



Latest Policy Developments for DLT



International Association for
Trusted Blockchain Applications



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Prepared exclusively for INATBA Members.

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Highlights: INATBA Policy Developments

The Identity Working Group is finalizing their response to the European Commission's eIDAS regulation. Their complete policy response will be shared with INATBA Members and regulatory stakeholders.

The Education Working Groups and Standards Committee are planning engagements with the European Commission. The Education Working Group will be hosting an internal roundtable with DG Education on NFTs and digital education. The Standards Committee is planning a full-day workshop in cooperation with the Commission on the important role of standards in the ecosystem. Keep an eye on Slack and your emails for registration details.



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 1st October to the 15th October 2021. In the last weeks the trilogue on the DLT Pilot Regime has advanced and a final compromised position between all the co-legislators is expected by the end of November. On the international stage, the main global financial organizations have been very active regarding the digital finance sphere, focusing on stablecoins, data and payments,

In the US, October is shaping up to be another busy month for crypto with three big items reportedly being released: the President's Working Group (PWG) report on stablecoins, President Biden's executive order on crypto, and the Federal Reserve's (Fed) report on a central bank digital currency (CBDC) and broader crypto. Though the White House has been relatively quiet on the question of cryptocurrencies, leaving the debate to the agencies and Congress, reports of a potential executive order or action on stablecoins have signaled Biden's skepticism on the industry and a desire to take action in the absence of a coordinated agency approach. While the Biden Administration's approach to crypto is taking more shape, any sort of outright ban is not on the table. The House Financial Services Committee continues to exert influence on the topic, hosting SEC Chair Gensler last week and Ranking Member Patrick McHenry (R-NC), along with other members, releasing a series of press releases and statements on the topic. The SEC oversight hearing was the most crypto dominant hearing to date, with questions ranging across the crypto field and 18 different members asking Gensler crypto-related questions.

EU Policy Developments

Stablecoins: IOSCO consultation on preliminary guidance

On 6 October, The Committee on Payments and Market Infrastructures (CPMI) and the International Organization of Securities Commissions (IOSCO) [published](#) a public consultation on preliminary guidance on stablecoin arrangements. The guidance clarifies that stablecoin arrangements should observe international standards for payment, clearing and settlement systems and confirms that the Principles for Financial Market Infrastructures (PFMI) apply to systemically important stablecoin arrangements (SAs). The report proposes additional guidance on how certain aspects of the PFMI apply to the novel features of SAs. The consultation is open until 1 December 2021. It largely overlaps with requirements already proposed in MiCA.

Stablecoins: FSB looks into more tweaks to stablecoins safeguards

On 7 October, the Financial Stability Board [published](#) its Progress Report on the implementation of the FSB High-Level Recommendations. The reports highlights that more standards for global stablecoins might be needed to close regulatory gaps among countries' efforts to implement international recommendations. The report stresses that a number of issues may not be fully covered by ongoing work and that any gaps in existing standards and principles should be addressed in a holistic manner that is coordinated across sectors. Originally, this set of recommendations came in response to concerns over a Facebook-led initiative to introduce its own payment system, Diem. Finally, the report finds that a good way to remedy the risk of countries taking different approaches could be streamlining countries' regulatory approaches, especially when it comes to areas of investor protection, cross-border cooperation and digital wallets.

Cryptocurrencies: Global Financial Stability Report, October 2021

On 12 October, the International Monetary Fund (IMF) [published](#) its Global Financial Stability Report for the month of October. This edition focuses on the impact of the pandemic, cryptocurrencies and climate change. On cryptocurrencies and crypto assets, the IMF highlights the financial integrity risks through the cross-border operations. Another area prone to risk highlighted by the IMF is investor protection due to the decentralized nature of the technology. Additionally, the report mentions the rapid growth of adoption of these new currencies by emerging markets, which



could potentially lead to destabilizing capital flows. Finally, the report recommends legislators to set up and develop the adequate regulatory frameworks and the coordination between different national regulators.

Stablecoins and BigTechs: Fabio Panetta's speech

On 8 October, Fabio Panetta Member of the Executive Board of the European Central Bank (ECB) gave an [speech](#) during an event on the cross-borders dimensions of non-bank financial intermediation. In his speech Panetta raised concerns around the risks that Big Techs with a large base, could carry into the financial services remit. Panetta reflected on the advantages that Big Techs have over incumbent banks, and other market participants due to their use and access to data. He outlined that in the case where Big Techs wanted to issue and manage global stablecoins, they should guarantee adequate operational and cyber resilience. On stablecoins he pointed out to several risks for the current financial system such as changes to bank's funding conditions which could become more expensive and volatile, increase of deposit holdings under the control of large stablecoins issuers could make banks' deposit base more concentrated, and its developments difficult to forecast, risks regarding money laundering and terrorism financing as well as Risks around the interplay between antitrust and data privacy issues.

