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REGULATING CRYPTOCURRENCIES: A COMPARATIVE STUDY OF LEGAL APPROACHES IN COMMON LAW JURISDICTIONS

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ABSTRACT

The article examines cryptocurrency regulations worldwide. It first defines cryptocurrencies like Bitcoin and Ethereum as digital assets that use cryptography and decentralised ledgers to enable peer-to-peer transactions without centralised intermediaries. The article overviews the regulatory approach to cryptocurrencies in several countries. The UK has aimed to balance crypto innovation and consumer protection by regulating activities based on money laundering risk or designating crypto assets as investments. New proposed rules would regulate crypto within the existing financial regulatory framework. The US subjects cryptocurrencies to securities rules, taxes them as property, and requires exchanges to have anti-money laundering programs. Recent laws update regulations for the crypto context. Canada treats cryptocurrencies similarly to the US while clarifying regulations further, such as mandating risk disclosures. Singapore takes a more balanced crypto regulatory stance but still warns investors of risks. It recently mandated licensing for crypto businesses. Australia legalised cryptocurrencies in 2017 and treats them as taxable property. However, crypto investor protections lag behind those for traditional assets. India's regulatory stance is ambiguous, but a new 30% tax on crypto transactions signals acceptance. Its central bank wanted to ban cryptocurrencies, but the Supreme Court overturned this. The government is currently evaluating measured approaches rather than definitive legislation. Overall, major economic powers are regulating cryptocurrencies, trying to facilitate innovation responsibly. Less stable countries are more likely to ban them. The future regulatory landscape remains uncertain, but cryptocurrencies seem poised to hold relevance given sound regulations that protect consumers.

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UNDERSTANDING KEY CONCEPTS: CRYPTO ASSET

The phrase crypto asset lacks a universally accepted definition. Crypto assets, as defined by the Financial Stability Board (FSB), are private assets whose value is primarily derived from cryptography and distributed ledger or equivalent technology. The Bank for International Settlements (BIS) and the International Organization of Securities Commissions (IOSCO) have both relied on this definition, which is widely accepted and used by standard-setting agencies. In the United Kingdom, the Financial Conduct Authority (FCA) defines crypto assets. According to the FCA, crypto assets are digital representations of value or contractual rights that can be electronically transferred, stored, or traded. These assets may or may not use cryptography, distributed ledger technology, or similar technology. Crypto assets encompass three fundamental components, notwithstanding the existence of several definitions. Initially, a collection of regulations or programming instructions that delineate the procedures by which individuals can engage in transactions.³

Cryptocurrencies, such as Bitcoin, Ethereum, Ripple, Bitcoin Cash, and Litecoin, are digital assets that allow users to send and receive funds directly without relying on centralized banks or third parties. Bitcoin is one of the leading cryptocurrency assets, allowing users to send and receive funds without the need for centralized banks or trusted third parties. Ethereum, a decentralized network running on smart contracts, was launched in 2015 and is powered by the cryptocurrency Ether. Ether is used to pay transaction fees and reward nodes in the Ethereum network, known as miners, for processing and validating transactions. The Ethereum Foundation, a non-profit organization based in Switzerland, leads and sponsors the project. XRP, the native token of the XRP ledger, is a decentralized blockchain network that does not require permission and is driven by instantaneous settlement and liquidity in cross-border transactions.⁴

The UK government has been working to maintain financial stability while encouraging innovation and protecting consumers through the creation of the Crypto Assets Taskforce in 2018. The taskforce aims to harmonize the regulatory framework for crypto assets and distributed ledger technology within the UK's financial services framework. The UK government announced its intention to become a global leader in crypto asset technology and investment in April 2022. In February 2023, the HM Treasury released a consultation paper to shape the future of crypto asset regulation in the banking industry. Legislators and authorities are working to make the

³ Fujiki, Hiroshi. "Crypto asset ownership, financial literacy, and investment experience." *Applied Economics* 53, no. 39 (2021): 4560-4581.

⁴ Wu K, Wheatley S and Sornette D, "Classification of Cryptocurrency Coins and Tokens by the Dynamics of Their Market Capitalizations" (2018) 5 *Royal Society Open Science* 180381 <<http://dx.doi.org/10.1098/rsos.180381>> accessed 3 April 2024.

cryptocurrency industry more robust, innovative, and competitive, while prioritizing customer protection and maintaining stability and credibility in the industry.⁵

WELL-KNOWN CRYPTOCURRENCIES ACROSS THE WORLD

- **BITCOIN (BTC)**

Bitcoin, a pioneering cryptocurrency, was established in 2009 as an open-source platform. It uses blockchain technology to enable transparent peer-to-peer transactions, accessible to all users but only accessible by the owner with a private key. Bitcoin operates without a central governing entity, allowing users to manage global transactions. It operates autonomously, utilizing cryptography and digital encryption to facilitate online transactions. Bitcoin's functioning relies on cryptographic protocols and a decentralized network of users, enabling storage, mining, and smooth currency transfer. It serves as a digital currency that replaces traditional monetary frameworks, allowing investors to perform autonomous transactions without the need for conventional financial intermediaries.⁶

