

Katten's Summary of Cryptoasset Legal and Regulatory Global News

January 15, 2019



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| Regulatory Environment Legend | |
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| | Apparently permitted: some rules or restrictions may apply to cryptoasset activity |
| | Unclear or in flux: red status may occur in the future |
| | Apparently hostile: prohibitions on one or more types of cryptoasset activity may apply |

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Africa

| Country and regulatory bodies | News |
|---|--|
| <p>South Africa South African Reserve Bank (SARB)</p> | <ol style="list-style-type: none"> 1. “According to the South African Reserve Bank Act 90 of 1989, the Reserve Bank governs the management of currency and has the sole right to issue coins and notes, i.e. ‘Legal Tender’. Bitcoin however falls outside of the definition of legal tender. Consequently, payments made via Bitcoin in South Africa may not discharge a debtor of a monetary obligation and purchasers run the risk that their Bitcoin payments are not recognised by South African law. Merchants are also legally entitled to refuse to accept Bitcoin as legal payment. Additionally, virtual currencies are not defined as securities in terms of the Financial Markets Act 19 of 2012. They are therefore not subject to the regulatory standards that apply to the trading of securities.” The Legal Regulation of Bitcoin, VDMA (no date provided). 2. “The South African Reserve Bank (Sarb) has said that it does not consider cryptocurrencies to be currencies or securities. Currently, the bank’s position is that anyone participating in cryptocurrencies does so at their own risk. Sarb deputy governor Francois Groepe has said previously that there is a bit of a regulatory vacuum with respect to cryptocurrencies and initial coin offerings in South Africa. For this reason Sarb is working with regulators through the Inter-governmental Fintech Working Group to review South Africa’s approach to cryptocurrencies.” South Africans have an appetite for cryptos, The Citizen (Nov. 5, 2018). 3. “The South African government has established a crypto assets regulatory working group to investigate cryptocurrencies and blockchain concepts. In a letter to Parliament, Tito Mboweni, the finance minister of South Africa, stated that the working group was created to come up with a unified intergovernmental regulatory framework throughout the country.... In his letter, Mboweni said that the working group includes representatives from the Financial Sector Conduct Authority, the Financial Intelligence Centre, Treasury, the South Africa Revenue Service (SARS) and the Reserve Bank.” South Africa gov’t creates a working group to probe crypto activities, Coingeek (Jan. 3, 2019). |

| Country and regulatory bodies | News |
|-------------------------------|--|
| | <p>4. “The South African Reserve Bank has issued guidance regarding its position on the purchasing and transfer of cryptocurrencies. While the SARB does not regulate the trade of cryptocurrencies in South Africa, it has stated the consequences of purchasing and selling cryptocurrencies using international exchanges. The only permissible way for South Africans to purchase cryptocurrencies from abroad is to use their single discretionary allowance of [1 million South African Rand] or individual foreign investment allowance of [10 million South African Rand] per year.” South Africans could face trouble for buying Bitcoin from offshore exchanges, MYBROADBAND (May 23, 2018).</p> |

Americas

| Country and regulatory bodies | News |
|--|---|
| Argentina The Unidad de Información Financiera (UIF) Comisión Nacional de Valores (CNV) | <ol style="list-style-type: none"><li data-bbox="384 394 1856 532">1. “Bitcoins are not legal currency strictly speaking, since they are not issued by the government monetary authority and are not legal tender. Therefore, they may be considered money but not legal currency, since they are not a mandatory means of cancelling debts or obligations.” Cryptocurrencies by country, Thomson Reuters (Oct. 25, 2017).<li data-bbox="384 565 1856 670">2. The CNV provided warnings regarding the risks of ICOs and stated that the CNV has not issued “specific regulations” on ICOs. Advertencia Ofertas Iniciales De Monedas Virtuales O Tokens (Conocidas Como “ICOs” O “Initial Coin Offerings”), Comisión Nacional de Valores (Dec. 2017). |

| Country and regulatory bodies | News |
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| <p>Bermuda</p> <p>Bermuda Monetary Authority (BMA)</p> | <ol style="list-style-type: none"> <li data-bbox="384 318 1871 792">1. “The Digital Asset Business Act 2018 (DABA) . . . has now been approved by both the House of Assembly and the Senate and only needs Royal Assent and a notice of the Minister of Finance.” Under DABA, “a person cannot carry on [a] digital asset business in or from within Bermuda unless the person is a licensed [digital asset services vendor].” DABA covers entities in the business of “issuing, selling or redeeming virtual coins, tokens or any other form of digital asset; operating as a payment service provider business utilizing digital assets; operating an electronic exchange; providing custodial wallet services; [or] operating as a digital asset services vendor.” Minimum criteria to receive a license include: “having controllers and officers who are fit and proper persons; having policies and procedures including in relation to AML/ATF, sanctions and any codes of practice under DABA; maintaining minimum net assets of \$100,000 or such amounts as the BMA may determine; maintaining adequate accounting or other records and adequate systems of controls of its business and records; having insurance; [and] being effectively directed by at least two persons and under the oversight of the Board with such number of non-executive directors as the BMA considers appropriate.” Bermuda: Bermuda Introduces Digital Asset Business Act 2018, Mondaq (June 19, 2018). <li data-bbox="384 824 1871 928">2. “The House of Assembly passed a Bill to create a new class of bank to serve Bermuda-based Fintech companies.” According to Premier David Burt, the bill will now move to the Senate for ratification. House Passes Bill: New Bank Class for Fintech, Bernews.com (July 28, 2018). <li data-bbox="384 961 1871 1140">3. The Bermuda Monetary Authority published for comment a draft of the Code of Practice for Digital Asset Custody to clarify the Authority’s stance on various issues surrounding custody. Specifically, the Code addresses controls required in the areas of “hot and cold storage, key generation, transaction handling, incident reporting and more.” BMA Publishes for Comment a Code of Practice for Digital Asset Custody, Bermuda Monetary Authority (Dec. 18, 2018). |

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| <p>Brazil</p> <p>Banco Central do Brasil (Bacen)</p> <p>Securities and Exchange Commission of Brazil (CVM)</p> <p>National Monetary Council (CMN)</p> | <ol style="list-style-type: none">1. The CVM found that a new cryptocurrency, Niobium Coin (NBC), is not a security but is a “utility token.” NBC is not considered a financial asset and is not subject to CVM oversight. “According to the CVM, virtual currencies are to be considered securities only when they classify as investments. That is to say, when they pay interest or dividends to their investors, or when they enable participation in company management through votes.” Brazilian SEC confirms: digital currency Niobium Coin (NBC) is not a financial asset, Cision (Jan. 22, 2018).2. The CVM “will publish guidance advising fund managers on the extent to which they can participate in global cryptocurrency markets without running afoul of local regulators, according to the Folha de S. Paulo - Brazil’s largest newspaper. The document will lay out the rules and procedures that fund managers must abide by when becoming involved with cryptocurrency, such as disclosing these activities to potential investors as well as the value proposition for becoming involved in the first place.” Brazil To Allow Funds To ‘Indirectly’ Invest In Cryptocurrencies, Forbes (Apr. 19, 2018).3. “[T]he CVM is easing current regulations for institutions to invest in the crypto market. The agency explained that it does not prohibit indirect investments in cryptocurrencies in foreign funds. However, these investments should be regulated in the country where they are traded.” Brazil Eases Regulations for Institutions To Enter Crypto Market, UTB (Oct. 5, 2018).4. “According to a report from local news outlet Portal do Bitcoin, the government has been sending the [country’s top] crypto exchanges a 14-point questionnaire through their contact forms for the last two weeks. The document is reportedly being sent under the Ministry of Finance’s name . . . The 14 questions in it revolve around the cryptocurrency exchanges’ operations. Some of them address how they check customers’ documents, the trading limits they offer clients according to their earnings, how they control operations on their platform, how they identify users, and more.” Brazil’s Government Sends Local Cryptocurrency Exchanges a Questionnaire, CCN (Aug. 29, 2018). |
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5. “Bitcoin and other cryptocurrencies were never legal currencies under Brazilian law, though a federal law issued a definition of digital currency by declaring it as a resource stored in a device or electronic system. As this definition didn’t capture the nature of cryptocurrencies in general – covering private cryptographic keys instead of ‘digital currency’ itself – their legal status is given by Brazilian Civil Code, which defines them as regular assets. Being a movable asset means that transactions are possible without any kind of restriction – except for the duty of paying taxes and declaring its property to Brazilian IRS.” [The Legal Future of Cryptocurrencies in Brazil](#), Coindesk (June 11, 2017).
6. “On November 16, 2017 the Central Bank of Brazil (*Banco Central do Brasil* – Bacen) issued Communiqué No. 31,379, warning about the risks of operations of custody and trading of the so-called ‘virtual currencies’....The virtual currency should not be confused with the electronic currency as defined by Law No. 12,865, of October 9, 2013, and the applicable rules contained in the normative acts published by Bacen in accordance with the electronic currency is deemed to be the resources in Brazilian currency (the *Real*) stored in an electronic device guidelines of the Brazilian Monetary Council (*Conselho Monetário Nacional* – CMN). Pursuant to this definition the electronic currency is deemed to be the resources in Brazilian currency (the *Real*) stored in an electronic device or system that allow the end user to perform payment transactions. Electronic currency, therefore, is a way of expression of credits denominated in *reais*. Virtual currencies, on its turn, are not referenced in *reais* or in any other currencies established by sovereign governments.” [Central Bank Of Brazil’s Warning About The Use Of Virtual Currencies](#), Mondaq (Nov. 17, 2017).

Bolivia

Financial
System
Supervision
Authority
(ASFI)

Banco Central
de Bolivia
(BCB)

1. As of May 6, 2014, “El Banco Central de Bolivia, the central bank of the South American nation, has officially banned any currency or coins not issued or regulated by the government, including bitcoin and a list of other cryptocurrencies including namecoin, peercoin, Quark, primecoin and feathercoin.” [Bolivia's Central Bank Bans Bitcoin](#), Coindesk (June 19, 2014).
2. “Recently, the Bolivian Financial System Supervision Authority (ASFI) arrested 60 people for carrying out ‘training activities’ related to the investment in virtual currencies such as bitcoin, according to a press release published by ASFI. Bolivia is one of the few countries in the [world] in which bitcoin is outright declared illegal. In 2014 the country’s central bank, El Banco Central de Bolivia (BCB) officially banned all currencies that weren’t issued or regulated by a government or an authorized entity.” [Bolivian Authorities Arrest 60 Bitcoiners, Reiterate Virtual Currencies as Illegal Pyramid Schemes](#), CCN (May 30, 2017).

Canada
Canadian
Securities
Administrators
(CSA)
British
Columbia
Securities
Commission
(BCSC)
Ontario
Securities
Commission
(OSC)
Autorité des
Marchés
Financiers
(AMF)

1. “On June 19, 2014, the Governor General of Canada gave his royal assent to Bill C-31 (An Act to Implement Certain Provisions of the Budget Tabled in Parliament on February 11, 2014 and Other Measures (Bill C-31), STATUTES OF CANADA 2014, Ch. 20), which includes amendments to Canada’s Proceeds of Crime (Money Laundering) and Terrorist Financing Act. (S.C. 2000 (as last amended Dec. 12, 2013), c. 17, JUSTICE LAWS.) The new law will treat virtual currencies, including Bitcoin, as ‘money service businesses’ for purposes of its anti-money laundering law. (Bill C-31, supra.) As result of the new law, companies dealing in virtual currencies will have to register with the Financial Transactions and Reports Analysis Centre of Canada (Fintrac), implement compliance programs, ‘keep and retain prescribed records,’ report suspicious or terrorist-related property transactions, and determine if any of their customers are ‘politically exposed persons.’ [(citation omitted)] The law will also apply to virtual currency exchanges operating outside of Canada ‘who direct services at persons or entities in Canada.’ (Bill C-31, supra, § 255(2).) The new amendments also prohibit banks from opening and maintaining accounts or having a ‘correspondent banking relationship’ with companies dealing in virtual currencies, ‘unless that person or entity is registered with the Centre.’ (Id. § 258.)” [Canada Passes Law Regulating Virtual Currencies as “Money Service Businesses”](#), Library of Congress Global Legal Monitor (July 9, 2014).
2. “The Canadian government has postponed the release of its final regulations for cryptocurrency and blockchain companies. The final published regulations were due this fall, but the government now says they won’t be published in the Canada Gazette until late 2019 . . . leaving the current regulatory regime in place until well into 2020, as there is an additional 12-month period after publication for any new regulations to take effect.” [Canada Delays Regulation of Cryptocurrencies and Blockchain Companies](#), Nasdaq (Aug. 28, 2018).
3. The Canadian government released an official draft of proposed new regulations on crypto exchanges and payment processors. “The new regulations will treat crypto exchanges and payment processors as money service businesses (MSB), which requires them to report large transactions — those over \$10,000 Canadian dollars (\$7700 USD) — and a new Know Your Customer (KYC) threshold set at transactions of \$1000 CAD (\$770 USD).” [Canada Releases Official Draft of New Crypto Regulations Focused on KYC/AML](#), Cointelegraph (June 10, 2018).

4. “Many of these cryptocurrency offerings involve sales of securities...We note that these products may also be derivatives and subject to the derivatives laws adopted by the Canadian securities regulatory authorities, including trade reporting rules.” [CSA Staff Notice 46-307 Cryptocurrency Offerings](#), Canadian Securities Administrators (Aug. 24, 2017).
5. The Canadian Securities Administrators released guidance explaining several situations where a “utility token” would or would not be considered a security. “We have received submissions from businesses and their professional advisors that a proposed offering of tokens does not involve securities because the tokens will be used in software, on an online platform or application, or to purchase goods and services. However, we have found that most of the offerings of tokens purporting to be utility tokens that we have reviewed to date have involved the distribution of a security, namely an investment contract.” [CSA Staff Notice 46-308](#), Canadian Securities Administrators (June 11, 2018).
6. The Canadian parliamentary finance committee issued three recommendations relating to cryptocurrency regulations. “The committee started with a recommendation that all platforms which convert fiat currency to and from cryptocurrencies should be regulated as they are operating as money-services businesses (MSBs). This would bring such exchanges fully under the financial-reporting guidelines of the Canadian government in compliance with the [Proceeds of Crime (Money Laundering) and Terrorist Financing Act]. [T]he finance committee has also recommended that cryptocurrency exchanges require a specific licence such as the ‘BitLicense,’ [a] system operated by the New York State Department of Financial Services (NYDFS) in the U.S....The third recommendation by the committee is that cryptocurrency wallets should also be regulated, a move less common by global regulators in the space to date. Regulating wallets would again ensure that cryptocurrency wallet providers implement checks, deter crime, and making transfers and identities more easily tracked by law enforcement.” [Canadian Parliamentary Committee Calls for Cryptocurrency Regulation](#), Coinsquare (Nov. 16, 2018).

