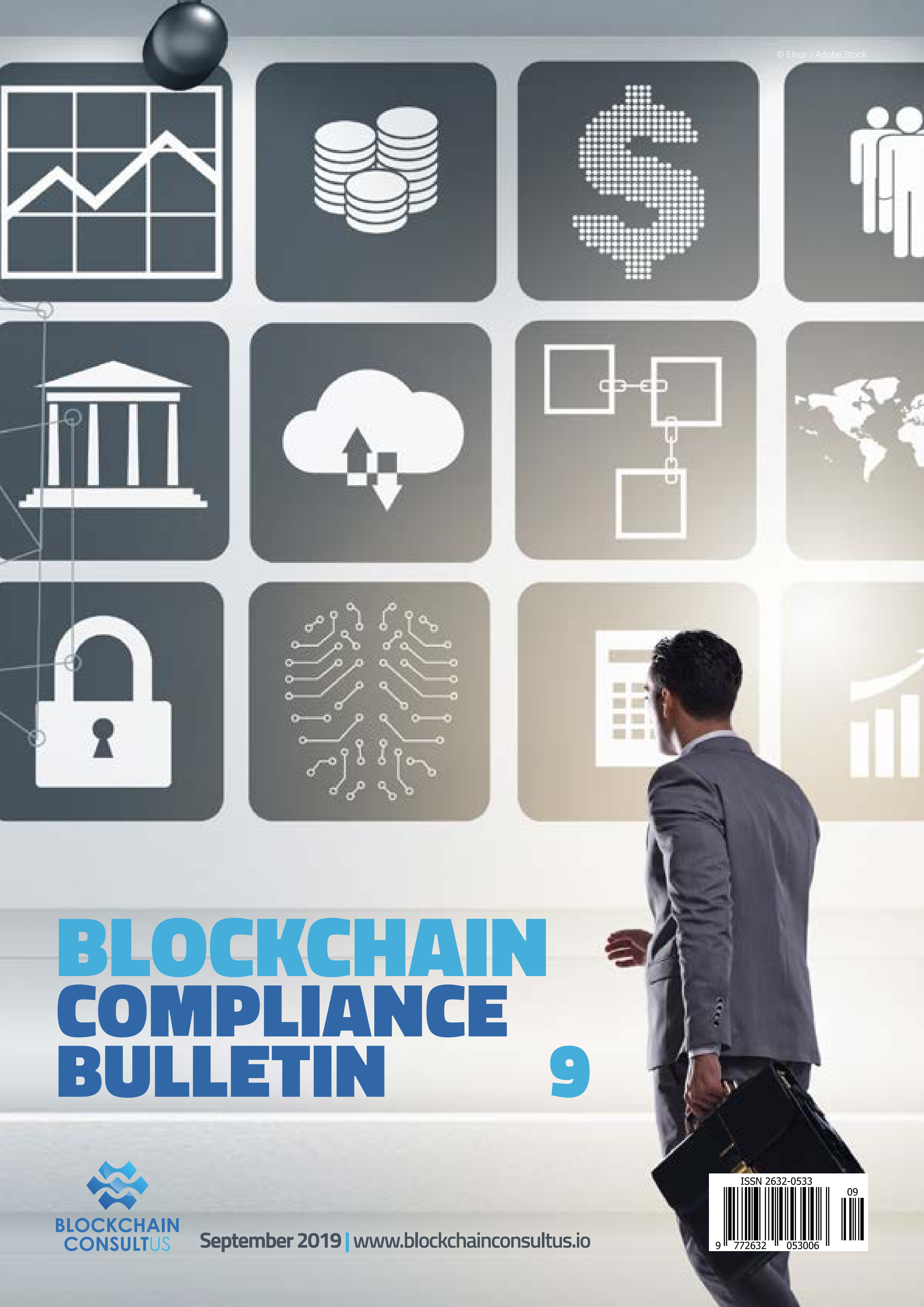


BLOCKCHAIN COMPLIANCE BULLETIN 9

ISSN 2632-0533

September 2019 | www.blockchainconsultus.io

BLOCKCHAIN CONSULTUS

BLOCKCHAIN COMPLIANCE BULLETIN

September 2019 | Volume II, Number 7 (Issue #9)

PARTNERS

Simone D. Casadei Bernardi
sdcb@blockchainconsultus.io

Franco Nicosia
f.nicosia@blockchainconsultus.io

Manuel Olivi
m.olivi@blockchainconsultus.io

RESEARCHERS & CONTRIBUTORS

Mattias Cerini m.cerini@blockchainconsultus.io, Daryl Charman, Martin J. McCoy, Harrison O'Brien, Tiitus Rebane.

FREE SUBSCRIPTIONS

https://t.me/blockchaincompliancebulletin

ADVERTISING

For information, please call +44 (0)20 8798 0253

Blockchain Compliance Bulletin is published and owned by Blockchain ConsultUs Ltd., a company registered in England and Wales (Company number 11595594), Kemp House, 160 City Road, London EC1V 2NX, United Kingdom

www.blockchainconsultus.io

bulletin@blockchainconsultus.io

ISSN (Print) 2632-0525; ISSN (Online) 2632-0533

Contents

> “It takes less time to do a thing right, than it does to explain why you did it wrong.
>
> — Henry Wadsworth Longfellow

A Word from the Partners

Dear Readers,

We continue to receive valuable feedback from you about our Blockchain Compliance Bulletin. We decided to launch it 'ad experimentum' but now our monthly periodical is a significant undertaking to us.

We took advantage of the Summer break to completely restyle the magazine, which we are now ready to present to you.

As usual, in this issue, we updated our Blockchain Compliance Rank. We have found little relevant compliance-related updates in the almost 180 jurisdictions we constantly monitor. Therefore, just a few countries received upgrades or downgrades, compared to the previous issue of our Bulletin. It is worth mentioning Switzerland, as the only country which gained some points in our rank. The reasons for such a decision is well explained in the notes to the Blockchain Compliance Rank in the following pages.

Switzerland has been considered a world-leading location for blockchain firms for a long time. Even if in the last months the country has partially lost its appeal, some recent changes brought a renewed focus on the so-called 'Crypto Valley.'

It seems that Switzerland is again one step ahead when it comes to crypto-banks. An interesting piece by Mattias Cerini tackles this topic. Further, the Swiss watchdog released some guidelines about stablecoins. Harrison O'Brien gives us a preview of them in his article.

Daryl Charman addresses the issue of the relationship between cryptos and criminal activity by identifying useful tools to contrast the use of cryptocurrencies for unlawful purposes.

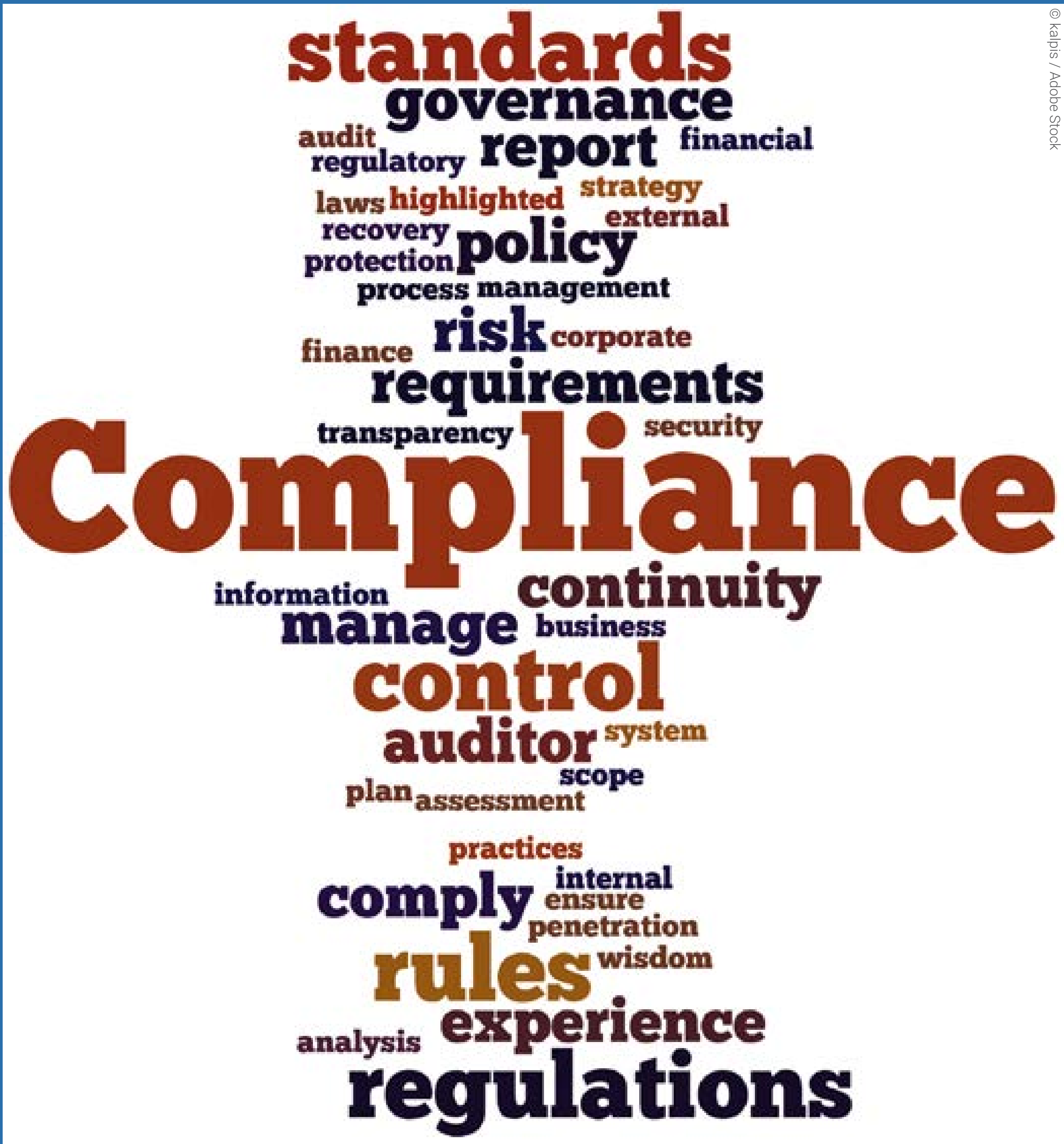
Finally, the mitigation of the risk related to international sanctions in the crypto-sphere is the topic of the analysis by Simone D. Casadei Bernardi.

We really hope to receive your comments on our publication. We are committed to providing you with reliable and useful pieces of information month by month. Your help to reach this goal is much appreciated.

Enjoy the reading,

Simone D. Casadei Bernardi
Franco Nicosia
Manuel Olivi

Partners, Blockchain ConsultUs Ltd.



Blockchain Compliance Rank

One of the areas of most concern to token issuers (and investors) is the current regulatory environment.

That is why we continuously study the status of Blockchain-related regulations globally and have developed our **Blockchain Compliance Rank** (BCR) — A 10-0 indicator that synthesises, for each country, the current national regulations applicable to crypto-projects, the 'ease of doing business' and the overall country risk.

