Wilfried
Martens Centre
for European Studies

Regulating the Digital Future

A Centre–Right Approach to Crypto Assets and Digital Currencies

Dimitar Lilkov and Eoin Drea

Summary

April 2022

Digital finance is now part of the financial mainstream. This paper provides recommendations aimed at making the EU a stronger global player in digital finance and digital currencies. It also seeks to place the centre–right as the key driver of this change within the European political framework. First, we argue that a carefully deliberated EU legal framework for crypto assets is both welcome and required. This framework should be based on protecting financial stability while encouraging innovation. Ensuring the ability of European citizens to have access to these digital tools and to invest based on their personal preferences is an important principle of open democracies.

Second, Europe must be at heart of the digital currency revolution, and the European Central Bank should expedite the development of a 'digital euro' as a complement to traditional euro notes. This is the optimum solution to providing a secure and universally accepted digital currency. Public money must remain the linchpin of digital finance. Moreover, the framework for crypto assets should be based on key principles of the centre–right: it must be regulated, secure and credible. The centre–right should actively support the proposed Markets in Crypto-Assets (MiCA) regulation and work, across the EU institutions, towards its speedy finalisation and adoption. The principle of 'same activity, same risk, same rules' should remain the bedrock of the regulatory approach to crypto and digital asset classes, and to stablecoins in particular.

Lastly, the regulation of crypto assets should be part of the wider effort to reduce the fragmentation of the policy landscape within the EU. Financial technology (FinTech) products and services are rising in prominence globally, and this has direct bearing on issues related to competitiveness, digital services and cybersecurity. European policymakers should act more decisively so that the EU does not fall behind in the global FinTech race.

Keywords Cryptocurrencies – CBDCs – Stablecoins – Regulation – EU

The age of digital money is upon us

It took a while to realise that 'software is eating the world'.[1] Early in the 2010s, during the fallout of one of the biggest global financial crises, a momentous tipping point was reached. Software companies evolved and positioned themselves to repurpose large swathes of the traditional economy. This, in turn, spurred technological progress, set ablaze a budding start-up ecosystem and resulted in a vastly expanded demand for online services. Market valuations grew from billions into trillions, and in less than a decade, digital companies started dominating the top positions by revenue and market capitalisation.

Digital finance is now part of everyday financial operations. In this short period of time, the issues of crypto assets and central bank digital currencies (CBDCs) have emerged from the intersection of finance and technology to become central to debates about the future of the global economy.

Economic history is clear in showing that the evolution of money and payment systems changes traditional banking and finance models more rapidly than forecast. As the European Central Bank (ECB) recently noted, 'We are entering the age of digital money.'[2] What began as a quirky proposal for a peer-to-peer system for sending electronic cash without going through a financial institution started a societal revolution.[3]

The need for faster, private and independent financial transfers with limited transaction costs gave birth to a new vocabulary associated with digital tokens and blockchain (a digital public ledger which verifies transactions between users). The rapid adoption of cryptocurrencies and the promise of huge profits has made their usage ever more appealing, notwithstanding the obvious risks associated with fraud and the potential for facilitating illegal activities. With 300 million individual users globally and a market capitalisation of more than $3 tril-

1 M. Andersen, 'Why Software Is Eating the World', *Wall Street Journal,* 20 August 2011, accessed at https://www.wsj.com/articles/SB10001424053111903480904576512250915629460 on 12 March 2022.

2 F. Panetta, 'Preparing for Europe's Digital Future', *European Central Bank Blog,* 14 July 2021, accessed at https://www.ecb.europa.eu/press/blog/date/2021/html/ecb.blog210714~6bfc156386.en.html on 10 March 2022.

3 S. Nakamoto, 'Bitcoin: A Peer-to-Peer Electronic Cash System', *BitCoin.org,* 31 October 2008, accessed at https://bitcoin.org/bitcoin.pdf on 27 February 2022.

lion in late 2021, cryptocurrencies have already become a significant element of the global economy.

It is imperative that European policymakers and central bankers recognise these new modes of finance, and all the more so given Europe's long-standing risk-averse approach to financial technology (FinTech) generally—particularly when compared to its global competitors, including the US and Britain. A more thorough regulatory response is now required. However, digital finance and digital currencies are about more than just digitalisation. They represent how the innovation spawned by the mobile internet age is redefining how we do business; how we access services; and perhaps most importantly, how the EU can enhance its standing as a competitive digital player in the coming decades.

This paper provides a social market economy perspective on the development of crypto assets and CBDCs, one based on the key centre–right principles of maintaining financial stability, encouraging innovation and protecting the credibility of the eurozone's financial architecture. Section 2 addresses trends in the core areas of cryptocurrencies, stablecoins and CBDCs. Section 3 gives a brief overview of the increasing cases of spill overs from crypto to mainstream financial markets. It also sketches the political response in key global economies. In Section 4 we conclude by providing a range of recommendations which seek to position the EU as a global leader in the digital finance and CBDC landscape, and to place the centre–right as the key driver of this change within the European political framework.