**Cayman
Islands**

Cayman Islands
Monetary
Authority
(CIMA)

1. “To date, neither the government of the Cayman Islands nor the Cayman Islands Monetary Authority (CIMA) have introduced any material legislation or regulations directed specifically at the Fintech industry, and each continues to take a pragmatic approach to the matter. This approach taken to date has ensured that, on the whole, the financial services sector in the Cayman Islands has not been unduly restricted in its use and development of Fintech. Consequently, there has been a steady growth in the use of Cayman Islands structures making use of, and focused primarily upon, the industry.” [Why Offshore For Fintech?](#), Mondaq (Jan. 4, 2018).
2. The CIMA issued an advisory on the potential risks of investments in ICOs and virtual currency, which is not recognized as legal tender in the Cayman Islands. Among other risks, there are no regulatory protections for virtual currency investors. [PUBLIC ADVISORY – Virtual Currencies](#), Cayman Islands Monetary Authority (Apr. 23, 2018).

Ecuador

Banco Central
del Ecuador
(BCE)

1. In July 2014, “Ecuador banned bitcoin, and all decentralized digital currencies, as part of a reform to the country’s monetary and financial laws.... Part of this new reform allows the government to make payments in digital currency. It also proposes the creation of an Ecuadorian state digital currency....” [Ecuador Bans Bitcoin, Initiates Government-Run Digital Currency](#), PanAm Post (July 25, 2014).
2. “Before issuing their own digital currency, Ecuador banned all others including bitcoin back in July 2014. However, today bitcoin’s use continues to grow in the country.” [Use of Bitcoin in Ecuador Continues to Grow Despite Government Ban](#), Bitcoin (May 28, 2017).
3. The Ecuadorian Central Bank is no longer issuing electronic money. Account holders were required to withdraw funds by the end of March 2018. Complete deactivation is scheduled for April 2018. [The World’s First Central Bank Electronic Money Has Come – And Gone: Ecuador, 2014-2018](#), Cato Institute (Apr. 2, 2018).

Mexico

Comisión
Nacional
Bancaria y de
Valores

Secretariat of
Finance and
Public Credit
(SHCP)

Banco de
México
(Banxico)

1. “Mexico’s Secretariat of Finance and Public Credit (SHCP) has clarified its stance on bitcoin, deeming it a means of payment whilst placing a series of restrictions on transactions involving the digital currency. Following the Bank of Mexico’s warning about the use of virtual currencies last year, the SHCP said bitcoin will be subject to the same restrictions placed on some transactions involving cash or precious metals.” [Mexico’s Payment Restrictions Now Cover Bitcoin](#), Coindesk (Sept. 29, 2015).
2. “The Bank of Mexico (Banxico) has released information about the rules that digital equity companies must follow, as part of the law that will regulate the technological financial institutions, called ‘fintech law’ . . . [A company] will have to [define] its business scheme, commissions, exchange rate, among other measures . . . [Banxico] detailed that companies who operate digital wallets will be able to open bank accounts in national currency, in the name of natural and legal persons, nationals or foreigners. [Banxico] also defined the limit in monthly deposits that will be allowed in digital wallets. It starts from MXN \$4,500.” [Mexico will regulate cryptocurrency and digital wallets](#), El Universal (Aug. 19, 2018).
3. “With the approval of the [bill by the] Senate list and only waiting for the signature of President Enrique Peña Nieto, regulators will soon start with the elaboration of secondary laws, which will detail more precisely the new rules to which companies in [the cryptocurrency sector] will have to abide. The law will clarify the activities of financial technology companies, in issues related to crowdfunding, payment methods and rules related to cryptocurrencies such as bitcoin, also putting cryptocurrency exchange operations under the supervision of the Central Bank . . . Although the law was elaborated in broad terms, the details of it will be determined by the National Banking and Securities Commission (CNBV), the Central Bank and the Ministry of Finance in the coming months.” [M.13: Mexico approves cryptocurrency regulation law](#), enterateblog.com (Aug. 8, 2018).
4. The Ministry of Finance and Public Credit, the Bank of Mexico and the CNBV issued a joint statement indicating that ICOs that originate and issue in Mexico could potentially violate securities laws. Further, virtual assets do not qualify as currency of legal tender or foreign currency. [Comunicado conjunto SHCP- BANXICO- CNBV. Las autoridades financieras advierten de los riesgos asociados al uso de activos virtuales](#), GOX.MX (Dec. 13, 2017).

5. The Mexican government has issued regulations regarding cryptocurrency. According to one source, a circular issued on September 10, 2018 “states that companies wanting to carry out transactions involving cryptocurrencies ‘must request authorization from the Bank of Mexico so that they can use those technologies associated with any of the virtual assets’ approved by the bank.... However, the central bank has yet to announce which cryptocurrencies are legal.” [Mexico Publishes Crypto Rules, Puts Central Bank in Charge](#), Bitcoin.com (Sept. 15, 2018).

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| United States |
| Securities and Exchange Commission (SEC) |
| Commodity Futures Trading Commission (CFTC) |
| Financial Crimes Enforcement Network (FinCEN) |
| Various state regulators |

1. “In the simplest of terms, FinCEN’s guidance explains that administrators or exchangers of virtual currencies must register with FinCEN, and institute certain recordkeeping, reporting and AML program control measures, unless an exception to these requirements applies. The guidance also explains that those who use virtual currencies exclusively for common personal transactions like buying goods or services online are users, not subject to regulatory requirements under the BSA. In all cases, FinCEN employs an activity-based test to determine when someone dealing with virtual currency qualifies as a money transmitter.” [Statement of Jennifer Shasky Calvery, Director](#), Financial Crimes Enforcement Network, United States Department of the Treasury (Nov. 19, 2013).
2. “In 2014, the CFTC declared virtual currencies to be a ‘commodity’ subject to oversight under its authority under the Commodity Exchange Act (CEA).” [CFTC Backgrounder on Oversight of and Approach to Virtual Currency Futures Markets](#), Commodity Futures Trading Commission (Jan. 4, 2018).
3. The CFTC staff released an advisory providing guidance regarding derivatives contracts based on virtual currency to be listed on a DCM or SEF or to be cleared by a DCO. The advisory addresses enhanced market surveillance, coordination with CFTC staff, large trader reporting, outreach to stakeholders, and DCO risk management. [CFTC Staff Advisory No. 18-14](#), Commodity Futures Trading Commission (May 21, 2018).
4. The National Futures Association has adopted an Interpretive Notice that requires FCMs, IBs, CTAs and CPOs to provide certain disclosures to customers, counterparties or investors that engage or may engage in activities related to spot virtual currencies or derivatives based on virtual currencies with or through such FCM, IB, CTA or CPO. The disclosure requirements differ for FCMs and IBs as compared to CTAs and CPOs. Likewise, NFA has different requirements in connection with activities related to spot virtual currencies as opposed to virtual currency derivatives. The Interpretive Notice addresses NFA’s concerns that investors may not fully understand the nature of virtual currencies and virtual currency derivatives, the substantial risk of loss that may arise from trading these products, and the limitations of NFA’s regulatory authority over the spot market in virtual currencies. The Interpretive Notice will generally become effective on October 31, 2018. [Notice I-18-13](#), National Futures Association (Aug. 9, 2018). *See also* [July 27, 2018: National Futures Association Proposes Interpretive Notice Requiring FCM, IB, CTA and CPO Disclosures Regarding Virtual Currency Activity](#), Bridging the Week (July 26, 2018).

5. In a recent speech at the Consensus Invest conference, SEC Chairman Jay Clayton shared insight into improvements that need to be made before the Commission will approve cryptocurrency ETF products. Chairman Clayton first discussed the need for better market surveillance, explaining that “[w]hat investors expect is that trading in the commodity that underlies that ETF makes sense and is free from the risk of manipulation.” In addition, custody offerings “need to be improved and hardened.” [SEC’s Clayton needs to see key upgrades in cryptocurrency markets before approving a bitcoin ETF](#), CNBC.com (Nov. 27, 2018).
6. The SEC Division of Trading and Markets (“Division”) disapproved proposals by NYSE Arca and Cboe BZX to list bitcoin exchange-traded products for trading. Both exchanges previously filed proposals to list ETPs that invest in bitcoin futures and/or related derivative instruments. The Division emphasized that the disapprovals are not an evaluation of bitcoin and blockchain technology. Instead, the Division focused on the fact that the exchanges had not entered into a surveillance-sharing agreement with a “regulated market of significant size.” The Division’s denial appeared to ignore self-certification requirements by bitcoin futures exchanges mandated by the CFTC. [Cboe BZX Exchange, Inc., Order Disapproving a Proposed Rule Change](#), Securities and Exchange Commission (Aug. 22, 2018); [NYSE Arca, Inc., Order Disapproving a Proposed Rule Change](#), Securities and Exchange Commission (Aug. 22, 2018); *see also* [NYSE Arca, Inc., Order Disapproving a Proposed Rule Change](#), Securities and Exchange Commission (Aug. 22, 2018). Subsequently, the Commission stayed the SEC staff’s denial and indicated it would review the delegated action. *See* [Letter from Brent J. Fields, Secretary, SEC, to Eugene Schlanger, Counsel, NYSE Group Inc.](#) (Aug. 23, 2018).
7. The SEC deferred consideration of a Cboe BZX Exchange proposed rule change to enable trading of shares of SolidX Bitcoin shares issued by VanEck SolidX Bitcoin Trust. The SEC indicated it will now make a decision regarding the proposed rule change by February 27, 2019. As proposed, each share in the trust would represent a fractional interest in Bitcoin holdings by the trust. The SEC instituted formal proceedings to consider the rule change on September 20, 2018. [Notice of Designation of a Longer Period for Commission Action on Proceedings to Determine Whether to Approve or Disapprove a Proposed Rule Change to List and Trade Shares of SolidX Bitcoin Shares](#), Securities and Exchange Commission (Dec. 6, 2018).

8. In 2017, the SEC issued a Report of Investigation explaining that ICOs that resemble securities offerings must register the offering or obtain an exemption. Citing *Howey*, the SEC found that The DAO, a virtual currency organization, and its use of distributed ledger or blockchain technology to facilitate the offer and sale of DAO Tokens to raise capital, constituted a securities offering. [Report of Investigation Pursuant to Section 21\(a\) of the Securities Exchange Act of 1934: The DAO](#), Securities and Exchange Commission (July 25, 2017).
9. On July 6, 2018, FINRA released Regulatory Notice 18-20 “to encourage each firm to promptly notify FINRA if it, or its associated persons or affiliates, currently engages, or intends to engage, in any activities related to digital assets, such as cryptocurrencies and other virtual coins and tokens. In addition, until July 31, 2019, FINRA encourages each firm to keep its Regulatory Coordinator abreast of changes in the event the firm, or its associated persons or affiliates, determines to engage in activities relating to digital assets not previously disclosed.” This is a voluntary program. FINRA Regulatory Notice 18-20, FINRA (July 6, 2018).
10. According to industry sources, FINRA is working with the SEC Division of Trading and Markets to issue a regulatory notice regarding the application of SEC Rule 15c3-3 to digital assets. Rule 15c3-3 is a customer protection rule designed to protect customer funds broker-dealers hold. Clarification from FINRA could potentially assist registered investment advisers in selecting broker-dealers to serve as qualified custodians for the safekeeping of customer’s digital assets. [FINRA: Customer Protection Applies to Digital Assets](#), FinOps Report (Oct. 26, 2018).
11. Two Congressmen – Hon. Ted Budd and Hon. Darren Soto – proposed legislation requiring the CFTC to recommend legislative changes that would be necessary for the CFTC and other federal agencies to enhance their surveillance and prevention of price manipulation of cryptocurrencies and to protect investors from associated harm. A separate proposed bill would require the CFTC to recommend legislative changes to promote the competitiveness of the US in blockchain and cryptocurrency technologies and to provide a new optional regulatory regime for virtual currency spot markets that, among other things, would preempt state regulation. The CFTC is required to consult with the SEC and other relevant federal agencies in making its recommendations under both bills. [Virtual Currency Consumer Protection Act of 2018](#), House.gov (Dec. 6, 2018); [“US Virtual Currency Market and Regulatory Competitiveness Act of 2018”](#), House.gov (Dec. 6, 2018).

12. Congressmen Warren Davidson and Darren Soto introduced a bill to “exclude digital tokens from the definition of a security.” If passed, the proposed changes would also require the SEC to amend Rule 15c3-3 “to provide that the requirement for a satisfactory control location is fulfilled by protecting a digital unit...through public key cryptography and following commercially reasonable cybersecurity practices.” Finally, the bill would require adjustments to the taxation of virtual currencies held in retirement accounts, create a tax exemption for exchanges of one form of virtual currency to another, and establish a de minimis tax exemption for certain virtual currency gains. [H.R.7356 - Token Taxonomy Act](#), Congress.gov (Dec. 20, 2018). Separately, Congressman Ted Budd introduced a bill that proposes to allow exclusion of a gain or a loss on like-kind exchanges of virtual currency. [H.R.7361 - To amend the Internal Revenue Code of 1986 to allow exclusion of gain or loss on like-kind exchanges of virtual currency](#), Congress.gov (Dec. 20, 2018).
13. The SEC’s Office of Compliance Inspections and Examinations (“OCIE”) included monitoring the offer and sale of digital assets in its list of exam priorities for 2019. The exam priorities report states that “through high level inquiries, OCIE will take steps to identify market participants offering, selling, trading, and managing these products or considering or actively seeking to offer these products and then assess the extent of their activities. For firms actively engaged in the digital asset market, OCIE will conduct examinations focused on, among other things, portfolio management of digital assets, trading, safety of client funds and assets, pricing of client portfolios, compliance, and internal controls.” [2019 Examination Priorities](#), Securities and Exchange Commission (Dec. 20, 2018).
14. The Texas Department of Banking clarified that not all transactions involving virtual currencies require licensing under the state’s money transmission laws. According to the Department, an exchange of cryptocurrency for fiat currency or one cryptocurrency for another is not money transmission. However, a cryptoasset exchange that receives fiat currency, holds it until a cryptocurrency transaction has been consummated and then sends the fiat currency to a third party would be required to obtain a money transmission license – not because of the virtual currency activity but because of the fiat currency activity. [Regulatory Treatment of Virtual Currencies Under the Texas Money Services Act](#), Texas Department of Banking (Jan. 2, 2019).

15. Colorado legislators introduced a bill that would exempt digital tokens from the application of the state's securities laws provided such cryptoassets primarily have a consumptive purpose and are not marketed for speculative or investment purposes. Under the proposal, a "'consumptive purpose' means to provide or receive goods, services, or content, including access to goods, services or content." As proposed, the consumptive purpose must be available at the time of the digital token's issuance or within 180 days after sale for the cryptoasset to be exempt. Subject to certain requirements, persons effecting a purchase or sale of consumptive tokens would be exempt from broker-dealer registration. [Colorado Digital Token Act](#), Colorado Legislature (Jan. 4, 2019).

