

Latest Policy Developments for DLT



International Association for
Trusted Blockchain Applications



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Prepared exclusively for INATBA Members.

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INATBA Highlights

The Identity Working Group of INATBA continues its advocacy outreach for eIDAS, the European Commission's proposal on establishing a framework for a European Digital Identity. Please contact the co-chairs of the Identity Working Group for more information.

The Finance WG, and through SubWG2 especially, continues its efforts to advocate on behalf of its members and the industry on several major files which are at the final negotiation stage within the European Union, namely MiCA (Markets in Crypto Assets) and the TFOFR (Travel Rule) which are both in their trilogue stage. You can review the findings and summary of our recent event in Parliament on the TFOFR [here](#) and you can review our recently released second position paper on the file [here](#). You can also review our position on MiCA [here](#). In addition to our policy and advocacy

work, the Finance WG is expanding its focus on Crypto Assets and Taxation and Web3 use cases through SubWG1 and SWG3 respectively. In preparation to for DAC8, SubWG1 has started reviewing existing legislation for the taxation of crypto assets within member state jurisdictions as well as consultations on the subject. SubWG3, on the other hand, is following up the four-document series on Web3 which focused on DeFi, DAOs, NFTs, and Regulatory Sandboxes, with an extensive list of use cases and the review of emerging sub-niches, like Regenerative Finance (ReFi) and Decentralized Science (DeSci). INATBA members are invited to join the above workstream since these discussions and workstreams have the potential to steer Europe on crypto-assets for decades to come. Contact xenofon.kontouris@inatba.org for any additional information.

Highlights: EU and US Policy Developments

This is INATBA's bi-weekly newsletter covering policy developments which affect Distributed Ledger Technology (DLT) and its applications in the EU And US. It covers the period from the 15th April until the 29th April 2022.

Brussels is still slowly coming back from the Easter break. A great part of the political discussions in town and in the different capitals of the European Union are very much focused on the ongoing war in Ukraine and the subsequent economic effects and imposed sanctions. However, the first political trilogues on the Markets in Crypto Assets Regulation (MiCA) and the Transfer of Funds Regulation (TFOFR) have taken place during these last days, signalling the beginning of the last phase of the legislative process. Additionally, INATBA held an event at the European Parliament (EP) on the TFOFR with several relevant Members of the EP and discussed the most pressing issues of the proposal.

Despite being out of session for two weeks, the U.S. Congress got right to work this week on crypto. Several members of Congress, including Reps. Tom Emmer (R-MN), Glenn "G.T." Thompson, and Ro Khanna (D-CA) introduced pieces of legislation aimed at providing more clarity for the industry. House Financial Services Committee Ranking Member Patrick McHenry (R-NC) announced his intention to become Committee Chairman if Republicans took the majority in the House and argued for creating a new crypto regulator later in the week. This week, the House Financial Services Committee held two hearings relevant to crypto, one on the Financial Crimes Enforcement Network (FinCEN) and one on digital wallets. Several agencies also moved to crypto, including the Consumer Financial Protection Bureau (CFPB), which only recently got involved in the crypto space.



EU Policy Developments

MiCA: Outcomes of first political trilogue

On 25th April, a non-public document on the outcomes of the first political trilogue meeting was circulated. The focus of the meeting was to state the main topics that will need to be addressed during the negotiations, and to highlight the distribution of issues that will be handled at a technical level, as well as those that will be dealt with at a political level. As such, the negotiating parties have decided to delegate the issues of asset-referenced tokens (ARTs), e-money tokens (EMTs), and crypto-asset service providers (CASPs) to the technical team, who will be helped by the European Commission (Commission). If any political issues arise from technical discussion, they will promptly be brought to the political level. The non-public document also states that the issues of supervision, environmental safeguards, AML, the review clause and transitional period, and the annual report on the market of crypto assets will be discussed at the next political trilogue meeting, of which the date is not yet known.

In parallel, during an [interview](#) with the Financial Times the Deputy Governor of Banco d'Italia, Piero Cipollone, stated that he was satisfied with the progress made on the Markets in Crypto Assets Regulation (MiCA), but noted that the next stage of rules for crypto providers should be already be considered in the EU. Cipollone stated that while MiCA will allow policymakers to regulate specific entities, but it will be far more challenging when it comes to DeFi technology.

