

The future regulation of cryptocurrencies and blockchain

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Free Platforms



1) Fintech Ireland www.fintechireland.com

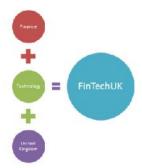


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Fintech Ireland



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Some Opening Observations

- This a controversial issue (actually, there's multiple issues here!)
- There is little consensus within traditional finserv industry about virtual currencies and blockchain, and their applications
- Therefore there is little consensus between industry and regulators and central banks
- But this doesn't mean that we should shy away from challenges opportunities presented by cryptocurrencies and, separately, distributed ledger technology (e.g. blockchain)
- There must be continual open and meaningful dialogue among all stakeholders

Regulation & FinServ / FinTech Understanding Central Bank and Regulators



Three things Central Banks / Regulators care (deeply) about:

- Financial Stability
- Market Integrity
- Consumer Protection



Important for incumbents & disrupters to think carefully about what regulators care about!



Central Banks & Anxiety

- Anxiety 1 central banks fear losing control of currency ?
- Example 1 Chinese central bank banned initial coin offerings of bitcoin-based currencies. Led to a 15% drop in the value of cryptocurrencies
- Anxiety 2 central banks fear losing control of infrastructure (i.e. banking) and the railroad (i.e. payments system)?
- Example 2 Basel Committee on Banking Supervision and the World Economic Forum put out lengthy papers on their concerns and the state of play. There is little consensus with industry

Some examples of how cryptocurrencies are regulated



- Money Remittance (e.g. under money transfer and payment services directive)
- Bureau de change / other forms of exchange
- Money Laundering and Terrorist Financing (e.g. EU and other international requirements)
- Licensing of activities (e.g. bitcoin licence)
- Taxation (e.g. capital gains and VAT/GST)
- EU: October 2015, the Court of Justice ruled that the exchange of traditional currencies for units of the 'bitcoin' virtual currency is exempt from VAT. The judgement also, for the purpsoes of EU tax law, considers bitcoin to be a currency rather than a commodity and that bitcoins should be treated as a means of payment.
- Countries where bitcoin is, per se, 'illegal': Bolivia, Ecuador, Kyrgyzstan and Bangladesh

One US Bank CEO's thoughts on bitcoin

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JPMorgan CEO Jamie Dimon says bitcoin is a 'fraud' that will eventually blow up

- "It's worse than tulip bulbs. It won't end well. Someone is going to get killed," Dimon said.
- Bitcoin fell to trade around its session lows after Dimon's comments.
- Dimon's criticism comes at a time when some well-known figures on Wall Street are starting to embrace the cryptocurrency.

Fred Imbert | @foimbert

Published 16 Hours Ago | Updated 13 Hours Ago





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4th & 5th Anti Money Laundering Directives

5.6.2015 EN Official Journal of the European Union DIRECTIVES DIRECTIVE (EU) 2015/849 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC (Text with EEA relevance) THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION. Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof, Having regard to the proposal from the European Commission. After transmission of the draft legislative act to the national parliaments, Having regard to the opinion of the European Central Bank (*), Having regard to the opinion of the European Economic and Social Committee (1), Acting in accordance with the ordinary legislative procedure (1), Flows of illicit money can damage the integrity, stability and reputation of the financial sector, and threaten the internal market of the Union as well as international development. Money laundering, terrorism financing and organised crime remain significant problems which should be addressed at Union level. In addition to further developing the criminal law approach a Union level, targeted and proportionate prevention of the use of the financial system for the purposes of meory laundering and terrorist financing is indispensable and can produce The soundness, integrity and stability of credit institutions and financial institutions, and confidence in the financial system as a whole could be seriously jeopardued by the efforts of criminals and their associates to disguise the origin of criminal proceeds or to channel lawful or filloit money for terrorist purposes, to neder to disguise the origin of criminal proceeds or to cranent listinat or illustrations for terrorest purposes. In order to disclinate their criminal activities, money luminers and financers of terrories could try to take advantage of the area centals. Therefore, certain coordinating measures are necessary at Union level. At the same time, the objectives of protectings observed from crime and protecting the stability and integrity of the Union's financial system should be balanced against the need to create a regulatory environment that allows companies to grow their businesses without incurring disproportiouses compliance costs. (3) This Directive is the fourth directive to address the threat of money laundering. Council Directive 91/308/EEC (9) defined money. 4AMLD ation of the Council at first t of 20 May 2015 (not yet