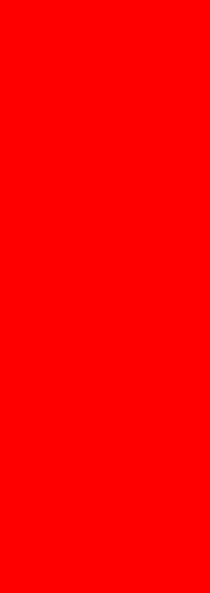
Asia and Australia

| Country and regulatory bodies | News |
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| <p>Australia Australian Securities & Investments Commission (ASIC)</p> | <ol style="list-style-type: none"> 1. Virtual currencies, such as Bitcoin, may be used as a form of payment in Australia. Virtual currencies, Australian Securities & Investments Commission (last updated Dec. 1, 2017). 2. Australian cryptocurrency exchanges are now required to register and report to the Australian Transaction Reports and Analysis Centre (AUSTRAC). Virtual currency exchanges must adopt anti-money laundering and counter-terrorism programs, verify customer identities, report suspicious matters and transactions involving physical currency of \$10,000 or more to AUSTRAC, and keep certain books and records. Australian Regulations for Cryptocurrency Exchanges Introduced, Bitcoin.com (Apr. 3, 2018). 3. "In Australia, the legal status of an ICO is dependent of the circumstances of the ICO, such as how the ICO is structured and operated, and the rights attached to the coin (or token) offered through the ICO....In the event that the ICO (or underlying) coin is found to be a financial product (whether it is a managed investment scheme, share or derivative), then any platform that enables investors to buy (or be issued) or sell these coins may involve the operation of a financial market." Initial coin offerings, INFO 225, Australian Securities & Investments Commission (Sept. 2017). 4. "BTC Markets has become Australia's first cryptocurrency exchange certified by the Australian Digital Commerce Association (ADCA)...ADCA is a voluntary scheme, designed to help consumers pick out the digital-currency-related services that commit to a high standard and voluntarily subscribe to independent audits. Its stated objectives include promoting fintech in general by building public knowledge, generating awareness and maintaining relationships with fintech institutions, governments and businesses. ADCA certification is not to be confused with the AUSTRAC-enforced KYC and AML laws that were signed off last December and set for enforcement from April of this year. But similar to ADCA, many reputable exchanges have willingly worked hard to meet these standards ahead of time." BTC Markets is Australia's first ADCA-certified crypto exchange, finder (Feb. 20, 2018). |

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| Bangladesh Bangladesh Bank | <ol style="list-style-type: none"><li data-bbox="386 319 1812 430">1. "The central bank of Bangladesh has issued a new statement suggesting that the use of digital currency is now illegal in the country." Bangladesh Central Bank: Cryptocurrency Use is a 'Punishable Offense', Coindesk (Sept. 16, 2014).<li data-bbox="386 456 1812 711">2. "Bangladesh Bank has banned the use of Bitcoin, a virtual cryptocurrency, in Bangladesh by issuing a circular on its website. The circular read that Bitcoin is not an authorised and legal currency in any other country in the world. 'Transaction with this currency may cause a violation of the existing money laundering and terrorist financing regulations,' the circular further read. However, the notice does not carry any indication on how the regulation would be enforced. The circular also said Bitcoin is not authorised by any regulatory authority and thereby its use may cause financial loss of the citizens." Central bank issues notice banning Bitcoin in Bangladesh, Dhaka Tribune (Dec. 27, 2017). |

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| <p>China</p> <p>Some of the relevant regulators include the People’s Bank of China (PBC), the China Securities Regulatory Commission, the China Insurance Regulatory Commission, and the China Banking Regulatory Commission (CBRC)</p> | <ol style="list-style-type: none"> 1. “Speaking at an internal meeting of the Internet Finance Rectification Working Group on Monday, Pan Gongsheng reiterated that ICOs, ‘disguised’ ICOs and crypto asset trading are illegal in the country, and represent illicit forms of fundraising and securities issuance. Although China issued an outright ban on ICOs in September 2017, Pan said a lot of the projects that moved overseas as a result are still making themselves available in the Chinese market . . . Pan was quoted as saying: ‘Any new financial product or phenomenon that is not authorized under the existing legal framework, we will crush them as soon as they dare to surface.’” PBoC Will ‘Crush’ Foreign ICOs Targeting Chinese Investors: Official, CoinDesk (July 10, 2018). 2. “According to China’s Xinhua News Agency, the Futian District People’s Court of Shenzhen has ruled that cryptocurrency investments and transactions are not protected by Chinese law. . . . [In response to plaintiff’s claims that defendant breached its fiduciary duty when depositing funds in a cryptocurrency investment scheme, the] court found that the plaintiff had failed to submit evidence proving the registration and legitimacy of [the defendant’s] virtual currency platforms, concluding that as the legality of the virtual currencies was not apparent, the investment transactions would not be protected by Chinese law.” Regulation Roundup: Investors Not Protected in China, Albania to Regulate, Bitcoin.com (Oct. 28, 2018). 3. “Cryptocurrency mining operations in the Chinese provinces of Xinjiang and Guizhou were suspended so the government could conduct ‘very strict’ tax inspections and real-name registration checks. Power to the mining farms was shut off on November 5, sources told local daily Cong News . . . ‘Joint enforcement actions examined the mine’s tax information, funds, and customer information,’ Cong News reported. ‘It is understood that the tax inspection of the mine is very strict.’ . . . The mining farms were required to sign an agreement promising that their mining data centers will implement ‘higher standards for the company’s business real-name system,’ as mandated by China’s Public Security Department. The farms also agreed to not provide services to any customers that do not comply with these rules.” Cryptocurrency Mining Farms in China Shut Down for ‘Strict’ Tax Inspections, MenaFN (Nov. 14, 2018). |

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|  | 4. “China is continuing its crackdown on bitcoin and cryptocurrency-related ventures. The country is now blocking access to more than 120 offshore cryptocurrency exchanges utilized for trading purposes by mainland customers. In addition, officials are also looking to shut down websites pertaining to both cryptocurrencies and initial coin offerings (ICOs), and to prevent businesses from accepting payments in digital assets.” China Blocks Access to Over 120 Offshore Digital Currency Exchanges , Bitcoin Magazine (Aug. 23, 2018). |
| | 5. “First it banned initial coin offerings, or ICOs — the equivalent of initial public offerings for new virtual currencies. Then it called on local exchanges to stop trading in cryptocurrencies and outlined proposals to discourage bitcoin mining — the energy-intensive computing process that makes transactions with the digital currency possible. It’s also moved to stop Chinese companies listed abroad skirting its domestic ban on ICOs. (New York-listed Renren Inc. was said to cancel a planned overseas ICO). Officials now intend to block domestic access to online platforms and mobile apps that offer exchange-like services for cryptocurrencies. Domestic stock exchanges, too, are [targeting] companies that promote themselves as blockchain-related to boost their shares. It’s part of a concerted effort by agencies including the central bank, the cyberspace administration and China’s Ministry of Industry and Information Technology.” This Is How China Is Stifling Bitcoin and Cryptocurrencies , Bloomberg via Fortune (Jan. 17, 2018). |
| | 6. The National Internet Finance Association (NIFA), a “Chinese-based self-regulatory body [that] is a foundation of the People’s Bank of China meant to work in conjunction with the government . . . recently made significant changes [to] its platform in order to scale its fraud curbing objective to the cryptocurrency industry . . . So far, a couple activities within the crypto markets have been added to NIFA’s platform for reporting. Among them is trading crypto coins, whether crypto for crypto, fiat for crypto or vice versa, engaging ICO process (from the pre-sale to launch) and insuring crypto-operating businesses.” China Crypto Crackdown Continues By Opening Up Illegal ICO Token Sales Reporting Option , Bitcoin Exchange Guide (Aug. 29, 2018). |

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|  | <p>7. “On December 8, 2018, the People’s Bank of China announced that it was banning security token offerings (STOs) in China. The ban is the result of a crackdown on STOs that started in September 2017. Pan Gongsheng, a deputy governor in the PBoC reportedly said that illegal financing schemes using STOs were still rampant in the country and anyone found guilty of offering an STO would be kicked out of the country.” Central bank deputy governor: STO business ‘essentially an illegal financial activity in China’, South China Morning Post (Dec. 9, 2018).</p> |
| | <p>8. On January 10, the Cyberspace Administration of China (“CAC”) announced new regulations for blockchain firms operating in the country effective as of February 15. According to the CAC, “websites or mobile apps that provide information and technical support to the public using blockchain technologies” are subject to the regulations. “As soon as the regulations come into power, they will be obliged to register their names, domains and server addresses at the CAC within 20 days. The guidelines require blockchain startups to allow authorities access to stored data, and to introduce registry procedures that would require ID card or mobile numbers from its users. Moreover, they will be obliged to oversee content and censor information that is prohibited under current Chinese law.” China Introduces New Anti-Anonymity Regulations for Blockchain-Related Companies, Cointelegraph (Jan. 10, 2019).</p> |

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| <p>Hong Kong</p> <p>Securities and Futures Commission (SFC)</p> <p>Hong Kong Monetary Authority</p> | <ol style="list-style-type: none"> 1. “Whilst digital tokens are considered to be a ‘virtual commodity’, the Commission notes that in certain cases they have some features that classify them as ‘securities’.” Cryptocurrency & ICOs as securities & virtual commodities as per Hong Kong law, Eltoma (Sept. 19, 2017). 2. “The Securities and Futures Commission (SFC) once again alerts investors to the potential risks of dealing with cryptocurrency exchanges and investing in initial coin offerings (ICOs). Following a statement on ICOs released on 5 September 2017 (Note 1), the SFC has taken regulatory action against a number of cryptocurrency exchanges and issuers of ICOs. The SFC has sent letters to seven cryptocurrency exchanges in Hong Kong or with connections to Hong Kong (Note 2) warning them that they should not trade cryptocurrencies which are ‘securities’ as defined in the Securities and Futures Ordinance (SFO) without a licence. Most of these cryptocurrency exchanges either confirmed that they did not provide trading services for such cryptocurrencies or took immediate rectification measures, including removing relevant cryptocurrencies from their platforms. The SFC may take further action where appropriate, in particular against cryptocurrency exchanges which disregard the provisions of the SFO and those which are repeat offenders.” SFC warns of cryptocurrency risks, Securities and Futures Commission (Feb. 9, 2018). 3. “[M]any virtual assets do not amount to ‘securities’ or ‘futures contracts’. Moreover, managing funds solely investing in virtual assets which do not constitute ‘securities’ or ‘futures contracts’ does not amount to a ‘regulated activity’ as specified under the SFO. Similarly, the operators of platforms which only provide trading services for virtual assets not falling within the definition of ‘securities’ do not fall within the jurisdiction of the SFC. Notwithstanding the above, if firms are engaged in the distribution of funds which invest in virtual assets, irrespective of whether these assets constitute ‘securities’ or ‘futures contracts’, these firms are required to be licensed by or registered with the SFC.” These requirements will not apply if a relevant fund invests less than 10 percent of its gross asset value in cryptoassets. Statement on regulatory framework for virtual asset portfolios managers, fund distributors and trading platform operators, Securities and Futures Commission (Nov. 1, 2018); <i>see also</i> Circular to intermediaries Distribution of virtual asset funds, Securities and Futures Commission (Nov. 1, 2018). |

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| | <ol style="list-style-type: none"><li data-bbox="384 318 1812 505">4. The Securities and Futures Commission's 2017-2018 annual report explained that "[n]ew technologies provide convenience for investors but come with risks. We keep a close watch on cryptocurrencies and initial coin offerings, intervening where appropriate. We also launched the SFC regulatory sandbox for qualified firms to conduct regulated activities utilising financial technologies." Regulation for Quality Markets, Securities and Futures Commission, Securities and Futures Commission (June 27, 2018).<li data-bbox="384 529 1812 878">5. "Hong Kong is set to tighten regulations on cryptocurrencies, with plans to put exchanges, traders and other related companies under the oversight of the Securities and Futures Commission.... According to the SFC's guidelines, investment funds will be required to obtain a license if more than 10% of the assets they manage are made up of bitcoin or other cryptocurrencies, and will be allowed to sell related products only to professional investors. Under the voluntary scheme, exchanges will be able to test virtual currency products or services temporarily in a 'regulatory sandbox' before deciding on whether to seek a license. The proposed regulations, which are to be implemented in stages, will also mean that companies can only issue ICOs for tokens that fulfilled SFC's requirements. For instance, the tokens must have existed for at least 12 months." Hong Kong to tighten cryptocurrency rules, Nikkei Asian Review (Dec. 17, 2018). |

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| <p>India</p> <p>Securities and Exchange Board of India (SEBI)</p> <p>Reserve Bank of India (RBI)</p> | <ol style="list-style-type: none"> 1. "A finance ministry panel set up to study [cryptocurrencies] may even suggest that they be treated as commodities. 'I don't think anyone is really thinking of banning it (cryptocurrencies) altogether. The issue here is about regulating the trade and we need to know where the money is coming from. Allowing it as [a] commodity may let us better regulate trade and so that is being looked at,' a senior government official privy to the panel's discussions told Quartz, requesting anonymity." India may not ban cryptocurrency after all, Quartz (July 11, 2018). 2. "The government is considering launching crypto tokens for financial transactions in the country, even as the existing ban on cryptocurrencies is likely to continue, sources said. A committee studying the use of crypto assets is working on a set of regulations, and specific actions, including a roadmap for allowing cryptocurrencies in [the] future . . . 'The committee is examining if crypto tokens can be used to replace smart cards such as metro cards in the public sector to start with. Similarly, in the private sector, it can be used in loyalty programmes such as air miles where its use is limited to buying the next ticket and can't be converted into money,' said a senior official in the ministry." Department of Economic Affairs Secretary Subhash Chandra Garg, who is heading the committee, explained that the "committee is studying the possibility of using cryptocurrencies or the crypto technology (distributed ledger technology) for financial transactions and also what kind of regulations are needed for that." Centre may allow crypto tokens for financial transactions, Daily News and Analysis India (Aug. 10, 2018). 3. "A finance ministry panel set up in November 2017 could be ready with draft regulations next month. This was clarified by the Narendra Modi government in a counter-affidavit...filed in the supreme court on Nov. 19." At last, India's ready to clarify its stance on cryptocurrencies, Quartz India (Nov. 19, 2018). 4. "The law commission established by the order of the Indian government has issued a report recognizing cryptocurrency as a means of payment. This is reportedly the first time that a body appointed by the government admitted cryptocurrencies have value and can be used in transactions." The report described virtual currencies as, "a form of electronic money." Indian Government-Appointed Commission Recognizes Crypto as Means of Payment, Bitcoin.com (July 27, 2018). |

