

Stanford Crypto Policy Conference

November 15-16, 2022

Francis C. Arrillaga Alumni Center at Stanford University

Hosted by Stanford Rock Center for Corporate Governance, Stanford Cyber Policy Center, and Stanford Center for Legal Informatics (CodeX)

DAY 1: November 15, 2022 (All times are PST)

8:00 am - 8:35 am: Registration and Breakfast

8:35 am - 8:40 am: Welcome Remarks

8:40 am - 9:05 am: Country Presentations (Korea, Canada)

9:05 am - 9:45 am: Perspective: Emerging Issues in Global Regulation of Unbacked Crypto Assets and Stablecoins (Nobuyasu Sugimoto, International Monetary Fund)

This perspective explores the current state of crypto regulation around the world, considers whether any common trends and concerns have emerged, and discusses why comprehensive global regulation is critical.

9:45 am - 9:50 am: Room Transition

9:50 am - 11:30 am: CBDC and Stablecoins (facilitated by Jess Cheng, WSGR; Timothy Massad, Harvard; Natalya Thakur, Knox Networks; Andreas Veneris, University of Toronto)

More than 80% of the central banks are currently exploring CBDCs and the discussion has progressed to a varying degree in different jurisdictions. At the same time, stablecoins - cryptocurrencies whose price is nominally pegged to a fiat currency - have emerged as the dominant private alternative in the digital assets industry. This session will discuss the current state of progress of major CBDC projects, the varying motivations driving these projects in different jurisdictions, key requirements for designing CBDCs, and how regulators are thinking about addressing certain critical challenges (e.g., retail v. wholesale v. cross-border CBDC, monetary stability, and privacy). This session will also examine the key learnings from the collapse of the algorithmic stablecoin Terra and how stablecoins will tackle challenges related to, among other things, collateralization, liquidity, redemption, disclosure, and financial stability. Finally, the session will consider interoperability of CBDCs and stablecoins for cross-border payments, the advantages and disadvantages of CBDC versus stablecoins, as well as whether and how these payment vehicles could coexist.

11:30 am - 11:50 am: Break

11:50 am - 1:05 pm: Regulating Exchanges and Wallets (facilitated by TuongVy Le, Bain Capital Crypto; Jennifer Schulp, Cato Institute; Tiffany Smith, WilmerHale; Simon Hawkins, Latham & Watkins LLP)

Crypto exchanges have come under increased scrutiny on multiple fronts, ranging from listing of unregistered securities to insider trading. As regulators seek to hold digital asset exchanges to the same standards as their traditional counterparts, the industry is highlighting the inherent differences between the two models. This session will delve into concerns raised by regulators and the industry on questions relating to, by way of example, classification of digital assets, registration, custody of digital assets, capital requirements, recordkeeping, security and illicit activity, audits, and reporting. This session will also consider the regulatory push for more disclosures on digital asset transactions between wallets, particularly self-hosted or unhosted wallets, and how the regulatory framework can achieve its mandate without imposing disproportionate and harsh compliance and reporting requirements.

1:05 pm - 2:15 pm: Lunch and Keynote Presentation by U.S. CFTC Commissioner Kristin Johnson

2:15 pm - 3:30 pm: Breakout 1

- Regulating Traditional Financial Services Firms that Engage in Crypto-Related Activities (facilitated by Hardy Callcott, Sidley Austin LLP; Gabe Rosenberg, Davis Polk) – in Lyons/Lodato Conference Room; McCaw Hall

As traditional financial services firms like banks, hedge funds, mutual funds, and payment providers increase their exposure to digital assets, there is a strong demand for clear regulatory guidance. This session will explore the types of regulations that should govern TradFi players that are looking to engage in crypto-related activities, specifically around things like custody, disclosure and reporting obligations, security, audit and recordkeeping requirements.

- Data Privacy Versus Transparency on the Blockchain (facilitated by Silke Noa Elrifai, University Paris II, CNRS/CERSA) – in McDowell/ Cranston Conference Room

Although blockchains can enable both transparency and privacy, these principles may come into conflict. On the one hand, the fact that information stored on the blockchain is immutable and transparent may put the technology in conflict with contemporary digital privacy laws that purport to protect users' personal information. At the same time, efforts to protect user privacy on the blockchain, through mixers, zero-knowledge proofs, and other methods for obscuring identity, may reduce the transparency required by law enforcement to mitigate illicit activity. This session will explore the intersection between privacy and transparency on the blockchain and consider, among other things, whether blockchain technology can meet the requirements of contemporary digital privacy laws while still preserving the attributes that make it successful, as well as best practices for balancing the transparency required by law enforcement with users' legitimate interest in transactional privacy.

