." According to Hong Kong law, an individual must have a portfolio of HK$8 million ($1.03 million) to count as a professional investor.

INDIA

Regulator: Reserve Bank of India (RBI)

Position: The central bank has repeatedly warned the general public against investing in cryptocurrencies, citing concerns over consumer protection, market integrity and money laundering. But it has been welcoming toward blockchain technology, and has been researching CBDCs for its applicability to the Indian economy. It has not articulated which classes of cryptocurrencies it considers to be problematic. In April 2017 there were reports that the RBI was experimenting with its own digital currency, and in April 2018 an interdepartmental group was reportedly analyzing the feasibility of a rupee-backed CBDC. The RBI banned paying for cryptocurrencies using systems and portals of Indian banks in April 2018.

Recent developments: In May 2021, the RBI issued a clarification, informing banks that they cannot warn customers against trading in cryptocurrencies based on the April 2018 ban. The move was perceived as a vote of confidence to crypto by RBI amid reports of India planning a complete ban on crypto trading. That said, the RBI has suggested that banks and crypto platforms need to make sure that these transactions are not used for fraudulent activities and tax evasion. It has asked the banks to carry out the necessary customer due diligence process in line with regulations governing standards for KYC, AML and CFT.

Regulator: Securities and Exchange Board of India (SEBI)

Policy: The crypto industry in India is currently unregulated, so all crypto-related activities are considered "unregulated activities."

Recent developments: In May 2021, cryptocurrency exchanges communicated to the government that SEBI is more suited to regulate the space than the RBI. In October 2021, SEBI warned: *"Investment advisers are, hereby, advised to refrain from undertaking such unregulated activities. Any dealing in unregulated activities by investment advisers may entail action as deemed appropriate under the SEBI Act, 1992 and regulations framed thereunder."*

JAPAN

Regulator: Financial Services Agency (FSA)

Position: Japan is the first country to have a legal system regulating crypto asset trading. The Payment Services Act was enacted in May 2016 and came into effect in April 2017. Crypto assets such as bitcoin are recognized as legal tender. The FSA strengthened regulations on cryptocurrency exchange operators in 2019 following a massive theft in 2018. Crypto asset exchange businesses operating in Japan must comply with AML/CFT and consumer protection laws.

Recent developments: In May 2021, the FSA issued a warning to crypto derivatives exchange Bybit, stating that the firm is not registered to operate crypto services in Japan. In June 2021, the FSA also issued a warning to Binance for offering crypto exchange services without registration. In July 2021, the FSA set up a section to oversee digital and decentralized finance. The agency plans to propose measures by next summer that ensure the stability of cryptocurrencies in a way that does not hamper their development.

SINGAPORE

Regulator: Monetary Authority of Singapore (MAS)

Policy: MAS does not see a strong case for banning virtual currency trading. It distinguishes between utility tokens, payment tokens and security tokens, and does not regulate the technology itself but its purpose. In the regulator's view, utility tokens do not require as much control as the other types. For businesses trading in cryptocurrencies, offering custody to retail users and a number of other activities, applying proper KYC (Know-Your-Customer), AML (Anti-Money Laundering), and CFT (combatting the Financing of Terrorism) checks are a legal requirement. All cryptocurrency service providers must obtain a license from MAS.

Recent developments: As of May 2021, MAS was working on a new payment services bill to provide a clear regulatory framework for cryptocurrency exchanges. The bill will update MAS' definition of e-money to now include e-wallets. Previously, the term "e-money" was confined to stored value and pre-paid services. Under the proposed bill, e-money will require issuers to protect the value stored in major e-wallets for both consumers and merchants. In August 2021, Australian exchange Independent Reserve secured an "in principle" approval from MAS that will allow it to offer digital payment token services. The company is the first exchange to be granted formal permission to operate in Singapore out of about 170 applicants, including global exchanges Binance and Gemini.

SOUTH AMERICA

BRAZIL

Regulator: Comissão de Valores Mobiliários (CVM)

Policy: Cryptocurrency exchanges exist in Brazil, and government support for crypto-related businesses has increased. Bitcoin and cryptocurrencies are not officially recognized as securities. However, there are situations where they can be characterized as such depending on the economic context of their issue and the rights granted to investors – for example, in a collective investment contract.

Recent developments: In March 2021, the CVM approved two crypto ETFs – one 100% bitcoin and the other compose of five cryptocurrencies, in addition to bitcoin – listed on the B3 stock exchange. In July 2021, the CVM approved an ether ETF listed on the B3 stock exchange. The ETF uses the same ether index as that used by CME Group and institutional custodial services provided by Gemini.

Regulator: Banco Central Do Brasil

Policy: In August 2019, Brazil's central bank decided to classify crypto assets under IMF guidelines. That means traded crypto assets will be considered as non-financial products and accounted as goods on the central bank's balance sheet. Classifying them as goods could make them eligible to be used as a payment mechanism, and they could be reflected in the country's trade balance.

Recent developments: In June 2021, the central bank released general guidelines for a Brazilian CBCD. In August 2021, central bank head Roberto Campos Neto recognized the demand for greater crypto regulation as Brazil evolves in the market. He mentioned several ongoing discussions with Brazil's Securities and Exchange Commission on how to welcome cryptocurrencies into the regulatory landscape.