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| | <p>5. “The crypto banking ban by the Reserve Bank of India (RBI) went into effect at the end of last week. The central bank issued a circular three months ago, banning all financial institutions under its control from providing services to companies dealing in cryptocurrencies. The industry was hopeful that the Supreme Court would grant a stay on the ban on July 3 but the court did not and the RBI ban subsequently went into effect . . . Amid RBI’s ban, Indian crypto exchanges have been ramping up their solutions to continue business after the ban. Among them is P2P trading, where the exchange acts as an escrow service between two customers for each fiat to crypto trade.” Indian Crypto Exchanges Forge Ahead With Solutions to RBI Ban, Powerful 8s (July 9, 2018).</p> <p>6. Entities regulated by RBI cannot provide services including “maintaining accounts, registering, trading, settling, clearing, giving loans against virtual tokens, accepting them as collateral, opening accounts of exchanges dealing with them and transfer / receipt of money in accounts relating to purchase/ sale of VCs...Regulated entities which already provide such services shall exit the relationship within three months from the date of this circular.” Prohibition on dealing in Virtual Currencies (VCs), RBI/2017-18/154, Reserve Bank of India (Apr. 6, 2018).</p> <p>7. “The High Court of Dehli has . . . issued a notice to the RBI, the finance ministry and the GST Council and sought their stand on the petition challenging the RBI dated April 6 circular ‘Withdrawing Banking Support to Virtual Currency Exchanges’. The court notice was issued on petition of Ahmedabad-based crypto currency exchange Coin Recoil (Kali Digital Eco-Systems Pvt Ltd). Coin Recoil requested the high court to issue . . . an appropriate direction for quashing of the circular issued by the Reserve Bank of India as the same was ‘arbitrary, unconstitutional’.” RBI’s Cryptocurrency circular challenged in HC, Banking Finance (July 10, 2018).</p> <p>8. “In a recent blow to the cryptocurrency market, the Narendra Modi-led Union government halted the registration of new cryptocurrency exchanges, the platforms where investors can buy or sell Bitcoins, among other cryptocurrency.” Bitcoin mania: Amid haze around crypto, know all about regulations in India, Business Standard (Jan. 24, 2018).</p> |

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| | <p>9. “After blowing hot and cold on bitcoin, the Indian government is considering bringing out its own cryptocurrency.... ‘We are evaluating the government-backed cryptocurrency and crypto-token,’ said a senior government official privy to the discussions of the panel. ‘And we are looking to develop and encourage our own research and development of blockchain technology.’” After strangling bitcoin, India may launch its own cryptocurrency, Quartz India (Oct. 10, 2018).</p> <p>10. “The committee charged with providing recommendations for the regulatory framework surrounding cryptocurrencies in India is reportedly evaluating the legalization of the asset class under strong regulation. According to a recent report, ‘There is a general consensus that cryptocurrency cannot be dismissed as completely illegal.’” Report: India Evaluating Cryptocurrency Legalization Under Strong Regulation, Bitcoin News (Dec. 26, 2018).</p> |

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| <p>Indonesia</p> <p>Bank Indonesia (BI)</p> | <ol style="list-style-type: none"> <li data-bbox="384 318 1812 574">1. “Cryptocurrencies in Indonesia will be regarded as commodities, according to a new decision by the country’s futures market regulator. It comes after a study concluding that digital coins deserve the commodity status. The government is expected to prepare a broader regulation covering other aspects of the crypto sector including trading and taxation . . . ‘The Head of BAPPEBTI has signed a decree to make cryptocurrency a commodity that could be traded on the exchange,’ said Dharma Yoga, who is managing the Board’s Market Supervision and Development Bureau.” Indonesia to Regulate Cryptocurrencies as Commodities, Bitcoin.com (June 4, 2018). <li data-bbox="384 602 1812 859">2. “Bank Indonesia affirms that virtual currencies, including bitcoin, are not recognized as legitimate instrument of payment, therefore not allowed to be used for payment in Indonesia. This is in line with Act No.7/2011 on The Currency, which states that currency shall be money of which issued by the Republic of Indonesia and every transaction that has the purpose of payment, or other obligations which need to be fulfilled with money, or other financial transactions conducted within the territory of the Republic of Indonesia, has to be fulfilled with Rupiah.” Bank Indonesia Warns All Parties Not to Sell, Buy, or Trade Virtual Currency, Press Release No. 20/4/DKom, Bank Indonesia (Jan. 13, 2018). <li data-bbox="384 886 1812 1105">3. “Indonesian authorities are investigating the use of bitcoin in the holiday island of Bali, amid warnings by the central bank in Southeast Asia’s biggest economy over the risks posed by virtual currencies, an official said. The probe started after the central bank on Dec. 7, 2017 issued a regulation banning the use of cryptocurrencies in payment systems, said Causa Iman Karana, head of Bank Indonesia’s representative office in Bali.” A ‘Haven for Bitcoin’ Is Considering a Cryptocurrency Crackdown, Reuters via Fortune (Jan. 19, 2018). |

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| | <ol style="list-style-type: none"><li data-bbox="384 318 1812 643">4. "Under BI Reg. 18/40, Payment System Service Providers that violate the prohibition on the use of virtual currency in payment transaction processing are subject to administrative sanctions in the form of a warning, fine, temporary suspension of some or all payment system services, and/or revocation of their license as a Payment System Service Provider. BI Reg. 19/2017 provides sanctions in the form of written warnings and/or removal from Bank Indonesia's list of registered Fintech Providers. And the Currency Law stipulates that a party that does not use Rupiah for every transaction as required in Indonesian territory shall be subject to criminal sanction of maximum imprisonment of one year and a maximum fine of two hundred million Rupiah." Virtual Currency Is Here, So How Is Indonesia Going to Regulate It?, SSEK (Feb. 28, 2018).<li data-bbox="384 675 1812 842">5. One of South Korea's top cryptocurrency exchanges, Coinone, is launching an exchange in Indonesia. According to the exchange, users based outside of Indonesia may use the platform after an initial pre-registration period. Such users will be subject to a KYC process. Major South Korean Crypto Exchange Coinone To Launch In Indonesia, Cointelegraph (Apr. 17, 2018). |

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| <p>Japan</p> <p>Financial Services Agency</p> | <ol style="list-style-type: none"> 1. “ICOs may fall within the scope of the Payment Services Act and/or the Financial Instruments and Exchange Act depending on how they are structured....A certain token issued in an ICO falls under the virtual currency on the Payment Services Act, therefore the business which provide exchange services of virtual currencies on a regular basis must be registered with each Local Finance Bureau that is delegated authority to by the Prime Minister.” Initial Coin Offerings (ICOs) – User and business operator warning about the risks of ICOs, Financial Services Agency (Oct. 27, 2017). 2. “Japan’s amended Fund Settlement Law and the amended Payment Services Act which went into effect in April last year regulate the country’s crypto industry. The former defines ‘virtual currencies,’ which include cryptocurrencies, as a means of payment and exempts them from consumption tax. The latter requires cryptocurrency exchange operators to register with the Financial Services Agency (FSA).” Stablecoins are not considered “virtual currencies” under the Payment Services Act. Japanese Regulator: Stablecoins Are Not Cryptocurrencies Under Current Law, Bitcoin.com (Oct. 29, 2018). 3. “On Wednesday, Oct. 24, Japan’s Financial Services Agency granted the cryptocurrency industry the authority to self-regulate. The approval means that the Japan Virtual Currency Exchange Association, a coalition of several registered digital currency exchanges, can now set rules for operational requirements, consumer protection, prevention of money laundering and employee ethics. The association will also enforce compliance.” Japan Approves Self-Regulation of Cryptocurrency Exchanges, Bitcoin.com (Oct. 29, 2018). 4. “The Financial Services Agency has decided to integrate the names of bitcoins and other virtual currencies, which are traded online as if they were money, into a category called ‘crypto-assets’ [according to sources]. Due to unclear issuers and with no evidence of value, the prices of virtual currencies fluctuate wildly. Taking this into consideration, by calling all virtual currencies crypto-assets, the government hopes that traders will no longer purchase them believing that they are legal tender recognized by the government.” The FSA will revise its laws and regulations, such as the Payment Services Law, accordingly. Virtual currencies to be called ‘crypto-assets’ to prevent confusion with legal tender, The Japan News (Dec. 15, 2018). |

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| | <p>5. The FSA “granted the Japan Virtual Currency Exchange Association (Jvcea) self-regulatory organization (SRO) status under the Payment Services Act....The association is expected to cooperate with the [FSA] to instruct and supervise its members to ‘operate their businesses appropriately.’ [In addition,] the association is expected to ‘set out detailed wallet management processes from the system security point of view and the cross-sectoral rules in areas that are not covered by the laws/regulations, for example, margin trading, for the users’ protection....” Japan Reveals Expectation for Crypto Industry Self-Regulation, Bitcoin.com (Dec. 26, 2018).</p> <p>6. The FSA issued a final report with proposed rules for cryptocurrency service providers, which details requirements “as a precondition of the proper principle of self-responsibility” to be followed under the guidance of the country’s SRO, the Japan Virtual Currency Exchange Association, or through a provider’s own regulation. “The requirements cover areas such as risks relating to thefts of customers’ cryptocurrencies when hacking incidents occur, price fluctuations and speculation....and margin trading.” Service providers must maintain net assets that meet or exceed the amount of (and are in the same currency as) each customer’s deposited virtual currency. Customers are also entitled to a statutory lien to secure their claim to the deposited virtual currency. In addition, service providers must make disclosures regarding trading prices and cryptocurrency risks, provide financial statements, and notify the FSA of “‘each [hard fork] of a line of virtual currencies in advance.’” Finally, the report establishes rules for custodial services and “unfair acts” in spot trading. Japanese Regulator Publishes Proposed Rules for Crypto Service Providers, Bitcoin.com (Dec. 29, 2018).</p> <p>7. In response to recent reports that it was poised to approve a Bitcoin ETF, Japan’s financial regulator denied the rumors and reiterated its stance against ETF and futures products based on cryptocurrency. Separately, the FSA recently published an outline of topics to be addressed in upcoming regulations, including “investment-type ICOs.” The FSA intends to (1) require public disclosures for solicitation of 50 or more investors; (2) subject brokers and dealers of investment-type ICOs to the same level of regulation as securities firms; (3) impose rules to prevent insider trading; and (4) apply restrictions to the solicitation of retail investors. Crypto exchanges will be required to provide information for other types of ICOs. Japanese Regulator Clarifies Stance on Bitcoin ETFs and Derivatives, Bitcoin.com (Jan. 13, 2019).</p> |

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| <p>Singapore</p> <p>Monetary Authority of Singapore (MAS)</p> | <ol style="list-style-type: none"> 1. "Similar to most jurisdictions, MAS does not regulate such virtual currencies per se. However we regulate the activities that surround them...First, virtual currencies, due to the anonymous nature of the transactions, can be exploited for money laundering and terrorism financing risks. MAS is working on a new payment services regulatory framework that will address these risks. A second example is fund-raising. Virtual currencies can go beyond being a means of payment, and evolve into 'second generation' tokens representing benefits such as ownership in assets, like a share or bond certificate. The sale of such 'second generation' tokens to raise funds is commonly known as an initial coin offering or ICO ('ICO'). A number of ICOs have been structured out of Singapore in recent months. These are financial activities that falls under MAS' regulatory ambit." Reply to Parliamentary Question on the prevalence use of cryptocurrency in Singapore and measures to regulate cryptocurrency and Initial Coin Offerings, Notice Paper 869 of 2017, Monetary Authority of Singapore (Oct. 2, 2017). 2. "The Deputy Prime Minister of Singapore has sought to clarify the nation's stance on cryptocurrencies with regards to its money laundering laws. Speaking earlier this week, Mr. Tharman Shanmugaratnam emphasized that Singapore's financial regulator will not distinguish between cryptocurrencies and fiat currencies." Singapore to Extend Regulatory Mandate Regarding Cryptocurrencies, Bitcoin.com (Jan. 12, 2018). 3. "MAS will examine the structure and characteristics of, including the rights attached to, a digital token in determining if the digital token is a type of capital markets products under [section 2(1) of the Securities and Futures Act]." A Guide to Digital Token Offerings, Monetary Authority of Singapore (Nov. 14, 2017). 4. "[T]hese digital tokens may represent ownership or a security interest over the token seller's assets or property, or a debt owed by the seller." Consumer Advisory on Investment Schemes Involving Digital Tokens (Including Virtual Currencies), Monetary Authority of Singapore (Aug. 10, 2017). |

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| | <p>5. “The Monetary Authority of Singapore (MAS) clarified today that the offer or issue of digital tokens in Singapore will be regulated by MAS if the digital tokens constitute products regulated under the Securities and Futures Act (Cap. 289) (SFA).” MAS clarifies regulatory position on the offer of digital tokens in Singapore, Monetary Authority of Singapore (Aug. 1, 2017).</p> |
| | <p>6. “An industry association that will oversee digital tokens like bitcoin and devise efficient ways to regulate the sector officially started on Thursday (Nov 29). The Token Economy Association (Tea) is already working with the Association of Crypto-Currency Enterprises and Start-ups Singapore to launch a code that spells out best practices in a range of areas. These include anti-money laundering, ways to stop terrorism financing and due diligence procedures so customer identities can be authenticated . . . The code will have input from regulators, banks and other relevant stakeholders and ‘adequately address’ risks, according to the two organisations. It is expected to be released by March.” Emerging digital token ecosystem draws regulators’ eye, The Straits Times (Nov. 29, 2018).</p> |
| | <p>7. The Monetary Authority of Singapore proposed a new bill to regulate payment service providers. Among other things, the bill proposes a licensing framework for payment service providers. Examples of payment services regulated under the bill include domestic and cross border money transfers, e-money issuance, digital payment token services, and money-changing services. To acquire a license, a payment service provider “must have a permanent place of business in Singapore or a registered office in Singapore [and] have at least one executive director who is a Singapore citizen or Singapore Permanent Resident, or a person belonging to a class of persons prescribed by MAS.” Explanatory Brief on the Payment Services Bill, Monetary Authority of Singapore (last updated Nov. 19, 2018).</p> |
| | <p>8. On December 3, 2018, the Monetary Authority of Singapore published new guidelines regarding digital token offerings. The guidance states that digital token offerings are classified as “capital market products” under the Securities and Futures Act. The agency will also determine whether these offerings meet the country’s Anti-Money Laundering and Countering Financing of Terrorism requirements. Monetary Authority of Singapore – A Guide to Digital Token Offerings, Monetary Authority of Singapore (Dec. 3, 2018).</p> |

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| <p>South Korea</p> <p>Financial Services Commission (FSC)</p> <p>Financial Supervisory Service (FSS)</p> | <ol style="list-style-type: none"> 1. The FSC only allows cryptocurrency trading through real-name bank accounts. Minors and foreigners may not open new bank accounts linked to cryptocurrency exchanges for cryptocurrency trading. Financial Measures to Curb Speculation in Cryptocurrency Trading, Financial Services Commission (Jan. 23, 2018). 2. “Jeju Island in South Korea is considered to be a special economic zone . . . As a result, the authorities can develop individual legislation and conduct their own economic policies . . . The Governor of the island, Mr. He-Rong, has repeatedly publicly stated his intention to develop the Jeju Island and to turn it into a [cryptocurrency friendly zone].” South Korea: Does Jeju Island Become Asian Malta?, Medium (Aug. 9, 2018). 3. “Korean lawmaker Kim Sun-dong, a member of the National Assembly’s Political Committee, announced last week that he has initiated the Digital Asset Trading Promotion Act, local media reported . . . The bill first defines ‘virtual content with an apparent value such as online money, points, game items and virtual currencies as digital assets,’ the publication detailed. It also defines the operators dealing with them as digital asset trading companies.” A local news outlet reported that “[t]hose who want to operate a digital asset trading business should have more than 3 billion won [~\$2.66 million] in capital, enough manpower, computerized systems, and physical equipment to be approved by the Financial Services Commission.” Further, “[i]f an exchange is hacked and its customers suffer losses of crypto assets, the bill submits that the exchange must assume the liability for damage to the traders.” Korean Lawmaker Introduces Bill to Promote Crypto Trading, Bitcoin.com (Nov. 28, 2018). 4. “The government of South Korea announced it had excluded cryptocurrency exchanges from legislation governing venture businesses in a press release issued Monday, August 13. The brief document from the country’s Ministry of Small and medium-sized enterprises (SMEs) and Startups (MSS) explained that contrary to previous decisions, it would now place exchanges alongside bars and nightclubs as businesses that it would ‘not encourage as a venture enterprise.’” South Korean Ministry Drops Cryptocurrency Exchanges From Venture Enterprise Classification, Cointelegraph (Aug. 14, 2018). |