Rank	Country	BCR		Crypto-Regulatory Rank	Doing Business Rank	Country Risk Rank	Previous Rank & Variation			Notes
1	United States	●	8,29	7,65	6	AA	8,29			US
2	France	●	8,22	7,93	31	AA	8,22			
3	Switzerland	●	8,05	7,71	33	AA	7,57	↑	0,48	CH
4	Australia	●	8,05	7,42	14	AA	8,05			
5	Austria	●	7,97	7,43	22	AA	7,97			
6	Estonia	●	7,95	7,25	12	AA	7,95			EE
7	United Arab Emirates	●	7,75	7,68	21	BB	7,75			AE
8	Netherlands	●	7,75	7,26	32	AA	7,75			NL
9	Denmark	●	7,73	6,80	3	AA	7,73			
10	Czech Republic	●	7,61	7,32	30	A	7,66	↓	-0,06	CZ
11	Finland	●	7,57	6,72	13	AA	7,57			
12	Luxembourg	●	7,43	7,28	63	AA	7,43			
13	United Kingdom	●	7,43	6,43	7	AA	7,44	↓	-0,01	UK
14	Singapore	●	7,42	6,35	2	AA	7,40	↑	0,02	SG
15	Belgium	●	7,42	7,10	52	AA	7,42			
16	Hong Kong	●	7,42	6,67	5	A	7,42			
17	Ireland	●	7,38	6,80	17	A	7,38			
18	Canada	●	7,37	6,51	18	AA	7,37			CA
19	Germany	●	7,34	6,50	20	AA	7,21	↑	0,13	DE
20	Lithuania	●	7,33	7,00	16	BB	7,33			
21	Japan	●	7,24	6,85	34	A	7,24			JP
22	Chile	●	7,23	7,16	55	A	7,23			
22	Sweden	●	7,09	6,00	10	AA	7,09			
24	Israel	●	7,07	7,20	54	BB	7,07			IL
25	Slovenia	●	7,04	6,90	37	BB	7,04			
26	Liechtenstein	●	7,04	7,20	---	AA	7,04			
27	Bulgaria	●	7,02	7,35	50	B	7,02			
28	Spain	●	6,92	6,31	28	A	6,92			
29	Cyprus	●	6,87	7,18	53	B	6,87			
30	Taiwan	●	6,84	6,00	15	A	6,84			
31	Costa Rica	●	6,79	6,90	61	BB	6,79			
32	New Zealand	●	6,77	5,40	1	AA	6,77			
33	Mexico	●	6,73	6,63	49	BB	6,73			
34	Croatia	●	6,62	6,80	51	B	6,62			
35	Romania	●	6,62	6,70	45	B	6,62			
36	Iceland	●	6,58	7,40	23	B	6,58			
37	Malta	●	6,57	6,65	84	A	6,57			MT
38	Portugal	●	6,56	6,10	29	BB	6,56			
39	Norway	●	6,42	5,00	8	AA	6,42			
40	Slovakia	●	6,38	5,70	39	A	6,38			
41	Thailand	●	6,26	5,90	26	B	6,26			
42	Malaysia	●	6,23	5,55	24	BB	6,23			
43	Greece	●	6,17	6,40	67	B	6,17			

Notes from page 11. A methodology note is available on page 17.

Rank	Country	BCR	Crypto-Regulatory Rank	Doing Business Rank	Country Risk Rank	Previous Rank & Variation			Notes
44	Colombia	6,14	5,95	59	BB	6,14			CO
45	Poland	6,10	5,40	27	BB	6,10			
46	Hungary	6,09	6,00	48	B	6,09			
47	San Marino	6,02	6,00	93	A	6,02			
48	Philippines	5,87	6,66	113	B	5,83	↑	0,04	PH
49	Argentina	5,87	7,00	117	C	5,87			
50	Russia	5,84	5,72	35	C	5,84			
51	Brazil	5,82	6,76	125	B	5,74	↑	0,08	BR
52	Indonesia	5,67	5,75	72	B	5,67			
53	Italy	5,63	4,73	46	A	5,63			
54	Saudi Arabia	5,48	5,50	92	BB	5,48			
55	Turkey	5,42	5,50	60	C	5,42			
56	Vietnam	5,41	5,61	68	C	5,41			
57	South Africa	5,39	5,50	82	B	5,39			ZA
58	Bahrain	5,36	5,50	66	C	5,36			
59	Jamaica	5,32	5,80	70	D	5,32			
60	South Korea	5,29	3,91	4	BB	5,29			KR
61	Macedonia	5,17	4,70	11	D	5,17			
62	Jordan	5,17	5,50	103	B	5,17			
63	Belarus	5,10	5,00	38	D	5,10			
64	Ukraine	5,05	5,50	76	D	5,05			
65	Kyrgyzstan	4,83	5,20	77	D	4,83			
66	Georgia	4,71	4,00	9	D	4,71			
67	Latvia	4,64	3,20	19	BB	4,64			
68	Lebanon	4,52	5,60	133	D	4,52			
69	India	4,50	4,50	100	B	4,53	↓	-0,04	IN
70	Nigeria	4,46	5,70	145	D	4,46			NG
71	Mauritius	4,44	3,00	25	BB	4,44			
72	Namibia	4,43	4,50	106	B	4,43			
73	Bosnia and Herzegovina	4,38	4,70	86	D	4,38			
74	Cambodia	4,22	5,20	135	D	4,22			
75	Egypt	4,14	4,70	128	C	4,14			
76	Uzbekistan	4,02	4,00	74	D	4,02			
77	Kazakhstan	4,00	3,40	36	D	4,00			
78	Peru	3,88	2,70	58	BB	3,88			
79	Nicaragua	3,84	4,60	131	D	3,84			
80	Trinidad and Tobago	3,64	3,30	102	B	3,64			
81	Panama	3,59	2,60	79	BB	3,59			
82	Bahamas	3,59	3,20	119	BB	3,59			
83	Kuwait	3,55	2,80	96	BB	3,55			
84	Venezuela	3,52	5,00	188	D	3,52			VE
85	Azerbaijan	3,50	3,00	57	D	3,50			
86	Albania	3,49	3,10	65	D	3,49			
87	Dominican Republic	3,32	2,80	99	B	3,32			
88	Botswana	3,30	2,50	81	B	3,30			

Rank	Country		BCR	Crypto-Regulatory Rank	Doing Business Rank	Country Risk Rank	Previous Rank & Variation			Notes
89	Zimbabwe	●	3,27	4,21	159	D	3,27			
90	Armenia	●	3,26	2,50	47	D	3,26			
91	Ghana	●	3,24	3,00	120	B	3,24			
92	Barbados	●	3,19	3,40	132	C	3,19			
93	Bhutan	●	3,16	2,50	75	C	3,16			
94	Uruguay	●	3,15	2,20	94	BB	3,15			
95	China	●	3,13	2,22	78	B	3,13			CN
96	Oman	●	3,11	1,80	71	BB	3,11			
97	Antigua and Barbuda	●	3,10	2,90	107	C	3,10			
98	Montenegro	●	3,03	2,10	42	D	3,03			
99	Belize	●	2,97	3,20	121	D	2,97			
100	Qatar	●	2,93	2,00	83	B	2,93			
101	Mongolia	●	2,89	2,20	62	D	2,89			
102	Dominica	●	2,85	2,40	98	C	2,85			
103	Kenya	●	2,83	2,10	80	C	2,83			
104	Guatemala	●	2,78	2,00	97	B	2,78			
105	Fiji	●	2,76	2,60	101	D	2,76			
106	El Salvador	●	2,75	1,60	73	B	2,75			
107	Paraguay	●	2,74	2,40	108	C	2,74			
108	Serbia	●	2,66	1,30	43	C	2,66			
109	Puerto Rico	●	2,63	1,00	64	BB	2,63			
110	Samoa	●	2,47	1,70	87	C	2,47			
111	Rwanda	●	2,47	1,00	41	C	2,47			RW
112	Benin	●	2,43	2,60	151	C	2,43			
113	Moldova	●	2,38	1,20	44	D	2,38			
114	Lesotho	●	2,37	1,80	104	C	2,37			
115	Morocco	●	2,30	0,90	69	B	2,30			
116	Palau	●	2,30	2,10	130	C	2,30			
117	Kiribati	●	2,30	2,50	157	C	2,30			
118	Honduras	●	2,25	1,80	115	C	2,25			
119	Maldives	●	2,25	2,40	136	D	2,25			
120	Swaziland	●	2,21	1,70	112	C	2,21			
121	Burkina Faso	●	2,11	2,10	148	C	2,11			
122	Gambia	●	2,07	2,30	146	D	2,07			
123	Congo (Democr. Rep Of)	●	2,04	2,80	182	D	2,04			
124	Tonga	●	2,04	1,40	89	D	2,04			
125	Zambia	●	2,01	1,00	85	C	2,01			
126	Gabon	●	1,98	2,20	167	C	1,98			
127	Micronesia	●	1,97	2,00	155	C	1,97			
128	Djibouti	●	1,92	2,20	154	D	1,92			
129	Senegal	●	1,92	1,70	140	C	1,92			
130	Cameroon	●	1,88	2,00	163	C	1,88			
131	Ecuador	●	1,87	1,30	118	C	1,87			
132	Mauritania	●	1,82	2,00	150	D	1,82			
133	Papua New Guinea	●	1,76	1,30	109	D	1,76			

Rank	Country	BCR		Crypto-Regulatory Rank	Doing Business Rank	Country Risk Rank	Previous Rank & Variation	Notes
134	Malawi	●	1,76	1,31	110	D	1,76	
135	Niger	●	1,74	1,80	144	D	1,74	
136	Guyana	●	1,71	1,20	126	C	1,71	
137	Tunisia	●	1,70	0,61	88	C	1,70	
138	Vanuatu	●	1,67	0,60	90	C	1,67	
139	Afghanistan	●	1,66	2,26	183	D	1,66	
140	Côte d'Ivoire	●	1,65	1,30	139	C	1,65	
141	Madagascar	●	1,62	1,90	162	D	1,62	
142	Chad	●	1,58	2,10	180	D	1,58	
143	Angola	●	1,56	2,00	175	D	1,56	
144	Mozambique	●	1,53	1,40	138	D	1,53	
145	Equatorial Guinea	●	1,51	1,90	173	D	1,51	
146	Tajikistan	●	1,48	1,10	123	D	1,48	
147	Nepal	●	1,45	0,80	105	D	1,45	
148	Togo	●	1,41	1,50	156	D	1,41	
149	Pakistan	●	1,40	1,36	147	D	1,40	
150	Sri Lanka	●	1,39	0,80	111	D	1,39	
151	Tanzania	●	1,39	0,90	137	C	1,39	
152	Guinea	●	1,37	1,40	153	D	1,37	
153	Algeria	●	1,36	1,30	166	C	1,36	
154	Laos	●	1,22	1,00	141	D	1,22	
155	Guinea Bissau	●	1,20	1,50	176	D	1,20	
156	Uganda	●	1,20	0,40	122	C	1,20	
157	Mali	●	1,19	1,00	143	D	1,19	
158	Burundi	●	1,18	1,30	164	D	1,18	
159	Bolivia	●	1,17	1,10	152	D	1,17	
160	Iran	●	1,16	0,67	124	D	1,16	
161	Haiti	●	1,14	1,50	181	D	1,14	
162	North Korea	●	1,12	1,60	---	D	1,12	
163	Suriname	●	1,10	1,20	165	D	1,10	
164	Sierra Leone	●	1,02	1,00	160	D	1,02	
165	Bangladesh	●	0,98	1,20	177	D	0,98	
166	Liberia	●	0,96	1,10	172	D	0,96	
167	Central African Republic	●	0,90	1,20	184	D	0,90	
168	Syria	●	0,87	1,00	174	D	0,87	
169	Ethiopia	●	0,87	0,80	161	D	0,87	
170	Eritrea	●	0,78	1,10	189	D	0,78	
171	Iraq	●	0,65	0,60	168	D	0,65	
172	Cuba	●	0,56	0,80	---	D	0,56	
173	Myanmar	●	0,55	0,50	171	D	0,55	
174	Libya	●	0,54	0,70	185	D	0,54	
175	South Sudan	●	0,38	0,50	187	D	0,38	
176	Sudan	●	0,35	0,20	170	D	0,35	
177	Somalia	●	0,21	0,30	190	D	0,21	
178	Yemen	●	0,11	0,10	186	D	0,11	

> AE
Early in August 2019, Abu Dhabi sovereign wealth fund Mubadala Investment Capital announced it has invested through its ventures arm in MidChains, a crypto asset exchange that will launch operations in late 2019 in Abu Dhabi. The move comes as Mubadala boosts its investments into the technology sector where it sees big opportunities.
The deal marks one of the first instances where Mubadala has invested directly into a digital asset company in the Middle East. It described the digital asset space as "one [to] watch," saying that it believes midChains has what it takes to succeed despite bumps in the road.

