

# Client Alert

Providing Strategic Legal Guidance to the Global Financial Services Industry



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# Understanding Regulatory Trends: Digital Assets & Anti-Money Laundering

## INTRODUCTION

As cryptocurrency's market cap surpasses the \$2.5 trillion mark and continues to climb,<sup>1</sup> global regulators have turned their attention to understanding and addressing the risks surrounding digital assets.<sup>2</sup>

In recent years, digital assets have slowly but surely gained legitimacy as institutional investors have begun to diversify with crypto-related investment opportunities. Market luminaries, such as Steve Cohen, have vocally supported the growth of digital assets.<sup>3</sup> But as the popularity and public adoption of digital assets have grown, concerns from regulators about the threat of money laundering have increased in urgency.<sup>4</sup> Chainalysis, a blockchain analysis company, reported a sharp decline in the percentage of crypto-related criminal transactions, with illicit activity making up only 0.34% of the total transaction volume in 2020 (compared to 2.1% in 2019).<sup>5</sup> While this decline in the rate of criminal transactions is promising, the amount of total cryptocurrency activity from 2019 to 2020 increased threefold, revealing that the volume of illicit transactions is nevertheless sufficiently significant to merit regulatory attention.<sup>6</sup>

Today, many investors—including public companies—are worried that foregoing digital asset investments will result in lost opportunities. As different jurisdictions move to develop their legal frameworks, monitoring the risks and evolving international regulatory landscape is essential for organizations looking to successfully take advantage of digital asset-related investment opportunities.

## CRYPTO-SPECIFIC RISKS AND CONSIDERATIONS

The nature of cryptocurrency's decentralized structure, in light of its general emphasis on anonymity, can frustrate both Know-Your-Customer ("KYC") and Customer Identification Procedures ("CIP") regulatory requirements. However, the money-laundering risks inherent in digital assets can be theoretically regulated similarly to traditional fiat-



based transactions.<sup>7</sup> Although Bitcoin allows parties to interact pseudonymously through the use of private keys, transacting in cryptocurrency creates a permanent fixed ledger on the blockchain that allows anyone to access the records of transactions.

Regulation in the digital asset context is rife with controversy, as some proposed regulations, such as FinCEN's proposed expansion of certain recordkeeping rules to virtual currency, appear to be both logically onerous and viewed by some as an erosion of conceptual financial privacy rights.<sup>8</sup> But in some cases, regulation has proven effective to prevent criminal activity. For example, as global regulators continue to tighten AML requirements at digital asset businesses, some criminals have been forced to seek out alternatives, such as unlicensed crypto ATMs.<sup>9</sup> And in turn, this has prompted certain regulators to bring crypto ATMs within scope for AML regulatory requirements.<sup>10</sup>

Regulators have also had success in tracing and seizing ill-gotten digital asset gains. For example, in June, the Justice Department announced that it had successfully traced and seized 63.7 Bitcoins that Colonial Pipeline had paid to hackers who disabled the company's computer systems and temporarily shut down their operations. After the ransom was paid, the government tracked the digital assets through at least twenty-three different electronic accounts using Bitcoin's blockchain ledger.<sup>11</sup> Several similar instances have occurred so far this year. In January 2021, the Justice Department targeted another ransomware hacker, NetWalker, and successfully seized nearly \$500,000 in digital assets.<sup>12</sup> The following month, in February 2021, the DOJ indicted three North Korean military hackers and obtained warrants to seize \$2 million of digital assets stolen by the hackers.<sup>13</sup>

"Tumbling" adds another level of complexity to AML considerations and digital asset tracing. Under this scheme, services will mix together clean and tainted cryptocurrency with the hope of obscuring the trail back to the original source. While such tools can be successful, it is also possible to "untumble" these digital coins.<sup>14</sup> This process, however, can be expensive, highly technical, and take a lot of processing power and data.<sup>15</sup> The federal government has successfully pursued wrongdoers who have used such tools in previous enforcement actions. For example, in April 2021, the Department of Justice arrested and charged Roman Sterlingov, a dual Russian-Swedish national and the founder of Bitcoin Fog, for providing tumbling services to facilitate laundering \$335 million worth of Bitcoin.<sup>16</sup>

## DIGITAL ASSET ANTI-MONEY LAUNDERING REGULATION AROUND THE WORLD

Cryptocurrency's growth is global—countries including the United States, United Kingdom, Germany, Australia, Japan, and others now serve as major hubs for digital asset exchanges. We have previously written about the use and regulation of virtual currencies in sanctioned jurisdictions, but in the following sections, we evaluate the regulatory landscape in several major global digital asset markets.