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| | <p>5. “On several occasions, the Financial Services Commission and Financial Supervisory Service have admitted that the government has been reluctant towards regulating the cryptocurrency market because it feared local investors would understand it as the government’s way of legitimizing the crypto market.” In the wake of consecutive hackings and security breaches, the Financial Services Commission has issued a new cryptocurrency regulatory framework and guidelines with AML and KYC requirements for cryptocurrency exchanges. These restrictions are in place to confirm that foreigners are not using local cryptocurrency exchanges to buy and sell digital assets and criminals are not using personal accounts to launder money and to prevent suspicious transactions and payment processing. Exclusive: South Korea Reveals New [Positive] Crypto Regulatory Guidelines, CCN (June 28, 2018).</p> <p>6. “South Korea’s financial regulator said...the government will support ‘normal transactions’ of cryptocurrencies, about three weeks after it banned their trading through anonymous bank accounts. The remarks by Choe Heung-sik, governor of the Financial Supervisory Service, were seen as being in stark contrast to the government’s previous stance that it could consider shutting down local virtual currency exchanges. South Korea launched a real-name trading system for cryptocurrency transactions Jan. 30 to prevent virtual coins from being used for money laundering and other crimes.” S. Korea to support ‘normal transactions’ of cryptocurrencies, Yonhap News Agency (Feb. 20, 2018).</p> <p>7. The Korea Times reported that “Financial regulators plan to ease rules on crypto-based assets in line with policies initiated by G20 nations to establish ‘unified regulations.’ . . . ‘The FSC made revisions to its rules to apply strengthened policies in order to prevent or detect money laundering and illegal activities because the regulator isn’t opposed to cryptocurrencies,’ an official said . . . They said the FSC and FSS will not change the government’s stance on crypto or digital assets as it’s difficult to value them as ‘financial assets.’ The administration earlier classified cryptocurrencies as ‘non-financial products’ due to their speculative nature.” Korea shifting to embrace cryptocurrency, The Korea Times (July 11, 2018).</p> |

| Country and regulatory bodies | News |
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| | <p>8. The FSC recently published warnings relating to virtual currency funds. The FSC “claimed that many investors are mistaken in believing that cryptocurrency funds are legal and regulated. In addition to being formally unregulated, cryptocurrency funds do not meet the requirements of the country’s Capital Markets Act. It therefore encourages investors to consult with the relevant authorities before investing.” South Korea Warns Investors, Circle CEO Calls For G-20 Consensus: Regulations Roundup, Coin Dais (Oct. 26, 2018).</p> <p>9. The Financial Investment Services and Capital Markets Act (FISACM) may apply to tokens that the Korean regulators consider securities. The FISACM does not punish buyers, but issuers of such tokens. It is difficult to predict whether Korean-based persons who purchase ICOs are subject to the FISACM or not. If a token is not considered a security and if any Korean-based persons participate in ICOs either domestically or outside of South Korea, it is still uncertain whether they may be subject to any rule violations. If the tokens are regarded as securities, they will not be allowed to trade on the exchanges. Information received privately by Katten from local counsel or other local sources (Feb. 5, 2018).</p> |

| Country and regulatory bodies | News |
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| <p>Thailand</p> <p>Securities and Exchange Commission, Thailand</p> <p>The Bank of Thailand</p> <p>The Ministry of Finance</p> | <ol style="list-style-type: none"> <li data-bbox="384 319 1814 574">1. “The Thai SEC recently announced new ICO regulations. Secretary-General of the Thai SEC explained “those wanting to launch an ICO must undergo screening from an ICO portal [before applying with the SEC]. So, initially, the SEC will first approve ICO portals.’ A platform wanting to operate as an ICO portal must apply for approval from the Commission.” The SEC has explained that, subject to certain restrictions, four types of investors can invest in ICOs: (1) institutional investors; (2) ultra-high net worth investors; (3) venture capitalists and private equity firms; and (4) retail investors.” Thailand Officially Announces Rules for Token Issuers, Portals, and Investors, Bitcoin.com (July 6, 2018). <li data-bbox="384 607 1814 824">2. “The first initial coin offering (ICO) portal is likely to be certified this month, with the first authorised ICO offering possibly in December, says the Securities and Exchange Commission (SEC). ‘At least one ICO portal will be certified in November, then we can approve each ICO offering, which might start in December,’ said SEC secretary general Rapee Sucharitakul . . . ICO portals will help screen ICOs, conduct due diligence, prove the smart contract source code and verify the know-your-customer process, said Mr Rapee.” First ICO portal en route, Bangkok Post (Nov. 8, 2018). <li data-bbox="384 857 1814 1112">3. “Thailand’s Securities and Exchange Commission (SEC) announced it has approved seven cryptocurrency exchanges to continue doing business in the country while it reviews their applications, according to an official August 15 statement. Bitcoin Co. Ltd., Bitkub Online Co. Ltd., Cash2coins Co. Ltd., Satang Corp., and Coin Asset Co. Ltd., may all continue doing business while they wait to see if they will be granted a full license. Additionally, the Thai SEC is in the process of reviewing applications from two cryptocurrency dealers: Coins TH Co. Ltd. and Thai WebMoney.” Thailand SEC Approves Seven Cryptocurrency Companies to Continue Operating While Under Review, ETHNews (Aug. 16, 2018). |

| Country and regulatory bodies | News |
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| | <p>4. Thailand has passed a law “defining digital assets as both currencies and securities — depending on their intended purpose. Under the Digital Asset Business Decree, as the law is dubbed, regulators define two types of digital assets. ‘Cryptocurrencies’ are used as a medium for exchanging goods, while ‘digital tokens’ are defined as rights to take part in an investment or to receive specific goods. The country has also set forth rules for governing the digital asset activities that entities are allowed to engage in. These include ‘(1) a digital asset trading center/exchange; (2) digital asset brokerage; (3) digital asset trading; and (4) other activities related to digital assets as specified by the Minister of Finance.’ Thailand has also mandated cryptocurrency exchanges be registered and licensed with the Ministry of Finance . . . [and] ICOs to obtain permission from the Ministry of Finance.” Thailand Solves the Currency vs. Security Problem, Bitcoinist.com (July 2, 2018).</p> <p>5. “Thailand’s central bank, the Bank of Thailand (BOT), issued a circular dated August 1 to all financial institutions in the country, informing them of its new crypto policies . . . The rules can be divided into two broad categories: those that apply to financial institutions and those that apply to their subsidiaries . . . The BOT says these [subsidiaries] are now permitted to engage in crypto businesses including issuing digital tokens and investing in cryptocurrencies, providing they follow the rules set by their respective regulators . . . The rules for financial institutions, which include commercial banks, are much more strict . . . [These financial institutions] cannot issue digital tokens or provide any service selling them. Secondly, they cannot invest in digital assets which includes both tokens and cryptocurrencies . . . They also must not engage in crypto businesses, including as exchanges, brokers, or dealers. Lastly, they cannot solicit or give advice on crypto investments to anyone that is not an institutional or accredited investor as defined by the SEC.” Bank of Thailand Green-Lights Financial Companies for Crypto Activities, Bitcoin.com (Aug. 5, 2018).</p> |

| Country and regulatory bodies | News |
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| | <p>6. “Thailand’s cabinet has agreed to draft a law to regulate cryptocurrency trading, seeking to tax the largely unregulated market. Government spokesman Nathporn Chatusripitak said Tuesday the Ministry of Finance also proposed the new regulations to help prevent use of digital currencies in money laundering and fraud.... In February, Thailand’s central bank issued a circular asking financial institutions to not handle transactions involving cryptocurrencies.” Thailand to Draft Plans to Regulate and Tax Cryptocurrencies, VOA (March 13, 2018).</p> |
| | <p>7. The Thai SEC issued warnings relating to five tokens and four ICOs that have not received the necessary approvals or satisfied regulatory requirements. “Firstly, they have not applied for approval or been approved by the commission. Secondly, they have not been evaluated by any SEC-licensed ICO portals. In addition, they may not provide adequate disclosure for investors. Next, their issuers and promoters have not been licensed to carry out digital asset-related activities. Lastly, they may not be liquid and may not be easily converted to cash, the commission detailed.” Separately, the Thai SEC is in the midst of determining whether to permit asset management companies to launch digital asset funds. Thai SEC Warns About 9 Unauthorized Tokens, Bitcoin.com (Oct. 29, 2018).</p> |

Europe and Middle East

| Country and regulatory bodies | News |
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| British Virgin Islands BVI Financial Services Commission | 1. "The BVI regulator, BVI Financial Services Commission, recognises bitcoin and ether-focused funds. As a result, some of the leading Fintech companies such as Bitfinex, Finamatrix and FootballCoin are incorporated in the BVI. With leading companies realising the benefits to being set up in the BVI, as with other offshore jurisdictions, the BVI is gathering a pool of experts, focused on ICOs and Initial Token Offerings (ITOs)." Why Offshore For Fintech? , Mondaq (Jan. 4, 2018). |

| Country and regulatory bodies | News |
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| <p>Cyprus</p> <p>Cyprus Securities and Exchange Commission (CySEC)</p> | <ol style="list-style-type: none"> 1. Cyprus Investment Firms (“CIFs”) are permitted under section 6(9)(b) of the Investment Services and Activities and Regulated Markets Law to provide services in virtual currencies and/or in contracts for differences (“CFDs”) relating to virtual currencies under the conditions provided in Circular No. C244. Trading in virtual currencies and/or trading on contracts for differences relating to virtual currencies, Circular No. C244, Cyprus Securities and Exchange Commission (Oct. 13, 2017). 2. The goal of the Cyprus Securities and Exchange Commission (CySEC) “is to establish a new hub for innovations to improve the existing cyber securities protocol, to make fintech solutions more compatible with Cyprus’s economic requirements. CySEC...is aiming to create better relationships between blockchain technology companies and the commission. New financial products are being built to better utilize the distributed ledger or DLT. A new platform being built by the commission is used to regulate information that is exchanges between companies.” Cyprus’ CySEC Establishes Blockchain Innovation Hub To Regulate Finances, BicoExchangeGuide.com (July 28, 2018). 3. “Following the Announcement issued by the Cyprus Securities and Exchange Commission (‘CySEC’) on 18 March 2014 [available in Greek], regarding the risks associated when buying, holding, exchanging or trading on virtual currencies, CySEC is warning again investors regarding this matter...Importantly there are no specific EU regulatory provisions that would protect existing and/or potential investors who trade on these products.” Announcement Warning to Investors on Trading in Virtual Currencies, Cyprus Securities and Exchange Commission (Oct. 13, 2017). 4. “XECOIN or cryptocurrency is not a financial instrument. Therefore, it does not fall within the scope of the Investment Services and Activities and Regulated Markets Laws of 2007 to 2016, nor is supervised by CySEC. Furthermore, CySEC would like to inform the investing public that currently there are no specific regulations for the protection of persons transacting in XECOIN or cryptocurrency or other virtual currencies.” Announcement, Cyprus Securities and Exchange Commission (March 30, 2017). |

European
Union

European
Securities and
Markets
Authority
(ESMA)

European
Central Bank
(ECB)

1. “Cryptocurrency contracts for difference (CFDs) limit 2:1 was enforced on Wednesday in the European Union (EU)...[European Securities and Market Authority (ESMA)] introduced the crypto restriction as part of wider intervention measures to CFDs and binary options (BOs) for retail investors, including different limits for CFDs and a ban for BOs.” [Cryptocurrency CFDs Limit Comes Into Force in EU](#), Cryptovest (Aug. 1, 2018). ESMA has agreed to renew its restrictions on CFD marketing, distribution and sales to retail clients for another three-month period beginning in November. [ESMA to Renew Restriction on CFDs for a Further Three Months](#), ESMA (Sept. 28, 2018).
2. “Finance ministers from the European Union’s 28 member states will discuss a host of challenges posed by the growing popularity of digital assets and whether rules should be tightened, according to a draft note prepared for a Sept. 7 meeting in Vienna that was seen by Bloomberg News. They include a general lack of transparency and also crypto’s potential to be misused for money laundering, tax evasion and terrorist financing.” [The EU Is Taking Another Look at Regulating Crypto](#), Bloomberg (Aug. 29, 2018).
3. The European Union “published its Fifth Anti-Money Laundering Directive (Directive (EU) 2018/843) that strengthens the organization’s rules to detect and prevent illegal routes through which money is laundered in or out of the member nations. The directive amends the previous Directive (EU) 2015/849 . . . [the Directive] has allowed the Financial Intelligence Units (FIUs) to access information from [service providers like digital exchanges and digital wallets] and get details about the identity of the users if the need be . . . It also said that digital exchanges that help in turning fiat to crypto and vice versa are not currently under any obligation to identify suspicious activity on their respective platforms, however, it’s ‘essential’ that this changes . . . EU-member states have until January 2020 to compile national laws in accordance with the EU Directive.” [New EU Directive Allows FIUs to Monitor Cryptocurrencies](#), Blokt (June 22, 2018).
4. “Depending on how they are structured, ICOs may fall outside of the scope of the existing rules and hence outside of the regulated space. However, where the coins or tokens qualify as financial instruments it is likely that the firms involved in ICOs conduct regulated investment activities, such as placing, dealing in or advising on financial instruments or managing or marketing collective investment schemes. Moreover, they may be involved in offering transferable securities to the public.” [ESMA alerts firms involved in Initial Coin Offerings \(ICOs\) to the need to meet relevant regulatory requirements](#), ESMA50-157-828, European Securities and Markets Authority (Nov. 13, 2017).

5. In a report to the European Union by the European Banking Authority, the EBA found that cryptoassets typically fall outside the scope of EU banking, payments and electronic money regulations and that specific services relating to the provision of cryptoasset wallets and cryptoasset trading facilities are not touched at all by financial services law. As a result, there may be risks for consumers that are not addressed at the EU level and money laundering related risks. [Report with advice for the European Commission](#), European Banking Authority (Jan. 9, 2019).
6. An ESMA report found that the applicability of European Union regulations depends on the legal status of a cryptoasset. According to ESMA, for example, most EU member states view at least some cryptoassets, e.g., those with imbedded profit rights, as potentially qualifying as transferrable securities or other types of regulated financial instruments. However, because some member states define transferrable securities restrictively and others apply broader interpretations, there are “challenges” to the oversight of cryptoassets. ESMA claims that even for cryptoassets that constitute financial instruments there likely is the need for “potential interpretation or reconsideration of specific requirements to allow for an effective application of existing regulations.” At a minimum, said ESMA, anti-money laundering requirements and risk disclosure obligations should apply to all activities involving cryptoassets. [Crypto-assets need common EU-wide approach to ensure investor protection](#), European Securities and Markets Authority (Jan. 9, 2019).