- **LITECOIN (LTC)**

Litecoin, launched in October 2011, is a decentralized cryptocurrency that operates on a peer-to-peer network. It is open-source and released under the MIT/X11 license. Unlike Bitcoin, Litecoin has a block processing rate of 2.5 minutes, allowing for faster transaction confirmation. It has a maximum coin supply of 84 million, unlike Bitcoin's 21 million. Litecoin production is more complex and costly due to the use of "Scrypt" algorithm and specialized mining devices like FPGA and ASIC.⁷

- **ETHEREUM (ETH)**

Ethereum is a form of digital currency that was introduced in the latter part of 2013 by Vitalik Buterin, a cryptocurrency scholar and developer. The initial release of the product occurred in July of 2015. The platform is founded on blockchain technology and is accessible to the public for modification and enhancement. The Ethereum blockchain not only facilitates the tracking of ownership of digital currency transactions but also prioritises the execution of programming code for decentralised applications. This feature enables application developers to utilise the Ethereum

⁵ Vidhi Centre for Legal Policy, "Blueprint of a Law for Regulating Crypto assets," Working Paper (January 2022) <https://vidhilegalpolicy.in/wp-content/uploads/2022/01/220127_Blueprint-of-a-Law-for-Regulating-Cryptoassets-1.pdf> accessed 3 April 2024.

⁶ Frankenfield J, "What Is Bitcoin? How to Mine, Buy, and Use It" (Investopedia, October 13, 2024) <<https://www.investopedia.com/terms/b/bitcoin.asp>> accessed 3 April 2024

⁷ Wu K, Wheatley S and Sornette D, "Classification of Cryptocurrency Coins and Tokens by the Dynamics of Their Market Capitalizations" (2018) 5 Royal Society Open Science 180381 <<http://dx.doi.org/10.1098/rsos.180381>> accessed 3 April 2024.

network for payment of transaction fees and services.

- **TETHER (USDT)**

Real-Coin was introduced in July 2014 as a stablecoin. The currency maintains a fixed exchange rate of 1:1 with the US dollar and is supported by reserves that are commensurate with the total value of its circulation. The cryptocurrency, which operates on the Ethereum blockchain as well as other chains, typically registers the most significant trading volume within 24 hours compared to other cryptocurrencies available in the market. Traders tend to shift their investments to Tether during market downturns. However, certain analysts have alleged that Tether lacks complete financial backing, a claim that is reinforced by the absence of a comprehensive audit of Tether's financial records.⁸

- **BITCOIN CASH**

This particular variety of currency is classified as a digital asset and was developed with the intention of enhancing specific attributes of the Bitcoin system. Bitcoin Cash augmented the block size, thereby enabling expedited processing of a more significant number of transactions.

- **ETHEREUM CLASSIC**

Ethereum Classic refers to a variant of the Ethereum blockchain. The system executes intelligent agreements on a comparable decentralised infrastructure. Smart contracts are software programs that operate precisely as coded, with no potential for interruption, censorship, deceit, or intervention from external parties. Similar to Ethereum, Classic offers a value token referred to as "classic ether" that serves as a means of remuneration for users availing products or services.

PROPRIETARY NATURE OF CRYPTO ASSETS

Singapore and Japan have both recognized crypto-assets as having proprietary status, while Japan has declined to assign such a classification. Classifying crypto-assets as the possessions of their owners could provide clarity on how they should be handled in cases of insolvency. In insolvency, distribution can only be made from the debtor company's assets, so external assets are not included in bankruptcy proceedings. If crypto-assets are classified as property, their owners can keep them separate from intermediary assets. If not, they will only own contractual rights and participate in equal asset distribution alongside other creditors without security. Identifying whether crypto-assets are considered property is crucial for determining the appropriate treatment

⁸ Arthur Crowson "A Brief History of Cryptocurrency," <<https://www.cryptovantage.com/guides/a-brief-history-of-cryptocurrency/>> accessed 3 April 2024.

of holders in a cryptocurrency exchange platform's bankruptcy.⁹

The UK Law Commission's report on digital assets suggests that British law traditionally categorizes personal property into two types: things in possession (physical possessions) and things in action (legally enforced personal property). However, digital assets cannot be classified as either due to their intangible nature or legal claims. The Commission suggests a third classification to include the specific features and qualities of digital assets, aiming to address the intangible nature of these assets and their potential legal claims.