Understanding the new vocabulary

Cryptocurrencies

'Crypto' is booming. Apart from the well-known Bitcoin (BTC) and Ethereum (ETH), as of February 2022 at least 10,000 other cryptocurrencies were in existence.[4] Digital distributed ledgers are the backbone of crypto and allow for an elaborate database, which is shared and synchronised between its users. This is the strongest feature of cryptocurrencies: the decentralised design eliminates the need for an intermediary (i.e. financial institutions) between users and reduces the threat of manipulation or theft. The logs of the digital transactions are

[4] A. Hayes, '10 Important Cryptocurrencies Other Than Bitcoin', *Investopedia,* 14 March 2022, accessed at https://www.investopedia.com/tech/most-important-cryptocurrencies-other-than-bitcoin/#citation-1 on 16 March 2022.

immutable, which generates user trust. Moreover, transaction costs are substantially lower than those of traditional systems—in some cases there are no transaction costs at all.

Regardless of the hype and aggressive online marketing, cryptocurrencies cannot be considered an adequate alternative to traditional money. Only a limited number of the world's vendors and businesses accept crypto as an alternative payment system. Moreover, cryptocurrencies are a poor instrument for savings or long-term operations as their value is prone to dramatic fluctuations. The ECB recognises that virtual currencies are not suitable for store of value purposes and that they cannot act as trustworthy units of account.[5] Finally, the term 'currency' can also be considered misleading: cryptocurrencies should perhaps be labelled 'crypto assets' as they represent speculative assets.[6]

After peaking in terms of market capitalisation in late 2021, most of the largest cryptocurrency markets plummeted in January 2022 with $1 trillion (approximately 33%) wiped from their aggregate market value. Nevertheless, both institutional and private investors' appetite for exposure to cryptocurrency is growing. The user base is constantly increasing due to not only the hope of making profits but also the belief that crypto assets and the related technology will be the backbone of the future digital finance eco-system. The penetration of traditional financial markets by crypto is also continuing to increase, with products traded on Bitcoin exchanges now available to European investors.[7]

One of the biggest problems of crypto remains its potential use for illicit activities. Authorities remain wary of its being used for financing terrorist activities or the purchase of illegal arms, or as a tool in illegal drug markets. Moreover, the rise in the total number of crypto transactions and users is leading to the manipulation of investors (i.e. crypto scams). The most widespread scams are 'rug-pulls' where newly minted coins or digital tokens are advertised as a potential windfall for investors. After a sufficient number of investors bump up the price, they become unable to sell their new assets, while the scammers liquidate their original assets and disappear as the price plunges. The most notorious case took place between 2015 and 2017 when investment in OneCoin attracted more than €4 billion from dozens of countries before the disappearance of its found-

5 European Central Bank, *Virtual Currency Schemes – A Further Analysis* (February 2014), accessed at https://www.ecb.europa.eu/pub/pdf/other/virtualcurrencyschemesen.pdf on 12 February 2022.

6 M. Demertzis and G. Wolff, *The Economic Potential and Risks of Crypto Assets: Is a Regulatory Framework Needed?* Bruegel Policy Contribution (September 2018), accessed at https://www.bruegel.org/wp-content/uploads/2018/09/PC-14_2018.pdf on 16 March 2022.

7 S. Heistruvers, 'Fidelity Launches Physical Bitcoin ETP in Europe', *Financial Times,* 18 February 2022, accessed at https://www.ft.com/content/f33cb6b3-964e-43ab-bc40-727f82c0f4ba on 19 February 2022.

er.[8] The European Securities and Markets Authority signalled early in 2018 that the majority (78%) of the newly listed coins or tokens are deliberate scams, with only a small percentage of them going on to become listed or to be successfully traded.[9] In 2021 the total number of known crypto scams had an estimated monetary value of $14 billion.[10]

Since its conception, the crypto sector has been presumed by many to be a giant pyramid scheme which grows only due to a constant inflow of new investors. Are cryptocurrencies actually Ponzi schemes? Many of them are, but that should not blind European policymakers to the possibilities offered by a digitally decentralised financial future. There may be a few kernels of wheat among the worthless chaff. Despite its roller-coaster highs and lows, Bitcoin has a decade-long history and enjoys the trust of millions of users globally. The Ethereum network is a promising avenue for financial services and numerous decentralised applications.

Whether we like it or not, the appetite for new applications and independent online financial operations is going to grow. European policymakers should remain alert to the risks inherent in crypto. But they should also be aware that this type of technology can empower users and that the demand for this type of applications will continue to increase.

Stablecoins

In recent years private actors have attempted to respond to the inherent volatility of cryptocurrencies by developing novel 'stablecoins'. These are digital assets that are designed to maintain a stable value by being directly linked to another asset or basket of assets.[11] They can be linked to traditional legal tender (the euro, dollar or other currencies) or be backed with commodities such as gold or government securities. Stablecoins can also be tied to cryptocurrencies or a portfolio of crypto assets.

Like crypto, stablecoins offer the possibility of including new users who cannot or do not want to use traditional banking services, eliminate transaction fees

8 *BBC News,* 'Cryptoqueen: How This Woman Scammed the World, Then Vanished', 24 November 2019, accessed at https://www.bbc.com/news/stories-50435014 on 5 January 2022.