Cryptocurrencies: ESMA's interim Chair on powers over crypto services firms.

On 14 October, during a hearing on the Economic and Monetary Affairs Committee (ECON), Anneli Tuominen, current interim chair of the European Securities and Market Authority (ESMA) touched upon the role of the EU securities regulator on crypto services firms. She argued that the EU needs a harmonized approach to the authorization and supervision of the crypto asset service providers. On this, she envisaged the possibility of ESMA having an active role in the process., instead of leaving it to the national regulators.

In the same hearing, José Manuel Campa, Chair of the European Banking Authority said crypto assets are an area of risk and concern for banks, but so far exposures are limited in terms of banks' direct holdings of cryptocurrencies and their indirect role in recommending them to clients.

Payment methods: CNIL white paper on the use of data on payment methods

On 6 October, the French Data Protection Authority (CNIL) [published](#) a white paper on the current and future payment methods and its challenges on data protection. The white paper focuses on questions raised on the use of private and personal



information in particular in payment methods and the risks it entails. The document considers the international circulation of payment data as a key sovereignty issue for Europe. Additionally, the paper develops several key messages, such as the anonymity of payments, the confidentiality of transactions, the importance of mobile payments, compliance with the General Data Protection Regulation, the security of payment data as well as the location of it. The CNIL is seeking stakeholder feedback to the white paper in a [consultation](#) that will be open for answers until 15 December.

Data gaps: FSB and IMF Progress Report

On 8 October, the FSB and International Monetary Fund (IMF) published the [Sixth Progress Report - Countdown to December 2021](#) on the implementation of the Second Phase of the G20 Data Gaps Initiative (DGI-2). The report highlights that significant progress has been achieved in closing identified policy-relevant data gaps during the first phases the Data Gaps Initiative. The initiative has proved its value during the crisis triggered by the COVID-19 pandemic, helping policymakers to access key information to assess developments and risks in the financial and nonfinancial sectors. The new initiative will focus on four main statistical and data priorities to be covered by a possible new DGI have been identified: (i) climate change; (ii) household distributional information; (iii) fintech and financial inclusion data; and (iv) access to private sources of data and administrative data, and data sharing.

Cross-Border Payments: Event by the National Bank of Italy

In an [event](#) on “Enhancing Digital and Global Infrastructures in Cross-border Payments,” organized by the national Bank of Italy on 27 – 28 September, the Managing Director of the International Monetary Fund (IMF), Kristalina Georgieva, discussed the urgent need to upgrade the cross-border payments system. She welcomed new technologies as they will usher in a new era of innovation in payment, but stated that we need to get three things right to succeed. The first priority is cooperation around technology and design choices to which she referenced the G20 Roadmap and the importance that countries stay in lockstep with its guidance. The G20 Roadmap will also soon include clear targets for accountability. The second priority is to strengthen the enabling environment to incentivise private sector participation. This means that countries need to coordinate on clear legal, regulatory and data frameworks, including using the IMF as a transmission line of good practices. Data also gets transferred cross-border with digital money, so cooperation will be necessary to ensure that the data can be trusted, accessed, and stored properly while adhering to national privacy standards. Ms Georgieva’s third priority is to promote macro-financial stability. Here, the focus is on the frictionless transfer of money leading to currency substitution and on avoiding a digital divide. In terms of currency substitution, countries will need to think about how maintain policy

independence, developing central bank digital currencies (CBDCs), and how to avoid erecting walls that contravene the flow of capital. The digital divide issue cannot be addressed at the G20 or the IMF. The IMF can help its members stay up-to-date on developments but broader cooperation is needed.

Cross-Border Payments: FSB Progress' Report

On 13 October the FSB [published](#) its first consolidated progress report on the G20's roadmap for enhancing cross-border payments. The work during this first year has focused mainly on the analysis of existing and emerging systems and arrangements, such as existing international standards and guidance, national and regional data frameworks, operating hours of and access to payment systems, common elements of service level agreements/schemes, the use of payment-versus-payment mechanisms, the interlinking of payment systems and CBDC design. The report highlights that most of the milestones set by the Roadmap for 2021 have been successfully completed or are close to finalization. The next stage of work in 2022 includes the development of specific proposals for material improvements of underlying systems and arrangements, as well as the development of new systems. The FSB acknowledges that for the successful results of this work, it will be necessary for the public and private sector to work together.