> BR
Brazil's Central Bank, the Banco Central do Brasil, has announced that it now classifies traded cryptocurrencies as assets. In a press release published 26th August looking at external sector statistics, the regulator revealed that the move was in accordance with guidelines issued by the International Monetary Fund (IMF).
The Brazilian cryptocurrency industry has for a long time operated under ambiguous regulatory policies, with regulators yet to come up with any concrete regulations to govern the industry. This has led to uncertainty and a series of rows between banks and crypto businesses. These rows, many of which have ended up in court have arisen from some banks' decision to deny banking services to crypto businesses.
With the new classification, the central bank intends to shed some light on the legality of cryptos in the country. Being classified as goods means that cryptos are now eligible to be used as a payment method.
The central bank stated that it based the classification on a report by the IMF titled 'Treatment of Crypto Assets in Macroeconomic Statistics.' Part of the report states, "Crypto assets are considered economic assets because the institutional units holding them can be identified and they derive economic benefits to the holder in terms of holding gains/losses and other benefits. They have monetary value and their price is determined by the market in which they trade."
The central bank will also treat crypto mining like as a productive process. Further, since Brazil is a net importer of cryptos, the industry shall contribute to reduce the trade surplus.

> CA
In August 2019, the Ontario Securities Commission approved a settlement agreement with cryptocurrency consulting company CoinLaunch Corp over allegations the company engaged in, and held itself out as engaging in, the business of trading in securities, without being registered to do so.
Under the settlement agreement, CoinLaunch will pay more than $50,000 in penalties, costs and disgorged profits. The agreement also prohibits the firm from trading in or acquiring any securities or derivatives for five years.

> CH
According to Swiss-based private bank Maerki Baumann, 400 new clients signed on because of the bank's focus on providing future Blockchain and crypto offerings. This, according to a report produced by the financial institution.
According to its CEO, Mr Stephen Zwahlen, the bank is already reaping the benefits of their new focus. "In our traditional business, we usually have to run after each client. It's hard work and rather rare for clients to just knock on our door. We suddenly had 400 people wanting to talk with us. And they were exactly the kind people we had been struggling to access for ten years with traditional private banking offerings."

According to an official report issued by the Swiss Financial Market Supervisory Authority, FINMA, "For the first time, [the watchdog] has issued banking and securities dealers' licences to two pure-play blockchain service providers. The companies involved are SEBA Crypto AG registered in Zug, and Sygnum AG registered in Zurich, which will offer services for institutional and professional customers."
FINMA also shared guidelines on updated KYC and AML rules for the financial institutions. While this can be considered as a milestone toward crypto adoption, FINMA clearly warned that "various conditions are attached, ensuring that the businesses are set up in an orderly manner." Bringing in more clarity into the crypto-banking license, the notice highlighted that,
"The institutions supervised by FINMA are only permitted to send cryptocurrencies or other tokens to external wallets belonging to their own customers whose identity has already been verified and are only allowed to receive cryptocurrencies or tokens from such customers."
It is crucial to note FINMA contrasted its decision with the FATF standard by mentioning that "this established practice applies in Switzerland without the exception for unregulated wallets and is, therefore, one of the most stringent in the world." While the "regulation war" is yet to find the sweet spot for crypto-fiat synergy, US-based crypto businesses such as Chainalysis have started to urge FATF to rethink their stringent guidelines to retain the existing businesses.
About this topic, please read the article by Mattias Cerini on page 21.

Speaking at the University of Basel early in September 2019, Thomas Jordan, President of the Swiss National Bank, stated that cryptos will never be used widely as money in Switzerland. According to Mr Jordan, cryptocurrencies are mere speculative instruments, but stablecoins could change the game: "We believe that cryptocurrencies and cryptocurrency-based tokens are of only limited use as payment instruments, stores of value and units of account because they are subject to major fluctuations," he stated.

Among projects based on blockchain technology, FINMA has observed an increase in the number of projects to create so-called 'stablecoins' since mid-2018. The aim of such projects is mostly to minimise the fluctuations in value typical of payment tokens such as Bitcoin by backing the tokens with assets such as fiat currencies, commodities, real estate or securities. In the supplement to its Guidelines on Initial Coin Offerings (ICOs), issued on September 2019, FINMA published information indicating how it will assess such 'stablecoins' within its supervisory remit under Swiss supervisory law.
About this topic, please read the article by Harrison O'Brien on page 27.

> CN
Cointelegraph reported that the People's Bank of China (PBoC) plans to focus on developing its own legal digital currency. On 2nd August, during a video conference devoted to discussing financial tasks for the second half of 2019, heads of financial and economic institutes in China touched upon the topic of cryptocurrencies. The country's central bank announced its intention to accelerate the development of its own digital currency and also confirmed its plans to allocate more resources to the implementation of this task.
Notably, the decision of the Chinese bank to intensify the creation of a national cryptocurrency was preceded by the hotly debated development of the Libra coin. Initiated by Facebook in 2019, the project is now actively being lobbied for in the US government, but without any results so far.
A future national cryptocurrency may be issued in the form of a stablecoin tied to the yuan (also called the renminbi.) Researchers at the PBoC published a review of recent initiatives in this area back in October last year. Most of the coins discussed in the material are pegged to the US dollar, such as Gemini Dollar (GUSD) and Paxos Standard (PAX). The researchers are convinced that the development of cryptocurrencies tied to USD strengthens the role of the dollar in the global monetary system, while also harming other fiat currencies.

> **CO**

A new report by peer-to-peer bitcoin marketplace Paxful shows that the majority of Colombians are not only familiar with cryptocurrency, but imagines it has a substantial impact on the future of finance and technology.
According to the survey results shared with CryptoGlobe, 86.5% of Colombian respondents said that they were familiar with cryptocurrency, with 80% claiming to be willing to invest in the digital asset class.
Only 20% of respondents said that they were reluctant to use digital currencies as an alternative to fiat or traditional investment assets.
Besides, 50% of those polled between the ages of 25 and 40 report already having invested or expressed an interest in purchasing cryptocurrency, with bitcoin being the most popularly owned asset at 79%. Ethereum was also listed at just under 3%.
Colombian respondents also appear intent on using cryptocurrency with the vast majority expecting it to continue growing. Of those polled, 32% had already conducted a crypto-based transaction, with 59% saying that crypto adoption would continue to grow.

> **CZ**

In August 2019, it was reported that the Czech Republic is expected to enforce far stricter oversight of cryptocurrencies than is required according to laws created by the European Union. These new laws would go far beyond what is required according to the Anti-Money Laundering (AML) law that is currently adopted by member nations.
According to the local newspaper Hospodářské Novinylocal, the new regulations will give law enforcement and agency regulators the ability to impose hefty fines, as much as half a million koruna (or about GBP 17,220 / EUR 19,350.) Cryptocurrency firms that fail to register their operations with the National Trade Licensing Office would face these fines.
This goes way beyond the requirement that the AML directive spelt out in July 2018, establishing a new legal framework and set of regulations for agencies within the European Union that monitor and regulate cryptocurrencies. The focus of these new laws is to decrease the potential for money laundering and terrorism financing, something that has become common practice through the use of cryptocurrencies.

> **DE**

On 31st July the Federal Cabinet published a draft bill implementing the Amending Directive to the 4th EU Anti-Money Laundering Directive (Directive [EU] 2018/843) into German law ("AMLD5".) The bill introduces, amongst other things, changes to the German Anti-Money Laundering Act (Geldwäschegesetz – GwG) and the German Banking Act (Kreditwesengesetz – KWG) and new provisions for electronic wallet providers and exchange platforms for crypto-assets.
The draft bill will become effective on 1st January 2020 and will have a significant impact on the crypto-assets industry as it extends the scope of anti-money laundering and countering financing of terrorism (AML/CFT) duties to providers engaged in exchange services between virtual currencies and fiat currencies (that is to say electronic coins, banknotes and electronic money of a country that are accepted as a medium of payment or exchange) as well as custodian wallet providers.
The draft bill also reflects the ongoing discussions between the EU and national authorities as to whether and to what extent innovative FinTech business models need more regulation and clarity at the EU level (see ESMA's report dated 12th July 2019 "Licensing of FinTech business models").
Crypto-assets qualify as financial instruments within the meaning of the German Banking Act (KWG). Any person wishing to provide financial services related to crypto-assets in Germany commercially or on a scale which requires commercially organised business operations will require authorisation from BaFin.
The new "crypto custody business" covers by definition not only the use of crypto-assets for exchange purposes but also as a means of payment and investment. In this way, the German draft bill gold plates the European definition.
The new "crypto custody business" introduces a statutory license requirement under section 32 KWG. Providers of crypto custody services will, therefore, be classified as financial institutions under the KWG and GwG and will, therefore, need to observe the particular requirements.
The license for "crypto custody business" is exclusive, i.e., investment firms which are already authorised to provide financial or banking services subject to the KWG cannot apply for an additional license covering "crypto custody business", but need to separate such business from their other financial services or banking business.
New rules also affect non-German services providers with German clients.

> **EE**

A small specialised German bank, WEG Bank, announced late in August 2019 that it had been awarded a crypto trading license in Estonia. The firm can now offer crypto trading and custody solutions to its customers.
WEG Bank received the crypto trading and custody license from the Estonian Financial Intelligence Unit (FIU.) The bank will be able to offer crypto trading services to users in crypto to crypto, crypto to fiat and fiat to crypto-based transactions. It now plans to work out a similar license in its home country as well.
On Twitter, the bank wrote: "Working out of a premium regulatory environment is one of our key assets. We announce that as of today, we have secured full access to a crypto trading and custody license in Estonia and are equally applying for a securities trading and custody license in Germany."
WEG Bank is that it is owned partially by crypto companies. The Ottobrunn based bank deals mostly in real estate. However, in April 2018, browser-based blockchain payments network Nimiq acquired a 9.9% stake in the company. In May 2018, TokenPay, a crypto payments startup, purchased another 9.9% stake in the company. Due to which, the bank now has a seamless transaction ecosystem between fiat and cryptocurrency. Litecoin Foundation also owns some stake in the bank, which takes the total share of crypto companies to 30%.

> **IL**

Last May, Israel declared bitcoin and similar cryptocurrencies as "assets" instead of money. For three months, banks within Israel's borders have been waiting for new regulation regarding how to handle cryptocurrencies and have thus far come up empty-handed.
Banks do not want to be exposed to financial risk, and so long as the crypto space within Israel comes without a definitive set of rules, traditional institutions do not want to get involved. Legal counsel to the Israeli Bitcoin Association, Mr Jonathan Klinger, says that banks are being forced to operate under a "tight cryptocurrency policy." Deposits are presently unacceptable, and fintech companies are facing similar scrutiny.
He's advising that while banks don't necessarily have to jump into the crypto space headfirst, they do need to start paving the way for customers to make basic deposits and withdrawals at least while they wait.
He comments: "Cooperation from banks seems almost impossible. These actions might have been made if the policy did not originate from concerns of money laundering, but in order to eliminate competition that the cryptocurrency world has with banks."

Israel's Fintech regulator is rearranging its licensing regime to encourage competition in the field. The Israeli Capital Market Authority is looking to change how fintech licenses are distributed in Israel according to a Monday announcement reported by Israeli daily newspaper Calcalist. Some 2,000 fintech and blockchain-businesses are currently seeking

permits from the state regulator. Due to the glut, the Authority is setting up a licensing fast track.
Per Calcalist, the fast-tracking program consists of creating small industry-specific Authority teams reviewing applications.
"Business and technological innovation and the relationship with the industry are the basic principles that guide the Authority in its operations," said the head of the Authority Dr Moshe Barkat. "The Authority is engaged in the licensing and regulation of fintech companies on a regular basis, including digital insurance companies, P2P platforms and credit providers, digital wallets, Blockchain-based fintech ventures and other payment services providers."

