

# Regulating the Digital Asset Industry: Policy Strategies

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- [Distributed Ledger Technology and Digital Assets - Policy and Regulatory Challenges in Asia by Douglas W. Arner, Ross P. Buckley, Anton N. Didenko, Cyn-Young Park, Emilija Pashoska, Dirk A. Zetsche, Bo Zhao :: SSRN](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3414408)
- [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3414408](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3414408)
- [The ICO Gold Rush: It's a Scam, It's a Bubble, It's a Super Challenge for Regulators by Dirk A. Zetsche, Ross P. Buckley, Douglas W. Arner, Linus Föhr :: SSRN](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3072298)
- [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3072298](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3072298)
- [The Distributed Liability of Distributed Ledgers: Legal Risks of Blockchain by Dirk A. Zetsche, Ross P. Buckley, Douglas W. Arner :: SSRN](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3018214)
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- [Decentralized Finance \(DeFi\) by Dirk A. Zetsche, Douglas W. Arner, Ross P. Buckley :: SSRN](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3539194)
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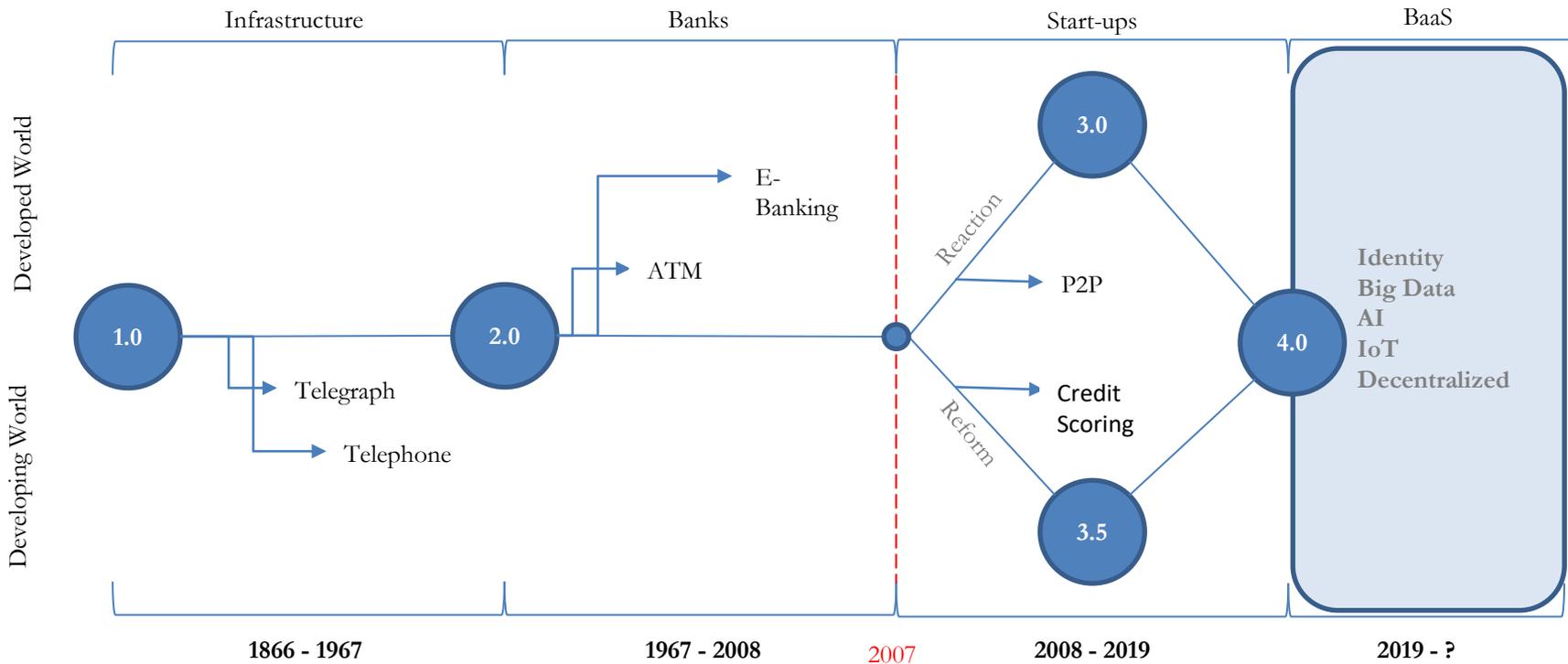
- Stablecoins: Risks, Potential, Regulation – BIS Working Paper no. 905 (Nov. 2020) – Arner, Frost, Auer: <https://www.bis.org/publ/work905.htm>
- [Regulating LIBRA: The Transformative Potential of Facebook’s Cryptocurrency and Possible Regulatory Responses](#)
- [Zetsche, Buckley, Arner](#)
- [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3414401](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3414401)
- The Markets in Cryptoassets Regulation (MiCA) and the EU Digital Finance Strategy (Oct. 2020) – Zetsche, Annuziatio, Arner, Buckley: [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3725395](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3725395)
- After Libra, the Digital Yuan and COVID-19: CBDCs and the Merger of Money and Payment
- Buckley, Zetsche, Arner, Didenko
- [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3622311](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3622311)

