

Global Blockchain Business Council

Monthly FinTech Updater

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Global, EU, UK and US Regulatory Developments

EU	
Council of EU publishes text of proposed DLT Pilot Regime Regulation	<p>On 12 April 2022, as indicated in a note (8088/22) setting out the outcome of a vote at the 3867th meeting of the Council of the EU (in its General Affairs configuration), the Council of the EU adopted the proposed Regulation on a pilot regime for market infrastructures based on distributed ledger technology (DLT) (2020/0267 (COD)).</p> <p>The proposed Regulation will enter into force 20 days after it is published in the Official Journal of the European Union and will apply nine months after the date it has entered into force, except for certain Articles (Articles 8(5), 9(5), 10(6) and 17) which will apply from the date of entry into force and one (Article 16) which will apply from 4 July 2023.</p> <p>The European Parliament adopted the proposed Regulation at first reading on 24 March 2022. The Council published the text of the proposed Regulation on 30 March 2022.</p> <p>Published 31 March 2022.</p>
ECON and LIBE adopt position on draft Regulation on information accompanying transfers of funds and certain crypto-assets	<p>On 31 March 2022, the European Parliament announced that the Committee on Economic and Monetary Affairs (ECON) and the Committee on Civil Liberties (LIBE) had adopted their position on the proposed Regulation on information accompanying transfers of funds and certain crypto-assets. The draft Regulation is part of the European Commission's new anti-money laundering package and the adopted text represents the draft mandate for MEPs to negotiate the final shape of the draft legislation with the Council. The whole of the European Parliament should vote on the draft legislation during the plenary session in April.</p> <p>Published 4 April 2022.</p>
ECON publishes report on the proposal for a regulation of the European Parliament and of the Council on information accompanying transfers of funds and certain crypto-assets (recast)	<p>On 1 April 2022, the European Parliament's Committee on Economic and Monetary Affairs (ECON) published a report setting out its proposed amendments to the draft regulation on information accompanying transfers of funds and certain crypto assets (recast).</p> <p>The Transfer of Funds Regulation (EU) 2015/847 was adopted to enhance the traceability of transfer funds by requiring payment service providers to ensure transmission of information on the payer and payee throughout the payment chain, to prevent, detect and investigate possible misuse of funds for money laundering and terrorist financing. Until now, crypto-assets have remained outside the scope of the Regulation. In July 2021, the European Commission presented a package of proposals to improve the EU's anti-money laundering (AML) and combatting the financing of terrorism (CFT) rules.</p> <p>The report welcomes the Commission's proposal to recast the Transfer of Funds Regulation and puts forward the following key proposals:</p>

	<p>The information obligation to verify customers should apply to crypto-assets transfers, regardless of the value of the transfer.</p> <p>There should be no information transfers from/to un-hosted wallets, information should be obtained by the crypto-asset service provider directly from its customer.</p> <p>Crypto-asset service providers should be expected to obtain information on the source and destination of crypto-assets involved in a transfer, they should establish effective procedures to detect suspicious crypto-asset activity.</p> <p>Crypto-asset service providers should carry out counterparty due diligence in order to protect personal information.</p> <p>A public register of non-compliant crypto-asset service providers.</p> <p>To speed up adoption and ensure that crypto-asset service providers and other obliged entities put in place effective mechanisms to comply with the travel rule for combatting money laundering and terrorism financing, the current recast proposal should be decoupled from the rest of the new AML package and should be linked to the existing anti-money laundering AMLD framework until the entry into force of the new regime, while preserving the alignment with the upcoming Regulation on Markets in Crypto-assets.</p> <p>In addition, on 21 April 2022, the Council of the EU published a table regarding the proposed Regulation on information accompanying transfers of funds and certain crypto-assets (recast). The table has three columns setting out the European Commission's proposal and the European Parliament and Council mandates.</p> <p>Published 5 and 21 April 2022.</p>
European Commission consults on establishment of a digital euro	<p>On 5 April 2022, the European Commission (the Commission) launched a targeted consultation on a prospective establishment and regulation of essential aspects of a digital euro as a new form of central bank money.</p> <p>The Commission recognises that there are wide ranging challenges that a prospective digital euro would need to tackle. These range from the reduced use of cash in an increasingly digitalised EU economy, which could possibly lead to weakened confidence in the euro as the single currency to evolving users' expectations, including the need for innovative payment methods for businesses and the need to strengthen the international role of the euro.</p> <p>For a digital euro to be used as the single currency, concurrently with euro banknotes and coins, it would require legislative changes in a form of a regulation that would be directly applicable in Member States. To this end, the Commission seeks stakeholder input on the following issues:</p> <ul style="list-style-type: none">• Users' needs and expectations for a digital euro: the Commission notes that the digital euro would be used for retail payments and akin to cash, it would be public