> IN

Crypto trades in India have been confronting a year-long fight, when a Reserve Bank of India circular, which took effect on July 2018, levied a ban on regulated financial foundations to service crypto-related organisations. Stakeholders from several industries filed writ petitions to challenge the circular passed by RBI. The requests were at first scheduled to be heard last September, however, the case was persistently postponed.
Moreover, the case 'Crypto versus RBI' was held on 8th August, and the Supreme Court of India heard the case. Furthermore, the Government's counsel delivered the IMC (inter-ministerial committee) drafted bill on cryptocurrency and mentioned to adjourn the case until January 2020.
The co-founder of Crypto Kanoon and crypto advocate, Mr Mohammed Danish, said that the Apex Court had split the case into two sections where the initial segment is the banning the cryptocurrencies in India, which would be taken for hearing on January 2020. The second piece of the case is the 'Internet and Mobile Association of India versus RBI' which is identified with the RBI banning the cryptocurrencies in India.
Even though the network knew that the draft bill probably would not meddle with the Supreme Court's judgment, many estimate that the Apex Court will hear the case after the law has been detailed in Parliament.
The draft regulations presented by the Government's counsel likewise requested that the Supreme Court adjourned the case until January, to enable the Government to talk about the draft bill in the approaching winter session.

As per Mr Sidharth Sogani, CEO Crebaco Global, Inc., if the cryptocurrencies stand banned from India, the subcontinent will have to bear a loss of roughly USD 13 billion (GBP 10.46 billion / EUR 11.75 billion circa.)
Talking to AMBCrypto, Mr Sogani offered detailed segregation of the total projected revenue generation. Around $4.9 billion revenue expectation was from the whitepaper creation, $2.1 billion by coding experts, $1.27 from content experts and $4.5 billion from the legal sector, events and other miscellaneous players.

The Indian Ministry of Finance announced early in September 2019 that the Steering Committee on Fintech-Related Issues has submitted its final report to the finance minister. The committee was constituted by the Department of Economic Affairs (DEA) under the chairmanship of Mr Subhash Chandra Garg who was the DEA Secretary at the time. He has since been reassigned to the Power Ministry. The 150-page report includes a section on digital currencies and tokens.
The committee described in its report that the "Use of digital tokens resolves the issue of multiple currencies, improves liquidity and capital compliance costs, allows for micro-payments and expedites the payment process, which further eliminates liquidity risks," elaborating: "The mechanisms surrounding cryptocurrencies, particularly the blockchain and initial coin offerings (ICOs), are revolutionising the global fintech landscape."
The report details how ICOs work and emphasises that token issuance "has emerged as an innovative way of capital raising by fintech businesses," citing that 790 ICOs had been issued as of 25th September 2018, raising a total of $20 billion.
The mandate of this committee "was to take stock of developments in the fintech space globally and in India, study the regulatory climate in various geographies, identify application areas and use cases in governance and financial services, [and] suggest institutional regulatory upgrades enabling fintech innovations," Mr Garg described.

> JP

Japan's industry association for cryptocurrencies has approved a license application from Wirex, making it one of the few virtual payments platforms to receive preliminary authorisation to operate in the country.
The Japan Virtual Currency Exchange Association (JVCEA) today welcomed Wirex Japan as type II member. While membership does not confer any additional business privileges, it is the first step towards receiving a full exchange license.
"It takes ages to complete this stage only, and some companies who have this stage have even been bought by other companies just because of the stage," a Wirex spokesperson told Crypto Briefing.

According to the Nikkei Asian Review, a senior Bank of Japan official has stated that the apex financial institution is comfortable with Bitcoin as well as the technology behind it. Per the official, the Bank of Japan's pro-crypto stance is helped by the fact that the country suffers no capital outflow concerns: "Because of their fear of capital outflows, the Chinese see every financial asset as the enemy. But we don't worry about outflows. We are in love with the technology behind it, and we are in touch with the technology community."

> KR

The regulatory landscape for cryptocurrency businesses in South Korea could soon see substantial changes, according to a Business Korea report. The publication says that the country's Financial Intelligence Unit (FIU), which functions under the Financial Services Commission, is planning to take a more direct approach to regulate cryptocurrency exchanges. The watchdog's current strategy is to regulate crypto exchanges through the banks that service them.
Business Korea quotes an FIU official as saying that South Korean cryptocurrency exchanges will have to adhere to a licensing system in line with FATF recommendations.
The proposed changes are to designed prevent money laundering through cryptocurrency exchanges, bringing them closer in line with the rules governing traditional financial institutions.

After losing out to Busan in the competition to be declared Korea's blockchain "regulation-free" zone, Jeju Island is redoubling its efforts to stay in the game, according to a report in the Jeju Island Daily News.
The island, which lies 282 miles south of Seoul and is also a province, announced on 13th August the establishment of the "Global Blockchain Hub City Development Research Service," in which it will be investing 175 million won (GBP 119,200 / EUR 134,050 circa) for research running through December.
The modest project will be carried out by Tilon, a Seoul-based company specialising in secure virtualisation. Established in 2001, the company often works with local governments and a wide variety of public institutions.
Under the terms of the agreement, Tilon will analyse possible blockchain services suitable for the island and develop a model for Blockchain on Jeju. A roadmap will be delivered. As part of the engagement, Tilon will examine advances in the US and the UK.
The goal of the project is to establish the island as another hub for Blockchain in South Korea.
Domestic laws governing and regulating digital assets are still stringent in other regions, and the

local authorities have already begun seizing more and more control over the country's crypto exchange market. Due to all that, South Korean blockchain startups have now started listing their digital assets on overseas exchanges, where they could operate more freely.

As reported by BusinessKorea, one of South Korea's leading business news portal, a new trend of South Korean blockchain projects listing their crypto ventures on foreign exchanges has started to increase significantly in magnitude. Overseas exchanges have now begun focusing on the Korean won market to attract more blockchain initiatives from the Asian economic giant.
The healthcare data platform Medibloc and the blockchain-based supply chain management Temco are two major South Korean blockchain projects, which have previously listed their crypto assets on South Korea's leading exchanges. These blockchain firms are now planning to list their projects on overseas exchanges, primarily exchanges in the US and Singapore. The increased focus on the South Korean won market by foreign exchanges indicates that investors cannot deposit and withdraw funds in the local currency at domestic crypto exchanges in South Korea. Apart from that, nearly all cryptocurrency exchanges in the country are on the verge of bankruptcy. According to BusinessKorea, 97% of domestic crypto exchanges are in financial trouble because of the low volume of transactions and due to that only five to six South Korean crypto exchanges managed to get into the top 100 crypto exchanges in the world.
The report also indicates that the number of South Korean blockchain projects which are on the watch-list of foreign exchanges is increasing steadily and continuously. For instance, Binance Labs, a venture arm of China's leading crypto exchange Binance and many others are also seeking ways to attract South Korean startups. They have done so by directly getting involved in the acceleration of these Korean blockchain projects and thus luring them into their warm embrace.
Apart from that, the China-based trading platform BW is set to launch in the Korean won market by the end of August, targeting South Korean new investors. BW ranks among the top 10 crypto exchanges in the world in terms of trading volume.
BW has even conducted the Sigma Chain's initial exchange offering (IEO) of its own cryptocurrency PIA in May. Sigma Chain is a South Korean blockchain project that developed the blockchain platform Futurepia. Singapore's Bithumb also has a large number of domestic blockchain projects in its watch-list and portfolio.

> MT

The MFSA (Malta Financial Services Authority) has come out with yet another warning against the actions of the Bitcoin Revolution company. The regulator says it is not authorised in any way to offer investment opportunities and services to the local population.
This is not the first warning that the MFSA has made about the Bitcoin Revolution project, as the shady company first hit the regulator's radar as early as January 2019. Ever since then, the company has been blacklisted, and any attempts to enter the Maltese digital space were met with a permanent ban and block.
According to the MFSA and InsideBitcoins, the Bitcoin Revolution is using illegal means of promotion for their products, which is hard to believe even exists. Their marketing campaign consists of banner posts on various social media channels that feature celebrities and popular industry professionals. The company showcases these peoples' profits which, according to the MFSA, are hard to believe are real.
Once again, the regulator advises the local populace to stay away from the company.

MFSA has published its three-year strategic plan for the 2019-2021 period this Friday. The program highlights the regulators supervising priorities and critical areas it aims to address during this period.
It is no surprise that the MFSA is prioritising cryptocurrency over the next three years, as Malta has become a blockchain and cryptocurrency-friendly jurisdiction over the past few years.
Among the regulator's priorities is combatting financial crime, money laundering and terrorism financing. As part of this, the watchdog stated in its report that it will be actively monitoring and managing business-related risks which relate to licenced virtual assets and cryptocurrency businesses.
"Whilst Malta has taken unprecedented steps in bringing blockchain and crypto technology into the regulatory fold, we understand that such innovations present challenges in the prevention of money laundering and terrorist financing," the report said.
"Hence, at the MFSA, we will be striving to modernise our regulatory approach to be prepared and be a step ahead of industry developments. We will continue to work closely with the FIAU and other national and international authorities, including the newly set-up Malta Digital Innovation Authority (MDIA)."
To adequately supervise the financial industry in Malta, the regulator is going to rely increasingly on technology. It also expects that firms within the sector will themselves, take a technology-driven approach to regulatory compliance.
This includes the implementation of RegTech, which provides automation and artificial intelligence, which the MFSA believes will become widespread in the future. Because of this, the Maltese regulator aims to remain on top of all of the latest RegTech developments.
"To monitor and manage business risks related to licensed virtual assets and cryptocurrency businesses, the MFSA has invested and is in the process of implementing SupTech intelligence tools," the report highlighted.
"This will better position the MFSA to identify fraud, prevent money laundering and the funding of terrorism and protect consumers, investors and market stakeholders. The implementation of SupTech intelligence tools will provide the MFSA with powerful oversight tools to automate regulatory processes and audit the risk management of virtual asset businesses that are licensed in Malta."

> NG

The Nigeria Security and Exchange Commission (SEC) announced early in September 2019 that it has set up a committee to work on a framework that will see to the regulation of Blockchain and virtual financial assets for the country's Capital Market.
As reported by the local news outlet, Business Insider SSA, the committee dubbed "FinTech Roadmap Working Group" consists of officials from the different sectors, including regulatory agencies, tech experts as well as the private sector.
The announced committee headed by Ade Bajomo will develop a framework to facilitate innovations, as well as regulation within the Blockchain and cryptocurrency space in the country, with respect to financial market integrity, investor protection, and financial stability.
Besides, the FinTech Roadmap Working Group is responsible for comparing global practices on regulatory taxonomisation and for equally stating a specific definition of cryptocurrencies, whether they are a commodity, securities, or as a currency.
The SEC will draw the lines to regulate the financial technology industry in Nigeria based on the framework reported by the committee.
It is also mandated that the committee will recommend a suitable model for the adoption of Blockchain and cryptocurrencies in the Nigerian Capital Market, through which the country's SEC will draw its lines to regulate the industry.
While the project is expected to be completed by the end of November 2019, the SEC already noted that it would join forces with other regulatory agencies to introduce licensing regimes for several FinTech businesses in Nigeria.

> NL

The Dutch central bank (DNB) has today revealed it will begin regulating firms that offer cryptocurrency-related services as of 10th January 2020. Reuters reported on 3rd September that De Nederlandsche Bank clarified that relevant firms in the sector must register with the institution if they wish to continue to operate.
The bank's official statement reportedly reads: "In concrete terms, firms offering services for the exchange between cryptos and regular money, and crypto wallet providers, must register with De Nederlandsche Bank."
As reported, Dutch ministers had urged the country's Government this July to regulate cryptocurrencies and certain cash payments due to money laundering concerns.
In January, Dutch Minister of Finance, Mr Wopke Hoekstra, received formal advice from the Netherlands' Authority for the Financial Markets and De Nederlandsche Bank that a licensing system should be introduced for cryptocurrency services.
The Netherlands does not recognise cryptocurrency as legal tender, although in 2018 a Dutch court ruled that Bitcoin (BTC) was a legitimate "transferable value" in a penalty payment case.

Following up a report by CoinDesk on the DNB's recent registry mandate for cryptocurrency companies, DNB spokesperson Mr Tobias Oudejans said the current legislation before the Dutch House of Representatives will not only force domestic companies to register with the central bank but that foreign entities will also not be allowed to conduct services within the country. Foreign entities include all firms registered outside the of European Economic Zone, a block constituting most European countries.
When asked if foreign crypto companies will have to create offices within the Netherlands or Europe to gain access to the market, Mr Oudejans did not comment.
Mr Oudejans said that the legislation, which addresses the fifth EU Anti-Money Laundering Directive (AMLD 5), is still under consideration. The central bank has already asked all Dutch crypto companies to register before the 10th January cut off date mandated by AMLD 5, however.