Amendments to the July 2017 4AMLD



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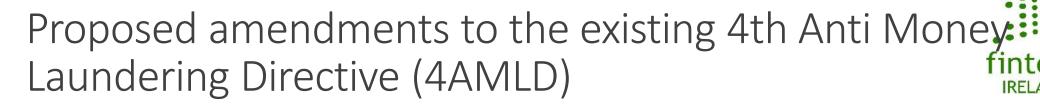
AML/CTF Policy (5AMLD)

A sound financial system, with proper scrutiny and analytical tools in place, may, by helping to uncover anomalous transaction patterns, contribute to a better understanding of terrorist and criminal connections, networks and threats, and lead to relevant preventive actions by all competent authorities involved. However, gaps still exist in the oversight of the many financial means used by terrorists, from cash and trade in cultural artefacts to virtual currencies and anonymous pre-paid cards. This proposal seeks to address those gaps while avoiding unnecessary obstacles to the functioning of payments and financial markets for ordinary, law-abiding citizens and businesses, so balancing the need to increase security with the need to protect fundamental rights, including data protection, and economic freedoms.



AML/CTF Proportionality (5AMLD)

In respect of designing providers of exchange services between virtual currencies and fiat currencies as obliged entities, the proposed amendments respect the proportionality principle. In order to allow competent authorities to monitor suspicious transactions with virtual currencies, while preserving the innovative advances offered by such currencies, it is appropriate to define as obliged entities under the 4AMLD all gatekeepers that control access to virtual currencies, in particular exchange platforms and wallet providers. The proposed measure takes into account, on the one hand, the fragmentation of financial information, and, on the other, the lack of direct, swift access to this information by FIU's and AML/CFT competent authorities. Furthermore, information that will be available must be accurate (i.e. the information should be precise enough in order to avoid targeting the wrong person) and limited to what is necessary (proportionality) to enable FIUs and AML/CFT competent authorities to match all the bank and payment accounts with their corresponding accountholders, proxy holders, and beneficial owners.



- As part of a series of proposals to strength AML/CTF the European Commission, published in July 2016, there is a proposal impacting virtual currencies the EC proposals as a way of strengthening the 4AMLD in light of recent terrorist attacks in Europe.
- Proposed Article 3 (18) (new) Virtual currencies are defined as means "a digital representation of value that is neither issued by a central bank or a public authority, nor necessarily attached to a fiat currency, but is accepted by natural or legal persons as a means of payment and can be transferred, stored or traded electronically."
- Proposed Article 2(1) (g) and (h) (new) "(g) providers engaged primarily and professionally in exchange services between virtual currencies and fiat currencies; and (h) wallet providers offering custodial services of credentials necessary to access virtual currencies."

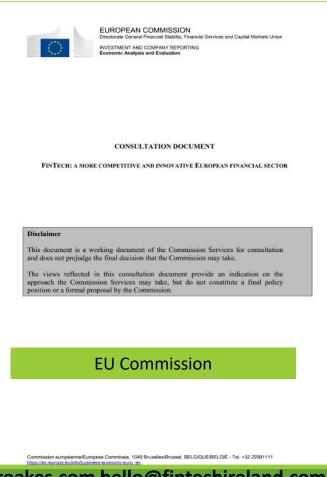
Proposed amendments to the existing 4th Anti Money Laundering Directive (4AMLD)

- Proposed Article 47 para 1 (replacement) "1. Member States shall ensure that providers of exchanging services between virtual currencies and fiat currencies, custodian wallet providers, currency exchange and cheque cashing offices, and trust or company service providers are licensed or registered, and that providers of gambling services are regulated."
- Proposed Art 65 (2) new "The report shall be accompanied, if necessary, by appropriate proposals, including, where appropriate, with respect to virtual currencies, empowerments to set-up and maintain a central database registering users' identities and wallet addresses accessible to FIUs, as well as self-declaration forms for the use of virtual currency users."
- Upshot = virtual currency platforms and wallet providers to be within scope of the directive and will be 'obliged entities', with the same obligations as banks, insurers, accountants and tax advisors (i.e. among other things, verifying customers' identities, policies & procedures for detecting and preventing ML/TF, implementing systems & controls, monitoring transactions, reporting suspicious transactions and training staff and directors).

