



# Latest **Policy** **Developments** for DLT



International Association for  
Trusted Blockchain Applications

**Newsletter No. 6: 07/06/2021 - 18/06/2021****Latest Policy Developments for DLT**

*Prepared exclusively for INATBA Members.*

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***Highlights: INATBA Policy Developments***

INATBA is looking for a small number of deployed smart contract use cases that can be presented at a meeting organised by the European Commission on **24 June**. Please submit a short summary or selected slides on your concrete application you have deployed by **Tuesday 22 June at noon CET**. You can email your input to [martina.piazza@inatba.org](mailto:martina.piazza@inatba.org).

Following the successful work on MiCA and PRR, which saw INATBA positively influence policy development, INATBA will develop a Policy Position and response to eIDAS through the Identity Working Group. INATBA has begun work on analysing and reviewing the new eIDAS regulation, kicked off in an initial meeting last week for which you can find the [slides here](#). The next meeting will be held on **29 June** to discuss further steps. If you are interested in participating, please contact [martina.piazza@inatba.org](mailto:martina.piazza@inatba.org) for details and call access.

INATBA will be hosting a series of events entitled “MiCA Goes Global” discussing global blockchain regulation and how the European Commission’s MiCA and PRR proposals will influence different regions. The first session, MiCA Goes Global: Australia, will take place **23 June at 9:00 CEST**. [Register Here](#).



As a reminder, INATBA has established contact with the MEP serving as the current rapporteur for the [review of the NIS Directive](#), who has requested INATBA to submit evidence and opinions to the revised Directive on Security of Network and Information Systems (NIS 2 Directive). The Commission has already published the proposal in December 2020 and the European Parliament Rapporteur should be now finalising their report as well. We invite all INATBA members to submit their input on how blockchain could support the enhancement of cybersecurity by sending your comment to [martina.piazza@inatba.org](mailto:martina.piazza@inatba.org).

Specifically, we ask you to answer the following guiding questions:

1. How can one ensure the security of a blockchain network?
2. What provisions/guidelines should one take into account when designing blockchain solutions?
3. Is there a specific type of blockchain which ensures more security than others?
4. Anything else you want to add on how blockchain could support the enhancement of cybersecurity compared to or as an add on to other technologies (e.g. IoT...)

## *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 07<sup>th</sup> of June to the 18th June 2021. During these past two weeks, the EU developments have focused mainly on the the pursuit of compromise amended texts on the Digital Finance files in Council and the European Parliament. Additionally, the Bank for International Settlements published a consultation with a proposal on prudential policy on crypto-assets and banks' exposures.

In the US it has been a busy couple of weeks for the crypto and blockchain industries between market volatility and a number a high-profile cyber-attack involving crypto ransomware. This has only increased calls for more government regulation amid already growing calls for more oversight for the industry. Clarity over several agencies roles in crypto remains uncertain as President Biden has yet to fill several key agency heads in addition to an open seat on the Fed's seven-member board of governor. Those agencies without a nominated head include the OCC and CFTC.

At Leadership level, the G7 and EU-US Summits made only a brief mention of digital economy issues.

# EU Policy Developments

## MICA: Council Developments and Amendments introduced by the European Parliament

Members of European Parliament (MEPs) introduced amendments on the Markets in Crypto-assets (MiCA) text. Due to the high amount of amendments tabled, they are expected to be voted on in the Parliament's ECON Committee and then Plenary after the summer recess (September). Overall, the amendments are focused on: (i) e-Money Tokens - more requirements for EMTs have been proposed by S&D and the Greens; (ii) Asset Referenced Tokens - the new amendments mainly focus on the structure of the reserve assets and require more granularity regarding the composition of the reserves with an

emphasis on high liquidity; (iii) on the ECB Powers, the right leaning parties have all proposed to keep the ECB's powers non-binding while the left leaning parties support this; and (iv) on Decentralised Finance the right leaning parties are proposing to exempt DeFi projects from the scope of MiCA while the left leaning parties expect full compliance with the requirements, and (v) on the role of ESMA – with the Greens proposing that all crypto-asset service providers should be supervised by ESMA and some EPP MEPs proposing broader responsibility for ESMA across MiCA.

