

The quest for a Pan-European approach to cryptocurrency



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Part of the appeal of digital currencies is their global nature. Since the vast majority of digital currencies are not sponsored by an individual state, the hope was that the crypto world could be largely borderless. This has turned out to be a bit of a pipe dream. It turns out that countries very much do matter when it comes to digital currencies, since they have the power of the law and the ability to regulate.

It very much matters if an individual trader is located in China – where almost all cryptocurrencies are outlawed, rather than Japan, which has created a comprehensive system for using and trading currencies.

We've moved past the period where many countries had their proverbial "head in the sand" when it comes to digital assets. There is a growing realisation that the digital asset economy is a permanent part of the economic landscape, and increasing wrestling with how this will work. While every individual provider may have preferences about the direction they would like regulation to take, a broader consensus is there that a systematic, combined approach in a large a market as possible would be useful.

One of the greatest chances for this cooperation exists in Europe. The European Union and its related financial institutions have already produced regulatory regimes that guide equities, fixed income and derivatives trading across large portions of the continent. Digital currencies are next.

When it comes to securities leadership, the two leaders have tended to be the Financial Conduct Authority in the United Kingdom and the European Banking Authority. This isn't to say that the French or Germans don't play important roles in certain areas, but in general, broad legislation starts elsewhere.

The EBA has been strongly in favor of finding common ground – partially as a way to prevent abuse. A report issued at the beginning of the year by the agency said, "Divergent approaches to the regulation of these activities are emerging across the EU. These factors give rise to potential issues, including regarding consumer protection, operational resilience, and a level playing field." Regulators were concerned that poorly aligned policy leads to a "race to the bottom" where criminals take advantage of loopholes to get beyond the spirit or intention of the laws.

Meanwhile the FCA has been looking to provide clarity of its own. In July, the regulator described crypto assets as "a small, complex and evolving market covering a

broad range of activities." While not everyone may agree with the stated size of the market, the document makes useful distinctions about security tokens and e-money tokens – which do fall inside existing rules – and the so-called "unregulated tokens" that fall outside of the framework. The FCA does not have the right to expand the agency's remit – only to clarify what already exists. These rules evolved in the process to the final guidance, showing how this area very much remains in flux.

No matter what happens with Brexit, the European Union is intent on continuing this process of bringing things together. In an interview cited by Coindesk earlier this month, EU Financial Services Commissioner Valdis Dombrovskis, pushed for a common framework. "Europe needs a common approach on crypto-assets such as Libra. I intend to propose new legislation on this," he said. This was considered so important that these remarks were uttered in hearings around his proposed reconfirmation.

With the political willpower on the rise, the next step is execution. As someone who sits at the intersection of institutional and retail crypto, I am cautiously optimistic that we will come through this process with a result that makes long-term sense for the industry's development. What we need to avoid is the knee-jerk reactions of certain politicians who have attacked institutions like Libra before understanding exactly how these exist. Criticism and revision is part of the process, but I encourage as much information gathering as possible. Sending questionnaires to industry members, holding hearings and comment periods are all valuable tools. This should continue.

I also hope there's a consideration for the global nature of the industry. Much as with privacy policy, the European Union has a chance to impact how things develop beyond its borders. If it succeeds pushing towards a common sense approach to crypto assets, it is easy to see other countries and regions taking a similar path. It may lead to a world where borders really do start to disappear for digital assets.

For more information,
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