> PH

The Bangko Sentral ng Pilipinas (BSP), the central bank of the Philippines, has approved two companies to run virtual currency exchanges in the country.
Among the two companies, Atomtrans Tech Corp International is a Phillipino financial services company founded in 2017, while the other is Tokyo-based Telcoin Corp., Philstar Global detailed.
Atomtrans already operates ATC Remittance and ATC Payment services and now extended its business to the crypto-asset industry with ATC Digital Currency Exchange. The company also signed an agreement with China UnionPay Electronic Payment Co., Ltd. and UnionBank of the Philippines and represents the Philippine-China remittance products.
Japanese company Telcoin, on the other hand, is a mobile services giant in its local market and already developed an Ethereum-based blockchain.
With the addition of two new exchanges, the total number of licensed virtual currency exchanges went to thirteen in the Philippines.

> RW

The National Bank of Rwanda (NBR), Rwanda's central bank, is researching ways to issue its own digital currency, according to a report by Bloomberg issued in August 2019.
The central bank plans to use its digital currency to improve transaction processing and boost economic growth.
According to Ms Peace Masozera Uwase, NBR's Financial Stability Director-General, it plans to learn from the experience of other nations' central banks such as Canada, Singapore, and the Netherlands when researching the use cases of blockchain technology.
"There are still concerns about how exactly you convert the entire currency into digital form, how to distribute that and how fast can you process those transactions," Ms Uwase said. "Challenges come in if the technology is down how do you deal with such issues? "We will join in once we are ready."

> SG

Launched in mid-2014 to "facilitate legitimate use of cryptocurrencies in Singapore" and aid in the development of cryptocurrency-driven businesses, the Singaporean Association of Cryptocurrency Enterprises and Startups (ACCESS) developed a draft code of practice focused on cryptocurrencies and is looking forward to receiving public feedback on it.
The document is a Standardisation of Practice in Crypto Entities (SPICE) initiative of the association. The initiative, launched by two of Singapore's digital asset associations, ACCESS and TEA (Token Economy Association) in late November 2018, is aimed at promoting best practices in Singapore's crypto industry.
It is an industry-driven initiative to formulate and promote best practices that will standardise the approach to various aspects in the crypto sector. The initiative focuses on several key elements relevant to the crypto and blockchain industry, including Know-Your-Customer best practices, anti-money laundering and counter financing of terrorism.
ACCESS announced its partnership with the Monetary Authority of Singapore (MAS) and the Association of Banks in Singapore (ABS) on 13th August.
Emphasising the essence of SPICE, Mr Anson Zeall, the chairman of Access, writes: "SPICE underscores the strong partnership to support the growing digital asset industry in Singapore. It aims to remove some roadblocks which have been hindering the growth of the sector. In essence, the code of practice helps banks and industry players to sieve out the 'bad', so that quality licensed Blockchain and crypto-asset businesses can grow here in a bigger way and make a stronger imprint on the global stage."
Mirroring the above note of ACCESS's chairman, Mr Sopnendu Mohanty, the MAS chief fintech officer underscores MAS's constructive view. He asserts that the Authority is very positive about developing a set of guidelines to eventually help both the banks as well as crypto & blockchain startups to strengthen regulatory compliance.
Mr.Mohanty goes on explaining: "The challenge for regulators has been to harness the potential benefits of blockchain technology and crypto tokens while ensuring that the risks are contained. This industry collaboration will help to promulgate good practices for fintech players and financial institutions to manage risks such as money laundering and terrorism financing in crypto and Blockchain, and set the foundation for further technical development and broader industry adoption of innovative technologies."

> UK

The United Kingdom has submitted the final draft of its regulatory framework regarding cryptocurrency via the Financial Conduct Authority (FCA). According to the report, not all cryptocurrencies fall under the same guidelines, as some merely classify as "exchange tokens."
However, what all crypto assets seem to have in common is that they are subject to the same anti-money laundering rules. The quest remains the same: if you use cryptocurrencies for illicit purposes, regardless of their statuses in the document, you will likely face the consequences.
Besides, the FCA is suggesting that all crypto-based derivatives not be sold to retail customers. A separate report regarding crypto derivatives will likely emerge in the future once the organisation has had more time to examine the space.
Analysts and crypto industry leaders weigh in on the decision, and for the most part, sentiment appears mixed, with some expressing concern that specific tokens are being separated from one another. Mr Aries Wang, CEO and co-founder of crypto

exchange Bibox, explained in a statement: “The FCA is by no means driving regulatory change, but as an influential force in the European market, we foresee the typology and guidance being rolled out as an industry standard. The paper critiques a supposed original intention to remove token holder rights in the case of what the FCA categorises as ‘exchange tokens,’ the umbrella term for cryptocurrencies, crypto coins and payment tokens.”
Mr Charles Phan, founder of the digital trading platform Interdax, took a similar approach in his criticism of the FCA. He was particularly judgmental of the organisation’s plans to invoke quasi-similar methods to what are arguably many different forms of digital currency. He says: “Given how the FCA has listened to the industry about which tokens to regulate actively seeking industry feedback, it is unfortunate that they have taken a blanket approach regarding crypto derivatives… While the guidance seems sensible and aligned with the approach taken in several other countries, their proposed ban of derivatives built on top of the ‘exchange tokens’ seems excessive, ill-suited and could simply push innovation overseas. These products will continue to thrive in the coming years to potentially become the most valuable niche of the crypto ecosystem, replicating what happened in the traditional markets. If the FCA is too stringent on in-demand crypto assets, it risks further isolating itself from a rapidly growing and highly fruitful market.”
On the other hand, Mr Iain Wilson, advisor to venture capital firm NEM Ventures, is confident that the FCA’s approach is the right way to go, explaining: “Repositioning the token taxonomy to distinguish security tokens from e-money tokens is positive. Regulation for securities should be structured differently from payments.”

Mr Mark Carney, governor of the Bank of England, has offered a proposal that would replace the US dollar with a digital currency similar to Facebook’s Libra, according to an August’s report by Bloomberg.
Speaking at the US Federal Reserve’s annual meeting in Jackson Hole, Wyoming, Mr Carney said that “the combination of heightened economic policy uncertainty, outright protectionism, and concerns that further, negative shocks could not be adequately offset because of limited policy space is exacerbating the disinflationary bias in the global economy.” The governor warned that while in the short-term central bankers have to deal with the situation, dramatic steps need to be taken.
Specifically, Mr Carney identified the dollar’s status as the world’s reserve as something that needs to be replaced by a form of digital currency similar to Facebook Libra, believing that would be a better option than letting another fiat currency like the renminbi replace the dollar.

> US

A small bank in New York City has started doing business with cryptocurrency firms, joining the very short list of US financial institutions to embrace the sector.
Quontic Bank opened a checking account for a bitcoin ATM company a few weeks ago and is in the process of completing a contract to deliver banking services to another crypto startup. The bank wouldn’t name either client.

In August 2019, SEC Commissioner Hester Peirce explained that in her opinion, although a single global regulatory framework would be a disaster, there is a need to learn from other international regulatory agencies. “Crypto regulation affords international regulators the opportunity to learn from one another,” she stressed.
She reminded her audience of her long-standing argument that if nothing critical would be done, the US is likely to fall behind other countries in attracting crypto-related businesses.

Nevada’s regulatory stance on cryptocurrency kiosks has shifted, now requiring a state money transmission license. Speaking with CoinDesk, BitAML Senior Advisor Ms Annelise Strader said Nevada abruptly and without announcement changed its regulatory stance on cryptocurrency kiosks.
Following the last legislation session closing in May without passing a proposed cryptocurrency bill, Ms Strader says the state’s regulatory team changed its interpretation of what constituted a money transmitter within the state. Kiosks must be licensed by the state and will require a surety bond requirement.

Bakkt Trust Co LLC has been granted a license to operate as a limited liability trust company, the New York State Department of Financial Services stated in mid-August 2019. Bakkt is a cryptocurrency platform affiliate of Intercontinental Exchange Inc (ICE.N), which also owns the New York Stock Exchange.
A trust company is technically different from a bank in New York but can take deposits and make loans, and act as an agent for government bodies. A limited liability trust company must maintain significant capital reserves consistent with those of a premier fiduciary business, market participants said.
In a statement, DFS said it has authorised Bakkt to provide custody services for bitcoin in conjunction with the launch of physically delivered bitcoin futures contracts.
Bakkt will serve institutional customers, and its bitcoin futures contracts will be listed for trading on ICE Futures US and cleared through ICE Clear US, the DFS said. Both entities are affiliates of Bakkt.
DFS has so far approved 22 charters or licenses for companies in the virtual currency marketplace.
In a statement, Bakkt Chief Operating Officer, Mr Adam White, said the trust license enables the company “to offer institutional-grade custody via the Bakkt Warehouse alongside the federally regulated Bakkttm Bitcoin Futures contracts.”
In a notice, ICE Futures US announced it will list the new Bakkt Bitcoin (USD) monthly and Bakkt Bitcoin (USD) daily futures contracts for trading on 23rd September. The crypto-platform earlier faced regulatory delays since ICE announced plans for the new venture last August.
Exchange operators CME Group Inc (CME.O) and Cboe Global Markets Inc (CBOE.Z) already offer bitcoin futures in the United States, though Cboe’s last contract settles this month and has not been renewed.

The US Internal Revenue Services (IRS) is sending out another round of letters to cryptocurrency holders, but unlike the 10,000 notices sent out in July, the new ones will include the specific amounts owed by taxpayers.
“[CP2000] is more severe [than the previous 10,000 letters] in the sense that there is an actual, specific amount that the IRS is saying that is the proposed amount due, as opposed to a very general warning letter,” Mr Chandan Lodha, CoinTracker co-founder, said.
The new notes, CP2000, is intended when the information taxpayers report on their tax return differ from the information the agency obtained independently from third parties. The amount stated on the notice is the amount the IRS believes the taxpayers owe. However, they can file a dispute within 30 days of receiving the notice.
Also, recipients of the letter are obliged to respond regardless if they agree with the tax assessment or not. Failure to do so can result in further interest and penalties.
Moreover, those who disagree with the assessment should send a corrected statement.

Bank of America is seeking to patent a “partitioned” security system for digital currency wallets that gives different users different levels of access to the stored funds.
The second-largest US bank, based in Charlotte, NC, filed an application entitled “Multi-Tiered Digital Wallet Security” with the United States Patent and Trademark Office (USPTO) in February 2018. The USPTO published the application in August 2019 and listed Manu Kurian,

senior tech manager at the bank, as the inventor.
The application describes the handling of digital currency with a multi-tiered wallet interface in a decentralised peer-to-peer network. Users would be prompted to enter one password out of several, and one password would open one tier of the wallet while another password would open a different tier.
The background section of the application explains that there is a need for better digital wallet infrastructure since private keys can be lost, and third parties don't let users exercise complete control over their currency.
The application points to a multi-tier arrangement as one way to improve security: "Through the digital wallet interface, a user of the user computing device may be able to partition digital currency holdings into one or more differentiated storage compartments or tiers. Each of the one or more compartments may be password secured and may only permit access to the amount of digital currency holdings specified by the user."

Israeli cryptocurrency company INX Crypto and Derivatives will be the first company in the sector to submit a prospectus for an initial coin offering (ICO) with approval from the US Securities and Exchange Commission (SEC). The offering will be regarded as a security. In contrast to earlier ICOs, which were conducted without regulatory approval and called ICOs, INX's ICO will be classified as an IPO, because it involves a security. INX is registered in Gibraltar, but it was founded, operates, and is managed from Israel. The company plans to raise USD 130 million (GBP 104.4 million / EUR 117.4 million circa) in an offering of INX Tokens. The minimum for an offering, below which the offering will not take place, is USD 5 million (GBP 4.014 million / EUR 4.515 million circa.) At this stage, the price of the currency in the offering is still unknown. The SEC, which previously ruled that any ICO would be considered an offering of a security, opened investigations and filed lawsuits against companies that made offerings without the required approvals.