TFOFR: INATBA event on the Transfer of Funds Regulation

On 27th April, INATBA held an event hosted by the Vice-President of the European Parliament, Eva Kaili and attended by MEP Paul Tang. The event brought together regulators, technology experts, and market participants in a workshop to discuss the ongoing TFOFR trilogues. The discussion focussed on the European Parliament's text, which prompted a strong industry response which noted the lack proportionality, compromise of privacy, and lack of technological feasibility of the proposed requirements. A second event will take place ahead of the second trilogue, expected to take place on 7 June 2022.

TFOFR: First political trilogue

On 28th April, the political trilogue of the proposal for a regulation on information accompanying transfers of funds and certain crypto-assets (recast), coined as the travel rule took place. In this context, a non-public three column document was circulated ahead of the political trilogue. The core divergence between the Council and European Parliament texts are on the treatment of unhosted wallets, with the

Parliament pushing for providers of crypto-asset transfers to maintain a record of all transfers from unhosted wallets and notify the competent authorities of transfers higher than EUR 1000 from and to unhosted wallets. We understand that the Council and Commission are wary of these requirements, which industry participants argue are not in line with the risk-based approach to AML/CFT ingrained in the international standards of the Financial Action Task Force (FATF). Regarding the European Parliament's proposed verification regime for unhosted wallets, we understand views remain split in amongst political groups, with the ID, ECR and EPP disagreeing with the proposed text and calling for a risk-based approach to the issue. The Greens appear undecided on the issue, while the S&D is firmly supporting the proposed verification regime. MEP Paul Tang is particularly vocal on the issue, noting that industry claims of disproportionality and overburdensome aspects of the requirements can be satisfied by technological means.

AMLA: French Presidency on the scope of the Authority

On 25th of April, a non-public document on the Anti-Money Laundering Authority (AMLA) circulated by the French Council Presidency was seen. In it, the French Presidency raises several questions to Member States in order to clarify the scope of AMLA's direct and indirect supervision of the financial and non-financial sector. It also mentions issues that related to administrative measures and sanctions, as well as Member States' concerns on Financial Intelligence Units (FIUs). While negotiations in the European Parliament on AMLA have not yet started, MEPs have called for a quicker implementation of AMLA and an increase of its budget. At a Council level, the French Presidency hopes to find a general approach by June 2021, but it is more likely to be reached under the Czech Presidency.

Crypto Assets: FSB Chair on plans for regulation

Klaas Knot, Chair of the Financial Stability Board (FSB) published [a letter](#) he sent to G20 Finance Ministers and Central Bank Governors. The letter discusses the current outlook for financial stability, as well as the policy objectives set by the FSB to address emerging vulnerabilities such as climate-related financial risks and non-bank financial intermediation (NBFI). The letter pays a considerable amount of attention to crypto-assets, with the FSB Chair expressing concern about their growth and potential illicit use, a sentiment that is likely fuelled by concerns over Russian oligarchs using crypto-assets to evade Western sanctions. The letter goes on to state that the FSB is currently working alongside standard-setting bodies on the regulation and supervision of 'unbacked' crypto-assets and 'stablecoins'. It is also undertaking an analysis of the impact on financial stability of Decentralised Finance (DeFi). Additionally, the letter highlights that the FSB will continue to coordinate work on the G20 cross-border payments roadmap.

Taxation: FISC views on ECON own report on taxation of crypto assets

The European Parliament's subcommittee on tax matters (FISC) held a preliminary exchange of views on the draft own initiative (INI) report on the impact of new technologies (crypto and blockchain) on taxation. Only two political groups intervened (S&D and Renew), and much of the discussion centred around AML and tax evasion. Member of European Parliament (MEP) Aurore Lalucq (S&D, FR) spoke first, and welcomed the draft report as a good starting point from which to legislate, and that she looks forward to proposing amendments, hinting at a push from the S&D to make the draft report more aggressive with regard to the taxation of crypto-assets. MEP Martin Hlavacek (Renew, CZ), joining the call from the seat of his car, alluded to the potential use of crypto-assets to dodge sanctions, and emphasised the importance of addressing financial crimes committed with the help of decentralized systems, all the while taking data privacy into consideration. Lastly, the rapporteur, MEP Lidia Pereira (EPP, PT), closed off the discussion by assuring that while AML and tax evasion are legitimate concerns; legislation should not obstruct innovation in the area of financial technologies, and highlighted the need for Europe to stay competitive in this field. The European Parliament groups will have until 11 May to present amendments to the report, with the FISC subcommittee scheduled to debate said amendments on 16 June. The Economic and Monetary Affairs Committee (ECON) will in turn vote on it on 30 June, and it is expected to be voted on in Plenary in September 2022.