When debating the amendments, the rapporteur of the file, Stefan Berger (EPP, DE) focused on AML/CFT and the effects on the crypto markets, since these are also used for illegal activities. Eero Heinäluoma (S&D, FI) called for a better investor protection against frauds and scams. He defended the need for the white paper to be approved by the authorities before the offer starts, giving a possible role to ESMA on this issue. On ARTs, most of the amendments tabled by the group agreed on the role for the ECB in the authorisation process. If used as a payment instrument, an ART should also be redeemed at par at any time, it is essential that they are submitted to strict capital and liquidity requirements and stress tests. The representative of Renew Europe on behalf of Ondřej Kovařík (RE, CZ) focused on the future-proofing of the legislation. The amendments tabled by the liberal group focused on removing those crypto assets which would fall under other financial services regimes, including hybrid tokens which they believe should fall under the MiFID regime. Sven Giegold (Greens/EFA, DE) highlighted need to have energy efficiency rules in place for mining crypto currencies, strict customer due diligence rules and legal responsibility. Bogdan Rzońca (ECR, PL) presented the two priorities for his political group, the protection of the consumers and of the investors and fighting money laundering and terrorism financing. Finally, for Chris Macmanus (The Left, IE) the priorities are regulation, transparency and consumer rights. He supports Basel Committee's opinion on crypto assets as products that require conservative prudential treatment.

In Council, agreement between Member States was not reached on a so-called General Approach. The current Council Presidency, Portugal, will not attempt to reach a General Approach by end-June.

## DLT Pilot Regime: Council Developments and European Parliament Debate

MEPs also introduced amendments to the Pilot Regime for Market Infrastructures based on distributed ledger technology (DLT). When debating the amendments, as part of a Joint Debate on all digital finance files, the rapporteur of the file Johan Van Overtveldt (ECR, BE) supported the extension of the scope in terms of the eligible securities which MTFs / CSDs can deal with in the Pilot Regime. He is also willing to include the proposals of S&D and Renew to make it easier for new entrants to access the Pilot Regime, rather than just already authorised firms. Finally, he believes that ESMA should be the central supervisor of entities in the Pilot Regime. Jessica Polfjärd (EPP, SE) argued in favour of making the Pilot Regime more attractive for SMEs through technology neutrality and legal certainty. Eva Kaili (S&D, EL) does not favour the creation of a new type of market infrastructure – a trade and settlement system (TSS) – as the rapporteur proposed, as it would be burdensome and disproportionate. The representative of Renew Europe on behalf of Stéphanie Yon-Courtin (RE, FR) highlighted the need to have a balance between protection and stability, the liberal group wants to foster the adoption by new participants, introducing amendments to speed up the procedure and to create incentives to do so. Sven Giegold (Greens/EFA, DE) focused on the need to guarantee responsibility and liability behind welcoming new participants. The political group finds acceptable to grant informed retail customers direct access to the pilot set up, but this exemption should not be part of MiFID as proposed by the Commission. Finally, Chris Macmanus (The Left, IE) argued in favour of keeping the Pilot Regime on a small scale and with tight limits.

In Council, an agreement between Member States on this regulation was not reached either. One reason,

we understand from non-public information, is the treatment of exchange-traded derivatives (ETDs), as some member states are looking to delay the so-called 'open access' to ETDs for a central clearing counterparty (CCP) or trading venue through the Pilot Regime.

## DORA: Council Developments and European Parliament Debate

Similarly, European Parliament amendments on DORA were debated. On the Digital Operational Resilience Act (DORA), the rapporteur of the file Billy Kelleher (RE, IE) focused its efforts on not overburdening the SME sector with regulation. He highlighted three key words on the file, proportionality, preserving competitiveness and futureproofing. Frances Fitzgerald (EPP, IE) proposed a proportionality regime for certain financial institutions like micro enterprises and the SMEs. Additionally, as part of the ICT risk-management framework, she proposed a risk-based approach, limiting the scope of some provisions to critical functions. Alfred Sant (S&D, MT) highlighted the termination of contracts with the ICT service providers; how and whether supervision should extend to critical or to all ICT functions; third country ICT providers; adjustment of oversight powers and penalties; and access to information for termination and suspension of contracts as priority areas for his political group. Mikuláš Peksa (Greens/EFA, CZ) stressed the need of strengthening the European capabilities, transparency, consumer protection and liability as well as to have a central-European incident reporting hub. Bogdan Rzońca (ECR, PL) focused on serious incidents, his group is in favour of an exemption for insurance mediation companies and statutory auditors.