> VE

One of the news that has caused the most sensation in recent weeks in the cryptocurrency environment in Latin America is the celebrated adoption of payments with cryptocurrencies in Traki, one of the largest retail stores in Venezuela. The company created a department called CriptoTraki.
The retail company announced a commercial alliance with the Venezuelan cryptocurrency processing and exchange company, Cryptobuyer.

> ZA

With online gambling regulations till in limbo in South Africa, the country's financial regulator hopes cryptocurrencies will soon be regulated and used by the sector.
Late in August 2019, speaking at the 15th annual Gamin Regulator's Africa Forum (GRAF) in Port Elizabeth, Pieter Smit, executive manager for legal and policy at South Africa's Financial Intelligence Centre, told gambling watchdogs from more than ten African nations that a recent national consultation on crypto would most likely lead to licensing of the burgeoning digital currency market in Africa's largest economy.

Methodology Note

Blockchain ConsultUs Ltd has created a "Blockchain Compliance Rank" (BCR) to provide the Blockchain-world stakeholders with a synthetic overview of the countries where a crypto-project should be launched from.
The BCR is an aggregate score on a scale of 0 to 10 and is attributed to 178 countries worldwide. Many offshore jurisdictions have been excluded from the analysis, on the basis of a principled ethical choice.

The BCR covers three topics: (1) the current status of the national regulations applicable to Blockchain projects; (2) the ease of doing business in each analysed country; (3) the assessment of the country risk of each nation.
The BCR is a weighted average of those ratings.

In assessing the current status of the national regulations applicable to Blockchain projects, Blockchain ConsultUs Ltd attributes an increasing score from 0 to 10.
The rating takes into consideration: the laws and regulations applicable to ICOs; any reliable information acquired from the crypto-regulatory environment; the number and nature of investigations and sanctions issued by the national Regulator against crypto-companies, the number of crypto-exchanges located in each country.
This information is updated on a monthly basis.

The ease of doing business in each state is expressed through the World Bank "Ease of Doing Business" index. The ranking ranges from 1 to 190 and is updated yearly. The research is unanimously considered a benchmark study of regulation.
The "Ease of Doing Business" index measures regulations directly affecting businesses. Nevertheless, it does not measure other general conditions, such as a nation's proximity to large markets, quality of infrastructure, inflation, etc.

Finally, the BCR takes into account the country-risk of each jurisdiction. "Country-risk" means the risk that a government will default on its bonds (or other financial commitments), and also refers to the degree to which political and economic unrests affect the business operators doing activities in a particular country.
This risk is assessed through a reference to the latest Euler Hermes' country and sector risk ratings. These ratings are on a six-level scale, running from AA to DD, in which AA is the highest level of country grade (meaning the lower level of risk) and D is the lowest (higher risk.)
The rating is a combination of three scores: the macroeconomic rating, the structural business environment rating and the political risk rating.
This information is updated on a quarterly basis.

International Sanctions and Cryptos: How to Mitigate Risk

By **Simone D. Casadei Bernardi**

Economic and financial sanctions are set to affect the cryptocurrency space. Explore the risks in more depth and learn how your business can guard itself against them.

Blockchain technology underpins digital currencies like bitcoin and has the potential to alter the global financial system over the next couple of years.

In particular, trade finance. This area of the financial system is most likely to benefit from the technology as it can help it become cheaper, faster and more accessible to the wider market.

However, businesses should be mindful of the emergence of international sanctions and the significant penalties that are attached to it in the event of a breach.

HOW DOES BLOCKCHAIN TECHNOLOGY HELP TRADE FINANCE TRANSACTIONS?

Trade finance was first invented by the Italian merchants of the Renaissance and remains a cornerstone of the global economy today.

The only issue is that it's costly, cumbersome and slow. Paper contracts are manually created, reviewed, amended and exchanged – which can take weeks for exporters to receive payments for their goods.

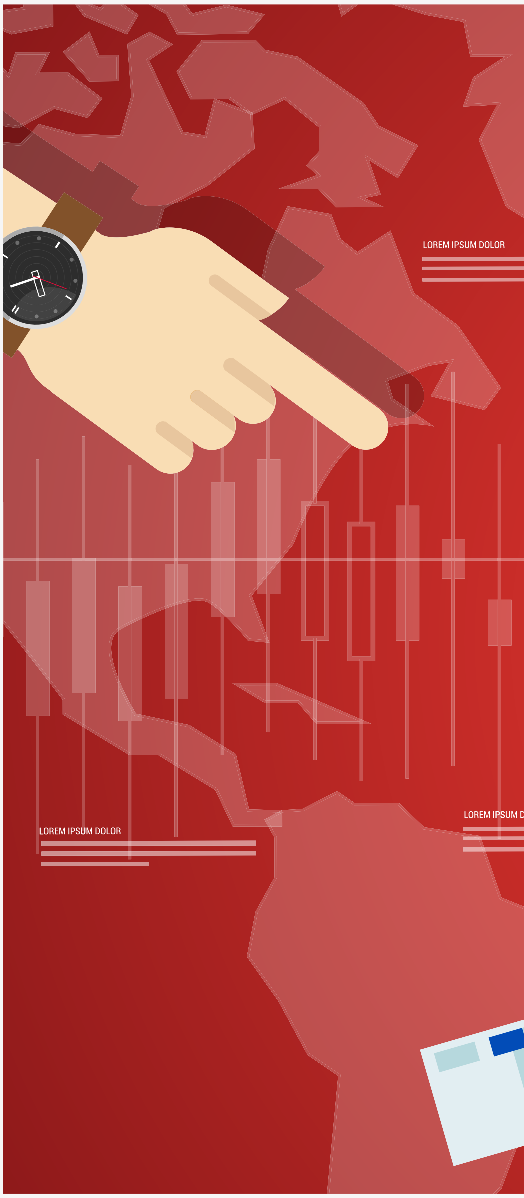
Blockchain technology addresses these issues by digitalising the process, making it more transparent, cost-effective and accessible. Using digitised ledgers of title and assists with execution and settlement means there's no lengthy human intervention causing a bottleneck in the process.

Users can receive real-time updates and more transparent visibility on the transaction. The automated settlement mechanism eliminates intermediaries, reduces transaction costs and streamlines the cash cycle.

THE IMPACT OF INTERNATIONAL SANCTIONS ON CRYPTOCURRENCY AND TRADE FINANCE

International sanctions laws and regulations are imposed by governments and organisations to restrict doing business with certain entities, users, governments, countries or territories, industry sectors, trading activities or entities in general.

Sanctions can include things like comprehensive trade embargoes or specific targeted measures



designed to restrict business with specified groups or individuals.

The prevention of sanctions breaches and contrasting the financing of terrorism are high-profile compliance requirements for all cryptofirms. If you don't take appropriate steps to comply, your business could face hefty fines or penalties.

In November 2018, the United States Treasury's Office of Foreign Assets Control (OFAC) discovered two specific bitcoin addresses belonging to sanctioned Iranian money launderers. Since this first listing of its kind, the cryptocurrency industry has been put under greater scrutiny by sanctioning bodies to limit the ability of them to facilitate global and national security threats.

The OFAC acted on these findings by adding these two bitcoin addresses to its list of Specially Designated Nationals (SDNs).

With Russia, Iran, North Korea and Venezuela looking more and more likely to use cryptocurrencies to engage in these types of illicit activities and avoid international financial restrictions, further sanctions within the industry are inevitable.

Over the past couple of years, Reports have revealed that Russia has used cryptocurrencies to engage in espionage, North Korea has engaged in cryptocurrency-enabled cybercrime to raise funds, while Venezuela launched its own digital currency to facilitate sanctions evasion.

In light of this, cryptocurrency businesses have to be prepared for tougher sanctions and compliance. The art of being prepared is essential.

To ensure your crypto business takes a proactive approach and continues to flourish, online transactions monitoring tools are of primary importance.

KEY INTERNATIONAL AND LOCAL SANCTIONS BODIES AND REGIMES

The list of sanctions bodies and regimes is quite long.

At the international level, the United Nations (UN) sanctions must be first of all mentioned. The UN publishes and keeps updated the

© bakhtiarzein / Adobe Stock

names of individuals and organisations subject to UN financial sanctions in relation to involvement with terrorist activities.

All UN member states must freeze the funds of any legal person(s) named in such lists and report any suspected name matches to the authorities.

Further, the UN has in place other sanction lists that must be taken into considerations.

The EU applies sanctions, or other restrictive measures within the objectives of the Common Foreign and Security Policy (CFSP) set out in the Treaty of the European Union.

The aforementioned Office of Foreign Assets Control (OFAC) of the US Department of the Treasury enforces economic and trade sanctions to target foreign countries/ regimes, terrorist organisations, international narcotics traffickers, entities related to the proliferation of weapons of mass destructions and other threats to the national security of the US.

In this respect, it must be noted that the use of the US dollar automatically engages OFAC regulations. US prosecutors and courts are of the opinion that each financial transaction in USD is cleared in New York. Hence the US has jurisdiction over the offence.

At a local level, each country may establish its own domestic sanctions regimes. Crypto-firms are required to identify and comply with such sanctions obligations.

In the UK, for example, the Foreign and Commonwealth Office (FCO) is responsible for the overall policy of sanctions, while the HM Treasury supervises the implementation and administration of international financial sanctions in the country.

Since March 2016, the Office of Financial Sanctions Implementation (OFSI) ensures that financial sanctions are properly understood, implemented and enforced in the UK.

In the US, the USA PATRIOT Act (Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism) contains provisions that financial institutions must comply with to deny terrorist organisations access to the financial system. As already mentioned, this act has worldwide implications when a transaction is carried out in USD.

Further, the US Treasury Financial Crimes Enforcement Network (FinCEN) enforces the so-called Special Measures, which restrict the access of these persons to the US financial system.

Finally, the Countering America's Adversaries Through Sanctions Act (2017) imposes sanctions on Iran, North Korea and Russia.

THE KEY STEPS TO MITIGATE THE RISKS OUTLINED BY INTERNATIONAL SANCTIONS

As a starting point, incorporate sanctions screening technologies so that the information on the blockchain ledgers can be screened for any sanctions issues.

Deploying online transaction monitoring solutions will give you a head-start on removing the risks. Your business will be able to examine blockchain data to see which users engaged in transactions over the past couple of years.

To comply with the international sanctions regime, your online transaction monitoring solution needs to be able to recognise users who adhere to it and those who are red-flagged.

All types of transactions need to be included and placed under the strict eye of your online transaction monitoring solution.

The next thing to think about is managing your country risk exposure. Are you able to identify the subtle signs of international sanctions risks? Your staff must be trained to recognise these red flags and have a knowledge of your country risk exposure too.

Here are a few key red flags you and your employees should be looking out for:

1. When a customer attempts to log-on to an exchange using IP addresses, email addresses, phone numbers or other identifying indicators registered in a sanctioned jurisdiction.

2. A customer is associated with endorsing cryptocurrency brokerage activity on P2P trading sites available to users in sanctioned jurisdictions.

3. A customer engages in indirect transactions with exchanges located in sanctioned jurisdictions, which cannot be explained.

4. A customer sends funds to a wallet that is a part of a "cluster" of addresses registered with a black-listed address, even if it hasn't been identified as a black-listed address.

5. A customer makes frequent transactions through entities in countries associated with sanctions evasion activity without a clear answer as to why.

Once a red flag has been identified, your business is required to have documented investigative procedures and recordkeeping policies in place to find out more.

Leveraging network analysis and case management tools is another vital part of the investigative strategy. What are your internal escalation processes for raising alerts? Is there a clear way of documenting your findings so that you can easily report back to regulatory bodies, law enforcement and other relevant stakeholders?

Finally, applying a comprehensive sanctions compliance risk management framework will streamline the process and keep your business on the right path. From conducting a sanctions risk assessment to measure your business' overall level of risk exposure to designing the staff training and work processes to successfully mitigate the risk.

The Age of Crypto-Banks: Switzerland Is Again One Step Ahead

By **Mattias Cerini**

On Monday 26th of August 2019, the Swiss Financial Market Supervision Authority (FINMA) has granted banking and broker-dealer licenses to two digital asset-focused companies.