- Crypto Tax Issues (facilitated by Jon Van Loo, Scale LLP) – in Barnes Conference Room

Tax agencies across the world have been proactively introducing regulations on taxation of digital assets and required information disclosures. In the US, the IRS taxes virtual currencies as property and now requires heightened information disclosures on receipt of virtual currencies above a prescribed threshold. India has introduced a 30% capital gains tax on transactions of virtual digital assets and South Korea has suggested imposing a gift tax on crypto 'airdrops.' At the same time, individuals have raised concerns regarding their privacy rights and the industry is concerned about the adverse impact of taxation on future growth. This session will explore how different jurisdictions are approaching digital assets for tax purposes, and whether any best practices or areas of consensus have emerged.

- Securitizing Digital Assets: What Else Can You Do with Tokenization in the Metaverse? (facilitated by Rebecca Liao, Saga) – in Lane Conference Room

While financial services have been the biggest use case for cryptocurrencies so far, there is an increasing trend towards tokenization of a wider variety of digital and real-world assets on the blockchain, including art, real estate, and precious metals. The tokenization of physical assets can bring a range of benefits to market participants, including reducing the cost of entry, broadening the investor base through fractionalization, and providing opportunities for new types of collateral on lending and borrowing protocols. At the same time, lack of a clear regulatory environment and a volatile market pose market liquidity and investor protection risks. This session will consider, among other things, what motivates industries to tokenize assets into NFTs on the blockchain, the types of industries and assets most suitable for securitization, and how the regulatory environment can adapt to ensure legal enforcement of the rights and obligations of these token holders, an adequate disclosures regime, and market stability while promoting market innovation. This session will also explore challenges arising out of tokenizing non-cash generating assets and NFT-based lending and borrowing protocols, and best practices for mitigating these risks.

3:30 pm - 3:45 pm: Break

3:45 pm - 5:00 pm: Breakout 2

- Tornado Cash: When Governments Sanction Code (facilitated by Reuben Youngblom, Stanford Law School's CodeX Center for Legal Informatics) – in McDowell/ Cranston Conference Room

In an unprecedented move, the U.S. Treasury Department recently sanctioned Tornado Cash, a widely used decentralized mixer protocol that enables private transactions on the Ethereum blockchain. Regulators highlight justifiable concerns relating to financial crimes and national security. Critics worry that cracking down on software - instead of targeted sanctions on individuals and organizations - sets a dangerous precedent by adversely impacting a significant share of legitimate transactions, threatening privacy of financial transactions, and possibly violating the right to free speech. This session will consider where law enforcement is headed,

and discuss the implications of the sanctions for other protocols that purport to solve for transactional privacy, the broader crypto ecosystem, and a wide array of evolving technologies.

- Crypto & Bankruptcy (facilitated by Christine Okike, Partner, Kirkland & Ellis LLP)
– in Lane Conference Room

The recent bankruptcy filings by Voyager Digital and Celsius have triggered calls for clearer guidelines on questions relating to cryptocurrency and bankruptcy. This session will discuss, among other things, whether crypto assets should be considered property of a bankruptcy estate or property of a customer and whether customers should be deemed secured or unsecured creditors. This session will also consider valuation of crypto assets during bankruptcy, what legal and contractual protections should be put in place to protect customers, and whether different types of crypto companies can be restructured during a bankruptcy.

- Regulating Innovative Financial Products (facilitated by Jay Clayton & James McDonald, Sullivan & Cromwell LLP) – in McCaw Hall

Web3 has seen an explosion of experimentation and innovation in traditional financial products, which has led to a whole new lexicon in finance, including Automated Market Makers (AMMs), yield farming, liquidity mining and flash loans. Industry players have also increased their efforts to bring more traditional financial products like derivatives and ETFs to digital assets. This session will discuss the impact of these innovations on traditional finance and its various players like intermediaries, custodians and clearing agents, and consider how global regulators should be approaching these products. This session will also explore controversial regulatory decisions around crypto lending and the SEC's refusal to allow ETFs based on Bitcoin cash / spot markets even though it allows ETFs in Bitcoin futures.