	<p>money but in digital form. To this end, the Commission seeks views on various aspects of the digital euro and its relevant importance from the users' perspective.</p> <ul style="list-style-type: none">• The digital euro's role for the EU's retail payments and the digital economy: referring to its conclusions in the Retail Payments Strategy, the Commission notes that the EU's retail payment market is still fragmented and is highly dependent on very few global players to provide payment solutions that work across border in the euro area, even though there are some new promising market initiatives. While the digitisation of the economy created new payment needs (including crypto-assets), the Commission would like to understand how the digital euro could fit into this evolving framework and provide value-add to the European digital economy. To this end, the Commission seeks stakeholder views on various features of the digital euro that would be relevant to support pan-European payments markets and to support development of the European digital economy.• Making the digital euro available for retail use while continuing to safeguard the legal tender status of euro cash: noting that the digital euro would be another form of central bank money and as such, it could be given legal tender status. The Commission acknowledges that it would have implications on its distribution and acceptance (i.e. a payee cannot generally refuse a payment by a payer in digital euro and that the digital euro would have to be universally accessible). That said, while the concept of legal tender is enshrined in European law, it is not defined in detail. The Commission therefore seeks stakeholder views on regulating the status of legal tender in law, including any exceptions.• The digital euro's impact on the financial sector and the financial stability: noting that the digital euro will likely have an influence on financial intermediaries' balance sheets, income statements, business model and services. The Commission seeks input on how financial intermediaries perceive the impact of the digital euro and how they could offer additional value depending on whether the digital euro is account based or bearer instrument/token based.• Application of anti-money laundering and counter terrorist financing (AML-CFT) rules: accepting that while specific AML/CFT rules may need to be devised based on the exact design features of a digital euro, the Commission welcomes general views related to the implications of AML/CFT measures for intermediaries and an estimation of compliance benefits/costs.• The privacy and data protection aspects: the Commission seeks views on specific features of the digital euro that could enhance the privacy and data protection of users therefore fostering public trust and confidence.• International payments with a digital euro: the Commission seeks views on potential implications of the cross border use of the digital euro within or outside the EU,
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	<p>including in the context of specific use-cases and availability of the digital euro for EU citizens living outside of the Eurozone.</p> <p>The deadline for stakeholder input is 14 June 2022.</p> <p>Published 7 April 2022.</p>
European Commission launches EU Digital Finance Platform	<p>On 8 April 2022, the European Commission (the Commission) launched an EU Digital Finance Platform that is intended to bring together industry and European public authorities in a joint effort to continue building the Single Market in digital finance. The Platform provides for a Digital Finance Observatory including, among other functionalities, a European Fintech Map – an interactive map showing registered Fintech entities and a description of their businesses. The Platform also provides access to a European Forum for Innovation Facilitators Gateway, which is designed to help connect entrepreneurs with the relevant national authorities. It provides a platform for discussion between the authorities and businesses about, among other issues, the regulatory treatment of innovative products, services and business models.</p> <p>Speaking at the online launch event, Commissioner Mairead McGuinness, stressed that the Platform is one of the key outcomes of the EU Digital Finance Strategy and is designed to encourage interaction. She also mentioned some of the upcoming Commission initiatives including improvements to the Platform's existing functionalities and the creation of a Data Hub. The idea behind the Data Hub would be to provide a space where firms can get access to data enabling them to test innovative products and applications.</p> <p>In her closing remarks, Verena Ross, Chair of the European Securities and Markets Authority (ESMA), stressed that the Platform will support cross-border activities of national financial facilitators (hubs, sandboxes and accelerators) in their engagements with innovative FinTechs in Europe. In this context she also mentioned some of the activities conducted to date by the European Forum of Innovation Facilitators (EFIG), including dedicated meetings to address various areas of innovation, such as tokenisation, DLT, stablecoins, AI, Big Data, platformisation, green FinTech, open finance, APIs and crypto-assets.</p> <p>Published 11 April 2022.</p>
UK	
HM Treasury response to consultation and call for evidence on the UK regulatory approach to crypto-assets, stablecoins and DLT	<p>Introduction</p> <p>On 4 April 2022, HM Treasury published a response to its earlier consultation and call for evidence on the UK regulatory approach to crypto-assets, stablecoins and distributed ledger technology (DLT) in financial markets.</p> <p>Through its consultation, the government proposed a staged and proportionate approach to crypto-asset regulation, which is sensitive to risks posed and responsive to new developments in the market. In particular, the consultation highlighted that newer-developing</p>