9 European Securities and Markets Authority, *Own Initiative Report on Initial Coin Offerings and Crypto-Assets* (19 October 2018), accessed at https://www.esma.europa.eu/sites/default/files/library/esma22-106-1338_smsg_advice_-_report_on_icos_and_crypto-assets.pdf on 17 January 2022.

10 M. DeMatteo, 'Scammers Stole $14 Billion in Crypto in 2021: Here's How Investors Can Protect Their Coins', *NextAdvisor,* 6 January 2022, accessed at https://bit.ly/3GQx5a7 on 29 January 2022.

11 United States Congressional Research Service, *How Stable Are Stablecoins?* (28 July 2021), accessed at https://crsreports.congress.gov/product/pdf/IN/IN11713 on 1 February 2022.

and optimise execution times between transfers. In theory, they are less volatile and provide potential reassurance for long-term stability, as they are tied to other assets or national currencies.

However, consider the example of Tether (USDT), which is currently the most popular stablecoin, with a market cap of $78 billion as of February 2022. Tether promises that it is backed by an equivalent amount in US dollars. After a lengthy investigation by the New York attorney general's office, it was revealed that a large portion of the reserves were actually in the form of an unspecified type of short-term debt instrument.[12] Doubts remain as to whether stablecoins are always covered by the corresponding equivalent in currency or assets. Moreover, should stablecoins grow in prominence internationally, a sudden liquidation of assets to cover redemptions could have negative contagion effects on the traditional financial system.[13]

The most infamous stablecoin to date remains the Libra project (later dubbed 'Diem'). Formally announced by Facebook in 2019, Libra promised to be fully backed by 'a collection of low-volatility assets' and also supported by various businesses and non-profits as founding members.[14] Finance ministers and central bankers took note. In 2020 the G7 countries recognised that such a payment service needed to be appropriately supervised and regulated so that it would not undermine financial stability, consumer protection, privacy, taxation or cybersecurity.[15] The European Commission and Council were quite clear that no worldwide stablecoin arrangement could begin operations within the EU until 'the legal, regulatory and oversight challenges' had been properly addressed.[16] After a universal backlash by regulators, Facebook's stablecoin endeavour was abandoned.

The stablecoin blueprint remains an interesting concept, which might be further improved in the future. However, policymakers should never allow such a service to materialise through an already existing social media platform or related digital infrastructure, which has direct access to billions of users.

---

12 Ibid.

13 A. Delivorias, *Stablecoins: Private-Sector Quest for Cryptostability*, European Parliament Research Service, Briefing (November 2021).

14 T., Kuzmanova, *Fine Tuning Europe: How to Win the Global FinTech Race,* Wilfried Martens Centre for European Studies (February 2020), accessed at https://www.martenscentre.eu/publication/fine-tuning-europe-how-to-win-the-global-fintech-race/ on 14 January 2022.

15 J. Strupczewski, 'Facebook's Libra Must Not Start Until Properly Regulated – G7 Draft', *Reuters,* 12 October 2020, accessed at https://www.reuters.com/article/g7-stablecoin-idUSKBN26X26B on 8 January 2022.

16 Council of the European Union, 'Stablecoins' (6 November 2019), accessed at https://data.consilium.europa.eu/doc/document/ST-13571-2019-INIT/en/pdf on 14 February 2022.

Central Bank Digital Currencies (CBDCs)

In the last decade central banks have closely monitored the developments related to crypto and stablecoins. Even if many central bankers dismiss the possibility of crypto assets becoming dominant internationally, they do realise that the foundational technology involved has distinct advantages. Distributed ledger technologies, increased transaction speeds and automated processes through smart contracts are becoming more and more appealing to traditionally conservative monetary institutions.

Currently, monetary policy experts are discussing the idea behind a new payment technology, CBDCs. These currencies could become a novel instrument for transactions between traditional financial institutions and could also be developed as a general-purpose digital currency available to the general population. In such a scenario, CBDCs would be developed by central banks, which would also guarantee their value and functionality. A recent survey by the Bank for International Settlements found that 80% of the central banks surveyed are researching, experimenting with and developing CBDCs.[17]

It is only a matter of time before we see CBDCs launched globally.[18] The Covid-19 pandemic has already changed the financial habits of millions of people, with more and more users accessing digital payments and exploring novel investment and payment tools. Central banks realise that to maintain the primacy of public institutions in this dawning age of digital finance, they need to adapt to technological change. What is more, there are at least 1.7 billion citizens worldwide who do not have a bank account.[19] CBDCs offer huge potential for financial inclusion since citizens need not have a private bank account to access their digital currency wallet.

The race is on. The People's Bank of China has already launched its pilot digital yuan (e-CNY) in an attempt to rival the payment systems designed by the digital giants Alibaba and Tencent, which dominate the mobile payments market in the country. It also wants to increase the international appeal of its currency and break the dominance of the dollar, euro and pound. Moreover, the mass adoption of the digital yuan would make every financial transaction traceable, and the People's Bank of China would be able to closely monitor digital financial flows.

---

17 A. Raphael, G. Cornelli and J. Frost, *Rise of the Central Bank Digital Currencies: Drivers, Approaches and Technologies,* Bank for International Settlements, Working Paper 880,(August 2020), accessed at https://www.bis.org/publ/work880.pdf on 1 February 2022.

