



# Latest Policy Developments for DLT



International Association for  
Trusted Blockchain Applications

## Newsletter No. 2: 12/04/2021 - 23/04/2021

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*Prepared exclusively for INATBA Members*

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## 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 9th April 23rd April 2021. For this second iteration, it also includes an overview of the U.S. individual States' state of play, in addition to the regular update on all relevant policy development on both sides of the Atlantic.

During these past two weeks, the EU developments have focused mainly on the publication of the responses to the public consultation on the possible issuance of a Digital Euro and the hearing with Fabio Panetta. Additionally, the European Commission has published its proposals for taxonomy and a regulatory framework for Artificial Intelligence, which will affect biometric identification.

Over in the US, Officials of the Biden Administration are looking worryingly at the quick developments regarding the creation and implementation of a Digital Yuan. They are keen to boost their efforts in understanding the possible implications of China's digital currency and in considering a Digital Dollar along with private actors.

## EU Policy Developments

### ECB publication of report after its consultation on the Digital Euro.

On 14 April the ECB published the [report](#) analysing the results of its consultation on the Digital Euro. The key highlights of the report are:

- I. that the interests of the citizens on a possible Digital Euro are privacy (43%), security (18%), the ability to pay across the euro area (11%), no additional costs (9%) and offline usability (8%),
- II. 40% of the respondents considered that the transactions with Digital Euro should be visible to either intermediaries or the Central Bank, complying with the Anti-Money laundering and Combatting Financing of Terrorism (AML/CFT),
- III. all respondents identified blockchain as one of the main solutions regarding counterfeiting and technical mistakes.
- IV. one third of citizen respondents suggest the integration of the Digital Euro into the existing payments infrastructure with a separation between the Digital Euro and private money,
- V. most citizen respondents specifically mention the need for either holding limits or tiered remuneration, or a combination of both, to control the amount of Digital Euro in circulation.,
- VI. for citizens the key aspect is the speed of cross-border payments, the cost and the transparency of the exchange rate.

### European Parliament hearing with Fabio Panetta.

On 14 April 2021, Fabio Panetta (Member of the Executive Board of the European Central Bank – ECB) had a hearing with the Economic and Monetary Affairs Committee (ECON) in the European Parliament. Panetta presented the ECB's results from its public consultation on the Digital Euro. The hearing follows the publication of the [report](#) by the ECB on the answers to its consultation on the Digital Euro, earlier that day.

In his remarks, Fabio Panetta highlights the importance of the privacy and anonymity regarding the use of the Digital Euro, stressing that it will have the same characteristics as cash as long as it respects the

current regulations. When questioned about financial stability he mentioned the idea to implement limits to the amount of digital euro that each citizen can hold to not damage the banking sector. Finally, regarding the technology used for this project, Panetta acknowledged that the ECB is currently experimenting with both centralized technology and decentralized technology, but it will assess it carefully in the next steps.

## ECON Committee holds debate on Digital Finance.

On 14 April, the ECON Committee held a [joint debate](#) on the [Digital Finance Package](#). Each Rapporteur gave an overview of the status of the key files of the package before giving the floor to shadow rapporteurs who provided their respective political group's views on said files.

On MiCA, Rapporteur Stefan Berger (DE, EPP; Member of the European Parliament - MEP) reiterated that his main concerns were for Markets in Crypto Assets Regulation (MiCA) to (i) provide a solution to the emergence of global stablecoins (eg. Libra), (ii) ensure a level playing field through a "same business, same rules" approach and (iii) provide clarity through detailed definitions and classification of cryptocurrencies.

On the pilot regime for market infrastructures based on distributed ledger technology (DLT), Rapporteur Johan Van Overtveldt (BE, ECR; MEP) stated that the regime should be restricted to market infrastructure only and suggested increasing the types of securities that can be traded under the regime. He further indicated the need for the scope to be widened to encompass a wider range of securities and the regime to be more tech-neutral, notably when it comes to the use of (DLT).

On the Digital Operational Resilience Act (DORA), Rapporteur Billy Kelleher (IE, Renew; MEP) stated that the principle of (i) proportionality, (ii) competitiveness and (iii) future proofing, were at the core of his approach to the file. He indicated that oversight needs to be clearly linked to risk without it undermining the competitiveness of the EU's digital space and wider marketplace.

## eIDAS back in the Commissions agenda

Two weeks ago, after the disappearance of the topic in the Commission's agenda, we can see in the [proposed topics for the discussion](#) in the College of Commissioners a debate lead by Vice President Margrethe Vestager on "A trusted and secure European e-ID". The content is still to be confirmed, but the date is the 26th of May.

## European Commission's proposal for a European AI Act

The European Commission (EC) published a [proposal](#) for a European Artificial Intelligence Act (AI Act) which echoes some of the principles of the GDPR and the proposed Digital Services Act (DSA).

The AI Act is a broad-based piece of legislation with impact across sectors including online platforms, financial services, auto vehicles, machinery and industrials, toys, and medical devices.