- What's next for DAOs? (facilitated by David Kerr, Cowrie LLC) – in Lyons/Lodato Conference Room

DAOs have emerged as a polarizing topic in Web3, with some believing them to represent the essential ethos of decentralization while others considering them to be impractical, ineffective, and unscalable. This session will explore how DAOs have adapted to a legal and regulatory environment traditionally suitable for centralized firms and identify the key challenges faced by DAOs on issues relating to regulation and compliance, governance, legal liability, winding down, and rights of token holders. This session will also explore promising innovations in DAO governance structures and use cases that may potentially catapult DAOs to mainstream prominence.

5:00 pm - 6:00 pm: Cocktail reception

6:00 pm – 8:00 pm: Dinner and Country Presentations (EU, Japan)

DAY 2: November 16, 2022 (All times are PST)

8:00 am - 8:35 am: Registration and Breakfast

8:35 am - 9:00 am: Country Presentations (Australia, Singapore)

9:00 am - 9:05 am: Room Transition

9:05 am - 9:50 am: Best Practices for Protecting Crypto Investors & Consumers (facilitated by Carol Goforth, University of Arkansas; Kathy Kraninger, Solidus Labs; Nicole Trudeau, Robinhood Crypto; James Williams, DLA Piper)

Building on key takeaways and lessons learned from Day 1, this session will consider best practices for protecting crypto investors and consumers without imposing unreasonable burdens on providers or unnecessarily restricting innovation.

9:50 am - 9:55 am: Room Transition

9:55 am - 10:40 am: Best Practices for Mitigating Financial Stability Risks (facilitated by Miguel Diaz, Bank for International Settlements; Erik Feyen, World Bank; Steven Kelly, Yale School of Management; Nobu Sugimoto, International Monetary Fund)

Building on key takeaways and lessons learned from Day 1, this session will consider best practices for mitigating the threat to global financial stability posed by crypto without imposing unreasonable burdens on providers or unnecessarily restricting innovation.

10:40 am - 11:00 am: Break

11:00 am - 11:45 am: Best Practices for Reducing Crypto-Related Crime (facilitated by Paul Hemesath, DOJ; Elias Kokaly, TRM Labs; Jessi Brooks, Ribbit Capital; Leslie Stubbs, OFAC, US Dept of Treasury)

Building on key takeaways and lessons learned from Day 1, this session will consider best practices for reducing the use of crypto assets by criminal actors without imposing unreasonable burdens on providers or unnecessarily restricting innovation.

11:45 am - 11:50 am: Room Transition

11:50 am - 12:50 pm: Coordinating Global Regulation (facilitated by Cameron Carr, IOSCO; Miguel Diaz, Bank for International Settlements; Sheila Warren, Crypto Council for Innovation; Sara Weed, Paul Hastings LLP)

This session will explore ways to build regulatory coherence across the globe and synchronize global crypto policy, including around cross-border transactions. Specifically, this session will identify areas where globally-coordinated regulation and common standards and principles are needed and most feasible, versus areas which may be better addressed by domestic regulations.

12:50 pm - 2:00 pm: Lunch and Country Presentations (Argentina)

*Post-lunch sessions are U.S. focused, although anyone is welcome to attend

2:00 pm - 3:15 pm: US Market Oversight and Legislative Outlook (facilitated by Carol Goforth, University of Arkansas; Rebecca Liao, Saga)

Multiple legislative proposals to create a regulatory framework for digital assets are currently pending on Capitol Hill. This session explores these competing proposals, considers what approach to regulation and digital asset classification makes the most sense, and seeks consensus on the most important provisions to include in digital asset legislation.

3:15 pm - 3:20 pm: Room Transition

3:20 pm - 4:35 pm: Federal Versus State Regulation (facilitated by Amy Caiazza, Wilson Sonsini; Ananya Kumar, Atlantic Council)

In the absence of comprehensive federal regulation of digital assets, a number of states are jumping ahead with crypto bills of their own. But will state law coexist with or be preempted by federal law? This session will consider areas of overlap and possible conflict between state versus federal regulation of digital assets, exchanges, and TradFi firms that are engaged in crypto-related activities. This session will also consider, among other things, conflicting interpretations of whether state-chartered trust companies can provide digital asset custody services on behalf of customers.

4:35 pm: Concluding Remarks