Conversely, the ByBit Fintech case,¹⁰ a recent ruling by the Singapore High Court, has determined that digital assets can be classified as intangible assets, affirming that crypto-assets are a type of property. The Cryptopia case has impacted the handling of digital assets in insolvency proceedings involving intermediaries responsible for their safekeeping. UNIDROIT has adopted this approach, as per its Principles on Digital Assets, which affirm that digital assets can be subject to property rights. Gendall J analyzed the concerns pertaining to crypto-assets in the Cryptopia case, arguing that crypto assets can be identified by encoded information within the network and can be easily attributed to an account holder. The second criterion, identification by third parties, requires the owner to have the authority to exercise control over an item. Gendall J compared the private key to a PIN and claimed that cryptocurrencies can be easily identified due to the public address displayed as the final item in the blockchain.¹¹

REGULATIONS AROUND THE WORLD

Regulations for cryptocurrencies have grown as they have increased throughout the world. Cryptocurrencies are continuously developing, and keeping up with the legislation in various countries across the world isn't simple.

UK

The UK's regulation of crypto assets has evolved alongside technology advancements, aiming to balance innovation, consumer protection, and financial stability. The Crypto Assets Taskforce was established in 2018 to coordinate efforts from HM Treasury, FCA, and BoE. The UK government plans to establish itself as a leading hub for crypto asset technology and investment. In February 2023, HMT published a consultation paper requesting a future regulatory framework

⁹ Lindsay, Michael G. "International Rise of Cryptocurrency: A Comparative Review of The United States, Mexico, Singapore, And Switzerland's Anti-Money Laundering (AML) REGULATION," *South Carolina Journal of International Law and Business*: Vol. 19: Iss. 2, Article 8. (2024) <<https://scholarcommons.sc.edu/scjilb/vol19/iss2/8>> accessed 4 April 2024.

¹⁰ ByBit Fintech Ltd v Ho Kai Xin and others [2024] SGHC 199

¹¹ Fox, David, *Cryptocurrencies in the Common Law of Property* (August 16, 2018). <<http://dx.doi.org/10.2139/ssrn.3232501>> accessed 4 April 2024.

for crypto assets in the financial services sector. Policymakers aim to promote industry development, competition, and consumer protection.¹²

Currently, crypto asset activities performed in the UK are regulated under two distinct regulatory frameworks:

The *first framework* applies to all crypto assets and is determined by what is done with the crypto asset and whether that creates a money laundering risk. Firms that fall within this regime are required to register with the FCA under the MLRs.

The *second framework* applies depending on the characteristics of a crypto asset and whether it falls within the definition of a “specified investment” under the RAO.¹³

The UK’s proposed approach to crypto asset regulation is detailed in the consultation. One of the core design principles of the new regulatory regime is “same risk, same regulatory outcome”, meaning a focus on achieving the same regulatory outcome where possible, regardless of the technology used.

In contrast with the EU’s approach of introducing a bespoke regulatory framework for crypto assets (MiCAR), the UK government intends to adopt a phased approach and bring crypto assets within the existing regulatory framework established by FSMA and the RAO, as follows:¹⁴

First, the government has introduced legislation to bring “qualifying crypto assets” into the scope of the existing financial promotions regime under the FPO.

Second, the government has legislated through the FSMB to introduce a regime that will allow for the regulation of fiat-backed stablecoins that are used for payments.

Third, The government plans to establish a regulatory framework to regulate various crypto asset activities, including trading and investment, focusing on areas that pose greater risks to consumers and the market. The scope of regulation includes creation and distribution of crypto assets, payment use, trading, risk management, lending, borrowing, leveraging, safekeeping, administration, and validation and governance of crypto assets.

Fourth, in emerging sectors of the market, the government will aggressively solicit opinions to shape future policy development and will consistently evaluate market advancements to decide future stages of action while considering the perspectives of industry, consumers, and regulators.

¹² Kerrigan C and others, “Blockchain & Cryptocurrency Laws and Regulations 2024 | United Kingdom” (GLI - Global Legal Insights - International legal business solutions, October 30, 2024) <<https://www.globallegalinsights.com/practice-areas/blockchain-laws-and-regulations/united-kingdom>> accessed 6 April 2024.

¹³ Griffith, Todd, and Danjue Clancey-Shang. "Cryptocurrency regulation and market quality." *Journal of International Financial Markets, Institutions and Money* 84 (2024): 101744.

¹⁴ Sulimierska, Malgorzata, and Agnieszka Sikorska. "The Cryptoassets Market in the United Kingdom: Regulatory and Legal Challenges." In *The Fintech Disruption: How Financial Innovation Is Transforming the Banking Industry*, pp. 215-242. Cham: Springer International Publishing, (2024).

