

Global Blockchain Business Council

Monthly FinTech Updater

Norton Rose Fulbright LLP – 28 February 2022



Global, EU, UK and US Regulatory Developments

EU	
<p>ESAs recommend further actions for digital finance, strengthening supervision of BigTech active in financial services</p>	<p>On 7 February 2022, the European Supervisory Authorities (ESAs), comprising of the European Banking Authority (EBA), the European Securities and Markets Authority (ESMA) and the European Insurance and Occupational Pensions Authority, published their Joint Advice to the European Commission on Digital Finance. The joint advice was prepared in response to the Commission's request for technical advice that was issued to the ESAs in February 2021 (please see our blog). It sets out the ESAs' findings and advice in response to the Commission's request.</p> <p>The ESAs note that with digitalisation, financial institutions increasingly rely on third-party providers for the provision of services through outsourcing and other arrangements, which creates specific supervisory challenges. In addition, they further note the growing digitalisation of financial services activities has contributed to the fragmentation of the value chain for financial services. This in turn incentivises firms to pursue new forms of cooperation in the form of 'mixed activity groups' (MAGs) that offer customers both financial and non-financial services; a business model which is more and more often adopted by BigTechs, which already have a relatively strong presence in the payments sector. Finally, the ESAs note that the entry of BigTechs into financial services may create concentration risks and raise level playing field issues relative to incumbent financial groups, because the existing prudential and consolidation frameworks were not designed with these developments in mind. In order to tackle the challenges ahead, the ESAs put forward 10 general recommendations; the one of particular interest in the context of the evolving role of BigTech in the financial services sector is Recommendation 7, which suggests a need to bring MAGs within sectoral prudential and consolidation supervision rules.</p> <p>The ESAs recommendations:</p> <p>Recommendation 1: Need to consider a holistic approach to the regulation/supervision of fragmented value chains. This includes:</p> <ul style="list-style-type: none"> • Recommendation to consider potential issues in relation to the reliance by financial institutions on third-party providers that may not be addressed by the existing and upcoming rules (Recommendation 1a). The ESAs recommend that the Commission assess and subsequently address where necessary the non-information and communication technology risks that may arise from the use of third-party providers by financial institutions and the growing intertwined relationships between technology companies and financial institutions. • Recommendation to consider an adequate minimum approach towards outsourcing in insurance and pensions sectoral rules (Recommendation 1b). To this end, the