Looking Ahead

18 October 2021	<ul style="list-style-type: none"> • European Parliament Plenary
19 October 2021	<ul style="list-style-type: none"> • European Parliament Plenary
19 October 2021	<ul style="list-style-type: none"> • Working Party on Financial Counsellors
20 October 2021	<ul style="list-style-type: none"> • European Parliament Plenary
21 October 2021	<ul style="list-style-type: none"> • European Parliament Plenary
21 October 2021	<ul style="list-style-type: none"> • European Council
22 October 2021	<ul style="list-style-type: none"> • European Council
26 October 2021	<ul style="list-style-type: none"> • Working Party of Financial Counsellors
27 October 2021	<ul style="list-style-type: none"> • Coreper II
28 October 2021	<ul style="list-style-type: none"> • Informal Videoconference of Economy and Finance Ministers
29 October 2021	<ul style="list-style-type: none"> • Working Party of Financial Counsellors
30 October 2021	<ul style="list-style-type: none"> • G20 Summit
31 October 2021	<ul style="list-style-type: none"> • G20 Summit



US Policy Developments

Biden Administration

The Biden administration is considering an executive order for federal agencies, which would require them to study the crypto industry and provide recommendations on their oversight. The order attempts to get the entirety of the federal government involved in overseeing cryptocurrency, including the National Security Council and National Economic Council, underscoring that the administration continues to be focused on both possible criminal or national security threats and financial stability concerns (i.e. for stablecoins). The order also answers a question that has been top of mind for the industry - which agencies have what responsibilities on crypto and blockchain. As a part of the executive order, the White House would also appoint a crypto czar who would be the point person on all things crypto.

The Biden Administration is also reportedly planning to work on regulating stablecoin issuers similar to banks, either through a Congressional act or through the Financial Stability Oversight Council, an interagency body set up to monitor risks to the financial system. The Congressional process would involve Congress drafting a law that would authorize a special-purpose bank-like charter for stablecoin issuers, creating a federal framework for stablecoin issuance and delegating a regulator oversight authority over issuers. This act would also put regulatory and supervisory requirements on stablecoin issuers. Federal Reserve Chair Jerome “Jay” Powell and SEC Chair Gary Gensler have indicated their support for this type of plan, comparing stablecoins to money market funds, signaling they should be regulated in a similar fashion. While it is not clear what federal bank regulator would issue the bank charter or what type of bank charter would be issued, if it is the Office of the Comptroller of the Currency (OCC), the already continuous fight over the nominated OCC head, Saule Omarova, may heat up even more. Despite the increased attention on the industry from the industry, the fact that the order does not outright ban crypto is a positive for the industry.

Congress

House Financial Services Ranking Member Patrick McHenry (R-NC) is proving to become a prominent crypto ally, releasing several press releases and a bill in support of the industry in the past few weeks. In anticipation of the House Financial Services Committee on SEC Oversight, McHenry introduced a bill to provide a “safe harbor” for crypto startups- based off of pro-crypto Commissioner Hester Pierce’s safe harbor rule from earlier this year. The proposal would give new crypto startups three years to build and sell tokens without classifying them as a security. The intention would



be to allow the companies to become decentralized enough to be classified as a commodity instead of a security. While it has support from industry groups, Democrats have not been vocal of their positions.

After the SEC hearing, Reps. McHenry and Bill Huizenga (R-MI) requested a hearing with all five Commissioners of the SEC, which could give pro-crypto Commissioner Hester Pierce (R) a chance to discuss her views on crypto and push her safe harbor proposal.

Rep. McHenry, along with Ranking Member Subcommittee on Oversight and Investigations Tom Emmer (MN-6), and Ranking Member on the Task Force on Financial Technology, Warren Davidson (OH-8), sent a letter to Treasury Secretary Janet Yellen. The letter asks Secretary Yellen to clarify how Treasury categorizes stablecoins and the regulatory implications that flow from its classification.