UNITED STATES

The US is a leading country in money laundering regulation, with cryptocurrency regulation overseen by government agencies like FinCEN, SEC, FTC, and CFTC. The Bank Secrecy Act (BSA) was passed to mitigate money laundering risks and provide financial stability. However, digital investors and policymakers are concerned about the rapid expansion of the digital assets industry, which may lead to unforeseen consequences and increased vulnerability to money laundering risks. The US is working on federal legislation on cryptocurrencies, but challenges remain in creating a consistent legal structure at the state level. FinCEN classifies cryptocurrency exchanges as money transmitters, but does not recognize them as legal tender. The Internal Revenue Service (IRS) has issued tax recommendations to address this issue.¹⁵

Cryptocurrency exchanges in the United States are obligated to comply with the Bank Secrecy Act, thereby making them subject to its regulation. Bitcoin exchanges must adhere to specific requirements, including registration with FinCEN, implementation of an AML/CFT program, maintenance of accurate records, and regular reporting to the authorities. Officials from the SEC have expressed their view that cryptocurrencies should be classified as securities. Consequently, they want to enforce securities regulations on digital wallets and exchanges operating within the United States. The Commodities Futures Trading Commission (CFTC) is taking steps to create a more favourable environment by allowing the public trading of cryptocurrency futures and officially categorising Bitcoin as a commodity.¹⁶

According to FinCEN's response to the FATF's recommendations issued in June 2019, the "Travel Rule" requires cryptocurrency exchanges to acquire and transmit information about the originators and recipients of cryptocurrency transactions. Regulations that are applied to virtual currency exchanges are no different from those that apply to regular money transmitters. This includes rules like the Bank Secrecy Act's equivalent of the Travel Rule. There will be additional compliance obligations for cryptocurrency exchanges as of FinCEN's publication of the Notice of Proposed Rulemaking (NPRM) in October 2020.¹⁷

The US Treasury has accentuated a critical requirement for crypto guidelines to battle worldwide and home-grown crimes. In December 2020, FinCEN proposed another digital money guideline to force information assortment necessities on cryptographic money trades and wallets. The standard is supposed to be carried out by the fall of 2022. It would expect trades to submit dubious

¹⁵ Routledge, B., and A. Zetlin-Jones. "Currency Stability Using Blockchain Technology." *Journal of Economic Dynamics and Control*, (2021).

¹⁶ President's Working Group, "President's Working Group on Financial Markets Releases Report and Recommendations on Stablecoins" (2021).

¹⁷ Prat, J., and B. Walter. "An Equilibrium Model of the Market for Bitcoin Mining." *Journal of Political Economy* 129(8), 2415-2452, (2021).

movement reports (SAR) for exchanges of more than \$10,000 and require wallet proprietors to recognise themselves while sending more than \$3,000 in a solitary exchange.¹⁸

The Justice Department is working with the SEC and CFTC to develop future cryptocurrency laws. In 2021, the Biden administration transitioned to stablecoins to prevent tokens from rising in value. New regulations were introduced for Bitcoin service providers, including AML/CFT reporting and record-keeping requirements for bitcoin exchanges. The National Defence Authorization Act (NDAA) introduced changes to the Corporate Transparency Act (CTA) and Anti-Money Laundering Act of 2020, along with reforms to the BSA and USA PATRIOT Act of 2001. The NDAA aims to simplify and modernize Suspicious Activity Report (SAR) reporting by modifying reporting threshold requirements, simplifying the procedure for submitting continuous SARs, and applying threshold standards to a wider variety of pursuits. The NDAA also amended the definitions in the BSA to include virtual currencies.¹⁹

Cryptocurrency regulations in the US differ from other countries due to the specific characteristics of digital assets. Financial institutions, including those dealing with money, securities, futures commissions, commodities, and mutual funds, are subject to anti-money laundering and counter-financing of terrorism regulations under the BSA. In 2019, FinCEN provided guidelines on how the BSA applies to different business models involving the transfer of digital assets, such as peer-to-peer exchangers, multiple-signature wallet providers, hosted wallet operators, CVC kiosk operators, payment processing services, Decentralized Applications, anonymizing services, and CVC money transmission conducted by internet casinos or gambling business individuals. The AMLA updated the BSA in 2021, expanding the term "financial institutions" to include companies that deal in buying and selling money or other assets, as well as those engaged in the transmission of money or other valuables as a stand-in for cash.

CANADA

Online and in-store purchases of goods and services may be made using cryptocurrencies, which are not recognised as legal cash in Canada. Since the introduction of cryptocurrencies, Canada has been quite aggressive in its approach to their regulation. For the first time in 2017, Canada's Securities Commission certified a cryptocurrency-only investment vehicle, making it the country's first virtual currency-only investment fund to be registered. According to the Canadian

¹⁸ People's Bank of China, "Progress of Research & Development of E-CNY in China. Working Group on E-CNY Research and Development of the People's Bank of China" (2021).

¹⁹ "Crypto-Custodians Insolvency Proceedings: Clarifying the Proprietary Nature of Digital Assets" (Oxford Law Blogs, April 11, 2024) <<https://blogs.law.ox.ac.uk/oblb/blog-post/2024/12/crypto-custodians-insolvency-proceedings-clarifying-proprietary-nature>> accessed 9 April, 2024

Securities Administrators (CSA), the governor of Canada's Central Bank characterized cryptocurrencies as securities "technically" in January of this year, meaning they are subject to the same regulations as other cryptocurrencies. It has been taxed by the Canada Revenue Agency since 2013, and Canadian tax regulations apply to Bitcoin transactions.²⁰

Canadian exchanges must now follow the same reporting and due diligence requirements as money service organizations, according to an amendment to the PCMLTFA in 2019. Records of all electronic fund transfers and cross-border cryptocurrency transactions must be kept by all Canadian financial institutions and money service organizations (MSBs) beginning in February 2020 under the Virtual Currency Travel Rule.