	<p>forms of crypto-assets – stablecoins – had the potential to develop into a widespread means of payment, and potentially deliver improvements in payments transactions, especially for cross-border transactions.</p> <p>Extension of existing payments regulatory regime</p> <p>In the response the government confirms that there was broad support for its proposed approach and it intends to extend the existing payments regulatory regime to cover issuers of stablecoins and entities providing related services. The government will do this by amending existing legislation governing electronic money and payments, principally the Electronic Money Regulations 2011, the Payment Services Regulations 2017 and Parts 5 of the Banking Act 2009, and the Financial Services (Banking Reform) Act 2013. Among other things it believes that by taking this approach it avoids opportunities for regulatory arbitrage between traditional e-money and stablecoins and provides greater clarity for firms and consumers.</p> <p>Definition</p> <p>The government is mindful that the existing payments framework will need to be adjusted with appropriate amendments being made to, for example, the definition of e-money. Overall, the government is minded to develop a definition for 'payment crypto-asset' (or something similar) that brings into scope any cryptographically secured digital representation of monetary value which is, among other things stabilised by reference to one or more fiat currencies and/or is issued and used as a means of making payment transactions. It is proposed that a definition along these lines would capture all stablecoins that reference fiat currencies, including a single currency stablecoin or stablecoin based on a basket of currencies. This would, intentionally exclude a number of existing stablecoin models, including stablecoins which stabilise their value by referencing other assets such as commodities.</p> <p>Regulatory mandate to UK regulators</p> <p>A regulatory mandate in relation to stablecoins will need to be developed for the FCA, the Bank of England (BoE) and the Payment Systems Regulator (PSR), as is the case for traditional payment services and e-money where there is a need to consider co-responsibility for regulation between the three authorities. The government proposes to make changes to the e-money and payment services regimes to provide the FCA with appropriate powers over stablecoin issuers and other entities, including wallet providers. The approach will ensure convertibility into fiat currency, at par and on demand. FCA guidance and rules will set out in detail the requirements that apply to specific activities.</p> <p>Electronic Money Regulations 2011</p> <p>The government intends that the key features of the Electronic Money Regulations 2011 (EMR 2011) will apply to stablecoin issuance with the intention to ensure consistency with traditional e-money regulation. In particular, the safeguarding requirements which exist under</p>
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the EMR 2011 will apply to stablecoin issuance. Also, the government proposes to impose broadly the same set of exemptions which exist within the EMR 2011 to stablecoins. This includes, for example, the limited network exclusion.

Custody

The government is also of the view that regulation is needed to ensure the custody or arranging the custody of the token is subject to regulation. The government will set out in legislation how the new activity will be brought within the regulatory perimeter. Further detail on exclusions to this regime will be provided in due course. The FCA will create a detailed set of regulatory rules applicable to stablecoin custodians, covering for example: prudential and organization requirements, conduct of business requirements, operational resilience, reporting requirements and custody/safeguarding requirements. Where a firm is providing custody (or arranging custody) and is also recognized as systemic, it will be dual regulated by the FCA and the BoE.