18 As of March 2022 the Bahamas' retail digital currency (the sand dollar) is the most advanced pilot project globally. Among the G20 countries, the Chinese digital yuan has made the most progress recently.

19 World Bank, *The Global Findex Database 2017* accessed at https://openknowledge.worldbank.org/handle/10986/29510 on 12 February 2022.

With its digital yuan, the Chinese state is in essence aiming to develop the perfect antithesis to cryptocurrencies: a digital currency that is highly centralised and subject to complete state surveillance. Here is the crux of the debate on CBDCs. Can central banks ensure that these state-backed tokens will remain fully secure internationally and that we do not find ourselves in a situation where all personal transactions are under government surveillance?

Until early 2022 the US had taken no concrete steps towards designing and implementing a digital dollar. The recent analysis by the Federal Reserve of the pros and cons of CBDCs made no specific recommendations regarding the future introduction of such a currency.[20] However, in March 2022 President Biden signed an executive order which 'encourages the Federal Reserve to continue its research, development, and assessment efforts for a US CBDC, including development of a plan for broader U.S. Government action in support of their work.'[21] The order will likely provide the impetus for a more rapid development of a CBDC in the US in the years ahead.

European policymakers should not underestimate the importance of these developments. Sweden is one of the few EU countries that are experimenting with the creation of a digital currency. In many European capitals the topic is not even on the agenda. In October 2021 the ECB launched an investigation into the idea of creating a digital euro, but details on implementation are still lacking.[22] Later this year the Bank of England will launch a comparable process aimed at developing a digital pound.[23]

The EU is best positioned to pioneer a global standard for a secure digital currency. This currency would be complementary to traditional euro banknotes. This would be a natural next step in the digitalisation of the European economy. An ECB-designed digital euro should not be launched overnight. Rather,

[20] Board of Governors of the Federal Reserve Board, *Money and Payments: The U.S. Dollar in the Age of Digital Transformation* (January 2022), accessed at https://www.federalreserve.gov/publications/files/money-and-payments-20220120.pdf on 25 February 2022.

[21] White House Briefing Room, 'Fact Sheet: President Biden to Sign Executive Order on Ensuring Responsible Development of Digital Assets' (9 March 2022), accessed at https://www.whitehouse.gov/briefing-room/statements-releases/2022/03/09/fact-sheet-president-biden-to-sign-executive-order-on-ensuring-responsible-innovation-in-digital-assets/ on 13 March 2022.

[22] European Central Bank, 'Eurosystem Launches Digital Euro Project' (14 July 2021), accessed at https://www.ecb.europa.eu/press/pr/date/2021/html/ecb.pr210714~d99198ea23.en.html on 26 January 2022.

[23] Bank of England, 'Statement on Central Bank Digital Currency Next Steps', News release (9 November 2021), accessed at https://www.bankofengland.co.uk/news/2021/november/statement-on-central-bank-digital-currency-next-steps on 22 January 2022.

it should go through rigorous tests to ensure that it is durable and has a state-of-the-art privacy design. It could serve as a tool for the financial inclusion of citizens who are operating outside conventional banking services and it could make financial transactions more convenient. Moreover, unregulated payment solutions and third-country financial applications are already mushrooming, and these create specific long-term risks and cybersecurity vulnerabilities. Fundamental change is coming within retail, e-commerce and finance across Europe, and EU policymakers must be prepared to provide trustworthy alternatives.

Global responses to the crypto revolution

The value of the crypto markets has risen more quickly than what even the most aggressive forecasts had anticipated. This mainstreaming of crypto has, in turn, impacted how political systems respond to the greater prominence of digital finance tools. This section gives a brief overview of the increasing cases of spillover from crypto to mainstream financial markets. It also sketches the political response in key global economies.

The Covid-19 pandemic has accelerated three distinct aspects of the crypto revolution. First, it has supercharged trading on and the value of crypto markets. Second, it has changed the focus of crypto asset adoption from developed to emerging market economies. In 2021, 9 of the top 10 crypto assets adopters were emerging economies.[24] Third, data is beginning to emerge that indicates a greater interconnectedness between crypto and traditional equity markets. Research shows that these spillovers have increased significantly in the pandemic environment.[25]

These movements point to a rapidly increasing acceptance of at least some crypto assets, such as Bitcoin, by retail and institutional investors globally. In the US and other developed economies, investors' appetite for crypto assets is pushing operators into highly regulated (and risky) areas such as derivatives trading.[26]

24 T. Iyer, *Cryptic Connections: Spillovers between Crypto and Equity Markets,* International Monetary Fund, No. 2022/01 (11 January 2022), accessed at https://www.imf.org/en/Publications/global-financial-stability-notes/Issues/2022/01/10/Cryptic-Connections-511776 on 22 February 2022.

25 Ibid.

26 Investopia defines derivatives as 'financial contracts, set between two or more parties, that derive their value from an underlying asset, group of assets or benchmark. Derivatives are usually leveraged (funded by borrowed money) instruments, which increases their potential risks and rewards'.