Agreement on DORA was not reached in Council either. The text, which provoked a number of member states to dissent, had more clarifications on certain points, such as that the Presidency has introduced clarifications on certain points, such as (I) sectorial legislation will remain applicable to outsourcing, or (II) that in case of outsourcing the financial entity remains fully accountable for the verification of compliance with the ICT risk management requirements.

Changes introduced in the text compared to the previously seen version include the exclusion of ancillary insurance intermediaries from the regulation or the obligation of the Lead Overseer Committee to publicly disclose where a critical ICT third-party service provider failed to notify the Lead Overseer or if the explanation by the ICT was not deemed as sufficient.

## eIDAS: Regulation to be presented in law-making institutions

Representatives from the European Commission started to give presentations in the Council and EP on the eIDAS Regulation review. The Telecommunication Council hosted a presentation by the Commission on Thursday 17<sup>th</sup> June, while also attending a meeting of the ITRE Committee the same day.

At those presentations, it was helpfully formulated that eIDAS will make the following changes: (1) each citizen will be able to get an European Digital Identity Wallet (EDIW), where they can store their national eID, but also their vaccine certificate, or academic diploma, or driving license, or medical prescriptions etc; (ii) Member States will be required to notify their national eID scheme to the Commission, making it usable cross-border (e.g. when a Spanish citizen rents a car in France); (iii) certain private services will have to accept the EDIW (incl health, finance, education, large platforms)

## AML: Briefing by the European Parliament on current initiatives

On 14 June 2021, the EP published a briefing providing an overview of current initiatives and actions aiming at reinforcing the anti-money laundering (AML) supervisory and regulatory framework in the EU, in particular from a Banking Union perspective. The paper has three main sections: i) it outlines the EU framework for fighting money laundering, which includes legislation and a number of Commission and Council Action Plans; ii) it provides an overview of AML prevention relevant authorities; and, iii) it highlights expected upcoming changes to the AML framework, largely based on the Commission's May 2020 Action plan for a comprehensive Union policy on preventing money laundering and terrorism financing, and associated legislative initiatives expected in July 2021.

## SCA: EBA report on Strong Customer Authentication

On 16 June 2021, the EBA published a report on the data provided by Payment Service Providers (PSPs) on their readiness to apply strong customer authentication (SCA) for the subset of payment transactions that are e-commerce card-based payment transactions. The EBA tracked the progress made by issuing and acquiring PSPs from September 2019 to April 2021 by monitoring a number of indicators that had been set out in the EBA Opinion of 2019 on the deadline for the migration to SCA compliance for e-commerce card-based payment transactions. According to the EBA, this portrays that the industry reported significant progress over the past 9 months in complying with the requirements for SCA for e-commerce card-based payment transactions. This progress coincided with a significant reduction of the volume and value of fraud, for the same type of transactions and the same time period.

## Capital: Basel Committee consults on Crypto-asset Exposure

On 10 June 2021, the Basel Committee on Banking Supervision (BCBS) launched a public consultation on preliminary proposals for the prudential treatment of banks' cryptoasset exposures. The proposed prudential treatment outlined in the consultation divides cryptoassets into two broad groups: i) Group 1 cryptoassets - these fulfil a set of classification conditions and as such are eligible for treatment under the existing Basel Framework (with some modifications and additional guidance) and include certain tokenised traditional assets and stablecoins; ii) Group 2 cryptoassets (e.g bitcoin), do not fulfil the classification conditions and as they pose additional and higher risks, they would be subject to a new conservative prudential treatment. Decentralised Finance (DeFi) instruments or Non-Fungible Tokens (NFTs) meeting the definition of crypto-assets are considered to be within the scope of this paper. The consultation is open for feedback until 10 September 2021.