The CSA is expected to release new recommendations in 2021 that will provide direction and regulations for individuals who buy and hold crypto assets. Crypto issuers are required to comply with a set of regulatory duties, which include the disclosure of pertinent risks and the implementation of measures to safeguard their assets against loss and theft. The Financial Transactions and Reports Analysis Centre of Canada (FinTRAC) was founded in 2021 in response to the requirements set forth by the Proceeds of Crime (Money Laundering) and Terrorist Financing Act (PCMLTFA), specifically to address the growing presence of cryptocurrency exchanges.²¹

Although laws are subject to constant change, there are no signs of significant new legislation. Presumably, the Canadian government and crypto exchanges will delay considering additional regulations until they have observed the impact of the latest reforms on the cryptocurrency landscape in Canada.²²

SINGAPORE

Singapore has legal cryptocurrency exchanges and trading, as its government is more receptive to this developing financial technology compared to neighbouring countries. The tax authorities in Singapore classify Bitcoins as "goods" and so subject them to the Goods and Services Tax (GST), which is Singapore's equivalent of Value Added Tax (VAT). In 2017, the Monetary Authority of Singapore (MAS), which is Singapore's central bank, announced that it would regulate digital tokens if they were classified as "securities." Still, it does not intend to supervise

²⁰ Mayer, S. "Token-based Platforms and Speculators." University of Chicago Booth School of Business Working Paper (2021).

²¹ Lyons, R., and G. Viswanath-Natraj, "What Keeps Stablecoins Stable?" (2021) UC Berkeley Haas School of Business Working Paper.

²² Bellini, Francesco, and Federica Vassalli. "On the state-of-the-art of FinTech world and the initial approach of central banks." *International Journal of Financial Innovation in Banking* 3, no. 2 (2022): 113-132.

virtual currencies.²³

To warn the public about the risks of investing in cryptocurrency goods, MAS used a balanced and objective approach in 2020. Reiterating its warning, MAS issued restrictions to crypto service providers in 2022, effectively banning them from promoting their services to the general public. If possible, the Monetary Authority of Singapore (MAS) has followed preexisting legislative frameworks in its lax approach to regulating bitcoin exchanges. Public engagement in cryptocurrency speculation is fraught with peril, according to a press statement issued by MAS in January 2018. According to Deputy Prime Minister Tharman Shanmugaratnam, cryptocurrencies are being held to the same standards of AML and counter-terrorism financing (CFT) regulations as traditional, government-issued currencies. Crypto exchanges and other businesses involved in the cryptocurrency industry will be subject to MAS's regulatory purview as of January 2020 under the Payment Services Act (PSA). Furthermore, a MAS operating license is now a must. Subsequently, MAS has granted licenses to some prominent providers of cryptocurrency services, such as DBS Vickers (the brokerage division of DBS Bank) and Independent Reserve, an Australian cryptocurrency exchange.²⁴

Singapore's implementation of the PSA has led to increased compliance among crypto enterprises, following FATF recommendations. However, MAS plans to introduce more laws, including enhanced anti-money laundering/counter-financing of terrorism criteria for bitcoin service providers and stringent technology risk management requirements for financial institutions. This reflects a renewed global interest in the cryptocurrency sector, following China's strict measures in 2021.

AUSTRALIA

Cryptocurrencies have been legalised in Australia since 2017 and are subject to regulation under the Anti-Money Laundering and Counter-Terrorism Financing Act 2006. Bitcoin has been officially classified by the government as property, making it liable to the country's capital gains tax, which is also applicable to other types of investments like shares, managed funds, and property.

Any coins possessing characteristics identical to Bitcoin should also be considered property. The legislative approach towards investing in digital currency is widely regarded as highly advanced. The Australian government has been examining cryptocurrency rules for the past few years. The

²³ Liu, J., M. Sockin, and W. Xiong. "Data Privacy and Consumer Vulnerability." (2021) Princeton University Working Paper.

²⁴ Li, Y., and S. Mayer. "Money Creation in Decentralized Finance: A Dynamic Model of Stablecoin and Crypto Shadow Banking." (2021) Ohio State University Fisher College of Business Working Paper Series.

parliamentary inquiry on the matter has concluded, and its final report was released in October 2021. The report contains a set of suggestions regarding the regulation of cryptocurrencies and other tokens. These proposals focus on enabling taxation, preventing de-banking, and combating money laundering. Further recommendations are focused on safeguarding existing and potential cryptocurrency holders. Although not currently legally binding, Senator Andrew Bragg proposed the Digital Assets (Market Regulation) Bill 2023 in March of this year. This private Bill aims to establish controls for the Australian cryptocurrency market by enacting two out of the twelve proposed regulations into law.²⁵

The Australian government is not hesitant to embrace cryptocurrencies as a growing economy, despite previous obstacles. As of 2022, investors can invest in Bitcoin ETFs. Cryptocurrency exchanges in Australia must register with the Australia Transaction Reports and Analysis Centre (AUSTRAC) to operate legally, preventing money laundering and tax evasion. There is no explicit legislation addressing blockchain or distributed ledger technology, and the sector has called for regulatory measures to address de-banking.