	<p>Commission is advised to consider an adequate minimum approach towards outsourcing in insurance and pensions sectoral rules, including the need to incorporate general and proportionate outsourcing rules in the Insurance Distribution Directive clarifying the responsibility of insurance intermediaries when outsourcing is used.</p> <ul style="list-style-type: none"> • Recommendation to consider the need to define clear requirements for financial entities to have internal structured information on all arrangements with third-party providers in the insurance and pensions sector (Recommendation 1c). This should involve the Commission considering the need to define clear requirements for financial entities to have internal structured information on all arrangements with third-party providers in the insurance and pensions sector, if not yet covered by DORA (the proposed Regulation on Digital Operational Resilience in the EU financial services sector) so as to have adequate information on third parties used to allow a risk-based supervision. • Recommendation to widen the scope of existing tools, when the value chain is fragmented and value chain and/or the business model of the insurance undertaking is materially exposed to a third party while group supervision is not applicable (Recommendation 1d). <p>Recommendation 2: Update current disclosure requirements in EU law as relevant to make them fit for the digital age and enhance consumer protection and conduct of business rules to address risks of mis-selling and overcome potential weaknesses in complaints-handling processes. In particular, this includes:</p> <ul style="list-style-type: none"> • Recommendation to update current disclosure requirements in EU law and make them fit for the digital age to allow consumers to make informed decisions about products and services (Recommendation 2a). To this end, the Commission is advised to pay particular attention to specific points in any future review of the disclosure requirements in various legislation, such as the presentation and format of the disclosures, the definition of 'durable medium', the timing of disclosures, the use of behavioural insights and the need to explore the benefits of open data. • Recommendation to enhance the level of consumer protection and conduct of business rules to address risks of (cross) mis-selling and overcoming potential weaknesses in complaints-handling processes regarding the provision of financial services in a digital context (Recommendation 2b). To this end, the Commission is advised to address the risk of (cross) mis-selling in particular for tied or bundled products by considering a package of remedies, to give further consideration to the existing Product Oversight and Governance (POG) rules to address any risks of (cross)-mis-selling practices, to prohibit the use of pre-ticked boxes by default and
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	<p>finally address the inconsistencies in relation to cross-selling practices across existing legislative instruments for the three sectors in scope.</p> <p>Recommendation 3: Prevent financial exclusion and promote a higher level of digital and financial literacy. Specifically, this includes preventing financial exclusion and promoting further a higher level of digital and financial literacy to help consumers make effective use of digital financial services and responsible choices that meet their expectations, raising confidence and trust in the digital financial system as well as their personal financial outlook.</p> <p>Recommendation 4: Address the lack of convergence in classifying cross-border services in a digital context. This should include providing further guidance on the definition of cross-border services in a digital context and strengthen cross-border supervisory coordination.</p> <p>Recommendation 5: Strengthen skills and resources at supervisors. This includes strengthening supervisory skills and resources to effectively monitor financial firms' digital transformations.</p> <p>Recommendation 6: Support a convergent approach to money laundering/terrorist financing (ML/TF) risks in a digital context. To this end, the ESAs recommend that the Commission undertakes a set of actions with a view to supporting greater convergence in the identification and mitigation of ML/TF risks in a digital context (for example: mandating the future anti-money laundering/countering the financing of terrorism (AML/CFT) authority to issue guidelines on outsourcing and governance arrangements for customer due diligence (CDD) purposes, clarifying the application of the data protection framework in the CDD and wider AML/CFT compliance context, requiring ESAs to issue a thematic review of ML/TF risk management in the digital finance context, which identifies best practices).</p> <p>Recommendation 7: Ensure the sufficient coverage of MAGs by sectoral prudential consolidation/group structured supervision rules. This includes:</p> <ul style="list-style-type: none"> • Recommendation to revise the definitions dealing with the entities to be included in the scope of prudential consolidation (Recommendation 7a). This includes the need to revise some of the definitions used in the CRD IV and CRR and in Solvency II (e.g. 'ancillary services undertaking'). • Recommendation to consider the revision of existing consolidation rules (through adapting the CRR/CRD IV, the Investment Firm Regulation and Solvency II) and the creation of bespoke consolidation rules to ensure that the specific nature and inherent risks of MAGs carrying out financial services are adequately captured (Recommendation 7b). In this context, the ESAs note that some MAGs, including BigTechs, do not have entities within their groups to which existing consolidation rules under the CRD/CRR/Solvency II would apply. At the same time such MAGs may carry out via subsidiary companies a range of financial services, including payments and
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	<p>lending services. Therefore, in order to effectively mitigate prudential risks and risks of regulatory arbitrage and to protect the level playing field having regard to banking and other groups already subject to consolidated supervision, the ESAs see a need to consider whether new bespoke consolidation rules should be developed for these new types of MAGs.</p> <ul style="list-style-type: none"> • Recommendation to consider the creation of a structured regulatory and supervisory framework to extend to MAGs involved in financial services (Recommendation 7c). To this end, the ESAs should be mandated to consider the merits of a new framework that would ensure that there is appropriate group-wide supervision of key risks (especially where consolidation rules are not identified appropriately), notably in relation to governance, intra-group transactions and risk concentration. This framework would apply from the moment the MAG's share in financial services reaches a defined critical level. <p>Recommendation 8: Consider possible ways to enhance cooperation between financial and other relevant authorities. This includes a recommendation to consider possible ways to enhance cooperation between financial and other relevant authorities, building on existing cooperation models, in particular: (i) to maintain awareness of policy developments happening across relevant sectors; (ii) to better identify and monitor market developments and emerging risks on a horizontal basis; and (iii) in the context of the growing platformisation of financial services and the development of MAGs.</p> <p>Recommendation 9 for the ESAs: Address cross-border supervisory coordination challenges. In this context the ESAs should consider possible ways to enhance cooperation between home and host authorities (e.g. complementary notification requirements for cross-border activities and/or supervisory forums for enhanced information exchange, processes and measures to be adopted where a firm possibly infringes rules, and with third country authorities).</p> <p>Recommendation 10 for the ESAs: Actively monitor the use of social media in financial services and assess whether regulatory action may be warranted as part of forthcoming work. In this context, the ESAs note that the use of social media in relation to financial services continues to evolve at a rapid pace, especially in securities markets where ESMA has observed an increasing use of social media by individuals and firms to promote financial services and products and by (retail) investors to seek investment and trading ideas. While those practices partly fall under existing rules already, for example the revised Markets in Financial Instruments Directive and the Market Abuse Regulation, there may be a need to consider further specific issues raised by the growing interconnectedness between social media and the provision of financial services.</p> <p>In addition to the ten general recommendations cited above, the ESAs put forward two bespoke recommendations addressed to the insurance sector.</p>
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	<p>In terms of next steps, the ESAs advice has been transferred to the Commission. It is now up to it to review the recommendations and decide what follow up steps to take, including possible legislative action.</p> <p>Published 7 February 2022.</p>
<p>Legislative review of the European crypto-assets “travel-rule” proposal continues</p>	<p>On 9 February 2022, the European Parliament's Economic and Monetary Affairs (ECON) and Civil Liberties, Justice and Home Affairs (LIBE) committees published their <u>joint draft report</u> on the European Commission's July 2021 <u>proposal for a regulation on information accompanying transfers of funds and certain crypto-assets</u> (the so called “travel rule” regulation). The draft report, prepared by co-rapporteurs Ernest Urtasun (Greens, ECON) and Assita Kanko (ECR, LIBE), propose 80 amendments to the Commission's proposal, including the:</p> <ul style="list-style-type: none"> • Removal of the de-minimis value exemption included in the Commission's proposal, which provided that transfers of crypto-assets not exceeding EUR 1,000 that do not appear to be linked to other transfers of crypto-assets which, together with the transfer in question, exceed EUR 1,000, could be subject to less stringent requirements. • Expansion of the scope of the proposed regulation to cover transfers of crypto-assets executed by means of kiosks connected to a distributed ledger network known as crypto-asset automated teller machines (“cryptoATMs”). • Clarification that the proposed regulation applies to transfers from or to crypto-asset wallets based on a software or hardware not hosted by a third party, i.e. “unhosted wallets”, provided that a crypto-asset service provider or another obliged entity is involved. • Clarification that the proposed regulation should not apply if both the originator and the beneficiary are crypto-asset service providers acting on their own behalf or the transfers constitute person-to-person transfers of crypto-assets carried out without the involvement of a crypto-asset service provider or obliged entity. • Requirement that crypto-asset services providers obtain information on the source and destination of crypto-assets involved in a transfer (“know-your-transaction”). • Requirement that information accompanying transfers of crypto-assets must be submitted in a secure manner and immediately with the transfer of crypto-assets, subject to several conditions, including: the crypto-asset service provider of the beneficiary is a regulated entity established within the EU or the crypto-asset service provider of the beneficiary is established in a third country and is able to receive and retain the information required under the regulation and applies adequate safeguards for ensuring data protection. • Prohibition of transfers involving non-compliant crypto-asset service providers.