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| <p>France</p> <p>Autorité des Marchés Financiers (AMF)</p> <p>Ministère des Finances et des Comptes Publics</p> <p>Prudential Supervision and Resolution Authority (ACPR)</p> <p>Bank of France</p> | <ol style="list-style-type: none">1. “In its bid to lure the cryptocurrency community out of the shadows, France will introduce its new rules early next year . . . Under France’s regulatory proposals, authorities would verify who is behind a new coin’s issuance, check whether the issuers have a plan to hand back money if the project fails, and force them to abide by ‘know your customer’ rules.” France also has plans to tax any profits. France hopes to lure crypto-issuers with Gallic stamp of approval, Reuters (Nov. 15, 2018).2. “France is poising itself to become the first country to enact an ad hoc law governing Initial Coin Offerings (ICO), as stock market regulator Autorité des marchés financiers (AMF) and the General Treasury disclosed Thursday details of a draft bill that will set a legal framework for ICOs in the country . . . French General Treasury deputy director Sébastien Raspiller stressed that: ‘The Pact Act will say that the Autorité des marchés financiers (AMF) is responsible for ICO.’” France Poises to Become the First Country to Regulate ICOs, Coinwire.com (June 4, 2018).3. “Since a virtual currency does not represent a claim on the issuer and is not issued on receipt of funds within the meaning of the second Electronic Money Directive (2EMD), the term ‘electronic money’ cannot be retained given the current state of the legislation. Nor are virtual currencies payment instruments as defined by Article L. 133-4 c) of the French Monetary and Financial Code. Nevertheless, they may fulfil an economic function on a private, contractual basis. Virtual currencies are not included in any of the categories of financial instruments defined in Article L. 211-1 of the Monetary and Financial Code.” Regulating Virtual Currencies, Ministère des Finances et des Comptes Publics (June 2014).4. “Following an analysis of the legal qualification of cryptocurrency derivatives, the AMF has reached the conclusion that platforms which offer these products must abide by the authorisation and business conduct rules, and that these products must not be advertised via electronic means....The AMF concludes that a cash-settled cryptocurrency contract may qualify as a derivative, irrespective of the legal qualification of a cryptocurrency. As a result, online platforms which offer cryptocurrency derivatives fall within the scope of MiFID 2 and must therefore comply with the authorisation, conduct of business rules, and the EMIR trade reporting obligation to a trade repository. Above all, these products are subject to the provisions of the Sapin 2 law, and notably the ban of advertisements for certain financial contracts.” News Releases, Autorité des Marchés Financiers (Feb. 22, 2018). |
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5. The AMF has updated its list of unauthorized companies offering cryptocurrency derivatives investments without proper authorization. Previously, the AMF has stated that investment proposals discussing possible financial returns or economic effects are subject to AMF control. Offers cannot be directly marketed in France without an AMF registration number. [News releases](#), Autorité des Marchés Financiers (Sept. 27, 2018); *see also* [News releases](#), Autorité des Marchés Financiers (March 15, 2018).
6. “France is considering enacting the country’s very first regulatory framework governing crypto-asset intermediaries. The move will require fiat-to-cryptocurrency exchanges as well as custodians of cryptographic keys to undergo a mandatory AMF registration.... The new framework also comes with hefty fines for those who fail to comply. Unregistered providers will be subjected to a fine of EUR 30,000 and up to two years of imprisonment. On the matter of dealing with already established entities, the amendment allows them 12 months from the date of the publication to register with the AMF.” [France Contemplating Regulatory Framework for Cryptocurrency Intermediaries](#), Bitcoinist.com (Oct. 5, 2018).

Germany

Germany's
Federal
Financial
Authority
(BaFin)

1. “[T]he Finance Ministry has declared bitcoins to be a ‘unit of account.’ The designation stops well short of treating bitcoins as currency or even e-money, but it does classify the virtual currency as a kind of ‘private money.’” [Bitcoins Gain Ground in Germany](#), Spiegel Online (Aug. 20, 2013).
2. “In accordance with BaFin’s legally binding decision on units of account within the meaning of section 1 (11) sentence 1 of the KWG, Bitcoins are financial instruments...By contrast, VCs are not legal tender and so are neither currencies nor foreign notes or coins. They are not e-money either within the meaning of the German Payment Services Supervision Act (Zahlungsdiensteaufsichtsgesetz – ZAG); they do not represent any claims on an issuer, as in their case there is no issuer.” [Virtual Currency](#), BaFin (no date provided).
3. In September, BaFin “launched a public consultation on the subject of virtual currencies (or crypto). The regulator has published a draft circular regarding sector due diligence . . . Among other things, the draft circular recommends that the origin of the crypto amounts or the financial means used for their purchase be determined and transparent. BaFin recommends additional identification requirements and asks the institutions to check whether a suspicious transaction report pursuant to section 43 (1) Money Laundering Act (AMLA) should be considered. It is the responsibility of the money laundering institutions to assess the risks associated with virtual currency transactions and to take appropriate...measures to do so. The consultation is ongoing with final responses expected by November 19th.” [BaFin Consultation on Virtual Currencies Scheduled to End this Month](#), Crowdfund Insider (Nov. 8, 2018).
4. “Germany’s financial markets regulator has issued new guidance on how it will classify tokens sold during initial coin offerings (ICOs), including those it will consider securities....The letter (of which an English version is not currently available) reveals that BaFin will conduct a ‘precise case-by-case examination’ of tokens to determine their legal status, instead of issuing broad rules that govern the activity. It says that tokens can represent various financial instruments, including stocks, derivatives and digital representations of voting rights.” [German Regulator Pledges ‘Precise’ Oversight of ICOs](#), Coindesk (Feb. 22, 2018).

5. Boerse Stuttgart is “launching a trading application called Bison. It will be the first crypto trading app developed by a major stock exchange.” [German Stock Exchange Launching Crypto App for Mainstream: Bitcoin, Ethereum, Litecoin, Ripple and Bitcoin Cash](#), Bitcoin Isle (Aug. 9, 2018). Boerse Stuttgart Group has also announced that after “the start of cryptocurrency trading via BISON, there will soon be a platform for initial coin offerings (ICOs), a multilateral trading venue for cryptocurrencies as well as solutions for safe custody . . . At the same time, Boerse Stuttgart Group is establishing a multilateral and regulated trading venue for cryptocurrencies. At the trading venue tokens issued via [its] ICO platform can be traded on the secondary market.” [Boerse Stuttgart Group Creates End-to-End Infrastructure for Digital Assets](#), Boerse Stuttgart (Aug. 2, 2018).
6. “Germany’s VPE Wertpapierhandelsbank AG (VPE) has announced its institutional investor cryptocurrency trading services and claims them to be the first of their kind for the country. Armed with a [Bafin] license, in expanding its brokerage offerings VPE purports to offer ‘best-in-class technology’ to customers, ‘secure and regulated.’” [Germany Gets Its First Crypto Exchange for Whales](#), Bitcoin.com (Apr. 26, 2018).
7. Crypto-Capitals “has been ordered to shut down operations by [the Federal Financial Authority (BaFin)] over regulatory concerns. As part of its service, Crypto-Capitals provides cryptocurrency-oriented trading products. That includes CFDs, a strictly regulated investment vehicle in Germany. However, the crypto firm is not following existing guidelines associated with offering such services. BaFin has now ordered the firm to cease operations until this matter can be resolved.” [Germany’s BaFin Shuts Down Crypto-Capitals’ Cross Border Crypto Trading Operations](#), Live Bitcoin News (Nov. 12, 2018).
8. “On September 29, 2018, the Higher Regional Court of Berlin (Kammergericht Berlin, KG Berlin) held that trading in Bitcoin does not require a banking license because Bitcoin is not a financial instrument, in particular, not a unit of account, within the meaning of the German Banking Act. . . . The decision is directly at odds with the regulatory practice of the German Financial Supervisory Authority (BaFin), which classifies Bitcoin as a financial instrument and therefore makes commercial trading subject to authorization.” [Germany: Court Holds That Bitcoin Trading Does Not Require a Banking License](#), Library of Congress (Oct. 19, 2018).

Gibraltar

Her Majesty's
Government of
Gibraltar
(HMGoG)

Finance Centre
Council (FCC)

Gibraltar
Financial
Services
Commission
(GFSC)

1. "Most often, tokens do not qualify as securities under Gibraltar...legislation. In many cases, they represent the advance sale of products that entitle holders to access future networks or consume future services. They are akin to mobile phone companies pre-selling airtime in networks they plan to build using the proceeds of those airtime sales. As such, these tokens represent commercial products...and are not caught by existing securities regulation in Gibraltar." [Token Regulation](#), Gibraltar Finance (March 2018).
2. "The Government of Gibraltar (HMGoG) and the Gibraltar Financial Services Commission (GFSC) are developing legislation relating to tokenised digital assets (tokens), essentially those created and traded using distributed ledger technology (DLT). Following the GFSC's Statement on Initial Coin Offerings in September 2017, Gibraltar's Minister for Commerce, Hon. Albert Isola MP, announced that the Government's position on initial token offerings would be formulated by this month. In December, HMGoG sought the views of local stakeholders through a discussion paper on token regulation circulated to Gibraltar's Finance Centre Council, an umbrella organisation comprising local professional associations." [HM Government of Gibraltar and GFSC Developing DLT Legislation](#), allcoinsnews.com (Apr. 6, 2018).
3. "The HM Government of Gibraltar has officially launched a trade association known as the Gibraltar Associations for New Technologies (GANT), which will be tasked to spearhead the blockchain adoption in the country . . . According to a press release on October 30, the association is expected to come up with a workable structure between Gibraltar's private sector and the country's policy makers when it comes to developing the blockchain industry. The association will also be responsible in promoting professional conduct in the sector . . . [GANT] will work closely with various institutions in the country as well as the HM Government of Gibraltar." [New Gibraltar Association for New Technologies \(GANT\) Launches by Government for Blockchain Adoption](#), Bitcoin Exchange Guide (Oct. 31, 2018).
4. The Gibraltar Blockchain Exchange announced "that the GBX Digital Asset Exchange is live and open to the public . . . GBX-registered users [who have completed the KYC requirements] will also have the option to onboard using fiat currency. Effectively, customers will be able to fund their account in USD, starting right now." Six cryptocurrencies are available on the exchange: bitcoin (BTC), ethereum (ETH), rock token (RKT), litecoin (LTC), bitcoin cash (BCH) and ethereum classic (ETC). [The GBX Digital Asset Exchange is Now Open to the Public](#), gbx.gi (July 23, 2018).

5. “The Gibraltar Financial Services Commission (GFSC) notes increased activity with respect to Experienced Investor Funds (EIFs) which are seeking to invest in digital assets such as cryptocurrencies and similar DLT-based tokens. The GFSC is currently considering with HM Government of Gibraltar whether any legislative changes are required to the existing EIF regime specifically catering for EIF firms investing in digital assets. As with any asset class, provided the EIF regulations are complied with, the GFSC has no objection to EIFs investing in digital assets.” [Statement on Funds Investing in Digital Assets](#), Gibraltar Financial Services Commission (Oct. 17, 2018).

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| <p>Iceland</p> <p>Financial Supervisory Authority (FME)</p> <p>Central Bank of Iceland</p> | <ol style="list-style-type: none">1. “Current Icelandic law does not protect consumers against losses they may suffer from using virtual currency; for instance, if a ‘market’ that exchanges or holds virtual currency reneges on its obligations, or if a payment fails or ends up in the hands of the wrong party. The holder of virtual currency does not have a claim on the issuer, as do holders of banknotes and coin, electronic money, deposits, and other balances in payment accounts in the sense of the Act on Payment Services, no. 120/2011. Both the value of virtual currency and unrestricted access to it are entirely without guarantee from one period of time to another.” Public warning concerning virtual currency, The Central Bank of Iceland (March 19, 2014).2. “The legality of cryptocurrencies in Iceland is unclear . . . Iceland has eased its foreign exchange and asset control rules and now allows for cross-border transactions of Icelandic krónur . . . However, according to the Icelandic Central Bank, restrictions on so-called offshore króna assets and special reserve requirements for specified investments in connection with new inflows of foreign currency will remain in place . . . Restrictions also will remain in place on: i) derivatives trading for purposes other than heading [and] ii) foreign exchange transactions carried out between residents and non-residents without the intermediation of a financial undertaking . . . The Central Bank of Iceland has not commented on whether cryptocurrency transactions are transactions ‘carried out between residents and nonresidents without the intermediation of a financial undertaking’” Regulation of Cryptocurrency Around the World, The Library of Congress (June 2018).3. “These rules seemed to allow for Icelandic citizens to own bitcoin and allow for the mining of bitcoin in Iceland. What they’re designed to do, however, is to stop the capital flight of funds (in the form of bitcoin) out of the country. This essentially means that bitcoin is not a currency according to Icelandic law.” Iceland - Time to Free Bitcoin!, the balance (Oct. 17, 2016). |
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| <p>Israel</p> <p>The Bank of Israel</p> <p>Israel Securities Authority</p> | <ol style="list-style-type: none">1. “Israel’s central bank said...it would not recognize virtual currencies such as bitcoin as actual currency and that it was difficult to devise regulations to monitor the risks of such activity to the country’s banks and their clients...’ The Bank of Israel’s position is that they should be viewed as a financial asset....” Bitcoin is an asset, not a currency – Israel’s central bank, Reuters (Jan. 8, 2018).2. “Israel has been enforcing strict rules and regulations for [any person] or company opening a bank account in the country. The Bank of Israel released a statement claiming that steps are being proposed that would ease the process of managing and opening a business account in Israel . . . An unofficial ban on transfers and accounts operated by cryptocurrency exchanges would also be lifted under the proposal . . . Customers that are trying to exchange their cryptocurrency into fiat currency aren’t able to under today’s compliance system over fears that the person is attempting to evade taxes or hide illegal activities. The new proposals suggest that a public company, which is already subjected to financial reporting requirements, will be able to have the 18 ‘red flags’ of in the 2016 Law overlooked.” Why Israel is Proposing an Ease on Opening Bank Accounts, The Times of Israel (Nov. 14, 2018).3. “Israel is considering offering a national cryptocurrency exchange[,] a digital shekel, which will agree in value to physical shekels. According to the sources close to the Finance Ministry, Israel’s black market is about 30 percent of the country’s gross national product. A digital currency, listed with the government of Israel, would make illegal market transactions less possible. On the other hand, as per the government, the overview of ‘crypto shekels’ will even lessen the number of cash transactions in Israel and remove money laundering.” Israel Govt Introduces Crypto Shekel, Its National Cryptocurrency Exchange, Owl Market (Aug. 28, 2018).4. On March 19, the Israel Securities Authority Committee for the Examination and Regulation of ICOs issued recommendations regarding the status of cryptocurrencies, explaining that whether a cryptocurrency is a security is based on the totality of the circumstances. Further, “cryptocurrencies that confer rights similar to the rights conferred by traditional securities such as shares, bonds, and participation units, will be deemed securities. In contrast, cryptocurrencies that represent rights to a product or service and are acquired solely for the purpose of consumption and use and not for investment purposes, will not be considered securities.” ISA Committee for the Examination and Regulation of ICOs (Initial Cryptocurrency Offerings) Submitted Interim Report Today, Israel Securities Authority (March 19, 2018). |
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5. “The Israeli Ministry of Finance [published] a draft of the amended Money Laundering Prohibition Order – with the proposed legislation now containing provisions pertinent to cryptocurrencies. The new regulations will incorporate virtual currencies into the regulatory apparatus designed to prohibit money laundering in the financial services sector....In addition to incorporating virtual currency services into the legislative apparatus, the proposed regulations will additionally impose a number of new reporting requirements on Israeli financial institutions.” [Draft Law Requires Israeli Firms to Report on Clients' Crypto Activities](#), Bitcoin.com (May 28, 2018).
6. The Bank of Israel, together with other Israeli regulators, is requesting information from market participants regarding virtual assets, their risks and the barriers to entering the virtual asset markets in Israel. The regulators intend to use the collected information to coordinate and enhance regulatory policies. [Request for Information: Interministerial Team for Regulatory Coordination of Virtual Assets](#), Bank of Israel (Dec. 18, 2018).