Digital asset regulation has become a point of emphasis for global supervisory authorities. For example, on June 10, 2021, the Basel Committee on Banking Supervision ("BCBS") published a public consultation on preliminary proposals concerning the treatment of digital asset exposure.<sup>17</sup> The proposal covers a variety of topics, including classification, capital and liquidity requirements, supervisory review, and disclosure requirements for financial institutions. Under these proposals, banks must set aside sufficient capital to cover losses on any digital assets, up to a dollar-for-dollar capital requirement for the riskiest classification. The BCBS's proposal is open to public comment until September 10, 2021.

### *United States*

A number of US federal agencies have noted the growing importance of digital assets and its corresponding regulation. Michael Hsu, who became Acting Comptroller of the Currency in May 2021, stated that "he hoped US officials would work together to set a 'regulatory perimeter' for cryptocurrencies."<sup>18</sup> Earlier this year, three federal



agencies—Hsu’s Office of the Comptroller of the Currency, the Federal Reserve, and the Federal Deposit Insurance Corporation—met to serve as an inter-agency digital asset “sprint team.”<sup>19</sup> SEC Chair Gary Gensler said that he planned on bringing “similar protections to the exchanges where you trade crypto assets as you might expect at the New York Stock Exchange or Nasdaq.”<sup>20</sup>

On January 1, 2021, over President Trump’s veto, the new Corporate Transparency Act (“CTA”) and the Anti-Money Laundering Act of 2020 (“AMLA”) became federal law as part of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021. We previously wrote about the general implications of the CTA and AMLA, but in addition to broadening and updating the Bank Secrecy Act and federal AML/CTF regime, these acts also codified the existing FinCEN guidance related to digital assets. In doing so, the acts modified the Bank Secrecy Act to encompass any “value that substitutes for currency.” This adoption confirmed FinCEN’s authority over digital assets and required digital asset exchanges to register with FinCEN and establish reporting and recordkeeping requirements for transactions involving certain types of digital assets. Additional FinCEN guidance and proposed regulations regarding AML/CTF reporting requirements for cryptocurrency can be found [here](#).

#### *United Kingdom*

In the United Kingdom, the Financial Conduct Authority (“FCA”) is the primary regulator for digital assets and anti-money laundering, charged with oversight of financial firms and insurers. In other sectors, Her Majesty’s Revenue and Customers (“HMRC”) supervises AML regulation.

In January 2021, Her Majesty’s Treasury issued guidance through the UK Cryptoasset Task Force dictating that digital asset businesses must comply with all existing AML/CTF regulations.<sup>21</sup> Furthermore, the FCA requires that businesses carrying on digital asset activity (which under the country’s definition encompasses digital asset exchanges) comply with other governing AML regulations, including registration with the FCA.<sup>22</sup> On June 3, 2021, the FCA warned that a “significantly high” number of digital asset exchange providers are failing to comply with the registration requirement, and it announced that the deadline for existing digital asset businesses to register with the FCA would be pushed back by eight months, from July 9, 2021, to March 31, 2022.<sup>23</sup> This postponement occurred as the FCA “struggle[d] to bring fast-growing crypto companies that are already running in line with existing regulations.”<sup>24</sup>

In addition to registering with the FCA, compliance with UK anti-money laundering regulations also requires that digital asset businesses:

- Establish and maintain appropriate and proportionate risk-based policies and procedures to prevent and detect money laundering or terrorist financing.
- Carry out money laundering and terrorist financing risk assessments.
- Train employees and agents whose work involves compliance with legislation and identifying and preventing money laundering or terrorist financing risks.
- Conduct customer due diligence/KYC checks.
- Make required disclosures to ensure customers are aware of the regulatory protections that apply.
- Keep records to demonstrate customer due diligence and other related internal policies and procedures are appropriate for the money laundering and terrorist finance risks presented to their business.
- Comply with FCA reporting requirements.