	<p>Members of both the ECON and LIBE committees will be able to submit further amendments, prior to the formal adoption of the European Parliament's position.</p> <p>In the Council, negotiations between Member States progressed swiftly under the former Slovenian Presidency, with a <u>general approach</u> adopted already in December 2021. Akin to the European Parliament's co-rapporteurs, Member States also proposed to remove the de-minimis value exemption for information concerning transfers of crypto-assets.</p> <p>Published 9 February 2022.</p>
<p>Crypto-related services: a recent Italian initiative</p>	<p>New measures regarding crypto-related services providers have now been passed. Following a lengthy consultation process that began in 2018, the decree of the Ministry of Economy and Finance that was approved on 13 January 2022 (the "Decree") has been published on the Official Journal on 17 February 2022 and entered into force the next day.</p> <p>In general, the Decree establishes that certain registration duties and ongoing communication obligations apply to any (natural and legal) person providing crypto-related services in Italy and for this purpose it sets out the timeframe and the means for the enrolment in the relevant register. As such, the Decree does not introduce conduct of business rules nor fit and proper requirements (but rather registration and communication obligations). This is in line with the aim set forth under the anti-money laundering framework to identify those persons providing crypto-related services.</p> <p>For the sake of completeness, it is worth mentioning that the Decree implements the legislative option – exercised under Italian law in the context of anti-money laundering – to impose certain regulatory requirements to activities which may pose a risk of money laundering.</p> <p><i>Preliminary elements</i></p> <p>As a starting point, it is key to identify the scope of registration duties, which covers the providers of services related to the use of virtual currency and digital wallets (the "Crypto-related Services").</p> <p>The Decree applies to any person that provides third parties, on a professional basis, also on-line, with services for the:</p> <ol style="list-style-type: none"> 1. use, exchange, storage of virtual currencies and their conversion from or into legal tender or digital representations of value, including those convertible into other virtual currencies as well as the services of issuance, offer, transfer and compensation and any other service functional to the acquisition, negotiation or intermediation in the exchange of that currencies; and 2. safeguarding of private encryption of behalf of their clients for the purpose of holding, store and transferring virtual currencies.