Australia regards Initial Coin Offerings (ICOs) as speculative ventures, with no legal entitlements or safeguards. However, Australian legislation allows businesses to provide digital tokens or crypto assets that meet financial product criteria. Australia's lenient regulatory environment encourages knowledgeable investors to participate in global cryptocurrency trading, often involving riskier transactions with few safeguards. Experts suggest Australia should emulate the regulatory practices of countries like Singapore, Hong Kong, Europe, and the US, which have effectively overseen digital financial goods. Caroline Bowler, CEO of BTC Markets, emphasizes the need for Australia to stay updated on the rapid evolution and expansion of digital currency. Prioritizing digital finance legislation will have substantial and lasting effects on the Australian economy.²⁶

Although Australia has made progress in its cryptocurrency legislation, there are still areas where the country might enhance its policies. Moreover, numerous market participants are eager for it to take prompt action. Investors can be relieved to know that regulatory measures are progressing ahead of schedule. Australia conducted a comprehensive assessment of the cryptocurrencies present in its economy in August 2022, making it the pioneering nation to undertake such an initiative. The action was perceived as a starting measure in overseeing cryptocurrency.

In February of this year, the Australian Treasury published its Token Mapping Consultation

²⁵ "Cryptocurrency Regulations in Australia" (INN, April 23, 2024) <<https://investingnews.com/cryptocurrency-regulations-in-australia/>> accessed 10 April, 2024

²⁶ Afzal, Ayesha, and Aiman Asif. "Cryptocurrencies, blockchain and regulation: A review." *The Lahore Journal of Economics* 24, no. 1 (2019): 103-130.

Paper. The Treasury intends to issue a distinct licensing and custody framework for providers of crypto asset services, taking into account feedback from stakeholders. This is expected to occur in the middle of 2023.

Australia allows the use of cryptographic currencies and transactions and has been cautious in implementing regulations regarding digital currencies. In 2017, the Australian government officially declared that cryptocurrencies were legal. Clearly, it said that Bitcoin should be considered as property and subject to Capital Gains Tax (CGT). Australia's GST previously imposed a dubious double taxation on cryptographic forms of money. However, the recent revision in tax policy reflects the Australian government's proactive approach towards addressing the crypto issue.²⁷

In 2018, the Australian Transaction Reports and Analysis Centre (AUSTRAC) implemented regulations to ensure compliance with Anti-Money Laundering and Counter-Terrorism Financing (AML/CFT) requirements. As part of these regulations, exchanges operating in Australia are now obligated to register, identify, and verify their users. Unregistered exchanges are subject to both criminal and financial repercussions. In May of this year, the Australian Securities and Investments Commission (ASIC) implemented fresh legislation pertaining to initial coin offerings (ICOs) and cryptocurrency trading. Furthermore, in August 2020, Australian authorities enforced the elimination of privacy coins from numerous exchanges as a result of apprehensions regarding security.

A robust regulatory framework has been established in Australia to facilitate the operations of cryptocurrency companies in the following years, demonstrating the nation's dedication to this objective. The Australian government, specifically, is intensifying its endeavours to regulate cryptocurrency exchanges. Australia will implement new licensing regulations for cryptocurrency exchanges in December 2021, followed by a feedback period scheduled for 2022. The new framework is expected to position Australia as a leader in the global effort to regulate digital enterprises, enabling consumers to purchase and exchange crypto assets safely.²⁸

INDIA

With 45% of the user share, Gen Z rules the crypto world in India. The next largest age group is 26–35, with 35%, followed by 36–45, with 13%. Baby boomers make up an unexpectedly small percentage of cryptocurrency users—nearly 8%. When considering the investment value of

²⁷ John, K., T. Rivera, and F. Saleh. "Equilibrium Staking Levels in Proof-of-Stake Blockchain." (2021) New York University Stern School of Business Working Paper.

²⁸ John, K., M. O'Hara, and F. Saleh., "Bitcoin and Beyond." (2021) Annual Review of Financial Economics.

cryptocurrencies in India, IT centers Bangalore and Hyderabad are in second and third place, respectively, behind Delhi. As far as tier-2 and tier-3 cities go, Jaipur takes the cake for cryptocurrency adoption, closely followed by Lucknow and Pune. Coin Switch users' data is the sole source used to make these conclusions; it does not reflect the whole crypto ecosystem in India. Nonetheless, the anecdotal viewpoints they provide are invaluable for comprehending and analyzing the crypto scene in India.