## Leadership: G7 and EU-US Summit

At the G7 we didn't see much concrete action, but rather commitments to ensure that creating a 'trusted, values-driven digital ecosystem' is a strategic priority with increased coordination. G7 Members committed to focusing on the following: data collection, data free flow, data protection, electronic transferrable records, securing supply chains, cooperating more on digital competition. On data flow, we can expect work looking into data localisation and regulatory cooperation. This was also a topic which came up in the EU-US Summit, whereby the parties committed to facilitating safe and secure cross-border data flows to help ease transatlantic commerce. They also committed to working together to restore legal certainty to transatlantic personal data flows. It seems that this represents a high-level political commitment to restore personal data flows after the breakdown of the EU-US Privacy Shield mechanism in the wake of the Schrems II case.

At the EU-US Summit, the parties showed that they are quickly moving to coordinate, collaborate, and converge on regulatory issues including AI, cyber, and technology competition. It was officially announced that they two are establishing a high-level EU-US Trade and Technology Council (TTC) which will aim to facilitate this. Crucially, the parties committed to deepening cooperation on cybersecurity information sharing and cybersecurity certification of products and software.

Although we haven't seen it addressed in these meetings, digital finance be a key topic at next week's EU-US Financial Services Committee Meeting. In particular the meeting will focus on operational resilience, as well as crypto-assets, stable-coins and Central Bank issued digital currencies.

### ***Looking Ahead***

|              |  |
|--------------|--|
| 21 June 2021 | • Financial Services Attachés              |
| 21 June 2021 | • Financial Services Committee             |
| 21 June 2021 | • Economic and Monetary Affairs Committee  |
| 21 June 2021 | • EU-US Financial Services Committee (FSC) |
| 22 June 2021 | • Financial Services Attachés              |
| 23 June 2021 | • Working Party on Financial Services      |
| 24 June 2021 | • European Council                         |
| 25 June 2021 | • European Council                         |
| 28 June 2021 | • Working Party on Financial Counsellors   |
| 29 June 2021 | • Working Party on Financial Counsellors   |
| 30 June 2021 | • Coreper II                               |



# US Policy Developments

## Biden Administration

On June 7 2021, in response to several high-profile cyber-attacks, President Biden's National Security Advisor Jake Sullivan said that any federal or international response to ransomware would include a look at "how to deal with the cryptocurrency challenge which lies at the core of how these ransom transactions are played out." He added that President Biden will address this issue during the G-7 summit.

President Biden has already directed his staff to evaluate how the federal government reacts to ransomware attacks, including by boosting crypto analysis efforts and has highlighted ransomware as a national security concern. The Department of Justice wants to treat ransomware attack investigations with the same priority as terrorism investigations.

## Treasury

On 10 June 2021, the Federal Reserve and the Financial Crimes Enforcement Network (FinCen), a bureau of the U.S. Department of the Treasury dedicating to safeguarding the financial system from illicit use and combat money laundering, announced they will issue a final rule in September that would apply to information collection requirements to domestic and cross-border transactions involving cryptocurrencies. FinCEN also anticipates issuing a final rule in November to impose Bank Secrecy Act recordkeeping and identity verification requirements to transactions involving convertible virtual currency or digital assets with legal tender status.

## Internal Revenue Service (IRS)

On 8 June 2021, IRS Commissioner Charles Rettig said that the agency needs more authority from Congress to issue regulations relating to information reporting about cryptocurrency. Commissioner Rettig added that the agency is already actively pursuing tax enforcement relating to cryptocurrency in both the civil and the criminal enforcement world, but they needed more resources. The request comes as the IRS requested \$32 million of funding to enhance its cryptocurrency enforcement efforts in its Fiscal Year 2022 Budget. With this funding, the regulator would invest resources, including crypto experts, to ensure compliance both in tax and non-tax matters where cryptocurrencies are involved.

## Securities and Exchange Commission (SEC)

On 11 June 2021, the SEC released its regulatory agenda for the spring and summer, and crypto is not listed, despite SEC Chair Gary Gensler's recent statements that consumers would benefit from regulation of exchanges and that the agency should be ready to enforce crypto cases. The two Republican commissioners at the SEC expressed disappointment over cryptos absent. However, gamification was present on the list, which could open up conversations on digital assets.

The agency on June 10 in a staff note warned that Bitcoin futures are a "highly speculative investment", highlighting the agencies skepticism of Bitcoin and Bitcoin ETFs. This is the second recent warning the SEC has sent out in regard to bitcoin's risk.