	<p>Under the Decree, the provision of Crypto-related Services in Italy is reserved to persons enrolled within a special section of the register of currency exchange (the “Special Section”) maintained by the Italian body responsible for regulating and supervising financial agents and brokers, the OAM (<i>Organismo Agenti e Mediatori</i>).</p> <p>In other words, registration duties are triggered by the provision in Italy – also through distance means of communication – of Crypto-related Services.</p> <p>In the absence of specific guidance on the circumstances in which Crypto-related Services are deemed to be provided in Italy, interpretative criteria can be drawn from the guidelines of the financial services sector.</p> <p>Indeed, Italian regulators are of the view that the key element to determine where a financial service and/or activity is performed is not where it is actually carried out but where the relevant entity seeks business by carrying out, by any means including client research and business development, advertising and promotion and execution of related contracts. The place is deemed to be Italy if, for instance: (i) the foreign entity’s services are offered to the investor present in Italian territory; and (ii) the foreign entity makes use of licensed intermediaries or has a representative office at the premises of the Italian intermediary.</p> <p>As such, for the time being, it may be established that an entity is deemed to be providing Crypto-related Services in Italy to the extent it targets Italian residents. Further evaluations shall be made with regard to this matter and the potential impact of the registration requirements (see below) on the operations on the Italian market by foreign firms.</p> <p><i>Registration process</i></p> <p>For enrolment under the Special Section, providers of Crypto-related Services shall fulfil a preliminary condition, namely, the setting up of headquarters or an administrative office in Italy or, for entities located in another Member State, a ‘stable organisation’ in Italy. It is likely that further guidance may be provided in this respect given the materially onerous impact of this provision.</p> <p>Subsequently, providers of Crypto-related Services shall file an application to OAM, using the dedicated portal available on OAM’s website (the “Registration Application”). The Registration Application for legal persons shall contain:</p> <ol style="list-style-type: none"> 1. information on the company; 2. details of the company’s legal representative; and 3. description of the business. <p>OAM will approve or reject the Registration Application within 15 days from its filing. This is without prejudice to the possibility of one suspension for a maximum of 10 days if the Registration Application is deemed incomplete.</p>
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	<p><i>Timeframe</i></p> <p>The implementation of the Special Section is expected on 18 May 2022 (i.e. 90 days following the entry into force of the Decree).</p> <p>Crypto-related Services providers already in business at that date and fulfilling the applicable requirements shall file the Registration Application within 60 days (i.e. 18 July 2022).</p> <p><i>Ongoing communication obligations</i></p> <p>Once enrolled in the Special Section, providers of Crypto-related Services are subject to further communication obligations, on an ongoing basis. The subject matter of such communication covers information on transactions carried out in Italy, namely the client's identification details and summary data on business aspects (e.g. number of transactions, volume for individual client) and it is due on a quarterly basis (within the 15th day following the reference month).</p> <p>Published 17 February 2022.</p>
<p>ECB opinion on a proposal for a regulation establishing the AMLAR</p>	<p>On 17 February 2022, the Council of the European Union (Council) published the European Central Bank's (ECB) opinion on the Commission's proposed regulation establishing an EU authority for anti-money laundering and countering the financing of terrorism (AMLAR). In its opinion the ECB sets out both general and specific observations on the AMLAR. These include welcoming the creation of the AMLAR and standing ready to cooperate with it. The ECB also strongly supports broadening the criteria for identifying those entities that come within direct AMLAR supervision.</p> <p>The proposed regulation establishing the AMLAR was part of a package of legislative proposals published by the Commission on 20 July 2021, with the aim of strengthening the EU's rules on AML and CFT. The legislative package also included a proposal for a: (i) regulation on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing (AML Regulation); (ii) sixth AML directive (Sixth MLD); (iii) regulation on information accompanying transfers of funds and certain crypto-assets.</p> <p>On the same date the Council also published the ECB's opinion on the Commission's legislative proposal for the proposed AML Regulation and the Sixth MLD. Like its opinion on the AMLAR the ECB sets out general and specific observations on both legislative proposals.</p> <p>Published 17 February 2022.</p>
<p>Pablo Hernández de Cos, Governor of the Bank of Spain and Chair of the Basel Committee, gives speech titled</p>	<p>On 21 February 2022, Mr Pablo Hernández de Cos, Governor of the Bank of Spain and Chair of the Basel Committee on Banking Supervision, gave a speech titled 'Financial stability and crypto-assets'.</p> <p>In the speech, Mr Hernández de Cos focuses on the policy response to crypto-assets given the potential risks they pose if not accompanied by effective regulation and supervision.</p>