Together with the increasing exposure of traditional banking institutions in developed economies, the pace of crypto adoption, particularly in developing economies, has significantly increased the need for a global response to crypto asset regulation. The Financial Stability Board has recently concluded, 'If the trajectory of growth in scale and interconnectedness of crypto assets to these (financial) institutions were to continue, this could have implications for global financial stability.'[27] But despite the growing awareness of the need for a global solution, major global economies have taken distinctly differing approaches to managing the potential risks.

China and Russia

The most extreme approach to crypto assets is that of the People's Republic of China. In September 2021, China's central bank announced that all transactions in crypto were illegal as they 'seriously endanger the safety of people's assets'.[28] Since then the country has seen a large-scale crackdown with official bans on payment platforms to facilitate transactions in cryptocurrencies and the prosecution of individual crypto miners. Recent developments have led to a massive exodus of Chinese miners to other countries or a shift to underground operations as they continue their work illegally. Estimates show that only 20% of the world's Bitcoin miners are currently located in China, compared to between 65% and 75% a few years ago.[29]

In effect, the People's Bank of China is clearing the way to ensure that the national digital yuan does not have to compete with crypto assets. The government is reluctant to allow large sums of money to move around undetected and to permit citizens to handle assets outside the reach of the authorities. The Chinese Communist Party is fully aware of the high demand from citizens for digital tools and FinTech. It wants to make sure that the Chinese population turns to the tightly controlled and monitored national e-yuan. This would be an additional step in Xi

[27] Financial Stability Board, *Assessment of Risks to Financial Stability from Crypto-assets* (February 2022), accessed at https://www.fsb.org/wp-content/uploads/P160222.pdf on 22 February 2022.

[28] *BBC,* 'China Declares All Crypto-Currency Transactions Illegal', 24 September 2021, accessed at https://www.bbc.com/news/technology-58678907 on 16 March 2022.

[29] *CNBC,* 'Inside China's Underground Crypto Mining Operation, Where People Are Risking It All to Make Bitcoin', 18 December 2021, accessed at https://www.cnbc.com/2021/12/18/chinas-underground-bitcoin-miners-.html#:~:text=China%20cracked%20down%20on%20its,bitcoin%20network%20remains%20in%20China on 16 March 2022.

Jinping's blueprint for societal management through state-backed digital tools.[30] The current Chinese regulatory ban on crypto allows for no exceptions. We have seen continuous state operations involving IP screening for illicit crypto activities, property raids and even the arrest of party members suspected of having been involved in crypto operations.

When it comes to the Russian Federation, the regulatory approach towards crypto seems to be deadlocked. In January 2022 the Russian central bank came out with a report that was highly critical of cryptocurrencies and proposed the total ban on their trading, mining and usage.[31] The Bank of Russia recognised crypto as a threat to financial stability and a conduit for fraudulent activity. In February 2022 the Russian executive decided not to announce a full ban, stating that it was considering regulating its usage in the future. According to government estimates, Russian citizens own over 12 million cryptocurrency accounts and have assets worth trillions of roubles in crypto wallets.[32] The high volumes of trading and mining within the country have prompted the authorities to rethink a total ban and find ways of regulating usage, certificating crypto exchanges and peer-to-peer marketplaces, and taxing crypto profits.

After the Russian invasion of Ukraine, few would expect to see any regulatory developments on the crypto front. The Kremlin is actually incentivised to keep the status quo as this would allow Russian citizens and businesses to use cryptocurrency exchanges as a way to potentially circumvent the international sanctions imposed on their financial system.[33] At the latest emergency meeting of EU finance ministers, the French finance minister pledged that the Union would find a way to prevent the dodging of sanctions through crypto assets. It remains to be seen if the EU follows up with concrete proposals on this matter.

---

30 D. Lilkov, *Made in China: Tackling Digital Authoritarianism,* Wilfried Martens Centre for European Studies (11 February 2020), accessed at https://www.martenscentre.eu/publication/made-in-china-tackling-digital-authoritarianism/ on 12 March 2022.

31 Bank of Russia, Криптовалюты Тренды, Риски, Меры [Cryptocurrencies: Trends, Risks, Measures], Public consultation report (2022), accessed at https://www.cbr.ru/Content/Document/File/132241/Consultation_Paper_20012022.pdf on 14 March 2022.

32 A. Baydakova and T. Wang, 'Russia to Regulate Crypto, Dispelling Fears of Ban', *Coindesk, 9 February 2022, accessed at* https://www.coindesk.com/policy/2022/02/09/russia-to-license-crypto-exchanges-tax-large-transactions/ on 14 March 2022.

33 For a more nuanced discussion of why crypto is not the best haven for Russian money, see B. Smith-Meyer, 'Why Crypto Isn't Russia's Safest Haven', *Politico,* 4 March 2022, accessed at https://www.politico.eu/article/crypto-russia-safest-haven-why/ on 16 March 2022.

The US and Britain

These countries remain two of the most technologically prepared economies for the adoption of crypto assets.[34] They have also maintained their positions as global leaders in the wider digital finance arena, with established expertise in financing, developing and adopting innovative new technologies. These characteristics help explain why their approach to crypto assets is more open than those taken by China and Russia.