This move it's the first of its kind from a regulator, an unprecedented effort by Switzerland to put a flag into the crypto industry and set in stone its prominent position as the place to be if you want to get serious about blockchain business. A significant milestone for the digital asset space, this development will be a centrepiece in the evolution of the Swiss crypto and blockchain ecosystem.

By acting as a bridge between the traditional financial environment and the digital asset industry, the two newly appointed crypto banks will be able to solve many of the issues that have been plaguing the industry thus far. Ventures looking to set up shop in Switzerland will finally have access to regulated and specifically designed bank accounts (let's say that has not been easy so far) as well as a full suite of other services that are considered to be "standard" in the legacy banking industry. Companies won't be the only one benefitting from the institution of digital assets centred banks, many professional investors that have been reluctant to invest in the space will now have a trusted vehicle to do so. We all know how investors detest uncertainty, so being able to purchase products in a fully regulated, stable and familiar environment is perceived as of the utmost importance to them.

Let's find out who these players are and what are their plans moving forward.

SYGNUM AG

Sygnum, headquartered in Zurich, has been founded by Swiss banking heavyweights including the ex-president of the Swiss National Bank and the former CEO of UBS AG. Thanks to its deep ties with the banking industry and by negotiating a strategic partnership with Swisscom and Deutsche Borse, the start-up managed to position itself at the top of the institutional digital asset Swiss ecosystem, raising as much as CHF 60 Million to fund its future operations.

At the core of its banking solution, Sygnum places an institutional-grade digital custody service as well as a crypto-fiat gateway. By creating a fully integrated system with liquidity providers and management, institutional clients will be able to safely exchange their fiat currencies such as Francs and euros directly into BTC, ETH and even Swiss Francs stablecoins directly from their bank accounts. Additionally, the bank is planning to roll out tokenisation services of traditional financial assets, which will enable its clients to raise capital more efficiently along with cash flow optimisation solutions based on digital assets loans.

"Today's licence announcement is a game-changer. By methodologically incorporating digital assets into traditional banking, and injecting much needed DLT-driven agility, Sygnum is accelerating the development of an important new asset class." (Luka Müller-Studer, Co-Founder and Chairman.)

SEBA CRYPTO AG

Zug-based SEBA has also been established by ex-bankers coming from esteemed institutions such as UBS and Julius Baer. Within just 17 months from its inception, it managed to raise a staggering CHF 100 Million in the first round of funding as well as obtaining full approval from FINMA. Much like Sygnum, SEBA is planning to offer institutional clients with a full array

of banking services comprising of banking accounts, custody services in both fiat and digital assets, trading, liquidity management, digital asset loans as well as state of the art tokenisation solutions. The bank is also setting up wealth and asset management services, intending to empower its clients with the ability to access both traditional securities as well as digital assets. Furthermore, the firm plans to roll out its first suite of services in October, when the full license will kick in, and it's already onboarding the first clients.

"Today, SEBA sets a new standard as a licenced integrated bank connecting the old and the new world. SEBA is a safe gateway between traditional banking and the digital asset market. We are proud to have built, in only 17 months, a licenced bank that fits into the digital environment of the 21st century." (Guido Buehler, CEO.)

KEY TAKEAWAYS

It is also important to point out how forward-looking, and extremely smart FINMA was in conceding the provisional licences to both entities at the same time, this way ensuring a healthy level of competition between the two firms and correctly setting the stage for the creation of a larger and broader market for digital assets. It is, therefore, no surprise that more and more companies will flock to the small but highly innovative country.

The SIX, the leading Swiss stock exchange, is also about to roll out specific platforms wholly tailored for the digital asset space which will add even more momentum to the development of the Swiss competitive advantage in all crypto-related matters.

The sheer amount of institutional effort and willingness to adapt to the paradigm shift is going to pay its dividends in the years to come and will be paramount to Switzerland's ability to reclaim its once-dominant position in the financial world. If you reflect on it, it is not surprising that the regulator has been so accommodating and assertive to the expansion of the crypto industry within its borders.

Maybe it's time that we all start to consider relocating to the Alps.

Crypto and Criminal Activity: How it's Being Used and Ways to Stop it

By **Daryl Charman**

Cryptocurrency may have opened up the door of opportunity for businesses, but it's become an integral part of many criminal networks too. Learn how it's being used and ways to stop it.

Over the past few years, cryptocurrencies have grown rapidly in price, popularity and mainstream adoption. To put it into context, the numerous online cryptocurrency exchanges and markets have daily dollar volume in the billions.

As of January 2018, the total market capitalisation of bitcoin alone exceeds $250 billion, with a further $400 billion making up the other 1,000 cryptocurrencies.

However, the rapid growth in the market and the anonymity nature of the technology has subsequently attracted the wrong type of users as well.

Criminals can carry millions of pounds across borders without detection with crypto transactions requiring no use of real names. They can essentially commit a crime without leaving a trace of evidence.

The biggest issue towards regulating transactions is that crypto-assets often fall outside the scope of the EU financial regulations. This makes it hard to build context around individual transactions. Common types of criminal activity funded via cryptocurrencies include illegal trading (drugs, pornography, murder-for-hire), money laundering, avoiding capital controls and the potential to fund terrorism.

THE FACTS AND THE FIGURES

Without being able to track the source to illegal activity, governments and law enforcement agencies have found it almost impossible to stop cybercriminals from striking.

Peer-to-peer platforms such as Uber and Airbnb are among two of the most notable victims. Crafty criminals have been able to make a profit by creating fake riders and drivers, with real drivers being able to tap other technologies like fake GPS apps to bump up fares.

The mass global usage of these platforms has enabled them to easily hide their illicit profits amongst legitimate ones and easily move payments across borders undetected.

To give you an idea of how significant and rife criminal crypto activity is in numerical terms, the reported cases of money laundering alone exceeds $5.2 billion in Europe.

In a paper published in January 2018, it states: "approximately one-quarter of all users, 25 per cent, and close to one-half of bitcoin transactions, 44 per cent, are associated with illegal activity."

"Furthermore, approximately one-fifth, 20 per cent, of the total dollar value of transactions and approximately one-half of bitcoin holdings, 51 per cent, through time are associated with illegal activity."

The paper concludes that these "users annually conduct around 36 million transactions, with a value of around £72 billion, and collectively hold around $8 billion worth of bitcoin."

According to CipherTrace, the largest single incident of loss cited in 2019 was the PlusToken scheme, which defrauded users and investors of £2.9 billion.

HOW TO COUNTER CRIMINAL CRYPTO ACTIVITY

If this continues to happen and sanctioning bodies don't get a grip on it fast, the market valuation of cryptocurrencies will continue to plummet.

In recent months, the market has already experienced an astonishing 75% decline.

There are several ways to combat this downward spiral. The first is to tap into criminal error. Believe it or not, bitcoin isn't as anonymous as you may think, as it uses a blockchain system that serves as a virtual record of all transactions on the network.

Remember, the blockchain is publicly accessible, which allows anyone with a bit of computer-savvy to trace digital footprints of anonymous traders. It's for this very reason that bitcoin is often used on the Darknet with the anonymising software, The Onion Router (Tor) for extra security and anonymity.

Although, the open, transparent, nature of crypto transactions means that it's very hard for criminals to convert it into fiat currency and get away with it.

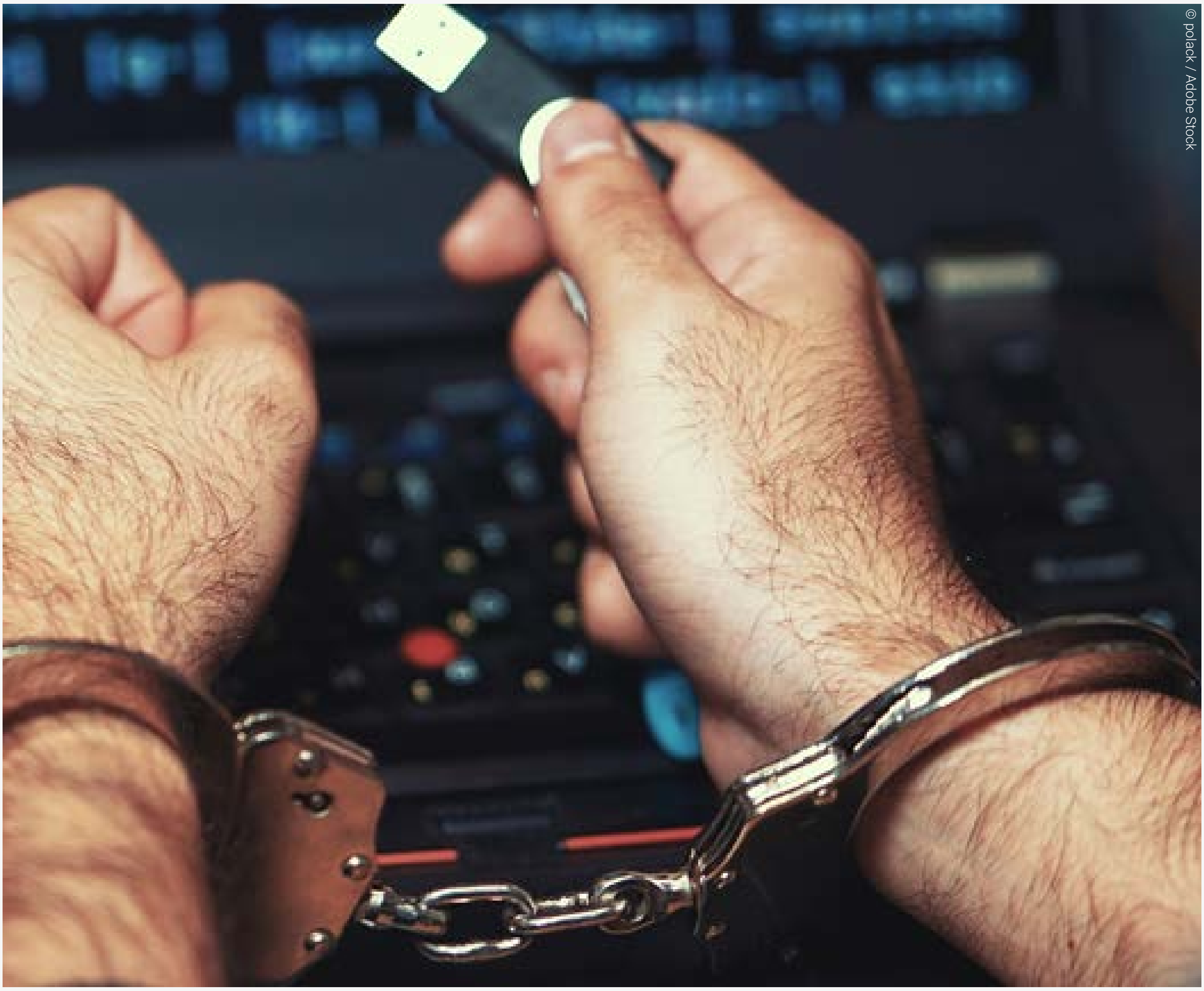
Thinking proactively, it would be wise for businesses to increase communications between various governments to detect certain patterns and produce more annual reporting standards to show their legitimate use of cryptocurrency. The final way of minimising criminal crypto activity is to introduce tighter regulations. Luckily, this is a hot topic at the moment, with a lot of continual alterations happening around the world.

The EU's anti-money laundering regulations are a casing example, whereby, all cryptocurrency exchanges have to comply with them. Know your customer (KYC) has been applied in many countries as a way of getting people to disclose their identities before carrying out a crypto transaction.

Further measures are also being taken to align digital currencies with existing Anti-Money Laundering (AML) and Counter-Terrorist Financing (CTF) legislation.

Every week, another country introduces its stipulations on regulating cryptocurrencies.

It's therefore vital that you stay in the loop about the latest regulatory changes and move with the times to make sure you utilise this richly rewarding technology. If you don't, you could be left behind and end up paying a hefty fine for being non-compliant.



© polack / Adobe Stock

FINMA publishes 'stablecoin' guidelines

By **Harrison O'Brien**

On 10th September, the Swiss Financial Market Supervisory Authority FINMA published a supplement to its ICO guidelines outlining how it treats so-called 'stablecoins' under Swiss supervisory law.