<p>'Financial stability and crypto-assets'</p>	<p>In particular, Mr Hernández de Cos calls for public authorities to monitor, regulate and supervise crypto-asset markets more closely given the recent buoyancy and potential risks in the market. He notes that there must be close cooperation with international and inter-institutional players in order to avoid fragmentation and arbitration which may insufficiently mitigate the risks and vulnerabilities in the market.</p> <p>Published 21 February 2022.</p>
<p>UK</p>	
<p>Cabinet Office policy paper regarding the benefits of Brexit</p>	<p>On 31 January 2022, the Cabinet Office published a policy paper titled <u>'The benefits of Brexit: How the UK is taking advantage of leaving the EU'</u>.</p> <p>The policy paper discusses financial services at pages 49 to 52 and touches on the following issues: the UK as a global hub, creating a competitive marketplace, technology and innovation and green finance. In relation to technology and innovation the policy paper mentions that the Financial Conduct Authority (FCA) will take forward a 'scale box' to help FinTech firms grow.</p> <p>Published 31 January 2022.</p>
<p>House of Commons' Treasury Committee report on economic crime</p>	<p>On 2 February 2022, the House of Commons' Treasury Committee published a report on economic crime.</p> <p>The report examines:</p> <ul style="list-style-type: none"> • The scale of economic crime and the Government's Economic Crime Plan, which was launched in July 2019. Data from the Office for National Statistics for the year ending June 2021 suggests there was a 43% increase in fraud and computer misuse crimes compared to 2019. The Economic Crime Plan should be adapted as necessary and renewed for a further three years. • The problem of online platforms being used to promote fraud and what is being done about it. The Committee suggests that the Government should include measures to address fraud via online advertising in the Online Safety Bill, in the interests of preventing further harm to customers being offered fraudulent financial products • The problem of authorised push payment (APP) fraud and what the Payment Systems Regulator (PSR) is doing about it. In the first half of 2021, £355.3 million was lost to APP scams. This was an increase of 71% compared to the same period in 2020. The PSR thinks it should be mandatory for payment service providers to reimburse victims of APP fraud. • The fraud and economic crime issues that have arisen from the growth in crypto-currency and crypto-assets as well as money laundering and anti-money laundering regulations.