With its long history of facilitating financial market innovation, the US is, of all the major economies, the most accessible to the crypto economy. However, its regulatory approach remains fragmented between the state and federal levels. At state level a division has emerged between those states seeking to utilise the wider crypto industry as a means of stimulating investment and employment (e.g. Wyoming, Ohio and Colorado) and those that are in the process of adopting a more coherent regulatory approach (e.g. New York and California).

However, at the federal level the US is clearly moving towards adopting a more comprehensive strategy. Although lacking a common definition of crypto currencies, the Securities and Exchange Commission (SEC), the Commodities Futures Trading Commission and primary legislation (the Bank Secrecy Act) already regulate many aspects of the crypto economy. A furthering tightening of oversight and enforcement mechanisms is expected under the Biden administration.[35]

As noted, in March 2022 President Biden signed an executive order calling on the government to examine the risks and benefits of cryptocurrencies. The measures outlined in the order focus on six key areas: consumer protection, financial stability, illicit activity, US competitiveness, financial inclusion and responsible innovation.[36] The positive reaction of the crypto industry to Biden's actions highlight that many feel that this order will facilitate the mainstreaming of crypto assets in the finance industry while simultaneously enabling further regulatory oversight and cooperation between the different elements of the US regulatory regime.

[34] Cyptohead, '2021 Crypto Ready Index' (2022), accessed at https://cryptohead.com/crypto-ready-index/ on 3 March 2022.

[35] See, e.g., the letter of G. Gensler (Chairman of the SEC) to Senator E. Warren: Nasdaq, 11 August 2021, accessed at https://www.nasdaq.com/articles/gensler-tells-elizabeth-warren-sec-needs-more-authority-to-regulate-crypto-2021-08-11 on 22 February 2022.

[36] White House Briefing Room, 'Fact Sheet'.

Britain's policy approach to crypto is linked to the objective of maintaining London's role as a global FinTech hub.[37] Like the US, the UK does not prohibit crypto assets. However, one recent development, the 'cracking down' on misleading advertisements, is a direct response to the increased visibility of the crypto industry across society at large.[38] Britain currently has no plan to specifically legislate across the broad crypto area. However, the government has signalled that a 'broader regulatory approach' will likely be adopted towards crypto assets, and particularly to stablecoins.[39]

The EU

The Union is seeking to adopt an approach to the regulation of crypto assets that is more unified than those taken by all other major global economies. As part of its wider Digital Finance Strategy, the European Commission is endeavouring to place finance at the core of making Europe a global digital player. This approach envisages four key elements: (1) a more complete digital market for financial services, (2) a regulatory framework which supports innovation, (3) a European financial data space and (4) a way of addressing the risks posed by the digital transformation.[40]

The EU has proposed a regulation entitled 'Markets in Crypto-Assets' (MiCA) for all crypto assets not covered by existing financial services regulations. This would, in effect, create a standardised and transparent regulatory approach for all crypto assets which would not be classified as financial instruments, electronic money or deposits, as defined by existing legislation. This is the template applied in the EU's approach to the financial markets as established in the Markets in Financial Instruments Directive (MiFID), which entered into force in 2007 and was updated in 2018. MiCA would not apply to potential assets issued by central banks acting in their monetary capacity or by other national public authorities.

The draft regulation recognises the opportunities that some crypto assets could offer and hence puts forward a European framework for ensuring legal certainty, supporting innovation and safeguarding the appropriate levels of consumer and investor protection. The text recognises that even though crypto assets 'do not

37 R. Kalifa, *The Kalifa Review of UK FinTech,* UK Government Policy Paper (26 February 2021), accessed at https://www.gov.uk/government/publications/the-kalifa-review-of-uk-fintech on 12 February 2022.

38 Lex Opinion, 'UK Regulation: Justified Crackdown Inches Cryptos Closer to Mainstream', *Financial Times,* 19 January 2022, accessed at https://www.ft.com/content/94d4c155-9ca6-4c0a-a9c6-da9e35fb0114 on 20 January 2022.

39 See the UK government's 2021 consultation paper.

40 European Commission, *Digital Finance Package* (24 September 2020), accessed at https://ec.europa.eu/info/publications/200924-digital-finance-proposals_en on 19 January 2022.

currently pose a threat to financial stability, this may change with the advent of "global stablecoins", which seek wider adoption'.[41]

Indeed, stablecoins are the central focus of the MiCA proposal. The draft text distinguishes between 'asset-referenced' and 'e-money' tokens, and sets forth a number of stringent rules on their authorisation and future use. The latter are tokens whose value is pegged to a single fiat currency (e.g. the dollar or euro), while asset referenced tokens are backed by several fiat currencies, commodities or other crypto assets. The proposal places on issuers of either type of token strict obligations for authorisation and certification. National competent authorities, the European Banking Authority, the European Securities and Markets Authority and (in some cases) even the ECB would be involved in the certification, authorisation and development of all technical requirements for stablecoins. There are additional rules on governance, conflicts of interest, reserve assets and accompanying white papers. All in all, MiCA proposes the very strict regulation of stablecoins and gives a clear signal internationally that the EU will not allow the use of digital assets that hide risks to financial stability.