Part 5 Banking Act 2009

The government plans to extend the applicability of Part 5 of the Banking Act 2009 to include stablecoin activities, to apply in cases where the risks posed have the potential to be systemic and so the threshold for BoE supervision is met. For entities authorised by the FCA and recognised under the Banking Act, the BoE will be the lead prudential authority.

The government considers that arrangements will be needed to manage risks related to systemic stablecoin failure. This was not included in the consultation but a previous BoE discussion paper, published in June 2021, highlighted the importance of appropriate backstop arrangements for these firms to meet the Financial Policy Committee's expectations and ensure sufficient public confidence.

Financial Services (Banking Reform) Act 2013

The government is proposing to extend the scope of the Financial Services (Banking Reform) Act 2013 in order to ensure relevant stablecoin-based payment systems are subject to appropriate competition regulation by the PSR.

Call for evidence

In response to the call for evidence on the investment and wholesale uses of DLT in financial markets the government intends to support industry in ensuring that regulations can accommodate tokenisation and DLT in financial market infrastructures (FМИs), and is developing an FМИ Sandbox (to be up and running in 2023) to support firms wanting to innovate, including by using these technologies to provide FМИ services. The government will be working with regulators and industry to identify and manage any issues relating to the adoption of DLT.

	<p>The government's planned consultation on crypto-asset regulation will set out proposals in response to the broad questions it posed on the role of other forms of crypto-assets used primarily as retail investments and the growth of decentralized finance</p> <p>Published 5 April 2022.</p>
FCA speech – Building a digital regulator: how the FCA is riding the innovation wave	<p>On 4 April 2022, the FCA published a speech by Jessica Rusu (Chief Data, Information and Intelligence Officer, FCA) entitled <u>Building a digital regulator: how the FCA is riding the innovation wave.</u></p> <p>Key points in the speech include:</p> <ul style="list-style-type: none">• The role of data and technology is increasingly pertinent given the volatile geopolitical conditions, as can be seen with the crisis in Ukraine. In response to the UK financial sanctions against Russia, the FCA has engaged with firms in sectors that are likely to be impacted, to set out its expectations in relation to compliance with financial sanctions obligations.• Against the backdrop of the ongoing pandemic and the climate crisis, the role of data, technology, and innovation in preparing for the future has never been more important.• The FCA is launching a new unified firm support service, 'Innovation Pathways' that combines and enhances its Direct Support and Advice Unit Services. Alongside the now 'always open' Regulatory Sandbox, Innovation Pathways will play a key role in informing and ensuring the regulatory environment is fit for future innovation.• Last year, using new data and algorithms, the FCA doubled the number of financial promotions amended or withdrawn compared to previous years.• The FCA's new cloud-based technology infrastructure allows it to work with data at scale and speed. The FCA can engineer, connect, and blend data to create new insights. This supports its work to monitor how markets and firms are functioning in line with its market integrity objective.• The FCA will continue to invest in technology, including the development of a Digital Unified Intelligence Environment (DUIE), to connect the vast array of data and intelligence it holds across its systems.• In May the FCA will publish its Evaluation Report on the learnings from the Sustainability Cohort which will help shape the next stage of the digital sandbox concept. Meanwhile, the current data sets and Digital Sandbox environment will remain open and available to innovators who wish to use them to further develop products and solutions.• In May the FCA will be hosting its first ever CryptoSprint, engaging with the industry to seek their ideas to inform its regulatory policy thinking. This will be the start of a