While cautious, the UK appears to be embracing the future of digital assets.<sup>25</sup> Recent government reports have recommended that the UK continue to become “a leading global centre for the issuance, clearing, settlement, trading and exchange of crypto and digital assets.”<sup>26</sup> In April 2021, the Bank of England and Her Majesty’s Treasury announced the launch of a taskforce to explore a potential UK central bank digital currency.<sup>27</sup> This digital currency would be a new form of digital money issued by the Bank of England and “would exist alongside cash and bank deposits to be used by households and businesses.”<sup>28</sup> The task force was created after the Bank of England published a discussion paper on this topic in March 2020.<sup>29</sup> The paper stated that the central bank digital currency system, as a whole, would be designed to comply with all of the UK’s existing AML/CTF regulations.

### **Germany**

In Germany, the Federal Financial Supervisory Authority (“BaFIN”) serves as the centralized regulator for digital asset transactions. The German Banking Act (“KWG”) and the Money Laundering Act (“GWG” or Geldwäschegesetz) allow and regulate the trading of cryptocurrency. To manage Germany’s anti-money laundering regulation, the country has established a single, centralized Financial Intelligence Unit (“FIU”) within the Federal Criminal Police tasked with the development of a central database for analyzing cases and responding to reports of suspicious transactions.

As of January 1, 2020, “The German Act Implementing the Amending Directive on the Fourth EU Anti-Money Laundering Directive” incorporated the crypto custody business into the purview of the German Banking Act, becoming one of the first countries in the world to do so. In Germany, the “crypto custody business” is defined as the “custody, administration and safeguarding of crypto assets or of private cryptographic keys used to hold, store or transfer crypto assets as service for others.”<sup>30</sup> To operate within this market, organizations must first receive authorization from BaFIN, which requires compliance with the German Money Laundering Act. Further information on this process can be found [here](#).

Additionally, Germany closely follows the European Union’s anti-money laundering directives. As a member of the global AML and CFT (Combatting the Financing of Terrorism) watchdog, the Financial Action Task Force (“FATF”), Germany follows stringent Risk-Based Approach (“RBA”) policies such as Enhanced Due Diligence (“EDD”) and KYC requirements for businesses within its fintech sector.

In its June 2021 supervisory priorities update, BaFIN stated that its “money laundering prevention staff will continue to look into the spread of crypto assets.”<sup>31</sup> BaFIN went on to note that “it will complete the first authorisation procedures for crypto custody business” later this year and is “planning on examining whether and which supervisory measures are to be taken for the financial services providers” involved in digital asset trading.<sup>32</sup> The focus of BaFIN’s authorization requirements “will be on providers working with crypto assets.”<sup>33</sup>

### **Other Jurisdictions**

**Japan** is a key player in the development of international digital asset regulation. In fact, Japan was the first country to legally define a “crypto asset” and the first to require an entity to register as a digital asset exchange service provider.<sup>34</sup> Japan also serves as the world’s biggest market for Bitcoin.<sup>35</sup> Amongst other requirements, recent amendments mandate that exchange providers implement KYC procedures, prepare (and retain for seven years) verification records and transaction records, and report suspicious transactions to the relevant government authority.<sup>36</sup> Furthermore, in April 2021, Japan’s Financial Services Agency (“FSA”) has announced that it plans to adopt the “travel rule” for the nation’s digital asset markets.<sup>37</sup> [Here](#), in a previous Client Alert, we discuss the challenges that the “travel rule” can pose for digital asset businesses.