Looking Ahead

02 – 05 May 2022	<ul style="list-style-type: none"> • European Parliament Plenary
03 May 2022	<ul style="list-style-type: none"> • Working Party on Financial Counsellors
03 May 2022	<ul style="list-style-type: none"> • Video Conference of the Eurogroup
04 May 2022	<ul style="list-style-type: none"> • Coreper II
06 May 2022	<ul style="list-style-type: none"> • Coreper II
11 May 2022	<ul style="list-style-type: none"> • Coreper II
12 May 2022	<ul style="list-style-type: none"> • Financial Services Attachés
13 May 2022	<ul style="list-style-type: none"> • Coreper II
13 May 2022	<ul style="list-style-type: none"> • Financial Services Attachés

US Policy Developments

Congress

In a [letter](#) to Securities and Exchange Commission (SEC) Chairman Gary Gensler, two Republican lawmakers expressed concerns over the Commission's recent rulemaking on crypto exchanges. Patrick "Pat" McHenry (R-NC) and Rep. Bill Huizenga (R-MI) criticized two SEC proposals- one is from January, and one is from March, that seeks to expand the definitions of terms in the 1934 Securities Exchange Act. The rulemakings suggest that crypto exchanges register with the SEC as exchanges, and market makers register with the SEC as broker-dealers. The lawmakers urged the SEC to allow at least 60 days for public comments on proposed rulemakings to ensure that the public has adequate time to voice their concerns. Gensler's actions on crypto have been criticized by other [members](#) on the House Financial Services Committee, most recently for letters he sent about unofficial inquiries into unnamed crypto companies.

The environmental impact of crypto mining, specifically Bitcoin mining, remains a concern as Representative Jared Huffman (D-CA), a House Natural Resources Committee member, leads two dozen Democratic colleagues urging federal environmental officials to devote further scrutiny to the issue. The [letter](#) sent to Michael Regan, the Environmental Protection Agency (EPA) administrator, heavily criticizes Bitcoin mining's energy consumption but supports proof-of-stake mining, which consumes less energy. Additionally, the letter supports President Biden's recent executive order calling for a greater understanding of crypto's climate effects and supporting cleaner technologies. The White House's Office of Science and Technology oversees the report, seeking feedback until May 9, 2022. New York state is also looking to crack down on bitcoin mining, moving forward on a bill to place a moratorium on the practice for two years.

If Republicans take the majority in the House of Representatives in November, House Financial Services Committee Ranking Member Patrick "Pat" McHenry (R-NC) [announced](#) he would forego a higher leadership position to become Chairman of the Committee. Rep. McHenry is a long-time bipartisan champion of crypto and fintech who led the effort to revise language in the infrastructure bill regarding crypto brokers' reporting and tax requirements. As Chairman, he will significantly impact the committee's agenda and can prioritize crypto and fintech as legislative priorities. It is unclear how crypto will be prioritized in the Senate now that Senate Banking, Housing and Urban Affairs Committee Chairman Patrick "Pat" Toomey (R-PA), one of crypto's most influential supporters, is stepping down. People anticipate Senator Tim Scott (R-SC) would lead the committee if Republicans gain control of the Senate. Scott's stance on crypto has been largely unknown, but he is enthusiastic about financial inclusion and fintech, showing a positive attitude toward the space.



Furthermore, he is a founding member of the Senate Innovation Caucus, formed to educate on digital assets and fintech. Rep. McHenry's announcement shows the continued legislative focus on crypto and how it may increase if he becomes Chairman.

The day after Rep. McHenry's announcement, he was a featured guest at Punchbowl Media's [Investing in Tomorrow, Today](#) event. The biggest news of his remarks is that he said digital assets are neither a commodity nor security and that a new financial regulator is needed, not the CFTC or SEC. Stablecoins, on the other hand, is suited to have an existing financial regulator oversee its activities and operations. He did not specify which specific regulator should oversee or take the lead overseeing stablecoins. He emphasized how crypto was a priority, and he expected legislation to move within the "next year," implying 2023. He noted that Republicans and Democrats are on the same page on the key architecture of a stablecoin but disagreed with the Biden Administration's perspective on stablecoin issuance but that he aligned with mostly everything else – only about 20% disagreement with its view. He argued for stablecoin issuers to have a special charter, similar to what Senate Banking, Housing, and Urban Affairs Committee Chairman Pat Senator laid out in his recently introduced stablecoin legislation.