	<ul style="list-style-type: none"> How companies may be used for economic crime, and the steps that might be taken to reform Companies House and its operations to help tackle economic crime. The Government should look at how to bring in as many reforms as it can, as soon as possible. The Committee also advocates higher company formation fees in order to prevent fraudsters from hiding their identities behind UK businesses to launder money and conduct crime, and pushes for the Government to set out the legislation it is currently working on which could be included in an Economic Crime Bill. <p>Published 2 February 2022.</p>
<p>FCA speech on enhancing the UK's capital markets</p>	<p>On 8 February 2022, the FCA published the speech given by Sarah Pritchard (Executive Director, Markets) at the Future of UK Financial Regulation Summit. The speech covers the future of UK financial services regulation and in particular the opportunities that lie ahead for financial markets.</p> <p>Key points in the speech include:</p> <ul style="list-style-type: none"> The FCA continues to take a tough approach at the gateway for crypto-asset firms which need registration under the money laundering regime – with those firms so far falling short at a significantly higher rate than others. The FCA is also running a 'Use it or Lose it' pilot, seeking to remove permissions from those firms who do not use them. The FCA welcomes HM Treasury's vision for the Future Regulatory Framework (FRF). The FRF proposals would give the FCA, and the Prudential Regulatory Authority, a secondary objective that will require the regulators to operate in a way that facilitates the long-term growth and international competitiveness of the UK economy. A secondary competitiveness objective for UK financial regulators strikes an appropriate balance that recognises the important role the FCA plays in supporting long-term growth of the UK economy, as it continues to deliver on its existing core strategic objectives. On the buy-side, the FCA sees major opportunities to improve the rules applying to UK-domiciled funds. The FCA is committed to work with the Government to support their UK Funds Regime Review, with the aim of making sure that regulations for UK based-funds based support good outcomes for investors. The FCA expects that sustainable finance will continue to grow as an area of interest, as the world transitions to a zero-carbon future and financial services firms come under closer scrutiny on social issues. The FCA published its ESG strategy last November, to coincide with COP26. Last month, the FCA closed a Discussion Paper on product labelling and product disclosures, with the aim of helping consumers navigate the complex landscape of sustainable investment options. The level of engagement was overwhelming, with around 130 stakeholders providing their views. The FCA is now working towards formal proposals by mid-year.

	<ul style="list-style-type: none"> Later this year, the FCA will be publishing its overarching consumer and markets strategies which will set out its priorities and focus over the coming years. <p>Published 8 February 2022.</p>
Mansion House Update February 2022	<p>On 10 February 2022, the Economic Secretary to the Treasury provided an update on the progress the Government is making to deliver its vision for the future of financial services in the UK.</p> <p>In his update, the Economic Secretary to the Treasury listed the following steps the Government has taken to ensure that the financial services sector is at the forefront of technology and innovation:</p> <ul style="list-style-type: none"> Continued to take forward measures committed to following the Kalifa Review of UK FinTech, such as securing funding to establish the Centre of Finance, Innovation and Technology, to ensure the UK remains a world-leader in FinTech. Confirmed plans to bring crypto-assets into financial promotion regulation - so crypto-asset promotions are held to the same high standards for fairness, clarity and accuracy as in the wider financial services industry. Consulted on proposals for a new regulatory regime for stablecoins. Set out further detail on work to explore a potential UK central bank digital currency (CBDC), with a commitment to consult with the Bank of England later this year, as well as announcing plans for a Financial Market Infrastructure Sandbox to enable use of new technology in financial markets. Published a set of Public Policy Principles for a Retail CBDC alongside a G7 Statement on CBDCs and digital payments via the UK's presidency. Published the Payments Landscape Review response, setting out the Government's future priorities to ensure the UK's payments sector remains world leading. <p>Published 11 February 2022.</p>
The AI Public-Private Forum: Final report	<p>On 17 February 2022, the Artificial Intelligence Public-Private Forum (AIPPF) published its final report.</p> <p>The forum was launched by the Bank of England (BoE) and the Financial Conduct Authority on 12 October 2020 for the purpose of furthering dialogue on artificial intelligence (AI) innovation between the public and private sectors.</p> <p>The report summarises the key issues discussed by the AIPPF members. In particular, the challenges and risks associated with the use of AI in financial services, including examples of how to address and mitigate them. The report also highlights considerations for the regulatory framework and how it can support the adoption of AI. Given this is an evolving area and there</p>