The AI Act introduces a definition for AI; sets out a list of requirements which will amount to additional regulatory overhead for companies utilising specific AI applications designated as high-risk; some light touch requirements which will apply to all AI applications (i.e.: codes of conduct and transparency obligations in cases where there is human interaction); and a new governance structure which will impact

all companies using AI in one way or another. Failure to comply with certain obligations would result in fines up to 6% of global turnover.

Most importantly, biometric identification is included in the list of high-risk activities, and companies both developing and using such products, regardless of where the product provider is based, will be affected with the full weight of the AI Act. Another financial services activity defined as high-risk is credit scoring.

## MEPs agree to a non-binding text reporting that euro must reach its global potential to boost the EU's influence

In Parliament's March Plenary session, MEPs [agreed](#) that the euro must reach its global potential to boost the EU's influence, financial autonomy and attract more companies and investors. The text was adopted on Thursday with 494 votes to 94 and 100 abstentions. MEPs highlighted that the euro's global potential has not been fully reached, and its benefits are shared unevenly among the Eurozone members. Despite the euro area's economic size, its use lags behind that of the US dollar by a wide margin.

## AMLD review - Google can help money laundering.

Google's online data-storage arm is developing a service that can help banks crack down on illicit financiers by processing online transactions using artificial intelligence.

James Tromans, Google Cloud technical director, spoke about the service in a CEPS event. Smaller banks with limited budgets could benefit from the service, considering the high number of wire transfers and payments that need to be checked for suspicious activity. CEPS' event comes as the European Commission prepares to unveil legislation in May that will harmonize certain EU anti-money laundering (AML) rules, such as customer checks and reporting requirements.

## Corporate Sustainability Reporting Directive Proposal

Alongside, the [Taxonomy Delegated Act](#), the European Commission has also published its proposed revision of the Non-Financial Reporting Directive. In its new guise, it will be known as the [Corporate Sustainability Reporting Directive](#) (CSDR).

With this proposal, the Commission seeks to move to a position in which sustainability reporting is on a par with financial reporting. It stated that the revision aims to ensure sustainability reporting by companies for stakeholders, such as investors, is both reliable and comparable. The CSDR proposal extends the EU's sustainability reporting requirements to all large and all listed companies – thus expanding the NFRD scope from 11,000 to 50,000 companies. Separate standards are proposed for listed SMEs. It requires the audit of reported information and it introduces more detailed reporting requirements, and a requirement to report according to mandatory EU sustainability reporting standards.

Additionally, it requires companies to digitally 'tag' the reported information, so it is machine readable and feeds into the European single access point envisaged in the Commission's capital markets union action plan.

CSDR can affect companies developing or using DLT-based solutions, given the debate on the impact of the technology on energy consumption.

# US Policy Developments

## Executive Summary

This newsletter will cover the U.S. state and city government state of play. In the U.S. there remains a patchwork of legislation and enforcement action in respect to blockchain and cryptocurrency. These divergent approaches can create confusion for the industry, but also allow states to provide clarity when federal action is lacking. Most states have not enacted regulations on the subject, but more and more at the minimum are establishing working groups to study the possibility of regulations. The few states, like New York, that have enacted strict regulations have pushed potential blockchain companies out; while, crypto-friendly states and cities, like Wyoming and Miami, have attracted innovators in the industry.

## Wyoming

Wyoming is considered by most the most blockchain and crypto friendly state, having passed over a [dozen](#) laws aimed at providing welcomed clarity for the industry. It also chartered special depository trust institutions to provide banking services to blockchain-focused companies. The Wyoming Utility Token Act made Wyoming the first state to define cryptocurrency as an asset class, separate from securities and commodities, making it easier to operate a blockchain business. Some of the state's latest legislation on the topic includes a bill allowing company filings to utilize blockchain technology; a move to showcase the non-crypto related applicability of blockchain.

## New York

New York recently added to its status as one of the states with the strictest regulation of cryptocurrency when it levied an \$18.5 million fine against one of the companies behind the stablecoin, Tether and its digital asset exchange. New York's anti-crypto reputation is largely based on its strict enforcement efforts along with its requirement for most businesses dealing in cryptocurrency to register and obtain a BitLicense from the Department of Financial Services. The New York attorney general's office on March 1 posted an ["industry alert"](#) reminding stakeholders that most cryptocurrencies are either securities or commodities under state law.

The New York State Department of Financial Services also sued the OCC, challenging the agency's ability to issue national charters to fintechs. The court case decided that the OCC had exceeded its authority by extending the charter to non-depository institutions, but the OCC is appealing the decision.

## Colorado

Colorado has signaled a friendly tone towards crypto and blockchain by convening a working group to study state-chartered banking solutions for blockchain-based innovation. It also passed [legislation](#) similar to Wyoming that exempts digital tokens from its securities laws and broker-dealer rules. Now-Governor Jared Polis first indicated that the state would be pro-crypto when he made waves by accepting bitcoin donations for his Congressional campaign in 2013. In response, the Colorado Secretary of State





[passed](#) a rule in favor of allowing political campaign contributions in cryptocurrency.