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| <p>Italy</p> <p>Central Bank of Italy</p> <p>Commissione Nazionale per le Società e la Borsa (CONSOB)</p> | <ol style="list-style-type: none">1. “The Italian government is seeking feedback on proposed cryptocurrency regulations intended to clarify the technology’s use within the country. A summary of the proposed rules explains how service providers that accept cryptocurrencies would have to report their business and earnings to the Ministry of Economics and Finance, as well as what the government will do with that information. The full decree also clarifies that, while cryptocurrencies are ‘used as a means of exchange for the purchase of goods and services, [they are] not issued by a central bank or by a public authority, [and are] not necessarily connected to a currency having legal tender.’” Italian Crypto Businesses to Register Under Proposed New Rules, CoinDesk (Feb. 5, 2018).2. In 2017, Italy adopted legislation that defines virtual currency and virtual service providers. The legislation requires virtual currency providers to be licensed. EU to Consider Adopting Anti-Money Laundering Laws That Address Bitcoin Exchanges, Bitcoin.com (June 27, 2017).3. “Italian Finance Minister Pier Carlo Padoan would be ready to discuss [French Finance Minister Bruno] Le Maire’s proposal [to consider joint regulation of bitcoin], according to the official in Rome, who said that the ministry had yet to receive any request from Paris.” Bitcoin Might Soon Face Tougher Regulations in Europe, Bloomberg via Fortune (Dec. 18, 2017).4. In Italy a limited liability company using unregistered cryptocurrency trading on one platform was not permitted to register with Italian authorities. “The Judge at the Italian Court ruled in decree number: 7556/2018 that a business that has been using cryptocurrency was not an eligible candidate for registering with the Business Register....Article 2465 of the Civil code on the subject of conferment, states ‘All asset items must have a measurable economic value...those who confer assets in kind or credits should attach a report containing an indication of the evaluation criteria adopted and the attestation that their value is at least equal to that attributed to them for the purposes of determining the capital share’. Since the cryptocurrency that has been used is not verifiable objectively the appeal for candidacy did not win a favorable decree.” Italian Court Rejects Business Register for Company Using Cryptocurrency, Currency Analytics (Dec. 1, 2018). |
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Jersey
Jersey Financial
Services
Commission
(JFSC)

1. Jersey's AML and terrorist financing laws cover virtual currencies. [Jersey Strengthens Financial Crime Regulation with Extension to Cover Virtual Currency](#), Jersey Finance News (Oct. 24, 2016).
2. "The JFSC will supervise compliance of virtual currency exchangers with the Money Laundering Order and other AML/CFT legislation - except exempted virtual currency exchangers. However, the JFSC will still have the necessary powers to investigate exempted virtual currency exchangers compliance with the Money Laundering Order and other AML/CFT legislation – as and when necessary." [Regulation of Virtual Currency Policy Document](#), State of Jersey (Oct. 21, 2015).
3. "Most ICOs are unlikely to be regulated by the JFSC. Instead, the JFSC places some conditions on an issuer of an ICO. . . The issuer shall maintain and adopt systems, controls, policies and procedures for customer take-on and redemption, profiling and transaction monitoring at enhanced levels ensuring internal and external reporting of suspicions of money laundering and financing terrorism activity." The JFSC applies general requirements to all ICO issuers regardless of whether the token is a "security" for Jersey regulatory purposes. However, the JFSC may, on a case-by-case basis, relax some of the requirements applicable to ICO issuers. [The Application Process for Issuers of Initial Coin Offerings \(ICOs\)](#), Jersey Financial Services Commission (July 12, 2018).

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| <p>Kuwait</p> <p>Ministry of Finance</p> <p>Central Bank of Kuwait</p> | <ol style="list-style-type: none">1. “Kuwait’s Ministry of Finance does not recognize the virtual currency ‘Bitcoin’ and forbids its trading in the Kuwaiti financial institutions. The sources pointed out both the Ministry of Finance and the Central Bank of Kuwait cannot punish trading because they do not recognize it, not to mention it is a virtual currency used for ‘exchange’ without a central authority or intermediary.” Ministry of Finance says does not recognise virtual currency Bitcoin, Arab Times (Dec. 18, 2017).2. “Concerning the legality behind Kuwaitis who deal in Bitcoin, and the transfer of large sums of money that are proceeds of buying and/or selling bitcoins to Kuwait, sources from the Public Prosecution indicated that the Kuwaiti law has not prohibited online trading because it falls under the laws and agreements linked to e-programs. They said, ‘However, the proceeds of Bitcoin that are wired from abroad to Kuwait are considered as illegal and unclean money, because the Kuwaiti law does not consider those currencies. Because of that, the people who deal with Bitcoins are subject to questioning about the money and its source based on the Money Laundering Law because it is money from unknown sources’.” Kuwaitis in the Forefront of Buying and Selling Bitcoins, Arab Times (Dec. 16, 2017).3. “When asked about criminalizing the use of Bitcoin, the sources said the issue is still under study, and the ministry is seeking to rectify the complete perception of the market. They indicated that the currency is not officially recognized and has no legal cover, adding, ‘So how can trade be conducted when the dealers are not protected from losses they might incur by trading in Bitcoin?’” Kuwait to study implications of trading in Bitcoin currency, GulfBase (Jan. 9, 2018). |
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| <p>Malta</p> <p>Malta Financial Authority Services</p> <p>Malta Digital Innovation Authority</p> | <ol style="list-style-type: none">1. “Malta has taken a very progressive approach to cryptocurrencies, positioning itself as a global leader in crypto regulation. While cryptocurrencies are not legal tender, they are recognized by the government as ‘a medium of exchange, a unit of account, or a store of value’. Malta has no specific cryptocurrency tax legislation, nor is VAT currently applicable to transactions exchanging fiat currency for crypto.” In July of 2018, Malta passed several new pieces of legislation to govern cryptocurrency, blockchain and distributed ledger technology, “including the Virtual Financial Assets Act (VFA), which set a global precedent by establishing a regulatory regime applicable to crypto exchanges, ICOs, brokers, wallet providers, advisers, and asset managers.” The Malta Digital Innovation Authority is “the government authority responsible for creating crypto policy, collaborating with other nations and organizations, and enforcing ethical standards for the use of crypto and blockchain technology.” Cryptocurrency Regulations in Malta, ComplyAdvantage (no date provided).2. Referred to as “Blockchain Island,” Malta is known as “an attractive springboard for blockchain startups as well as cryptocurrency exchanges such as Binance, OKEx and BitBay. To become a popular destination for blockchain entrepreneurs, the government has mapped out a clear regulatory framework where others have been less clear or outright murky.” However, according to a 60 Minutes report, “investigators say that Malta’s appeal as a safe haven for business developers is marred by allegations of corruption and a sticky reputation for housing money launderers.... Seemingly unable to rewrite its past or redo its reputation, the report concludes that Malta continues to attract unsavory characters instead of respectable computer scientists and business leaders on the verge of launching revolutionary ideas and new technologies.” 60 Minutes Report: Malta Seeks to Refashion Itself As a Mecca for Blockchain and Crypto Tech, The Daily Hodl (Dec. 24, 2018).3. “Malta is set for its first blockchain based banking system with Maltese company RnF Finance recently applying for authorisation to act as a credit institution.” If approved by the Malta Financial Authority Services, RnF Finance intends “to transact, dispense and provide credit for cryptos to high net individuals and Blockchain firms.” Malta to have first Blockchain bank despite money laundering concerns, The Shift News (Dec. 21, 2018). |
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Poland

Ministry of
Finance

Financial
Supervision
Authority
(KNF)

1. The KNF “wants to assure investors in Poland that there isn’t any ban on virtual currency trading . . . However, Poland is serious about regulating the market to prevent money laundering, tax evasion, and terrorist financing. Consequently, the KNF plans to introduce new regulatory laws for Bitcoin and altcoins. The laws — which take effect from the middle of July 2018 — classify cryptocurrencies and exchange platforms as “obligated institutions.” Thus, the Polish cryptocurrency market, by this new act, will be under money laundering and terrorist funding (ML/TF) legislation. The KNF, however, maintains that the ban on cryptocurrency Initial Coin Offerings (ICOs) remains.” [Poland: Cryptocurrencies are Totally Legal \(But Not ICOs\)](#), Bitcoinist.com (June 7, 2018).
2. “Poland has officially recognized the trading and mining of virtual currencies as an ‘official economic activity’ according to the Central Statistical Office of Poland....” [Poland Officially Recognizes Trading in Bitcoin and Other Cryptocurrencies](#), Cointelegraph (Feb. 7, 2017).
3. On March 1, 2018, Poland passed an anti-money laundering bill that defines virtual currency. [Parliament passes bill counteracting money laundering](#), Visegrad Group (March 1, 2018).
4. “The Council of Ministers has adopted a draft law to regulate Bitcoin and other cryptocurrencies to bring them in line with anti-money laundering and counter-terrorism financial legislation. The new Polish act lists the entities subject to this regulation, which are referred to as ‘obligated institutions’. The list of these entities is long, and does not explicitly refer to cryptocurrencies, but it appears that Bitcoin exchanges and other entities that facilitate the trade of digital coins as part of their main business can be regarded as obligated institutions.” [Poland Plans to Bring Cryptocurrency Under AML Regulations](#), Finance Magnates (Jan. 24, 2018).

Russia
Central Bank of
Russia

1. "In its latest version, the law 'On Digital Financial Assets' regulates initial coin offerings and crypto mining, but bans cryptocurrencies according to its critics. The fate of cryptos, like bitcoin, will be decided by the Central Bank of Russia (CBR), which has repeatedly opposed their circulation and exchange in the country....[The law] also provides for the use of cryptocurrencies as means of payment when that's technically possible and risks are excluded." [New Bill Aims to Allow Crypto Payments in Russia - Bitcoin News](#), Bitcoin.com (March 27, 2018).
2. "Russian Ministry of Internal Affairs proposes to introduce criminal liability for the shadow turnover of cryptocurrencies. The information was reported by Izvestia. According to the appeal of Ministry of Internal Affairs it is recommended to provide punishment for the illegal purchase and sale of open source digital assets, such as Bitcoin or Ethereum. However it is not reported what specific punishment is planned to be introduced. The Ministry of Finance in response to the appeal noted that it is necessary to provide legal status of the cryptocurrencies first. It is worth mentioning that the draft law 'On Digital Financial Assets' has passed only the first reading in the State Duma." [Russia To Provide Criminal Liability For Shadow Turnover Of Crypto-Currency](#), E-play (Aug. 25, 2018).
3. "A new set of regulations for ICOs has been presented by the Russian Ministry of Communications. Companies organizing token sales will be obliged to guarantee that investors can sell back their tokens. Coin issuers will have to prove they control at least 100 million rubles of authorized capital in a Russian bank account." [Strict Rules for ICOs Prepared in Russia](#), Bitcoin.com (Apr. 2, 2018).
4. According to a Russian news agency, RIA, a jurisdictional disagreement between the Bank of Russia and the Finance Ministry regarding draft cryptocurrency laws has been resolved, and the Bank of Russia's opinion will take precedent. Additionally, the Bank of Russia may permit investors to exchange tokens with fiat currencies, but crypto-to-crypto trading may be prohibited. [Russian Government Resolves Disagreement on Draft Crypto Law](#), Coindesk (March 20, 2018).
5. "Although there have been many positive developments for cryptocurrencies among Russian lawmakers this year, the Ministry of Finance and the Bank of Russia have never wavered from their stance on cryptocurrencies as money surrogates. The head of the central bank, Elvira Nabiullina, has repeatedly said that the regulator is against 'cryptocurrency as private money and money surrogates,' Interfax described, adding that 'under the definition of money surrogates there are also cryptocurrencies.'" [Russia Drafts Law to Criminalize the Use of Cryptocurrencies as Money](#), Bitcoin.com (March 6, 2018).

6. “The issues related to crypto mining and circulation of already existent cryptocurrencies were altogether excluded from the latest revision of the Russian draft law ‘On digital financial assets’. The State Duma will reportedly consider the said amendments to the draft law in second reading before the end of this year . . . the new revision of the draft law regulates only the issuance, registering and circulation of [digital financial assets (DFAs)] . . . Only legal entities and self-employed entrepreneurs – irrespective of their citizenship, however, – will be entitled to issue tokens within certain information systems. Only legal entities registered in accordance with the Russian law and placed on the special roster by the Central Bank of Russia (the Bank of Russia) will be deemed suitable for operating such information systems. In particular, banks and depositories may qualify as operators, if placed on the register by the country’s financial regulator The amended draft law also makes DFAs sellable, purchasable and exchangeable for other tokens or digital operational signage solely through credit organizations or exchanges. . . .” [Revised Russian draft law on cryptocurrency regulation presupposes the legalization of domestic tokens only](#), BitNovosti (Nov. 28, 2018).
7. “Plans to implement a regulatory framework for cryptocurrencies in Russia have been put on the back burner for some time now. . . . Russian lawmakers have instead confirmed that a revised framework for ‘digital financial assets’ will be unveiled for public discussion later in the autumn, with the aim of securing regulatory adoption by the end of 2018 for Russia’s crypto investors. The term ‘cryptocurrency’ has presented plenty of headaches for lawyers, who’ve been recently attempting to create new legal definitions for the industry in Russia. According to Izvestia, a daily broadsheet in Russia which claims to have seen the latest version of the government’s draft bill, they have sought to remove the mention of cryptocurrency altogether. . . . The government has been under increasing pressure to provide a regulatory framework since a group of Russia’s largest business enterprises – the Russian Union of Industrialists and Entrepreneurs (RUIE) – published an ‘alternative bill’ granting ‘special status’ to cryptocurrency.” [Russian Law Removes ‘Cryptocurrency’ Terminology From Draft Bill](#), Lawyer Monthly (Sept. 27, 2018).
8. “Russian lawmakers have dropped the term ‘mining’ from a bill to regulate digital assets, following the earlier removal of references to ‘cryptocurrency.’ In addition, the proposed legislation no longer covers the taxation of mining profits, as such matters will fall under the oversight of the Federal Tax Service.” [Russian Lawmakers Drop ‘Mining’ References in Digital Assets Bill](#), Bitcoin.com (Oct. 28, 2018).