	<p>are still many unanswered questions, what “good” looks like can differ depending on the situation.</p> <p>To support further discussion about what an appropriate role for regulators might look like, the BoE and FCA will publish a Discussion Paper on AI later this year. It will build on the work of the AIPPF and broaden their engagement to a wider set of stakeholders. The Discussion Paper will aim to provide clarity around the current regulatory framework and how it applies to AI, ask questions about how policy can best support further safe AI adoption, and give stakeholders an opportunity to share their views.</p> <p>Published 17 February 2022.</p>
USA	
US DoJ announces first Director of National Cryptocurrency Enforcement Team	<p>On 17 February 2022, the US Department of Justice (DoJ) announced in a press release the selection and appointment of Eun Young Choi to serve as the first Director of the National Cryptocurrency Enforcement Team (NCET).</p> <p>The NCET has been established to ensure the department meets the challenge posed by the criminal misuse of cryptocurrencies and digital assets.</p> <p>The NCET will identify, investigate, support and pursue the DoJ's cases involving the criminal use of digital assets, with a particular focus on virtual currency exchanges, mixing and tumbling services, infrastructure providers, and other entities that are enabling the misuse of cryptocurrency and related technologies to commit or facilitate criminal activity. The NCET will set strategic priorities regarding digital asset technologies, identify areas for increased investigative and prosecutorial focus, and lead the department's efforts to coordinate with domestic and international law enforcement partners, regulatory agencies and private industry to combat the criminal use of digital assets.</p> <p>Published 17 February 2022.</p>
Lael Brainard, Member of the Board of Governors of the Federal Reserve System, gave a speech titled 'Preparing for the financial system of the future'	<p>On 18 February 2022, Ms Lael Brainard, Member of the Board of Governors of the Federal Reserve System, gave a speech titled 'Preparing for the financial system of the future' at the 2022 U.S. Monetary Policy Forum. This speech discusses various technological changes affecting the financial system, in particular CBDCs.</p> <p>In this speech, Ms Brainard discusses the following topics:</p> <ul style="list-style-type: none"> • Evolving digitalization and decentralization of finance. • Preparing for the payment system of the future. • Financial stability. • International considerations. • Technology research and experimentation. <p>Published 23 February 2022.</p>

International Developments

International Monetary Fund (IMF)	
<p>IMF publish FinTech Note titled 'Behind the Scenes of Central Bank Digital Currency'</p>	<p>On 9 February 2022, the IMF published a FinTech Note titled 'Behind the Scenes of Central Bank Digital Currency'. The IMF provide the following summary:</p> <p><i>This paper shines the spotlight on the handful of countries at the frontier in the hope of identifying and sharing insights, lessons, and open questions for the benefit of the many countries following in their footsteps... The paper studies six advanced CBDC projects, drawing on collaboration and exchanges with the respective central banks to get insights beyond what has previously been published.</i></p> <p>Published 9 February 2022.</p>
The Financial Stability Board (FSB)	
<p>Assessment of Risks to Financial Stability from Crypto-assets</p>	<p>On 16 February 2022, the FSB published its report, 'Assessment of Risks to Financial Stability from Crypto-assets'. The report examines developments and associated vulnerabilities relating to three segments of crypto-asset markets which are, unbacked crypto-assets, stablecoins, and decentralised finance and crypto-asset trading platforms. The report also highlights a number of vulnerabilities associated with crypto-asset markets which include:</p> <ul style="list-style-type: none"> • increasing linkages between crypto-asset markets and the regulated financial system; • liquidity mismatch, credit and operational risks that make stablecoins susceptible to sudden and disruptive runs on their reserves, with the potential to spill over to short term funding markets; • the increased use of leverage in investment strategies; • concentration risk of trading platforms; and • the opacity and lack of regulatory oversight of the sector. <p>The report also notes wider public policy concerns related to crypto-assets, such as low levels of investor and consumer understanding of crypto-assets, money laundering, cyber-crime and ransomware.</p> <p>The FSB will be exploring potential regulatory and supervisory implications of unbacked crypto-assets, including the types of actions FSB member jurisdictions have taken, or plan to take, to address any associated financial stability threats. The FSB will also continue to monitor and share information on regulatory and supervisory approaches to ensure the effective implementation of its high level recommendations for the regulation, supervision and oversight of "global stablecoin" arrangements.</p> <p>Published 16 February 2022.</p>