	<p>programme of industry engagement as the FCA works together to develop a dynamic framework that supports innovation while protecting consumers.</p> <ul style="list-style-type: none">• In September the FCA will be holding a joint TechSprint with the Payment Systems Regulator on Authorised Push Payment Fraud or APP Fraud, which increased dramatically during the COVID-19 pandemic – to paint a picture, nearly half a billion pounds were lost to fraud in 2020 alone. The TechSprint will be focused on exploring solutions to identify and prevent APP Fraud, for example through identification of suspicious social media advertising and scam promotions. <p>Published 5 April 2022.</p>
<p>Keynote Speech by John Glen, Economic Secretary to the Treasury, at the Innovate Finance Global Summit</p>	<p>On 4 April 2022, HM Treasury published the keynote speech given by John Glen, Economic Secretary to the Treasury, at the Innovate Finance Global Summit during Fintech Week 2022.</p> <p>Key points in the speech include:</p> <ul style="list-style-type: none">• Year-on-year investment growth in UK fintech was up more than 200% in 2021.• Almost half of the fintech unicorns in Europe are based in the UK and last year, the sector attracted more investment than France, Germany, Sweden, and the Netherlands combined.• The UK is open for crypto businesses.• The Government will seek to protect consumers by legislating to bring certain crypto-assets into the scope of financial promotions regulation, it is essential that investors understand the risks they are taking.• As the Bank of England's Financial Policy Committee recently noted, the Government is also mindful that as crypto-technologies grow and become more interconnected with the core financial system it will need to ensure that regulators have the right tools to manage the associated risks.• The Government's view is that crypto is going to impact many different sectors including financial services. Change is going to be dynamic which means that the way in which crypto-technologies are regulated also needs to be dynamic. Mr Glen adds that regulation should not be thought of as static rather there should be thinking in terms of regulatory 'code' which can be refined and rewritten when needed, tailored and proportionate but also nimble and tech neutral.• On carbon footprint, the Government is looking closely at energy usage associated with certain crypto-technologies.• The Government will be amending the Investment Manager Exemption to remove disincentives to UK fund managers including disincentives to UK fund managers including crypto-assets in their portfolios.

	<p>Published 5 April 2022.</p>
Terms of Reference: Centre for Finance, Innovation and Technology Steering Committee	<p>On 4 April 2022, HM Treasury published the Terms of Reference for the Centre for Finance, Innovation and Technology (CFIT) Steering Committee.</p> <p>The CFIT was a key recommendation of the 2021 Kalifa Review of UK Fintech.</p> <p>The CFIT Steering Committee (SteerCo) is being chaired by Ron Kalifa OBE and its membership comprises a range of industry experts, including representatives nominated on behalf of the UK's regional and national fintech hubs. HM Treasury, the FCA, and the City of London Corporation are also represented. The SteerCo will meet monthly over the Spring and Summer of 2022 to develop a comprehensive proposition for the CFIT. This will include making non-binding recommendations on key strategic points, as detailed in the Terms of Reference. These recommendations will then be considered by the permanent CFIT board and executive, once the CFIT is established.</p> <p>Published 5 April 2022.</p>
Post-Trade Task Force publishes report 'Charting the future of Post-Trade'; and FMSB agrees to take this work forward	<p>Today the industry-led Post-Trade Task Force publishes its report "Charting the Future of Post-Trade Opens in a new window". The FICC Markets Standards Board (FMSB) has agreed to take the Task Force's work forward through FMSB's new Post-Trade Committee.</p> <p>The Report sets out some key challenges where change would be particularly impactful in current post-trade processes. It focusses on three core areas (non-economic trade data, client onboarding and uncleared margin), and makes recommendations to address these issues.</p> <p>David Hudson, Post-Trade Task Force Chair and Co-Head of Digital & Platform Services, J.P. Morgan, said:</p> <p><i>"Post-trade systems and processes are the lifeblood of the financial system but these are also areas where innovation has lagged. Failure to innovate will inevitably raise the cost of financial services and pose risks to operational resilience. The Task Force has made great progress over the past year to arrive at the tangible recommendations set out in this report, which tackles many of the key problems in post-trade. Knowing that we have a critical mass of market participants engaged in this initiative, I am hopeful that this will create a step change in how we think about these issues."</i></p> <p>Myles McGuinness, FMSB Chief Executive Officer, said:</p> <p><i>"FMSB taking this work forward will allow key Post-Trade Task Force recommendations to be adopted by the market at pace. Through our membership, which is made up of all participants in wholesale markets, and our unique standards adherence process, FMSB is well placed to build on the Task Force's output and embed it in the industry. We intend to follow the Task Force's established areas of focus on i) Non-Economic Trade Data (LEIs) ii) Client on-boarding, and iii) Uncleared Margin. We will also work with other practitioner</i></p>