Recent EU Activity on Fintech, Regtech & Blockchain – Parliament & Commission & EBA











EU Parliament Report

Blockchains

- Underlines the potential of blockchain applications for cash and securities transfer, as 37. well as for facilitating 'smart contracts', which open up a wide range of possibilities for both sides of financial contracts, in particular trade finance and business lending arrangements, which have the possibility to simplify complex commercial and financial contractual relationships at business-to-business (B2B) and business-to-consumer (B2C) levels; stresses that blockchain platforms are also suitable for the simplification of complex B2B and B2C transactions;
- 38. Recalls the benefits and risks of unpermissioned blockchain applications; invites the Commission to organise an annual multi-stakeholder conference on this subject; is concerned by the increased use of unpermissioned blockchain applications for criminal activities, tax evasion, tax avoidance and money laundering; calls on the Commission to closely monitor these issues, including the role of mixers/tumblers in this process, and to address them in a report;

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EC Consultation

Disintermediating financial services: is Distributed Ledger Technology (DLT) the way forward?

DLT is often described as an enabler that will result both in disruptive creation of new markets and transaction types, as well as in numerous incremental efficiency gains in mature markets. The European Political Strategy Centre Strategic Note of July 2016 "Opportunity Now: Europe's Mission to Innovate" listed the key innovation priorities in the EU for the years ahead, particularly emphasising the potential of DLT and its application to financial services and beyond.

Overall, there appear to be many *potential* applications of DLT to financial services and beyond, especially where existing processes are slow and costly. DLT systems could enhance efficiencies and lower costs by improving processes and making resource-intensive back-office functions redundant. It may also make regulatory reporting more resilient and faster. In the longer run, DLT systems could also disintermediate many market players, further reducing transaction costs. So far, DLT is being *tested* (mostly in the form of proofs of concepts, in a few cases in the form of prototyping) in several areas of financial services, such as payments, insurance history and policy issuance, custody and securities settlement, among others (see Box 1 below for a selection of potential use cases).



EBA Discussion Paper

- 89. Given the use of Blockchain and DLT suggested by the results of the FinTech survey, the EBA may also want to assess the risks and potential benefits suggested by additional use cases for DLT in the payments market. Similarly to the work ESMA has conducted in respect of these innovations in the securities market, the EBA may consider similar work in the field of payments. This work would go beyond the analysis that the EBA has already carried out in relation to VCs, as the first use case for DLT, through its warning and opinion on VCs in 2013 and 2014 respectively.
 - e. Some FinTech innovations are based on decentralised technologies, such as Blockchain, and/or cut out the middle-man (e.g. business-to-business platforms). If Blockchain use expands in the near future, this may raise the questions of how resolution authorities can apply their resolution powers (e.g. stays on derivatives, resolution of central counterparties) to these new technologies and how regulated firms that use these technologies can ensure business continuity given that they are not in control of the system.



Increasing Regulatory and Litigation Costs (1/2)

- The six largest US banks spent <u>US\$70.2BN on compliance</u> in 2013, twice the figure of US\$34.7 billion spent in 2007.¹
- In 2015, the Financial Times estimated that some of the world's largest banks each spent an additional US\$4 billion a year on compliance since the financial crisis.²
- During 2017, bank litigation costs hit \$260bn with \$65bn more to come.³

¹ "The Regulatory Price-Tag: Cost Implications of Post-Crisis Regulatory Reform," Federal Financial Analytics; see also: "Nuns With Guns: The Strange Day-to- Day Struggles Between Bankers and Regulators," The Wall Street Journal

² "Banks Face Pushback Over Surging Compliance and Regulatory Costs," Financial Times

^{3 &}quot;Bank litigation costs hit \$260bn — with \$65bn more to come," Financial Times

Increasing Regulatory and Litigation Costs (2/2)

- the "societal good" argument for Regtech!



- "Global banks misconduct costs have reached \$320 billion ... that could otherwise have supported up to \$5 trillion of lending to households and business ... but there is a bigger cost ..."
- Mark Carney, Governor, Bank of England (21 March 2017)





US - SEC

One <u>key regulatory issue is whether blockchain applications</u> require registration under existing Commission regulatory regimes, such as those for transfer agents or clearing agencies. We are actively exploring these issues and their implications. [31 March 2016]

Mary Jo White, Chairwoman Securities & Exchange Commission





US - CFTC

If Allowed to Thrive, Blockchain May Finally Give Regulators Transparency - Speech

I was on Wall Street, serving as a senior executive of one of the world's major trading platforms for credit default swaps, then the epicenter of systemic risk [12 April 2016]

> Christopher Giancarlo, a Member of the US Commodity Futures Trading Commission





Australia - ASIC

ASIC Chief: Blockchain Will Have 'Profound Implications' for Regulators

We will need to find the <u>right balance</u> between speed of execution and streamlining of business processes