Despite retiring in two years, Senate Banking Committee Ranking Member of Senate Banking Pat Toomey (R-PA) continues to exert leadership and support for the crypto industry on Capitol Hill. In a letter to Treasury Secretary Janet Yellen, Toomey highlights his concerns surrounding the President's Working Group's stability report, arguing the group has not solicited enough industry input on the topic.

A bipartisan group of US lawmakers is urging Federal Reserve Bank Chairman Jerome Powell to support the development and adoption of digital assets. The letter is signed by Reps. Tom Emmer (R-MN), Ro Khanna (D-CA), Darren Soto (D-FL), Glenn Thompson (R-PA), Frank Lucas (R-OK), Eric Swalwell (D-CA), and Ted Budd (R-NC). The letter says the lack of a unified regulatory framework is stifling the growth and innovation of digital assets. The group also criticized the current model of regulation by enforcement approach to the industry.

The infrastructure bill and its crypto tax provision is still being debated, although the conversation has largely shifted away from the crypto provision. Negotiations are ongoing in the Senate over a second spending bill that would also go toward U.S. infrastructure projects, and the fates of the two bills are intertwined right now so it may be a while before we hear anything.

Treasury

While Treasury Department has been largely quiet on the topic of crypto as they work on the President's Working Group (PWG) report on stablecoins, Nellie Liang, a top Treasury Department official, stated that the soon-to-be-released report on stablecoins will include a focus on potential risks if such cryptocurrency assets become a widely used payment method. The study will focus on crypto assets that are tied to the value of an underlying fiat currency, rather than versions connected to other assets or based on algorithms. Liang did mention come benefits of stablecoins



such as offering a payment system that is more efficient, more inclusive, more robust. The report is focused on whether regulations are sufficient to protect consumers and investors, prevent financial crimes, ensure payment system integrity and preserve the stability of the financial system, she said.

Other topics Treasury is looking at in regard to crypto include new requirements to protect consumer privacy and to prevent cryptocurrencies from being used in money laundering, tax evasion, and other unlawful activities.

Securities and Exchange Commission (SEC)

On October 5, the House Committee on Financial Services held a hearing entitled, "Oversight of the U.S. Securities and Exchange Commission: Wall Street's Cop Is Finally Back on the Beat". Since the Senate has already held a similar hearing, Chair Gensler largely stuck to a similar script on topics and questions. Overall, Gensler repeated similar key points such as the SEC having a broad authority over crypto and stressing the importance of crypto firms engaging with the SEC. Of note, Chair Gensler did say the SEC does not plan to ban crypto and gave more insight on his view on stablecoins.

The hearing showed that the topic of crypto continues to become more partisan especially in regard to Chair Gensler's efforts to increase his authority over the industry. Many Republicans criticized Chair Gensler's use of public comments and enforcement to regulate the industry and encouraged innovation over regulation. Many Republican members also pushed for clarity over crypto being a commodity or security. Ranking Member McHenry (R-NC) and Rep. Emmer (R-MN) in particular strongly criticized Gensler's actions on crypto and called on Congress to take the lead on providing clarity for the industry. A majority of Democratic members voiced concern over the lack of regulation in regard to crypto, with some more senior Democrats discussing the topic for the first time.

Chair Gensler avoided answering if he saw stablecoins are systemic risks but argued if they were to continue to grow, they would pose a systemic risk. Gensler stated the President's Working Group is looking at concerns over financial stability, guarding against illicit activity and investor protections for their report on stablecoins. He did appear largely skeptical of stablecoins, arguing that stablecoins were created originally to avoid tax and anti-laundering laws, but noted they have evolved and acknowledged that there were different stablecoins.

Gensler's less-than-friendly comments on crypto continue to receive backlash within the SEC through "crypto-mom" SEC Commissioner Hester Pierce (R). While Pierce has been an outspoken supporter of the industry for a while, in a recent interview she heavily criticized the SEC's handling of crypto, arguing the lack of regulatory clarity has become a barrier to the industry and hinders innovation. Pierce has also released several press releases and statements in support of the industry and during the Texas



Blockchain Summit, Pierce pushed back on over-regulation of crypto and called on Congress to take the lead in regulating the industry.

Despite continued efforts to delay decisions on ETF approvals, the SEC did approve the first bitcoin-focused ETF when it approved Volt's ETF last week. While other bitcoin ETF applications are still piling up; many industry experts expect the approval of a bitcoin ETF by the end of October since Gensler has also repeatedly suggested that he is not opposed to the idea of a futures-based bitcoin ETF like those proposed by Valkyrie and BlockFi.