	<p><i>groups who focus on specific aspects of the Task Force's work to ensure the final output reflects industry best practice."</i></p> <p>Andrew Hauser, Executive Director for Markets at the Bank of England, said:</p> <p><i>Harnessing new technologies and improved processes to improve the resilience of the financial system as a whole was one of the priorities identified in the Bank of England's response to the Future of Finance report in 2019. Following that report, we convened a Post Trade Technology Market Practitioner Panel to scale the overall challenge, and identify three specific areas where change was both pressing and feasible. The Bank of England welcomes the recommendations of the Task Force for action in those areas, which amongst other things encourage wider adoption of efficient best practices, greater standardisation, and less duplication – and look forward to the work of the FMSB.</i></p> <p>Edwin Schooling Latter, Director of Markets and Wholesale Policy and Wholesale Supervision at the FCA, said:</p> <p><i>"The FCA is encouraged by the progress the Task Force has made on this agenda. This work is important to help support the efficient, effective functioning of wholesale markets. We are pleased that the FMSB will be taking forward the work on the Task Force's recommendations."</i></p> <p>Published 21 April 2022.</p>
USA	
Florida-based companies and their owner settle mid-trial for \$1.8 million for fraudulent forex and digital asset scheme	<p>The Commodity Futures Trading Commission (CFTC) has announced that the U.S. District Court for the Middle District of Florida entered into a settlement with an individual and the companies they own, for fraudulently soliciting customers to purchase a digital asset they falsely promised would allow customers access to a proprietary foreign currency (forex) trading algorithm.</p> <p>The order requires the defendants to pay \$1,200,000 in restitution and a \$600,000 civil monetary penalty. In addition, the order imposes a permanent ban on all defendants soliciting or trading in commodity interests or registering with the CFTC in any capacity.</p> <p>The jury trial commenced on January 31, 2022. Without admitting or denying the allegations in the complaint, the defendants consented to settle on all claims during the CFTC's presentation of its case, on the fourth day of trial.</p> <p>Published 7 April 2022.</p>
Asia	
Singapore crypto companies face added	New legislation has been passed in Singapore that extends cryptocurrency regulations to companies with a local presence that provide digital token services outside the city-state.

scrutiny under new legislation	<p>Those who provide crypto services to the local market were already regulated by the city-state's central bank but now both local and foreign markets have been included.</p> <p>Throughout Asia, there is increased scrutiny of the crypto space. This tightening of Singapore's regulation is in line with developments in China, Japan and Thailand.</p> <p>Published 5 April 2022.</p>
Asia Pacific	
Australia's Financial Regulator aims to implement Crypto Regulation by 2025	<p>The Australian Prudential Regulation Authority (APRA) has laid out a policy roadmap for the implementation of regulation for financial entities engaging in activity with crypto-assets.</p> <p>The APRA plans to conduct consultations on requirements for the financial treatment of crypto-assets which are expected to be undertaken in 2023.</p> <p>The regulator detailed its expectations for how entities manage risk around crypto-assets, asking them to 'apply robust risk management controls with clear accountabilities and relevant reporting'. Entities should have conducted a comprehensive risk assessment before engaging in crypto-asset activities and have plans in place to mitigate against risks associated with dealing in crypto.</p> <p>Published 21 April 2022.</p>
Central America	
Central Bank of Mexico will launch its CBDC in 3 years	<p>The Governor of Banco de Mexico recently stated in a speech on 21 April 2022 that their planned CBDC will be in circulation by 2025.</p> <p>The primary goal of the CBDC will be financial inclusion.</p> <p>She also clarified the bank's intention of future regulation of the crypto industry and stated that the new CBDC was not intended to replace traditional currency, although it would be a strategic alternative to current means of payment.</p> <p>Published 25 April 2022.</p>
International Organisations	
CBDCs for the People (BIS)	<p>Mr Agustín Carstens, General Manager of the BIS, and H.M. Queen Máxima of the Netherlands gave a speech on the potential for CBDCs to allow for the 1.7 billion adults worldwide who are 'unbanked' to access financial services. Many of these adults have to use cash which leaves them outside the formal financial system. However, the issuance of CBDCs for all can alter this.</p> <p>Published 19 April 2022.</p>

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