Another area of regulatory scrutiny would also apply to the operations of crypto asset service providers (also known as 'exchanges'). Legal entities would need to get prior authorisation from competent national authorities, after which they would be recognised across the EU. This is a welcome proposal, as this kind of EU passporting would enable service providers to expand their operations in different member states, while users would benefit from regulatory predictability and enhanced investment protection. As under the MiFID, crypto service providers would have to fulfil a number of criteria related to their governance model, capital requirements, possible conflicts of interest, personnel and so on.

MiCA obliges issuers of crypto assets to publish a white paper with mandatory disclosure requirements. Member states would be responsible for ensuring that issuers are liable for the information provided in their white papers in accordance with the applicable national laws. Certain exemptions apply for small and medium-sized enterprises if their crypto offerings remain below certain thresholds. Nevertheless,

[41] European Commission, *Proposal for a Regulation of the European Parliament and of the Council on Markets in Crypto-assets, and amending Directive (EU) 2019/1937,* COM (2020) 593 final (24 September 2020), accessed at https://data.consilium.europa.eu/doc/document/ST-11053-2020-INIT/en/pdf on 12 January 2022.

some commentators are concerned that this regime might create extra legal hurdles that would make it more difficult for smaller players to enter the crypto market.[42]

Article 80 of the draft text explicitly prohibits market manipulation. The goal is to prevent actors from giving false or misleading information aimed at increasing or decreasing the price of crypto assets. Those guilty of such manipulation would be liable under the applicable national provisions. It remains to be seen whether this provision actually restricts the regular online attempts to influence investors with misleading information.

Unique crypto assets and non-fungible tokens (NFTs) are not covered by the scope of this proposed regulation. Crypto aficionados across the EU will be glad to hear that no new rules are envisaged for personal ('self-custody') software or hardware wallets.

These are some of the most notable provisions of the proposed regulation on crypto assets. The text is currently with the European co-legislators for final changes. If there is no substantial delay, MiCA could take effect by 2024.

Policy recommendations

I. Applying a centre–right blueprint for crypto assets

1. European policymakers have yet to develop their general philosophy on crypto assets. The risks surrounding these novel digital tools and tokens are real, but this does not mean that the entire crypto industry should be discounted. We argue that the best approach is to safeguard societal interests and financial stability while allowing individuals to have access to these tools and invest as they see fit.

2. The EU should not emulate the approach to crypto assets taken by the central banks of China and the Russian Federation. Total bans on the mining, possession or trading of crypto assets signals that autocratic governments want to keep their citizens locked in existing financial systems, where the state can monitor, control and coerce. Neither trustworthy digital assets nor novel, secure decentralised protocols should be cut off by the Great Wall of Government.

[42] F. Cengiz, 'What the EU's New MiCA Regulation Could Mean for Cryptocurrencies', *London School of Economics Blog,* 5 July 2021, accessed at https://blogs.lse.ac.uk/europpblog/2021/07/05/what-the-eus-new-mica-regulation-could-mean-for-cryptocurrencies/ on 12 January 2022.

3. Crypto finance and decentralised finance are nascent sectors that will have a growing impact on the world of finance. European policymakers should carefully study recent developments and prepare their response to the expected boom in the application of distributed ledger technologies, smart contracts and digital tokens. Many traditional economists may ridicule the idea of 'Token Economics', but sensible policymakers should not be guided by hubris.

4. Having reviewed the different types of crypto assets, we conclude that stablecoins pose the biggest threat to financial security in the long run. European and international policymakers should coordinate their responses to these digital assets and avoid a lax regulatory approach.

5. A carefully deliberated EU legal framework for crypto assets would be welcome. However, European member states should have the necessary leeway to craft their own responses by means of specific policies. For example, issues related to the taxation of crypto assets should always be dealt with by the national authorities involved. Member states should also regulate the advertisement of crypto currencies in national media outlets.

II. Putting Europe at the heart of the digital currency revolution

1. The centre–right should fully support ongoing plans by the ECB for the development of a 'digital euro'. This is the optimal solution to providing a secure and universally accepted digital currency. The e-euro could become the gold standard for the design of CBDCs internationally and elevate the use of and trust in the European currency. Public money must remain the core of digital finance.[43]

2. However, given the rapidly evolving technological landscape (and the volatility of the value of crypto markets), the ECB should strive for a more ambitious timeline for committing unequivocally to a digital euro. Current projections of mid-2026 for adoption are insufficient and would reduce Europe's ability to remain at the forefront of the digital currency debate.[44] A more ambitious implementation plan need not compromise core concerns regarding security, privacy and compliance with existing money-laundering regulations.

[43] European Parliament, *The Digital Euro: Policy Implications and Perspectives* (January 2022), accessed at https://www.europarl.europa.eu/thinktank/en/document/IPOL_STU(2022)703337 on 3 March 2022.

[44] Panetta, *Preparing for Europe's Digital Future*.

3. The ECB should play the key leadership role in ongoing initiatives by the Bank for International Settlements to develop CBDCs. In particular, the ECB should lead the push for more international cooperation on CBDCs as a means for enhancing cross-border payments while designing rigorous (and standardised) privacy protocols. The EU should also remain at the forefront of international efforts to combat the use of digital assets for criminal purposes.