The staggering growth rates of cryptocurrency make it all the more important to provide a realistic and nuanced picture of the ecosystem. Investments in the cryptocurrency market surged in 2021. Investors put \$513 million into 32 cryptocurrency transactions, with a major milestone reached in August 2021 when CoinDCX raised \$90 million and became a unicorn.²⁹

A change in the global economic environment in 2022 due to the Russia-Ukraine conflict, inflation, and regulatory uncertainty caused the trajectory to take a different direction. During what was known as the "funding winter," fledgling companies faced similar difficulties. The precipitous fall in cryptocurrency values, major exchange breakdowns and scandals, and unclear regulations were all part of these difficulties. Taken together, these elements made the crypto startup landscape very challenging, requiring their deft handling of a market experiencing a dramatic change in attitude. In spite of all this, India is still the leading cryptocurrency adopter in the world.

Taxes and penalties for transactions involving virtual digital assets would be levied at 30 per cent and 1 per cent, respectively, in India's Budget 2022 address, delivered by Finance Minister Arun Jaitley on February 1, 2022. Indian crypto investors have welcomed a 30% tax rate on digital asset transaction profits despite the fact that many believe that India's proposed crypto policy would control the sector rather than prohibit private currencies outright. When it comes to digital assets, although the government and a small number of RBI board members have urged a more nuanced approach in light of recent technology advancements, the RBI is firmly in favour of outright bans. Virtual currencies pose a significant threat to the stability of the global economy, and the government has made this clear in a series of communications underlining the difficulties of managing and regulating these assets.³⁰

According to the finance minister, if the central bank issues a currency, it may be classified as such: "A currency is only a currency when it is issued by the central bank, whether it is a crypto

²⁹ "India's Crypto Journey: Leading the Global Adoption Race" (orfonline.org) <<https://www.orfonline.org/expert-speak/india-s-crypto-journey-leading-the-global-adoption-race>> accessed 11 April, 2024

³⁰ "From Ban to Regulation: A Look at the Journey of Cryptocurrencies in India" (The Indian Express, February 25, 2022) <<https://indianexpress.com/article/technology/crypto/cryptocurrency-in-india-a-look-at-the-regulatory-journey-of-cryptocurrencies-7648767/>> accessed 12 April, 2024.

or not, as I said before. However, anything outside of that is referred to as "cryptocurrency" by most of us, although they are not "When questioned about cryptocurrencies, she responded as follows. She made it clear that the digital currency that the RBI would issue in the next fiscal year is separate from any other digital assets developed by people and that the government will tax the profits earned from transactions using these digital assets at a rate of 30 per cent. The word "virtual digital assets" first appeared in the Income Tax Act of 1961, when clause (47) was added to Section 2.³¹

A government paper outlining the financial bill's contents states that "There has been a dramatic growth in the amount of trade in virtual digital assets over the last several years. The market for virtual digital assets that may be exchanged for other virtual digital assets is also forming. As a result, the Bill proposes a new taxing regime for virtual digital assets."

Central Bank Digital Currencies (CBDCs) are digital forms of legal tender issued by a central bank, similar to Bitcoin. A fiat currency refers to a form of currency that is physically represented by paper and can be exchanged for any other form of fiat money. The primary objective of the CBDC is to offer users the convenience and security of digital assets while ensuring that the circulation of these assets is regulated and supported by the Reserve Bank, similar to the traditional banking system. However, there are concerns regarding the origin, regulation, potential for money laundering and terrorist financing, tax evasion, and impact on national security associated with digital assets.³²

Despite the finance minister's clarification that the awaited crypto bill is separate from the 2019 proposal, which strongly opposed all forms of crypto activity, including mining and trading, India intended to present its crypto bill to the public twice last year. Still, the legislation never reached Parliament for discussion.

The Reserve Bank of India (RBI) has issued a series of circulars to inform the public of the potential risks associated with the use of virtual currencies. These risks include financial, operational, legal, consumer protection, and security-related hazards. On February 1, 2017, the Reserve Bank of India (RBI) reissued a circular expressing its concerns regarding virtual currencies as banks persisted in facilitating transactions on cryptocurrency exchanges. The Supreme Court of India received two Public Interest Litigations (PILs) simultaneously. One PIL requested a prohibition on cryptocurrency trade in India, while the other sought its regulation.

³¹ Livemint, "Is Cryptocurrency Legal Tender in India? What We Know So Far. 10 Points | Mint" (mint, February 2, 2022) <<https://www.livemint.com/news/india/is-cryptocurrency-legal-tender-in-india-what-we-know-so-far-10-points-11643806115501.html>> accessed 12 April, 2024.

³² "EXPLAINED: Where India Stands on Cryptocurrencies, What New Bill Will Mean For Bitcoin And Company" (News18, April 24, 2021) <<https://www.news18.com/news/explainers/explained-where-india-stands-on-cryptocurrencies-what-new-bill-will-mean-for-bitcoin-and-company-4480625.html>> accessed 12 April, 2024.