FINMA gives an initial indication of how it would apply the relevant Swiss regulation, given the steady increase in the number of stablecoin projects since mid-2018. The regulator recognises that the aim of such projects is mostly to minimise the fluctuations in value typical of payment tokens such as Bitcoin by backing the tokens with assets such as fiat currencies, commodities, real estate or securities.

In the supplement to its 'Guidelines on Initial Coin Offerings', FINMA publishes information indicating how it will assess such 'stablecoins' within its supervisory remit under Swiss supervisory law.

CLASSIFICATION OF 'STABLECOINS' UNDER SWISS LAW

Swiss financial markets regulation is principle-based and technology-neutral. FINMA's treatment of 'stablecoins' under supervisory law follows the existing approach taken to blockchain-based tokens. Hence, the focus is on the economic function and the purpose of a token under the principle of 'substance over form'.

In ruling on concrete projects, FINMA will follow the proven principle of 'same risks, same rules' as well as the specific features of each case.

'Stablecoins' can vary greatly. Consequently, the requirements under supervisory law may differ depending

- on which assets (e.g. currencies, commodities, real estate or securities) the 'stablecoin' is backed by and
- the legal rights of its holders.

Money laundering, securities trading, banking, fund management and financial infrastructure regulation can all be of relevance.

FINMA CONFIRMS RECEIPT OF AN ENQUIRY FROM LIBRA ASSOCIATION

According to the press, the Libra Association asked FINMA for an assessment of how the supervisory authority would classify the planned Libra project including the issuance of a 'stablecoin' under Swiss supervisory law. The regulator confirmed receipt of this request.

Such applications for a legal assessment or ruling are standard practice, particularly for innovative projects. One of FINMA's roles is to inform potential market participants about how it applies Swiss supervisory law.

FINMA provides an indicative classification of this project under Swiss supervisory law based on the information available so far. Therefore, the classification may change as the project progresses.

In Switzerland, such a project would fall under financial market infrastructure regulation. The project as it is presently envisaged would require a payment system licence from FINMA, based on the Financial Market Infrastructure Act (FMIA).

Regulatory requirements for payment systems in Switzerland are based on the prevailing international standards, particularly the Principles for Financial Market Infrastructures (PFMI). These requirements also apply to the management of cyber risks.

A Swiss payment system is automatically subject to the Anti-Money Laundering Act. The highest international anti-money laundering standards would need to be ensured throughout the entire ecosystem of the project. Such an ecosystem must be immune to elevated money laundering risks.

Under the FMIA, all additional services that increase the risks of a payment system must be subject to corresponding other requirements. This means that all the potential dangers of a Swiss payment system, including bank-

like risks, can be addressed by imposing appropriate requirements in line with the maxim' same risks, same rules'. Due to the issuance of Libra payment tokens, the services planned by the Libra project would go beyond those of a pure payment system and therefore be subject to such additional requirements.

These additional requirements would relate in particular to capital allocation (for credit, market and operational risks), risk concentration and liquidity as well as the management of the Libra reserve.

The additional requirements would be based on recognised standards for similar activities in the financial markets and would need to reflect the dimension of the project. For bank-like risks, for example, bank-like regulatory requirements would apply. A Swiss payment system licence would thereby permit a combination of the strengths of banking and infrastructure regulation.

A necessary condition for being granted a licence as a payment system would be that the returns and risks associated with the management of the reserve were borne entirely by the Libra Association and not – as in the case of a fund provider – by the 'stablecoin' holders.

The planned international scope of the project requires an internationally coordinated approach. In particular, the definition of requirements for managing the reserve, and the governance around it, as well as for combating money laundering should be developed in international coordination.

QUESTIONS GOING BEYOND SUPERVISORY LAW

A possible licensing procedure under Swiss supervisory law would only commence once FINMA receives a specific licensing application. Following its practise, FINMA would neither provide public information on the status of any ongoing licensing procedure nor speculate on when it may be complete.

Other questions raised in the context of the Libra project, such as those relating to tax law, competition law or data protection law, go beyond the scope of supervisory law and are therefore outside FINMA's remit.

Swiss Financial Market Supervisory Authority (FINMA)

Supplement to the guidelines

for enquiries regarding the regulatory framework for initial coin offerings (ICOs)

Published 11 September 2019

1 Background

Since mid-2018 an increasing number of ICOs and other tokenisation projects based on distributed ledger or blockchain technology, have been based around the creation of tokens known as ‘stable coins’. This supplement to the ICO guidelines for enquiries regarding the regulatory framework for initial coin offerings (ICOs), which continue to apply unaltered, provides information for interested market participants about how FINMA treats the most common types of such projects under Swiss financial market regulation.
The value of ‘stable coins’ is frequently linked to an underlying asset (e.g. such as fiat currency). The usual objective of such projects is to minimise the price volatility typical of currently available payment tokens. This, in turn, should increase market acceptance, in particular for payment purposes. The goal is to increase price stability compared with payment tokens such as Bitcoin or Ether. However, “stable” is primarily a marketing term. Nevertheless, due to its international prevalence the term ‘stable coin’ is used here.
The concrete design of ‘stable coins’ can vary greatly in legal, technical,functional and economic terms. Therefore, no fully generic classification is possible. The following classification only applies under Swiss financial market regulation and would not necessarily be valid in other jurisdictions.
Additionally, the information required by FINMA to process corresponding enquiries from market participants is outlined below.

2 Indicative classification under supervisory law

2.1 General principle

‘Stable coins’ are currently not governed by any specific regulations, either globally or in Switzerland. Swiss financial market regulation is principle-based and technology-neutral. In order to protect creditors, depositors and investors and to ensure the proper functioning of the financial markets, it regulates deposit-taking, the management, safekeeping and distribution of collective investment schemes as well as the operation of financial market infrastructures and other activities of financial intermediaries.
FINMA’s treatment of ‘stable coins’ under supervisory law follows its existing approach for blockchain-based tokens: the focus is on the economic function and purpose of a token (‘substance over form’) and follows the tried and tested principle of ‘same risks, same rules’, while taking into account the specific features of each project. FINMA has found that projects to create ‘stable coins’ often give rise to potential licensing requirements under the Banking Act (BA; SR 952.0) or the Collective Investment Schemes Act (CISA; SR 951.31). In addition, due to their frequently intended purpose as a means of payment, the Anti-Money Laundering Act (AMLA; SR 955.0) is almost always applicable. If a payment system of significant importance is launched in connection with the creation of a ‘stable coin’, a licensing requirement under the Financial Market Infrastructure Act (FMIA; SR 958.1) as a payment system is probable.

2.2 Categories

From a legal point of view, many but not all ‘stable coins’ confer a contractual claim against the issuer on the underlying assets (so-called redemption claim) or confer direct ownership rights. Depending on the specific purpose and characteristics of ‘stable coins’, different financial market laws can apply. The following remarks regarding the possible categories are purely for indicative purposes. The specific assessment of each individual case (including related advertising claims) remains decisive.

2.2.1 Linked to currencies

Where the token is linked to a specific fiat currency with a fixed redemption claim (e.g. 1 token = CHF 1), classification as a deposit under banking law is indicated. Where there is a redemption claim dependent on price developments, e.g. as a result of the token being linked to a basket of currencies, the distinction between a deposit under banking law and a collective investment scheme can become relevant. In this context it is important whether the underlying assets are managed for the account and risk of the token holder (indicative of a collective investment scheme) or for the account and risk of the issuer (indicative of a deposit under banking law). For the latter categorisation to apply, all opportunities and risks from the management of the underlying assets, be they in the form of profits or losses, from interest, fluctuations in the value of financial instruments, counterparty or operational risks, must be borne by the issuer of the ‘stable coin’.
Existing exemptions from the requirement for a bank license also apply to ‘stable coin’ projects, for example the exemption of taking deposits only from banks, other prudentially supervised institutions or institutional investors with professional treasury operations (Art. 5 para. 2 BO).
A ‘stable coin’ that does not foresee an explicit redemption claim for the token holder but instead is based on an alternative stabilisation mechanism, can nevertheless trigger licensing requirements under other financial market regulations (alongside AMLA requirements), in particular under the FMIA if operation of a payment system of significant importance is foreseen.

2.2.2 Linked to commodities

Where a token is linked to commodities, the exact nature of the claim on the assets as well as the type of commodity (in particular whether “bank precious metals” or other commodities are involved) are of particular significance.
If a ‘stable coin’ merely evidences an ownership right of the token holder, it generally does not qualify as a security. This presupposes that (i) an ownership right and not merely a contractual claim to the underlying commodities exists, (ii) the transfer of the token results in the transfer of the respective ownership right and (iii) the commodities are not deposited pursuant to art. 481 Code of Obligations (CO; SR 220). Questions of validity under property law lie outside financial market law and regulation and remain the responsibility of the parties involved.
Where there is merely a contractual claim against the issuer on “bank precious metals”, qualification as a deposit under banking law is probable due to the similarity to bank precious metal accounts. Where there is a contractual claim on other commodities, the token will generally qualify as a security and possibly as a derivative – insofar as it is linked to a financial market activity. ‘Stable coins’ with contractual claims on underlying assets can therefore also give rise to a licensing requirement as a derivatives house in accordance with art. 3 para. 3 of the Stock Exchange Ordinance (SESTO; SR 954.11). Where a link to a basket of commodities (including “bank precious metals”) with a price-dependent redemption claim exists, a collective investment scheme is probable.

2.2.3 Linked to real estate

Where a link to individual properties or to a real estate portfolio and a redemption claim of the token holder exists, the normal third-party management of the real estate portfolio is in itself an indication of a collective investment scheme. In view of the legal hurdles involved in real estate transfers, a price-based redemption claim often exists, which also suggests a licensing requirement as a collective investment scheme.

2.2.4 Linked to securities

A token that is linked to an individual security by way of a contractual right for delivery to the token holder would normally also constitute a security. Whereas a self-issuance does not generally trigger licensing requirements under the Stock Exchange Act (SESTA; SR 954.1), the acquisition and primary market offering of corresponding ‘stable coins’ can constitute an activity as a securities issuing company (Art. 3 para. 2 SESTO). Upon entering into force, the prospectus requirements imposed by the new Financial Services Act (FinSA; 950.1) must also be met including in cases of self-issuance. Where a link to a basket of securities with a contractual claim by the token holder on a share of the basket exists, a licensing requirement as a collective investment scheme is probable.

2.3 Dubious stabilisation mechanisms

From time to time FINMA is asked to assess ‘stable coin’ projects that claim to invest the proceeds from an ICO in certain assets, apparently seeking to achieve a stabilisation or even an increase in value, even though no plausible mechanism for such stabilising effects is apparent. Investors are here frequently promised an investment opportunity. Such advertising claims are often dubious in nature. When such projects are conducted in or from Switzerland, it is probable that FINMA will take enforcement measures.

3 Information for investors

‘Stable coins’ are not necessarily subject to reduced price volatility nor are they per se safe investments. The risks for investors are always dependent on the specific product and the exact structure. In addition, legal uncertainty remains regarding the transferability and enforceability under civil law of claims linked to tokens. It cannot be excluded that an issuance of ‘stable coins’ is fraudulent – like any other type of token issuance.

Can we offer you
a free 30-minute
legal and compliance
consultation?
E-mail us at
projects@blockchainconsultus.io
or visit
promo.blockchainconsultus.io

No obligation, no contract, no fee for you:
the free consultation is a token of gratitude
we offer to our readers

To stay updated about compliance
in the crypto-world,
join our Telegram channel:
https://t.me/blockchaincompliance

Blockchain ConsultUs Ltd.
Pan-European legal, compliance, and strategy advice to implement Blockchain in your business
Registered office: Kemp House, 160 High Road
London EC1V 2NX, England
Phone (24/7): +44 (0)20 8798 0253
www.blockchainconsultus.io

Business meetings in Lugano and Zug (CH), Frankfurt (DE), Tallinn (EE), Amsterdam (NL), Milan (IT)

Join our Telegram channel: https://t.me/blockchaincompliance
Book your intro call: https://promo.blockchainconsultus.io/