 As regulators and policy makers, we need to ensure what we do is about harnessing the opportunities and the broader economic benefits not standing in the way of innovation and <u>development</u> [December 2015]



Greg Medcraft, Chairman, ASIC (& ex-IOSCO)

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IOSCC

 One of the big failures of global financial reform has been the trade repositories ..in the middle of those 29 trade repository complexes, you've got commercial interests, privacy issues, data protection, distrust among regulators and no harmonization of the underlying data

You know who's bought the particular product, so that's good from a market abuse perspective, of controlling market abuse
[December 2015]



David Wright, Secretary-General, IOSCO



UK - FCA (1/2)

Might the blockchain transform the way the regulators work? I absolutely agree with that. I think there are a lot of benefits to be harnessed from distributed ledger, in terms of traceability and tracking, that makes it easier for us

 I think regulators do now perceive this to be important; the degree of importance will probably differ between regulators [21 January 2016]



Makoto Seta, Senior Associate, FCA



UK - FCA (2/2)

some key opportunities .. include managing regulatory requirements more efficiently, and, an opportunity for us to understand how we can best support developments and potentially adopt some RegTech solutions ourselves. One example could be distributed ledger technology, sometimes more popularly known as 'block chain'

 The current development of distributed ledger technology has the potential to revolutionise financial services; whether it is the panacea of all ills in the financial world is yet to be seen



Christopher Woolard, Director, Strategy, FCA



UK - PSR

Role of the PSR is interesting

How about making *blockchain* a 'designated payment system', like Bacs, Cheque & Credit, CHAPS, Faster Payments Scheme, LINK, Northern Ireland Cheque Clearing, MasterCard, Visa Europe

 Lack of a long term UK strategy for Blockchain could result in the UK missing an opportunity [January 2016 – Horizontal Scanning Working Group]



Some areas where Blockchain could disrupt?



- 1. Financial Services
- Enterprise Risk Management
- AML / KYC / CDD
- Regulatory Reporting
- Tax Management
- Portfolio Risk Management
- Trade Monitoring
- Quantitative Analytics
- Operations Risk Management
- Finserv = banking, insurance, MiFID, trade finance, consumer finance, mutual funds, investment & pensions etc

- 2. Government Legislation
- 3. Environment, Health, Safety & Quality
- 4. Vendor Risk Management
- 5. Healthcare
- 6. Identification / Background Checks

- 7. General Compliance Management
- 8. Information Security / Cybersecurity
- 9. Cannabis

KYCkr floats on ASX

- Blockchain is the future of ID





Kyckr Limited

Proposed ASX code: KYK

Proposed listing date: TBA

	www.kyckr.com
Company contact details	Ph: 61 2 9276 1271
	Fax: 61 2 9276 1284
Principal Activities	Provision of corporate data
GICS industry group	Not yet allocated
Issue Price	20 cents per ordinary share
Issue Type	Equity
Security code	күк
Capital to be Raised	\$8,000,000
Expected offer close date	30 May 2016
Underwriter	N/A

David Cassidy, the managing director of KYCkr says blockchain is the future of its business dentity check business

We are being pressured by the banks to have this competency; they want this yesterday ... Blockchain is a given, you have to do it





Ornua involved in groundbreaking blockchain transaction

Group completes world's first trade transaction using technology behind Bitcoin

O Wed, Sep 7, 2016, 13:23

Updated: Wed, Sep 7, 2016, 13:25

Charlie Taylor

Ornua, formerly the Irish Dairy Board, has completed what is believed to be the world's first global trade transaction using blockchain, the technology behind Bitcoin.

The letter of credit transaction between the group and the Seychelles Trading Company arose following a collaboration involving Barclays Bank and the Israeli start-up, Wave.



The transaction is the first to have trade documentation handled on Wave's new distributed ledger technology platform, which has been designed to speed up transactions, cut costs and reduce the risk of fraud.





Australian Cotton Bales Example

When the Marie Schulte rounds the breakwater off the Chinese port of Qingdao in early November, bankers on two continents will be watching anxiously.

In particular, they'll be focused on 88 bales of cotton worth approximately \$35,000 that the container vessel is carrying -- not because of the value of the goods, but because of the technology attached to the shipment.

Unloading the goods at the end of their 7,000-mile journey from Houston will mark the final stage of an experiment by Commonwealth Bank of Australia, Wells Fargo & Co. and the trading firm Brighann Cotton to prove for the first time that the combination of much-hyped technologies -- blockchain and smart contracts -- can deliver real-world benefits.



Thank you

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