The Federal Reserve (The Fed)

Like the Treasury Department, the Fed has been largely quiet on the topic of crypto as they work on their report on central bank digital currency (CBDC). The report was originally set to come out in July, then September and they have not given an official update on a new date. The Boston Federal Reserve Chair (the branch leading the report) stepping down may have contributed to the delay of the report. Fed officials have continued to emphasize the development of a central bank digital currency (CBDC) will be a multidisciplinary effort and the Fed wants additional input from multiple constituencies before proceeding.

Office of the Comptroller of the Currency (OCC)

President Joe Biden's decision to nominate Cornell law professor Saule Omarova continues to stress out leaders in Washington DC, setting up a battle in Congress over her nomination. As an academic, Omarova has argued that the financial system is dysfunctional and needs a fundamental reevaluation to make it "more inclusive, efficient and stable." Bank trade groups traditionally stay away from public debates about nominees but are inching towards breaking that precedent over Omarova's nomination. Omarova's nomination is controversial enough to unite two unusual allies- traditional finance and financial technology groups. She is already publicly receiving criticism from top-Republicans, such as Sen. Toomey (R-PA), who questioned the fact that she attended her undergraduate while on a scholarship named after Vladimir Lenin.

Other

The Federal Deposit Insurance Corporation (FDIC), a key U.S. banking regulator, is studying whether certain stablecoins might be eligible for its deposit insurance coverage. In preliminary discussions, the agency is looking to apply "pass-through insurance" to cover token holders for losses up to \$250,000. The FDIC is also looking at what regular, direct deposit insurance might look like for banks that want to issue stablecoin. There is no timeline for policy changes.

The Department of Justice (DOJ) is launching a crypto crime-fighting team called the National Cryptocurrency Enforcement Team. In a speech at the Aspen Cyber Summit, U.S. Deputy Attorney General Lisa Monaco said the group of anti-money laundering



professionals and cybersecurity experts will focus on creating consumer protections from online financial crime.

Rohit Chopra is finally the head of the Consumer Financial Protection Bureau, after the full Senate confirmed his appointment, months after being nominated. While Chopra’s views on crypto are less known, he is known as a tough regulator, supported by anti-crypto members like Sen. Elizabeth Warren (R-MA). The CFPB does have a role to play, with CFPB’s consumer database showing that crypto exchange customers are filing complaints, though the numbers are small when compared to those against major banks.

An influential DC think tank that has sent several alums to the Biden Administration has issued a fairly critical report on digital assets. The Center For American Progress, a left-leaning think tank, reported on the topic and called on the Securities and Exchange Commission to use existing statutes and rules to regulate vast swaths of the industry.

State Updates

The Conference of State Bank Supervisors (CSBS), a group of state financial regulators from all 50 states, weighed in on Sen. Pat Toomey (R-A)’s request for comment on possible regulations around cryptocurrencies. CSBS urged Congress and federal regulators to focus on the activities at issue and making clarifications in existing laws, regulations, and interpretations. CSBS also highlighted that states have been at the frontline on regulating crypto and called on Congress and federal regulators to use their expertise to create harmonizing regulation and support innovation.

Texas, in its attempts to exert leadership on digital assets, hosted the Texas Blockchain Summit, with notable speakers including Sens. Ted Cruz (R-TX), Cynthia Lummis (R-WY), and SEC Commissioner Hester Pierce (R). Governor Abbott kicked off the conference emphasizing that “Texas is bitcoin country.” Sen. Cruz indicated he is more tuned into the crypto issue than previously thought, discussing in depth energy concerns and Bitcoin. Sens. John Cornyn (R-TX) and Lummis both implied the key to avoiding misunderstandings in legislation like the crypto amendment to infrastructure bill depended on engagement from the public rather than lawmaker education. Sen. Lummis also argued that the Treasury Department may be more of a threat to innovation in blockchain and cryptocurrencies than the SEC or CFTC. Most lawmakers have argued the SEC is the biggest threat at this point.

Looking Ahead

<p>October 18- 21</p>	<ul style="list-style-type: none"> DC Fintech Week: A conference hosted by Georgetown University Law Center brings the best and the brightest to Washington DC for discussions spanning the fintech ecosystem
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Estimated early October	<ul style="list-style-type: none">• President's Working Group report on stablecoins
TBD	<ul style="list-style-type: none">• Fed-MIT report on crypto, central bank digital currency (CBDC), and stablecoins



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