Rep. Tom Emmer (R-MN) is preparing [legislation](#) on dividend-producing stablecoins. Emmer, who co-chairs the House Blockchain Caucus, proposes permitting "stablecoins with dividends" to voluntarily register with the Securities and Exchange Commission (SEC). The definition of dividend-producing stablecoin is still being flushed out. The draft bill's language calls for the SEC to develop and issue new rules for the supervision and examination of stablecoins. The requirements will include the types of assets backing those stablecoins and their safekeeping. Stablecoin regulation continues to be a priority for policymakers and regulators, but this is the first legislation that explicitly addresses dividend-producing stablecoins. The voluntary nature of Representative Emmer's bill falls in line with his previous work in crypto and other Republicans on the House Financial Services Committee.

Representative Glenn "G.T." Thompson is [collaborating](#) with Rep. Ro Khanna (D-CA), a member of the Congressional Progressive Caucus, to re-introduce the Digital Commodity Exchange Act (DCEA). Rep. Tom Emmer (R-MN), and Rep. Darren Soto (D-FL), members of the Blockchain Caucus, also co-sponsored the bill. DECA gives the Commodity Futures Trading Commission (CFTC) direct oversight over a vast part of the crypto spot markets. This is the second bill Rep. Thompson has introduced to give the CFTC more control over the crypto market. Khanna is one of crypto's most progressive allies in Congress and is a member of the Blockchain Caucus. He represents a district that includes Silicon Valley - home to several blockchain companies. Since the bill originates from the House Agriculture Committee, which oversees the CFTC, it will add to an industry-wide push to give the CFTC more influence over an industry than the SEC, which has been harsher on crypto.

The House Financial Services Committee held a [hearing](#) on April 28, “Oversight of the Financial Crimes Enforcement Network.” Himamauli Das, the acting Head of FinCEN, testified. Much of the discussion was spent addressing proposed rules in the recently passed Anti-Money Laundering Act of 2020 (AMLA2020). Lawmakers did not spend significant time discussing crypto, but members from both sides of the aisle mentioned crypto in terms of its ability to avoid sanctions. Specifically, Das discussed FinCEN’s efforts to prevent sanctions evasion and the capabilities and how FinCEN uses blockchain analysis and collaborates with large financial institutions to flag illicit transactions to relevant law enforcement agencies. In response to questions about how FinCEN can identify self-hosted wallets, Das stated that any transactions that were made to large exchanges are visible to FinCEN, but transactions made using platforms not subject to anti-money laundering/combating the financing of terrorism (AML/CFT) reporting guidelines are unavailable. FinCEN is taking additional precautions to look at digital currencies in relation to Russian Oligarchs and is collaborating with large financial institutions to prepare for and flag any such occurrences. Lastly, FinCEN is potentially being granted the power to halt digital currency transactions before they are completed.

On April 28th, 2022, the House Financial Services Task Force on Financial Technology convened to host a hearing called, [“What’s in Your Digital Wallet? A Review of Recent Trends in Mobile Banking and Payments.”](#) Members of both political parties recognized that cryptocurrency wallets and stablecoins are becoming a part of the larger financial ecosystem and could play a role in promoting financial inclusion. Several members and witnesses raised privacy concerns, and many called for a national standard for privacy. Several Democratic members raised concerns regarding consumer protection.

Treasury Department

Assistant Treasury Secretary Elizabeth Rosenberg voiced skepticism that crypto donations were making a real impact on humanitarian donations. At an [Institute of International Finance](#) event on crypto, Rosenberg questioned crypto executives who cited efforts in Afghanistan and Venezuela where crypto donations bypassed traditional financial intermediaries. Rosenberg, who oversees anti-money laundering (AML) efforts at Treasury, argued that those efforts would be difficult to replicate at scale, especially in regions without access to the internet, electricity, or electronic devices. Rosenberg’s comments roughly echo those of Treasury Secretary Janet Yellen, who said crypto has yet to deliver on its promise of making payment systems and financial services more efficient earlier this month. Like Yellen, Rosenberg acknowledged that the technology holds potential and noted the successful role crypto played in relief and defense efforts in Ukraine.