9. "Russia's Federal Financial Monitoring Service has revealed that it will regulate cryptocurrency-related transactions in the country, with a senior official saying that the agency will also oversee the broader cryptocurrency industry, in accordance with recommendations issued by the Financial Action Task Force (FATF). Rosfinmonitoring, as the regulator is known in Russia, plans to register, license and monitor cryptocurrency exchanges, crowdfunding platforms and providers of wallet services for digital assets, Russian media outlets have reported." [Russia's Financial Watchdog to Oversee the Cryptocurrency Industry](#), Bitcoin.com (Oct. 30, 2018).
10. In the absence of comprehensive regulations for Russia's fintech sector, the Russian Union of Industrialists and Entrepreneurs plans to form a new arbitration body to "review disputes between parties to smart contracts that have been recorded in distributed ledgers, as well as disagreements between participants in cryptocurrency transactions and initial coin offerings (ICOs). . . . Sidorenko said the new arbitration board will convene in the early weeks of 2019." [Arbitrators to Resolve Disputes in the Russian Cryptocurrency Industry](#), Bitcoin.com (Nov. 1, 2018).
11. Anatoly Aksakov, the Head of the State Duma Committee on the Financial Market, announced that the Russian government will debate the merits of cryptocurrency regulations with the intent to adopt these laws by February 15, 2019. "According to Aksakov, the rules will be put in place alongside new regulations governing investment and crowd funding platforms. The Russian government is also planning to make changes to its civil code which will include the addition of cryptocurrency regulations." These new rules are likely focused on regulating the country's cryptocurrency platforms and exchanges. [Russian Parliament to Implement Crypto Regulations in February](#), Finance Magnates (Jan. 14, 2019).

Saudi Arabia

Saudi Arabian
Monetary
Authority
(SAMA)

Capital Market
Authority
(CMA)

1. "A committee within Saudi Arabia's central bank, the Saudi Arabian Monetary Authority (SAMA) . . . has warned the country's residents against using Bitcoin and other cryptocurrencies, saying they 'are illegal in the kingdom and no parties or individuals are licensed for such practices.'" [Saudi Arabia Warns Against Use of Cryptocurrencies](#), Bitsonline (Aug. 13, 2018).
2. "The Saudi Arabian government has openly come out to say it is not considering regulating Bitcoin in the country." [Middle East Country Announces Not To Regulate Bitcoin in The Country](#), CryptoCurry (July 21, 2018).
3. "The [Capital Market Authority (CMA)] warned that investment, speculation, and participation in the cryptocurrency space involve high risk, including risk of capital loss and fraud, as well as market risks associated with high volatility in cryptocurrency prices. It added that it would be difficult to protect investors because there is no monetary oversight inside Saudi Arabia over cryptocurrencies....CMA explained that as the crypto entities are not subject to any supervisory and surveillance authority, investors [face] risk of fraud." [Cryptocurrency Warning Issued By Saudi Arabia](#), BlockTribune (Feb. 13, 2018).
4. "The central banks of the United Arab Emirates and Saudi Arabia are reportedly launching a pilot initiative that will see the two institutions test a new cryptocurrency for cross-border payments." [Saudi, UAE Central Banks Team Up to Test Cryptocurrency](#), Coindesk (Dec. 13, 2017).

United Arab Emirates

Financial Services Regulatory Authority (FSRA)

Securities and Commodities Authority (SCA)

Central Bank of the UAE

Abu Dhabi Global Markets (ADGM)

1. “The Securities and Commodities Authority [SCA] of the United Arab Emirates (UAE) introduced a new regulation to give cryptocurrency the status of securities. This is the latest step taken to exercise control over trading activities of virtual currencies....UAE’s market regulator has framed a set of regulations for supervising digital assets and commodities. It has also provided a detailed picture about its plans and programs for the fintech domain.” [UAE market regulator now recognizes cryptocurrency as a security](#), BCFocus (Sept. 11, 2018).
2. “Virtual currencies, unlike fiat currencies, are not legal tender. However, virtual currencies have ‘value’ in that they can be exchanged for other things of value, with that value being dependent on considerations of supply and demand. In this respect, virtual currencies have much in common with physical commodities such as precious metals, fuels and agricultural produce. Therefore from a regulatory perspective, virtual currencies are treated as commodities, which are not Specified Investments as defined under the FSMR. This means that a ‘mining’ or spot transaction in virtual currencies will not constitute a Regulated Activity in itself.” [Regulation of Initial Coin/Token Offerings and Virtual Currencies under the Financial Services and Markets Regulations](#), Financial Services Regulatory Authority (Aug. 10, 2017).
3. “Abu Dhabi Global Market (ADGM) . . . has launched its framework to regulate spot crypto asset activities, including those undertaken by exchanges, custodians and other intermediaries in ADGM The framework is designed to address the full range of risks associated with crypto asset activities, including risks relating to money laundering and financial crime, consumer protection, technology governance, custody and exchange operations The FSRA today also published its Guidance Regulation of Crypto Asset Activities in ADGM, and application form for interested applicants to operate a crypto asset business within ADGM. The Guidance elaborates on ADGM’s approach towards the regulation of crypto asset activities and is a useful resource for interested applicants.” [Abu Dhabi launches crypto asset regulatory framework](#), Zawya (June 25, 2018).
4. “On January 1, 2017, the Central Bank of the United Arab Emirates (UAE) published a new framework covering digital payments in the country [stating that] ‘all Virtual Currencies (and any transactions thereof) are prohibited.’...However, on February 1, Mubarak Rashed Khamis Al Mansouri, governor of the UAE central bank, informed Gulf News in a statement saying that...‘In this context, these regulations do not apply to bitcoin or other digital currencies, currency exchanges, or underlying technology such as blockchain.’” [Bitcoin Exempt from UAE Central Bank’s Ban on Virtual Currencies](#), Bitcoin Magazine (Feb. 6, 2017).

5. “Regulations for initial coin offering (ICO) will be introduced in the UAE by the end of the first half of 2019, according to the country’s Securities and Commodities Authority (SCA), which has approved the offerings as securities. The move is aimed at providing businesses with a new, more secured option to raise capital through crowdfunding with the help of blockchain technology....SCA is set to partner with the Abu Dhabi Securities Exchange and Dubai Financial Market to develop trading platforms for ICOs next year.” [UAE to finalise ICO regulations by 2019](#), Arabian Business (Dec. 23, 2018).

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| <p>United Kingdom</p> <p>Financial Conduct Authority (FCA)</p> <p>Bank of England (BoE)</p> | <ol style="list-style-type: none">1. “A cryptocurrency is a virtual currency that is not issued or backed by a central bank or government....The FCA regulates [contracts for differences (“CFDs”),] which means that when you trade cryptocurrency CFDs you have the protections offered by the UK’s financial services regulatory framework. This means that: firms offering CFDs must be authorised and supervised by [the FCA,] individual complaints can be referred to The Financial Ombudsman Service (FOS) [and] eligible consumers have access to the Financial Services Compensation Scheme (FSCS).” Consumer warning about the risks of investing in cryptocurrency CFDs, Financial Conduct Authority (Nov. 14, 2017).2. “Cryptocurrency derivatives are, however, capable of being financial instruments under the Markets in Financial Instruments Directive II (MIFID II), although we do not consider cryptocurrencies to be currencies or commodities for regulatory purposes under MiFID II. Firms conducting regulated activities in cryptocurrency derivatives must, therefore, comply with all applicable rules in the FCA’s Handbook and any relevant provisions in directly applicable European Union regulations. It is likely that dealing in, arranging transactions in, advising on or providing other services that amount to regulated activities in relation to derivatives that reference either cryptocurrencies or tokens issued through an initial coin offering (ICO), will require authorisation by the FCA.” The FCA identified cryptocurrency futures, cryptocurrency contracts for differences, and cryptocurrency options as potentially requiring authorisation. FCA statement on the requirement for firms offering cryptocurrency derivatives to be authorised, Financial Conduct Authority (Apr. 6, 2018).3. “Whether an ICO falls within the FCA’s regulatory boundaries or not can only be decided case by case. Many ICOs will fall outside the regulated space. However, depending on how they are structured, some ICOs may involve regulated investments and firms involved in an ICO may be conducting regulated activities.” Initial Coin Offerings – Consumer warning about the risks of Initial Coin Offerings (‘ICOs’), Financial Conduct Authority (Dec. 9, 2017).4. CryptoUK, a self-regulated trade body, has requested that regulations focus on exchanges, brokers, and trading platforms and not on cryptocurrencies themselves. The group also requested that the FCA issue licenses to approved platforms and enforce requirements regarding investor checks, AML rules, and operational standards. The UK’s cryptocurrency trade body is urging MPs to regulate the industry, City A.M. (May 1, 2018). |
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| | <ol style="list-style-type: none">5. The Cryptoassets Taskforce, which is comprised of members of the FCA, the Bank of England and the British Treasury, published a final report on cryptoassets and DLT. The report discusses several potential regulatory reforms to mitigate the risks of cryptoassets, including “a potential prohibition of the sale to retail consumers of derivatives referencing certain types of cryptoassets (for example, exchange tokens), including CFDs, options, futures and transferable securities.” The potential prohibition would not include derivatives referencing cryptoassets that qualify as securities. The authorities will also continue to explore exchange token regulations and AML restrictions. The Taskforce concludes “that DLT has the potential to deliver significant benefits in both financial services and other sectors, and all three authorities will continue to support its development.” Cryptoassets Taskforce: final report (October 2018).6. “European regulators should get tougher on policing of initial coin offerings, the chief executive of the Financial Conduct Authority said [on December 11], as he pointed to recent enforcement action taken by the U.S. Securities and Exchange Commission to protect consumers. Andrew Bailey said the City watchdog is concerned about the market in ICOs, which give investors digital tokens rather than stock as a form of investment in a startup company. European regulators should look closely at the work being done by U.S. watchdogs in a legal crackdown on abuse and fraud in the growing digital currency industry, he said.” FCA's Bailey Sees US Crackdown On ICO Market As Model, Law360 (Dec. 11, 2018). |
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| Miscellaneous | <ol style="list-style-type: none">1. The Financial Action Task Force (“FATF”) issued updated AML recommendations relating to virtual assets. In its publication, FATF defines “virtual asset” as “digital representations of value that can be digitally traded or transferred and can be used for payment or investment purposes, including digital representations of value that function as a medium of exchange, a unit of account, and/or a store of value....The FATF Recommendations require monitoring or supervision only for the purposes of AML/CFT, and do not imply that virtual asset service providers are (or should be) subject to stability or consumer/investor protection safeguards, nor do they imply any consumer or investor protection safeguards. At this time, virtual asset service providers in most jurisdictions are not regulated for the purposes of financial stability or for investor and consumer protection.” Regulation of virtual assets, FATF (Oct. 19, 2018). |
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2. The Financial Stability Board published a report that finds that crypto-assets do not currently pose a material risk to global financial stability because their market capitalization is minimal. However, the report identifies some of the current risks of crypto-assets and their markets, including “low liquidity, the use of leverage, market risks from volatility, and operational risks.” The report also mentions several policy issues that crypto-assets raise: “the need for consumer and investor protection; strong market integrity protocols; anti-money laundering and combating the financing of terrorism (AML/CFT) regulation and supervision, including implementation of international sanctions; regulatory measures to prevent tax evasion; the need to avoid circumvention of capital controls; and concerns relating to the facilitation of illegal securities offerings.” [FSB sets out potential financial stability implications from crypto-assets](#), Financial Stability Board (Oct. 10, 2018).

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– *Chambers USA* (2018)

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- Eighty-eight Katten attorneys listed in the 2018 edition of *The Best Lawyers in America*; two attorneys named *Best Lawyers' 2017* “Lawyers of the Year”
- Named to *Working Mother* magazine's “100 Best Companies” every year since 2007
- Ranked one of the *Working Mother* and *Flex-Time Lawyers* “50 Best Law Firms for Women” every year since the list was first compiled in 2007
- Named one of the “Best Places to Work for LGBT Equality” by the Human Rights Campaign every year since 2009



DISTRIBUTED LEDGER PRODUCTS, SERVICES AND TECHNOLOGY

Our Clients

Katten's multidisciplinary team of regulatory, commodities, securities, corporate, tax, real estate, litigation and intellectual property lawyers represent a broad range of market participants in their efforts to develop and maintain businesses involving distributed ledger products, services and technology. Our clients include financial institutions; major institutional investment companies; hedge, venture capital and private equity funds; alternative investment companies; proprietary trading firms; broker-dealers; exchanges; clearing organizations; swap execution facilities (SEFs); technology companies; incubators; digital currency and token issuers; and other buy-side and sell-side entities.

Our Services

Our Distributed Ledger Products, Services and Technology team provides 360-degree counsel to companies looking to position themselves at the forefront of this fast-paced industry. We have the first-hand knowledge and experience needed to assist clients looking to invest in or trade Bitcoin, Ether and other virtual currencies. We help companies with creative strategies for achieving their business goals, while endeavoring to minimize their risks in a rapidly evolving legal environment.

Our attorneys represented the first federally approved exchange and clearinghouse for digital currency derivatives potentially settling in a virtual currency, navigating the Commodity Futures Trading Commission's (CFTC) registration process to become a licensed SEF and derivatives clearing organization (DCO).

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With our deep knowledge of structured products, derivatives, securities and futures laws, Katten is well-positioned to counsel clients on the formation, structuring, negotiating and documenting cryptocurrency-related products, including initial coin offerings (ICOs), tokenized securities for incubators and public companies, crypto hedge funds, private equity funds, insurance dedicated funds and investment trusts.

Katten's Distributed Ledger Products, Services and Technology team includes highly experienced regulatory attorneys and deal specialists to help clients stay ahead of compliance issues as laws and regulations evolve. Several of our attorneys previously held senior positions with regulatory agencies, including the Securities and Exchange Commission (SEC), the CFTC and the Department of Justice (DOJ), allowing us not only to advise clients on compliance, but also respond quickly should they inadvertently run afoul of regulations.

We have particular insight into regulations concerning tax, securities law and Regulation D exemptions, commodities, Uniform Commercial Code (UCC) issues and on the CFTC's interpretation of "actual delivery" for digital currency as part of retail commodity transactions provisions of the Commodity Exchange Act. We are well-versed in state level regulations, including The Uniform Regulation of Virtual-Currency Businesses Act, the New York BitLicense Regulatory Framework and Delaware's General Corporation Law. Additionally, we provide regulatory training and counsel companies on domestic and cross-border regulations, anti-money laundering and sanctions compliance, and data protection and cybersecurity.

As the digital currency space continues to grow and evolve, Katten's litigators are at the ready to provide support for enforcement actions and litigation. We frequently represent clients in SEC, CFTC, Financial Crimes Enforcement Network (FinCEN) and DOJ investigations and enforcement actions, as well as civil litigation involving complex financial products, futures and securities class action defense.

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