# Looking back, looking forward

- Finance in the 2010s
  - Global Financial Crisis
  - Regulation
  - Technology
- Finance in the 2020s
  - Sustainability
  - Technology
  - Globalisation vs fragmentation
- Digital assets

# The Evolution of FinTech:

[https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2676553](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2676553)



# Implications

Main current concerns of policymakers and industry arise not from the technology itself but from the question of *who* is applying technology to finance along with the *speed* of development.

**An evolutionary approach to create a framework of understanding is necessary to understand the implications for established financial institutions, IT companies, start-ups and regulators alike.**



# Covid-19 and Digital Finance

- Digitisation
- Payments / CBDCs?
- RegTech / SupTech
- AML / market integrity?
- BigTech / data
- [Digital Finance, COVID-19 and Existential Sustainability Crises: Setting the Agenda for the 2020s by Douglas W. Arner, Ross P. Buckley, Andrew M. Dahdal, Dirk A. Zetsche :: SSRN](#)

# Evolution: Digital Money & Payment

- Technological revolution in money and payment: decentralised / centralised
- Money, payments, finance and the technological horizon
- RTGS / mobile money / FPS
- Bitcoin
- Blockchain
- Stablecoins
- Libra: “Global stablecoin”
- Covid19
- CBDCs: Digital Yuan / DCEP

# Evolution / Regulation

- 2008-2013: Bitcoin, blockchain
  - Enthusiasts, criminals
- 2013-2016: Ethereum, Tether, Mount Gox
  - Broadening, central banks, regulators, law enforcement: market integrity
- 2016-2018: ICO Bubble
  - Broadening, regulatory arbitrage, customer / investor protection
- 2019-2022:
  - Regulation, Libra, CBDCs, Covid19, DeFi
  - Normalisation – FATF/G20/IOSCO (2019), EU (2020), OCC, SEC, UK
  - Broadening: systemic concerns?

# Main regulatory considerations

- Financial stability
- Efficiency
- Consumer / depositor / investor protection
- Market integrity
- Growth / inclusion / development / sustainability

# Approaches

- China: CBDC, blockchain, ban, law + infrastructure + standards
- EU: financial, non-financial, money / payment
- Switzerland, Russia: comprehensive legislation
- US / UK / Sg/ HK: functional, existing framework + new regulations

# Currency, Equity and Utility Tokens

- **Currency Tokens** – a token reflects a right in another currency, either crypto or otherwise.
- **Equity Tokens** -- represent the right to share in a cash-flow derived from an asset other than a currency.
- **Utility token** -- grants usage rights to holder (e.g. preferential access, software license etc.)
  
- **Crowdfunding taxonomy more useful / appropriate basis:**
  - Donation
  - Reward
  - Equity / Investment
  - + Currency



# Approaches and options

- Outright ban
- Private ordering
- Regulatory warnings
- Financial regulation
- Cross border coordination

# Recommendations

- **Important potential benefits of the structure**
- **Combination of approaches: differentiation**
- Donation and reward structures
- Private ordering
- Financial structures / financial regulation
- Focus on intermediaries and infrastructure providers
- Legal / regulatory changes?

# Libra / Diem

- Libra 1.0
- Libra 2.0
- Diem

# Stablecoins: Response

- Stablecoins vs global stablecoins (GSCs)
- Regulatory concerns:
  - Market integrity: G20 / FATF
  - Consumer protection / privacy
  - Monetary stability? (substitution?)
  - Financial stability?
  - Competition / antitrust?
- Key:
  - Monitoring
  - Powers: payments authority
- FSB principles
- Regulation: EU example
- Domestic / regional development: CBDC / payment systems

# Central Bank Digital Currencies

- Technological revolution in money and payment: decentralised / centralised
- Money, payments, finance and the technological horizon
- RTGS / mobile money / FPS
- Bitcoin
- Blockchain
- Libra
- Covid19
- Digital Yuan: DCEP

# Central Bank Functions and Evolution

- Monetary policy / stability
- Financial stability (positive / negative)
- Payments
- Supervision
- Development / inclusion (SDGs / innovation)
- Central banks as technology