## California

California regulatory environment on crypto and blockchain is on some levels conflicting. In 2020, the governor signed into [law](#) a bill which would give the state more power to regulate and bring enforcement actions against the industry; however, it also sets up an office to “foster the innovativeness of the industry”. The state Senate also recently introduced two bills which would highlight applications of blockchain technology beyond cryptocurrency. One would make permanent the use of blockchain technology for corporate records and the other would allow a certified copy of a marriage record be issued through blockchain technology.

## Florida (Miami)

Miami Mayor Francis Suarez is [attempting](#) to make Miami the new hub for crypto and blockchain, stating he intends on creating a friendly regulatory environment for the industry. Suarez says he is looking at Wyoming’s leadership for inspiration and has been in touch with the state’s pioneer on the topic, Caitlin Long. Suarez’s crypto-friendly attitude extends to the city level, stating he is studying ways to pay municipal employees a percentage of their salary in bitcoin and allow residents to use cryptocurrencies for taxes. The move would make Miami first city to place a portion of its treasury in bitcoin. Suarez is also a member of Florida’s Blockchain Task Force, a working group looks to research potential blockchain applications for state use.

## Kentucky

The Kentucky Congress is slowly [introducing](#) pro-blockchain legislative. In February 2021, Kentucky introduced a bill that creates new definitions and establish property classifications for digital assets. Additionally, in March 2021, a bill was introduced that defines various terms relating to commercial mining of cryptocurrency using blockchain technology.

## South Dakota

South Dakota has a favorable crypto and blockchain environment, historically [granting](#) state trust company charters for institutional cryptocurrency custodians. The state’s banking division has continued to show leadership in regulating and granting flexibility for companies in the blockchain space and in 2019, the governor signed into law a bill that provides a definition of blockchain for certain purposes.

## Hawaii

In March 2021, state House Democrats sponsored a [bill](#) asking the state’s marketplace regulator to end restrictive laws put in place against cryptocurrency businesses almost five years ago. Under the current requirements enacted in 2016, exchanges must hold an amount of fiat equivalent to the value of the cryptocurrencies their clients are holding and must obtain a money transmitter license if they are providing financial instruments for the sale or transaction with those in Hawaii.

## Texas

Texas's venture into crypto and blockchain is fairly recent, with the House introducing a bill in March 2021 that seeks to define virtual currencies, which will mean it will join Wyoming as the only U.S. state to clarify this critical area of the law. The bill according to state policymakers seeks to encourage blockchain innovation in the state.

## Digital Dollar Developments

On April 11th, Fed Chair Jay Powell during a 60-minute [interview](#) said the Fed is taking a hard look at a U.S. digital dollar and stated that they are developing software for it; however, the final decision to release it to the public will only be made once its impact is fully understood. When asked if the rise of cryptocurrencies was a motivation, he said they are not "concerning at this point."

According to a recent Bloomberg [report](#), various officials of the Biden Administration, including the State Department, Treasury, Pentagon, and National Security Council, are concerned that China's digital yuan could threaten the dollar and plan to boost their efforts in understanding the possible implications of China's digital currency.

Rep. McHenry and Rep. Lynch's bipartisan [bill](#) to create a digital asset working group to "ensure collaboration between regulators and the private sector to foster innovation" passed on April 20th.

## Global Developments

### BIS publishes research on Supervision of Crypto assets for AML.

On 7 April 2021, The Bank of International Settlements (BIS) [published](#) research on the supervision of cryptoassets for anti-money laundering (AML). BIS note that certain features of cryptoassets may heighten money laundering/terrorist financing (ML/TF) risks. It notes that supervision of cryptoasset service providers (CASPs) remains nascent globally, and that as jurisdictions finalise regulation, the key question remains as to who and which activities fall within the regulatory perimeter.

#### **Looking Ahead**

28 April 2021	<ul style="list-style-type: none"> <li>• Coreper II</li> </ul>
28 April 2021	<ul style="list-style-type: none"> <li>• Working Party on Financial Services</li> </ul>
29 April 2021	<ul style="list-style-type: none"> <li>• Coreper II</li> </ul>
29 April 2021	<ul style="list-style-type: none"> <li>• Working Party on Financial Counsellors</li> </ul>
29 April 2021	<ul style="list-style-type: none"> <li>• Financial Services Attachés</li> </ul>
5 May 2021	<ul style="list-style-type: none"> <li>• Coreper II</li> </ul>
12 May 2021	<ul style="list-style-type: none"> <li>• Coreper II</li> </ul>
21-22 May 2021	<ul style="list-style-type: none"> <li>• Informal meeting of Economic and Financial Affairs Ministers</li> </ul>
19 May 2021	<ul style="list-style-type: none"> <li>• Coreper II</li> </ul>
26 April 2021	<ul style="list-style-type: none"> <li>• Financial Services Attachés</li> </ul>





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