Consequently, the values of cryptocurrencies experienced a sharp decline, leading to the closure of exchanges and the suspension of withdrawals. There was no prohibition on digital assets, including cryptocurrency.³³

Then, in March 2020, a significant change occurred. India's Supreme Court has ruled in favour of the Internet and Mobile Association of India v. Reserve Bank of India that the RBI's 06.04.2018 notice was unconstitutional on the basis of reasonableness. It was decided that the enactment (2019) would have created an official digital currency whose manufacture and circulation would have been monopolised by the RBI/Central Government if it had been passed into law, according to the Supreme Court.³⁴

According to a recent Broker Choose survey, nearly 100 million Indians possess cryptocurrencies, making India the world's most extensive crypto user base. Is cryptocurrency legal in India, given that so many people are jumping on the bandwagon? If we're talking about holding crypto-currencies or attempting to utilise them as legal cash, the answer is different. In India, there is presently no legislation governing the use of crypto-currencies. In other words, without a robust regulatory framework, crypto owners may not be able to enjoy the same degree of protection as traditional asset classes. Because of remarks and declarations made by top Finance Ministry and Reserve Bank of India officials, even if the government recognises crypto-currency as an asset, the government is unlikely to accept it as legal cash. Unlike conventional investments, there is no limit to how much a virtual currency might rise or fall. Volatile and easily swayed by the tiniest of stimuli. In spite of this, it continues to draw in investors from all around the world and pay out handsomely.³⁵

There are concerns that this might be a scam to defraud people of their hard-earned money in countries all over the world; there is a continuing effort to stabilise the market and provide accurate market indications by regulating the sphere. While it was initially intended to create a decentralised currency system, if nations throughout the world chose to regulate virtual currencies, it might have a negative influence on the whole goal of establishing virtual currencies in the first place.³⁶

³³ Balaji S, "On Bitcoin, India's Government And Tech Companies Find Common Ground" (Forbes, June 21, 2017) <<https://www.forbes.com/sites/sindhujabalaji/2017/06/21/bitcoin-india-regulation/?sh=ff9db37e4a2b>> accessed 12 April, 2024.

³⁴ "EXPLAINED: Where India Stands On Cryptocurrencies, What New Bill Will Mean For Bitcoin And Company" (News18, April 24, 2021) <<https://www.news18.com/news/explainers/explained-where-india-stands-on-cryptocurrencies-what-new-bill-will-mean-for-bitcoin-and-company-4480625.html>> accessed 12 April, 2024.

³⁵ Ojeda A, "India & Crypto Regulations Delayed until 2025" (Crypto Briefing, April 9, 2024) <<https://cryptobriefing.com/indias-crypto-regulations-delayed-until-2025/>> accessed 13 April, 2024.

³⁶ "India's Stance on Cryptocurrencies Is Evolving as More Investors Join the Bandwagon | Business Insider India" (Business Insider, July 28, 2021) <<https://www.businessinsider.in/cryptocurrency/news/indias-stance-on>>

Unlike the EU, which passed and implemented its landmark MiCA bill this year, India appears set to spend the next year or so evaluating approaches before making definitive legislation. This week, the Indian Minister of Finance confirmed the country would wait to design a bill more appropriate for an emerging market economy.

Specific use cases and global regulatory standards are still evolving. Additionally, 2024 will see critical elections in India, the UK, the United States, and other countries that could shape crypto's future. India is waiting to see how the chips land before pushing forward with legislation.

CONCLUSIONS

Cryptocurrencies have experienced a significant rise in adoption and regulatory attention over the past decade, leading to countries grappling with developing appropriate regulatory frameworks that balance innovation and consumer protection. Major economic powers are embracing regulation rather than prohibition, integrating crypto activities into existing financial oversight frameworks regarding securities, AML, payments systems, and taxes. Countries experiencing high economic instability appear more prone to imposing outright bans, and enforcement postures diverge from strict to lax implementation of crypto guidance. International coordination will grow increasingly crucial as decentralized technologies like cryptocurrency transcend borders. Standard-setting bodies like the FATF can play an important role in coalescing policy perspectives. The borderless and pseudonymous nature of cryptocurrencies necessitates nuanced regulation to manage risks without squandering innovation potential. If balanced regulatory frameworks prevail over reactionary crypto clampdowns, both governments and the crypto industry can share prosperity in the emerging digital economy.

The current world is fundamentally different from several decades ago due to computerization, digitalization, and electronation of all areas of activity and their systems. This leads to unpredictable changes and the emergence of innovations in technology, education, and production. Cryptocurrencies are not perceived as full-fledged currencies by states due to the high level of risk in them, unlike national currencies. Legal and economic regulation of cryptocurrencies is regularly updated in different countries, and existing approaches are being changed.

Countries with high GDP, development trends, and excellent state management are choosing not to ban cryptocurrencies but to create conditions for them by developing a legal framework. Conversely, countries with unstable economic situations or domestic market problems are

pursuing a policy of banning cryptocurrencies. In China, excessive freedom in crypto asset regulation has caused the process to fall out of government influence.