# A framework of contextual analysis

- The key is to analyse your own context. I suggest looking at 7 different aspects, derived from AFI FinTech4FI strategy, of which the level of development of the commercial banking system is only one:
- 1. Digital inclusion? Mobile penetration? Smart phone penetration? Geography? Excluded population characteristics?
- 2. Money and payments: how widely used is cash? Payments systems: RTGS / FPS / mobile payments? Interoperability?
- 3. Banking system? financial inclusion: bank accounts, other accounts?
- 4. National ID / digital ID / KYC/ekyc framework?
- 5. Economic context: trade linkages? remittances? tourism? etc
- 6. Legal context: does the central bank have payment systems supervision / authorisation? does the currency issuance / monetary stability authority extend to digital?
- 7. Capacity: internal in the central bank? public digital awareness? business?
  
- Framework summary: <https://nextbillion.net/economic-fintech-innovation-financial-inclusion-covid19/>
- Detailed FT4FI strategy: [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3387359](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3387359)

# International Money and Payment Arrangements

- Cross-border payments: G20 / CPMI / Libra / SWIFT etc
- International arrangements?

# EU Digital Finance Strategy 2020

- [https://ec.europa.eu/info/publications/200924-digital-finance-proposals\\_en](https://ec.europa.eu/info/publications/200924-digital-finance-proposals_en)

# Four main priorities

- removing fragmentation in the Digital Single Market
- adapting the EU regulatory framework to facilitate digital innovation
- promoting data-driven finance
- addressing the challenges and risks with digital transformation, including enhancing the digital operational resilience of the financial system

# Rationale

- Embracing digital finance would unleash European innovation and create opportunities to develop better financial products for consumers, including for people currently unable to access financial services. It unlocks new ways of channelling funding to EU businesses, in particular SMEs.
- Boosting digital finance would therefore support Europe's economic recovery strategy and the broader economic transformation. It would open up new channels to mobilise funding in support of the Green Deal and the New Industrial Strategy for Europe.
- As digital finance accelerates cross borders operations, it also has the potential to enhance financial market integration in the banking union and the capital markets union, and thereby to strengthen Europe's economic and monetary union.
- A strong and vibrant European digital finance sector would strengthen Europe's ability to reinforce open strategic autonomy in financial services and, by extension, capacity to regulate and supervise the financial system to protect Europe's financial stability and values.

# Removing fragmentation

- Enabling EU-wide interoperable use of digital identities
  - Digital identity
  - AML
  - eIDAS Regulation
- Facilitating the scaling up of digital financial services across the Single Market
  - Passporting
  - Fintechs
  - Crowdfunding
  - Cryptoassets
  - Innovation facilitators: hubs, sandboxes

# Adapting the EU regulatory framework to facilitate digital innovation

- Enabling EU markets in crypto-assets and tokenised financial instruments: 2024:
  - “Crypto-assets and their associated blockchains can bring significant opportunities in finance: potentially cheap and fast payments, especially for cross-border and international transactions, new funding possibilities for SMEs and more efficient capital markets. Utility tokens can serve as enablers of decentralised blockchain networks and stablecoins can underpin machine-to-machine payments in mobility, energy and manufacturing sectors. However, they also involve risks, and should therefore be properly regulated and supervised.”
- MiCA
- Prudential treatment
- SME financing
- CBDCs (ECB, retail)
- DLT / IoT / Sustainable finance taxonomy

# MiCA

- clarifies the application of existing EU rules to crypto-assets
- introduces a pilot regime for crypto-assets covered by these rules
- establishes a new EU legal framework for crypto-assets not otherwise covered, based on a taxonomy of definitions of different types of crypto-assets:
  - utility tokens
  - Stablecoins: dedicated rules to regulate the particular risks for financial stability and monetary sovereignty linked to asset-referenced tokens used for payment purposes
  - Financial instruments

# Categories

- utility token cryptocurrencies
- complex “asset-referenced” stablecoins
- simple single currency stablecoins

- Promoting cooperation and the use of cloud computing infrastructure
- Promoting investments in software by adapting prudential rules on intangible assets
- Promoting the uptake of artificial intelligence tools
- Ensuring a future proof legislative framework on an on-going basis

# Promoting data-driven innovation in finance by establishing a common financial data space

- Facilitating real-time digital access to all regulated financial information
- Promoting innovative IT tools to facilitate reporting and supervision
- Promoting business-to-business data sharing in the EU financial sector and beyond (open finance)

# Addressing the challenges and risks associated with digital transformation

- Safeguarding financial stability, protecting investors and consumers, based on the “same activity, same risk, same rules” principle
- Protecting consumers and the public interest
- Strengthening digital operational resilience

# Thank you!

Introduction to FinTech – on edX:

<https://www.edx.org/course/introduction-to-fintech>