4. A digital euro should serve as an important tool for the financial inclusion of citizens who currently operate outside conventional banking services. Its introduction should be accompanied by a renewed focus on digital financial literacy at both the EU and national levels. This is critical for ensuring that a digital euro can benefit as many European citizens as possible.

5. The crypto ecosystem could pose a serious threat to financial stability. This is particularly relevant in developing economies where weaker central bank credibility and vulnerable banking systems could trigger more extreme shifts from traditional asset classes to cryptocurrencies and vice versa. In this context, the EU has an important role to play in safeguarding the financial stability of its immediate neighbourhood. The centre–right should promote the establishment of working groups on digital finance stability as part of ongoing agreements with both the Western Balkan states and the Eastern Partnership countries, including a free and independent Ukraine.

III. A regulatory framework is urgently required that is based on key centre–right principles: public, secure and credible

1. The centre–right should actively support the proposed MiCA regulation and should work, across the EU institutions, towards its speedy finalisation and adoption. It would provide the legal framework required to position the EU as a global leader in digital finance. We share the concerns of the Financial Stability Board, the IMF and the G20 regarding the potentially destabilising effects of a collapse in crypto markets. Given the growth of asset values in this area, it is essential that the EU creates a single public regulatory regime to better manage possible future risks.

2. MiCA should include provisions on the disclosure of financial information by crypto assets brokers and other relevant parties. Existing data gaps continue to hinder accurate assessments of the risks crypto assets pose to the wider financial system.

3. The principle of 'same activity, same risk, same rules' should remain the bedrock of the regulatory approach to crypto and digital asset classes. This would ensure a level playing field for existing financial institutions and new market participants.

4. MiCA will only fulfil its potential if it implements a credible and easily understood system of regulatory oversight. Given the complexities of financial market regulation, there is a real possibility of duplications, conflicts and blind spots. MiCA should contain a simplified supervisory architecture for all crypto assets, with clear lines of responsibility between the ECB, the European Banking Authority, the European Securities and Markets Authority and national authorities. Recent history is clear in showing the potentially destabilising impact of regulatory oversight on banking and financial markets.

5. Dual or layered regulatory supervision is not appropriate for potentially systemic crypto asset classes such as stablecoins. A unified and rigorous European regulatory approach is required which will safeguard the financial stability of both the digital finance sphere and more traditional financial operations. Stablecoins must not be allowed to undermine key consumer, privacy, taxation or cybersecurity protections. Social media companies are not the appropriate basis for issuing a global system of digital financial payments.

6. If the EU is serious about moving forward as a global digital power, MiCA must be a key tool for facilitating the application and adoption of new technologies. In this context, the centre–right should ensure that the finalised MiCA is attentive to the needs of start-ups and early-stage innovators. It is critical that a sensible approach is taken to the regulatory and administrative burdens for small companies. This is particularly crucial given the existing dominance of the US, China and Britain across the wider FinTech arena.[45]

IV. The Bigger Picture

1. The fragmentation of the policy landscape within the European digital single market has been one of its traditional flaws. Zooming out to view the European FinTech sector as a whole, we see that the EU is still trying to find its place in a global market dominated by the US and Asia. FinTech

[45] Kuzmanova, *Fine Tuning Europe*.

covers a wide array of new services (e.g. cashless payments and peer-to-peer lending) and products (e.g. crypto assets and blockchain). The policy choices in the early 2020s will be decisive for the long-term competitiveness of the European bloc. Market rigidity or over-protectionism of national industrial interests is not a viable strategy in today's technology-imbued world. European start-ups and technology companies should be able to benefit from the economies of scale of the European single market.

2. Some of the most advanced FinTech services and products are developed outside of the EU. As public adoption of these products increases, it is only a matter of time before European citizens migrate to private third-country payment apps or financial platforms. This will happen if the European FinTech ecosystem does not provide viable alternatives. A more decisive approach is needed to develop these tools within the EU. A failure to do so could have serious cybersecurity and national security implications as many users may be tempted to tap into Chinese applications and payment services.

3. The long-term success of a comprehensive EU FinTech strategy would achieve at least two major goals. Unlocking the potential of European FinTech products would be a boon for European users and would embolden innovative businesses across the continent. Additionally, European FinTech companies would be able to compete internationally and to respond to the future demand for such services in Africa, Latin America and Central Asia. This is not only a question of profits. It is vital that European businesses regain some of the pole positions on the different tracks of technological competition internationally, while also establishing global standards for effectiveness, trust, privacy design and overall user experience.

About the authors

Dimitar Lilkov and **Dr Eoin Drea** are Senior Research Officers at the Martens Centre.

Credits

The Wilfried Martens Centre for European Studies is the political foundation and think tank of the European People's Party (EPP), dedicated to the promotion of Christian Democrat, conservative and like-minded political values

Wilfried Martens Centre for European Studies
Rue du Commerce 20
Brussels, BE 1000

For more information, please visit www.martenscentre.eu.

External editing: Communicative English bvba Typesetting: Victoria Agency
Printed in Belgium by Drukkerij Jo Vandenbulcke

This publication receives funding from the European Parliament.