<p>FSB Chair outlines work priorities for 2022 to G20 Finance Ministers and Central Bank Governors</p>	<p>On 17 February 2022, the FSB published a letter from its chair detailing its policy work during 2022. The letter was submitted to G20 Finance Ministers and Central Bank Governors ahead of their 17-18 February meeting.</p> <p>The letter highlights the current challenges of promoting global financial resilience during the transition to a post-pandemic world. These include heightened economic uncertainty and potentially lasting changes in the global economy which may significantly affect interest rates and asset prices.</p> <p>In terms of the FSB's policy work for 2022 this includes:</p> <ul style="list-style-type: none"> • In October delivering to the G20 a comprehensive progress report on the various initiatives under the non-bank financial intermediation work programme. • Providing an interim report to the G20 in July and a final report in October on policy considerations to support a more even, sustainable and inclusive global recovery, and on effective financial sector practices for national authorities to consider for addressing the effects of COVID-19 scarring. • In October the FSB will deliver a consultative report on its review of the high-level recommendations in the FSB's 2020 stablecoin report, and how any gaps identified could be addressed by existing frameworks. <p>Published 17 February 2022.</p>
<p>The G20</p>	
<p>G20 publishes communiqué after G20 Finance Ministers and Central Bank Governors Meeting 17-18 February 2022, Jakarta, Indonesia</p>	<p>On 17-18 February 2022, the G20 held its Finance Ministers and Central Bank Governors Meeting. They subsequently published a communiqué outlining what was discussed at the meeting.</p> <p>During this meeting, it was decided that the G20 would continue to assess and address in a comprehensive manner the potential benefits and risks to global financial stability, arising from the rapid development of technological innovations in the financial sector, including cyber risks and the potential for regulatory gaps and arbitrage posed by crypto-asset markets.</p> <p>The Organisation for Economic Co-operation and Development (OECD) was also asked to complete the work on a reporting framework for automatic exchange of information on crypto-assets, with a view to improve tax compliance.</p> <p>Published 18 February 2022.</p>

Regulation Around the World Podcast – Crypto asset regulation

The first instalment in our new monthly podcast series, Regulation Around the World, is available now to stream and download. In Regulation Around the World we take a hot topic in financial services and apply a global lens, examining key developments in different jurisdictions.

In this month's episode, in line with our financial services team's Regulation Around the World updater, we are taking a look at the regulation of crypto assets. The size of the crypto market has exploded in recent years, prompting regulators to sit up and take notice, whether from a consumer protection perspective or owing to fears relating to financial crime. In Regulation Around the World this month, we hear from Etelka Bogardi in Hong Kong, Jeremy Wickens in Australia, Glen Barrentine in the USA, Albert Weatherill in the UK and Nikolai de Koning in the Netherlands.

Regulation Around the World is available to stream and download on Apple Podcasts, iTunes, Spotify and Soundcloud. To listen to this episode on Apple, please click [here](#). If you would like to skip to a particular section, please see the episode description for timings.

Our updater on crypto assets can be found on our Regulation Around the World webpage [here](#).

RT Plus – Advertising of cryptos

Another episode of RT Plus is available to stream and download. In this episode, Hannah Meakin and Albert Weatherill from the financial services team are joined by Verity Quartermain, a member of Norton Rose Fulbright's IP and Technology disputes team, to discuss the recent attention around crypto advertising.

It is undeniable that the market for cryptos has grown exponentially over the last few years. As a result, advertisements for platforms offering cryptos or for cryptos themselves, are now common place. This market growth has prompted the FCA and the Advertising Standards Agency (ASA) to sit up and take notice. In this podcast, we look at what the implications are for market players.

RT Plus is available to stream and download on Apple Podcasts, iTunes, Spotify and Soundcloud. To listen to this episode on Apple, please click [here](#).

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