A dozen bitcoin ETF applications are still delayed at the SEC and it's looking increasingly looking like one will not be approved in the near future. The agency has already deferred a decision on the Kryptoin application by 45 days.

Hester Peirce during an interview with the Financial Times expressed concerns over the push by several US regulators to play a more active role in cryptocurrency. Her comments mark a split at the SEC on the industry and Peirce's comments suggest that Gensler will encounter pushback from inside his own agency if he attempts crypto regulation.

## The Federal Reserve (The Fed)

During the June 16 Federal Reserve policy meeting, notably absent was discussion surrounding crypto and a central bank digital currency (CBDC). While the Fed has taken the reigns on the digital dollar, Fed Chair Jay Powell has largely deferred to Congress the past couple of weeks on the topic after saying that the Fed would need Congress to implement a CBDC.

## Congress

During the month of June Congress will host 4 major hearings on the crypto/blockchain industry.

During a June 15 hearing on central bank digital currencies, members of a House Financial Services Committee Financial Technology Task Force largely expressed support for experiments to create a digital form of the U.S. dollar, citing the need to keep pace with China and to help more Americans the gain access the digital economy. Warren Davidson (R-OH), the ranking member on the task force, was quick to voice his support for digital currencies and for designing a digital dollar with consumer privacy as a major priority.

During the June 15 hearing, Rep. Maxine Waters (D-CA-43), who chairs the full House Financial Services Committee, voiced concerns over cryptocurrencies and announced that she is gathering Democratic House members to form a new working group focused on cryptocurrencies. Members of the working group have diverse opinions on the topic and include Rep. Brad Sherman (D-CA), a vocal critic of cryptocurrencies, and Rep. Stephen Lynch (D-MA), Chair of the Task Force on Financial Technology. The Working Group will focus on making sure there is responsible innovation in the cryptocurrency and digital asset space and cover the topic of blockchain. Chairwoman Waters has long been critical of cryptocurrencies and joins growing ranks of senior Democratic Party leaders to speak critically on the subject in recent weeks, especially since ransomware shut down the Colonial Pipeline last month.

On June 9, the Senate Banking Committee Subcommittee on Economic policy hosted a hearing that was supposed to be about central bank digital currencies (CBDCs), but quickly turned into a hearing on bitcoin and other digital assets. Lawmakers were largely divided on the topic, with Chairwoman of the Subcommittee Sen. Warren lambasting cryptocurrencies and called for more regulation on the industry; especially, the energy use of bitcoin mining.

Sen. Warren did advocate for a CBDC, saying it has great promise and could help the unbanked. Ranking Member Sen. Pat Toomey (R-PA) was less positive on the topic of CBDCs, saying it's unclear that a CBDC is necessary and that Congress should encourage the continued development of private digital currencies. During the hearing, witness Neha Narula, director of MIT's Digital Currency Initiative, told members that there are myriad open questions regarding how a U.S. CBDC should operate — including how users might access it and how to protect consumer privacy — but the upside is immense. Despite



Sen. Warren and other members hostility towards crypto, the subcommittee seemed to come to the conclusion that a government-issued CBDC would represent a positive step.

Sen. Pat Toomey (R-PA) wrote a letter to Treasury Secretary Janet Yellen on June 10, asking FinCEN to reconsider the proposed counterparty rule, saying it would impose a heavy burden on cryptocurrency firms but may not actually combat illicit activity.

U.S. Rep. Tom Emmer (R-MN) and a bipartisan group from the House Blockchain Caucus on June 11 sent a letter to IRS Commissioner Charles Rettig to change the federal agency's guidance on how it considers charitable, cryptocurrency donations of more than \$5,000. The other signatories were Reps. Darren Soto (D-FL.), David Schweikert (R-AZ) and Bill Foster (D-IL), Ted Budd (R-NC), Ro Khanna (D-CA) and Josh Gottheimer (D-NJ).

Rep. Carolyn Maloney (D-N.Y.), who chairs the House Oversight Committee, wrote open letters to Colonial and CNA last week, asking them for more information about their decisions to pay cryptocurrency for the ransoms after their attacks and set a June 17 deadline.