Regulator: The Brazilian Securities and Exchange Commission

Policy: Brazil's securities regulator is interested in furthering the adoption of blockchain technology in Brazil. Its regulatory sandbox acts as a testing environment for fintech and other companies to issue tokens or cryptocurrencies with a regulated environment.

Recent developments: In March 2021 the securities regulator approved QR Asset Management's Bitcoin ETF for listing on B3 alongside another crypto-based ETF by Hashdex. In June 2021, B3 launched another QR Asset Management bitcoin ETF.

CHILE

Regulator: Ministry of Finance of Chile

Policy: Cryptocurrencies are currently unregulated in Chile. Moreover, the country's Supreme Court has ruled that cryptocurrencies do not have "physical manifestation and no intrinsic value."

Recent developments: In September 2021, central bank president Mario Marcel said a strategy for the potential roll-out of its own digital currency will be decided in early 2022. He has formed a high-level working group to study a medium-term strategy for minting a "digital peso" in a bid to meet the needs of an "increasingly challenging payments industry." The working group would critically evaluate risks to Chile's banking system and the efficiency of its monetary policy.

COLOMBIA

Regulators: Government of Colombia, Banco de la República and Superintendencia Financiera de Colombia (SFC)

Policy: Cryptocurrencies on a government level have been limited to a regulatory sandbox that exchanges are running with banks.

Recent developments: As of February 2021, the SFC has authorized alliances between Colombian banks and digital currency exchanges. So far, Colombia's financial department has approved nine partnerships between exchanges and national banks in order to make cryptocurrency operations more accessible to citizens. Colombia has the second-highest number of cryptocurrency ATMs in Latin America. As of October 2021, there are 50 of these ATMs.

EL SALVADOR

Regulators: Banco Central de Reserva

Policy: In June 2021, President Nayib Bukele declare that bitcoin would become legal tender in El Salvador. A few days later, the Bitcoin Law was passed, effective in September 2021. Businesses would be required to accept bitcoin for all payments. In August 2021, the central bank released two documents detailing how banks should deal with bitcoin. Financial entities must apply to the central bank to offer digital wallets, the guidelines stated. Applications must detail the type of product being offered, and include target market details, risk assessments, charges to customers, education provisions for customers, and complaint procedures. KYC verification will be required for all customers. Two-way Bitcoin-to-dollar convertibility must be provided and the bank is allowed to charge a fee.

Recent developments: In June 2021, Bukele announced an official bitcoin wallet, Chivo, which would work like PayPal: people would have a balance in dollars and a balance in bitcoins, held at Chivo. New users would get a signup bonus of $30 in bitcoin. 200 Chivo ATMs were deployed, and 50 staffed Chivo kiosks were constructed around the country. The Chivo app would be available internationally for remittances–dollars go into Chivo, the government subsidizes transmission costs and keeps the actual dollars, and the recipient gets virtual "dollars" that are numbers displayed in the Chivo app. However, Chivo was not put together until the end of August, two weeks before the launch. In addition, people protested against the forced acceptance, lack of transparency from the government and the dysfunctional Chivo payment system.

MIDDLE EAST

ABU DHABI

Regulator: The Financial Services Regulatory Authority (FSRA)

Policy: Abu Dhabi Global Market (ADGM) claims to be the first jurisdiction to introduce a comprehensive regulatory framework for the regulation of spot virtual asset activities undertaken by multilateral trading facilities, brokers, custodians, asset managers and other intermediaries. The FSRA's regulatory framework addresses the full range of associated risks, including those relating to market abuse and financial crime, consumer protection, technology governance, custody and exchange operations. To foster institutional involvement within virtual asset markets, the FSRA focuses on proper governance, oversight and transparency within this space.

Recent developments: In February 2020, the FSRA enacted some amendments to its rules and regulations. It changed the terminology of "crypto asset" to "virtual asset" to be aligned with the terminology used by the FATF. It also moved the applicable rules and regulations from a bespoke category of "Operating a Crypto Asset Business" to the respective underlying Regulated Activities (e.g. Providing Custody, Operating a Multilateral Trading Facility, Dealing in Investments).

DUBAI

Regulator: Dubai Financial Services Authority (DFSA)

Policy: In January 2021, the DFSA announced plans to introduce a regulatory framework for diverse assets as part of its 2021-2022 business plan. The crypto framework will further expand the DFSA's regulation of digital asset issuers and associated trading platforms. The framework will include a number of digital asset types like tokenized securities and cryptocurrencies such as bitcoin. The rules will represent a comprehensive regulatory framework, drawing on best practices from global jurisdictions. The framework will specifically include AML measures.

Recent developments: In June 2021, 3iQ's Bitcoin ETF, was the first cryptocurrency fund to go public in the Middle East.

AFRICA

NIGERIA

Regulator: Central Bank of Nigeria (CBN)

Policy: In March 2021, the CBN clarified a statement it issued in February that seemed to order financial institutions to shut down all accounts associated with cryptocurrency trading. The bank said it reiterated an already imposed 2017 ban on institutions facilitating cryptocurrency transactions. The CBN did not place restrictions from use of cryptocurrencies and it is not discouraging people from trading in them.

Recent developments: In October 2021, the CBN's CBDC, the eNaira, went live.

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