Commodity Futures Trading Commission (CFTC)

The Commodity Futures Trading Commission (CFTC) is [holding](#) a public discussion on disintermediation in late May as the proposal from crypto exchange FTX looms. Despite not mentioning FTX by name, the roundtable emphasizes the role of futures commission merchants, which FTX proposes to do away with via its proposed model for clearing derivatives. Eliminating FCMs would simplify trading by reducing the number of times assets are traded, each of which has its own set of requirements for holding liquidity. The new way of clearing has generated backlash from progressives. House Agriculture Committee Chairman David Scott (D-GA) called for a hearing on the subject, but it has not materialized yet. CFTC Chairman Rostin Behnam has suggested the application from FTX.US could be the first of many and could have significant implications if approved. However, the industry has been optimistic about the tone Behnam struck at a recent congressional hearing. The open discussion will invite public commentary from proponents and critics without carrying the force of a hearing.

Federal Reserve

President Joe Biden [announced](#) Michael Barr as his pick for a position as Vice Chairman of the Federal Reserve for Supervision, one of the most powerful positions in the U.S. financial system. Barr is currently the dean of the public policy school at the University of Michigan Law School, and he previously served in the Treasury Department under President Barack Obama. At the beginning of Biden's term, Barr had been a favorite for the Comptroller of the Currency position but faced opposition from more liberal Democrats. The opposition to Barr stems from his background in the financial services industry, including his board position with Ripple Labs in 2015. While on the Ripple Board, he said that "innovation in payments can help make the financial system safer, reduce costs, and improve access and efficiency for consumers and business alike." Now Barr faces a Senate confirmation that has already eliminated Biden's previous choice, Sarah Bloom Raskin. Although Barr received support from key progressives, including Senator Elizabeth Warren (D-MA), he will face an uphill battle with Republicans.

Consumer Financial Protection Bureau (CFPB)

The Consumer Financial Protection Bureau (CFPB) [announced](#) on April 25 its intention to invoke a largely unused provision from the Dodd-Frank Act to give the agency broader authority to supervise "nonbank financial companies that pose risks to consumers." Director Rohit Chopra said this means holding these nonbank fintech firms to the same kinds of consumer protection standards as regulated banks. While the release doesn't explicitly mention crypto, it does specify its interest in "emerging technologies," which can include crypto companies. CFPB interest in crypto is also rising, with frequent crypto-critic Senator Elizabeth Warren (D-MA) calling for the agency to clamp down on crypto. Director Chopra pointed out recently that the Consumer Financial Protection Bureau's database of complaints has over 3,000



complaints filed against crypto companies over the past two years. The CFPB recently hired Alexis Goldstein from Open Markets Institute to lead its digital asset response. Goldstein spent most of 2021 appearing in Congressional hearings on crypto, where she consistently criticized the industry. She often compared crypto to the 2008 financial crisis. With other regulators taking steps to regulate the growing crypto industry, the CFPB appears to be following suit.

Office of the Comptroller of the Currency (OCC)

Acting Comptroller of the Currency Michael Hsu [called](#) on stablecoin issuers to set one technical standard similar to what was created in the early days of the internet. Hsu noted that crypto/Web3 companies, academics, and government representatives should collaborate on the standards. He said the OCC is willing to work with other government offices such as the National Institute of Standards and Technology (NIST) on such an effort, arguing that “stablecoins lack shared standards and are not interoperable.” The OCC and other financial agencies are already determining an approach to overseeing stablecoins after agreeing in the President’s Working Group report that stablecoin issuers should be treated like banks. As head of the OCC, Hsu is also a member of the Financial Stability Oversight Council (FSOC), examining whether stablecoins are a potential risk to the larger U.S. financial system.

State and City Updates

The New York legislature is currently working on a bill, [A738C](#), which would put a moratorium on proof-of-work (bitcoin) mining for two years. The reasoning behind the bill is to give the state enough time to examine the impact of mining in the state. The bill has divided members, and pro-crypto advocates argued that it bans crypto mining activities generally. However, the bill’s sponsor Assemblywoman Anna Kelles (D), insists that the bill would only apply to fossil fuel-powered mining facilities. The crypto industry’s wide-scale campaigns against the bill resulted in its defeat in 2021 and shortened the moratorium period from three years to two. As of April 28, the bill passed the Assembly and is now in the Senate. This is only the latest instance of New York acting reluctantly about the broader blockchain industry and comes as other localities, such as Fort Worth, Texas, are [opening](#) their doors to bitcoin miners.

Looking Ahead

9 May 2022	<ul style="list-style-type: none"> White House's Office of Science and Technology: Energy and Climate Implications of Digital Assets Feedback Requested
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