Sens. Roy Blunt (R-MO) and Mark Warner (D-VA) criticized the anonymity of cryptocurrency and suggested Congress should better regulate digital assets in interviews with NBC's "Meet the Press" on June 13. Sen. Warner has been a recent outspoken critic of crypto, especially in regard to privacy and its use as ransomware in cyber-attacks.

Sen. Rob Portman (R-OH) stated during a June 8 hearing that he is working on potential legislation on reporting rules for virtual currency, which would work to define cryptocurrency for tax purposes and the information reporting requirements, which would aid in efforts to close the tax gap.

The Senate on June 8 passed the Endless Frontier Act, a bipartisan bill tackling China's technology efforts by creating a new technology directorate that includes blockchain as a main focus. The bill, which was sponsored by Senate Majority Leader Chuck Schumer (D-NY), includes distributed ledger technologies and cybersecurity as one of 10 "key technology focus areas," following an amendment by Sen. Cynthia Lummis (R-WY). A second provision will require the federal government to examine the potential national security implications of China's digital renminbi.

## State Updates (Texas, New York, and Miami, Florida)

On June 4, Texas Governor Greg Abbott (R) signed into law a measure creating a legal framework for cryptocurrencies and blockchain and is similar to the digital asset bill in Wyoming. The new law amends Texas' Uniform Commercial Code to better adapt commercial law to blockchain and digital assets, formally defines virtual currencies and offers individuals and businesses a legal environment for crypto investment. The following week, the state's Department of Banking issued an industry notice last week to let state-chartered banks know that they have the authority to provide custody services for virtual currencies, like bitcoin. This isn't a new law, but rather the state determining that existing law allows this.

The New York State Assembly failed to pass an environmental protection bill that would have clamped down on new and expanding bitcoin mining operations. The bill originally passed in the state Senate, but died when the legislative session ended on June 11, meaning the process will have to begin at the start during the next legislative session. The law applied to mining of any cryptocurrency that uses proof-of-work consensus methods.



In early June, Miami announced they are getting their own coin. Miami Coin, built on City Coins, which is built on Stacks, which is built adjacent to Bitcoin, is a new way for the city to potentially raise funds. The idea is that a person can contribute crypto to a city’s wallet that the city could then receive as a kind of charitable donation and whatever money you donate earns a yield. The idea has received little traction.

## Digital Dollar Developments

The Federal Reserve Bank of Boston and the Massachusetts Institute of Technology’s Digital Currency Initiative are still aiming for early July to publish its first stage of work to determine whether a Fed virtual currency would work on a practical level. This will be a significant first step as received a number of praises recently from government officials as a way to give millions of low-income Americans access to the financial system and fortify the dollar's status as the world’s reserve currency.

It likely be up to Congress to ultimately decide the fate o the digital dollar since Fed Chair Jay Powell has acknowledged that Congress has to take the lead. Lawmakers on both sides of the aisle are interested in the project, especially since China has taken the lead building its own central bank digital currency. As evidenced by several recent Congressional hearings on the topic, lawmakers are still figuring out their role in relation to the US digital dollar but are growing more involved on the topic.

The digital dollar has gained bipartisan interest from lawmakers as diverse as Sens. Elizabeth Warren (D-MA) and John Kennedy (R-LA) because of its ability to benefit consumers who don’t have bank accounts. Sen. Haggerty (R-TN) who has criticized the role crypto played in recent ransomware attacks also called for the Fed to explore a digital dollar in order to keep up with global competitiveness and citing the risk for the U.S. to lose its ability to deploy economic sanctions as effectively with decreased usage of the dollar.

The digital dollar does face opposition from notable trade associations such as the American Bankers Association and the Bank Policy Institute.

### *Looking Ahead*

|              |   |
|--------------|---|
| 30 June 2021 | <ul style="list-style-type: none"> <li>House Financial Services Subcommittee on Oversight and Investigations hearing, <a href="#">“America on “FIRE”: Will the Crypto Frenzy Lead to Financial Independence and Early Retirement or Financial Ruin?”</a></li> </ul> |
| July 2021    | <ul style="list-style-type: none"> <li>MIT and Fed research on potential US digital dollar</li> </ul>   |



Contact details:

**Website**

[inatba.org](http://inatba.org)

**Contact**

[contact@inatba.org](mailto:contact@inatba.org)

**Join INATBA**

[membership@inatba.org](mailto:membership@inatba.org)