In **Bermuda**, the Bermuda Money Authority (“BMA”) monitors financial institutions for compliance with local anti-money laundering laws.<sup>38</sup> A 2018 Amendment—the Digital Asset Business Act—applied the country’s AML laws to “any entity incorporated or formed in Bermuda and carrying on digital asset business,” as well as “any entity incorporated or formed outside of Bermuda and carrying on a digital asset business in or from within Bermuda.”<sup>39</sup> Overall, Bermuda’s current government has been characterized as “enthusiastically embrac[ing] the financial technology (‘fintech’) sector and the potential it offers, and has repeatedly expressed its intention for Bermuda to be a significant centre for this industry.”<sup>40</sup> Bermuda’s anti-money laundering requirements of senior management include:

- Ensuring compliance with the Acts and Regulations.
- Identifying, assessing and effectively mitigating the ML/TF risks the organization faces amongst its customers, products, services, transactions, delivery channels, outsourcing arrangements and geographic connections.
- Conducting an AML and Sanctions risk assessment and ensure that the risk assessment findings are maintained up to date.
- Appointing a Compliance Officer at the senior management level to oversee the establishment, maintenance and effectiveness of the organization’s AML/ATF policies, procedures and controls.
- Appointing a Reporting Officer to process client disclosures.
- Screening employees against high standards.
- Ensuring that adequate resources are periodically trained and devoted to the organization’s AML/ATF policies, procedures and controls.
- Auditing and periodically testing the organization’s AML/ATF policies, procedures and controls for effectiveness and addressing any issues uncovered adequately and timely.
- Recognizing potential personal liability if legal obligations are not met.<sup>41</sup>

The **Cayman Islands** are continuing to develop its “regulatory regime that focuses closely on the financial services industry” by recognizing digital assets as an opportunity to “attract fintech business to the jurisdiction and ensur[e] the further growth of the sector.”<sup>42</sup> In May 2020, the country adopted the Virtual Asset (Service Providers) Law, 2020 (the “VASP Law”) to create a framework for the supervision and regulation of digital asset businesses. Anti-money laundering considerations sit at the forefront of this framework, bringing digital asset businesses within the purview of the country’s Proceeds of Crime Law and Anti-Money Laundering Regulations.<sup>43</sup> The Cayman Island’s VASP regulatory framework is being implemented in two phases, with the first phase placing specific emphasis on AML and CFT considerations. The first phase, which came into effect in October 2020, required that entities providing digital asset services register with the Cayman Islands Monetary Authority.<sup>44</sup> The second phase, which is currently in the process of being implemented, brings with it a formal licensing requirement.

In **South Africa**, the country does not have special anti-money laundering regulations for digital assets. However, all South African businesses, including those involved in digital assets, are required to file suspicious activity reports with the country’s Financial Intelligence Centre. Proposals have been made to add digital asset businesses to the list of “accountable institutions” with more significant AML responsibilities under the South African Financial Intelligence Centre Act (“FICA”). However, these proposals have yet to be finalized. In April 2020, another South African government working group published a position paper examining a myriad of regulatory aspects relevant to crypto assets, including anti-money laundering considerations.<sup>45</sup> The report endorses requirements compliant with those recommended by the global Financial Action Task Force regarding digital assets.<sup>46</sup>



Finally, in **Australia**, the Australian Transaction Reports and Analysis Centre (“AUSTRAC”) spearheads the country’s financial intelligence and anti-money laundering and counter-terrorism financing regulation. While the primary source of the country’s AML legislation dates back to 2006,<sup>47</sup> AUSTRAC implemented new legislation specifically aimed at digital asset exchange providers in 2018. Similar to the laws in other countries, Australian law requires that digital asset exchange providers register with AUSTRAC and comply with the country’s AML/CTF compliance and reporting obligations mandated by the 2006 Act. These obligations include collecting information to establish customer identity, monitoring transactional activity, and reporting transactions or activity that is suspicious or involves amounts over \$10,000.

The varying regimes in the jurisdictions discussed above reflect the diversity of anti-money laundering regulation concerning cryptocurrency transactions. Many other countries are watching the development of these regimes and creating their own infrastructure to grapple with the explosion of growth in this space.

## CONCLUSION

Given the variety in and rapid development of crypto-related regulation, market participants should understand all applicable laws and procedures before they decide to enter the digital asset market. These considerations can become even more complex as businesses interact with multiple international regulators. But crypto assets and their potentially lucrative investment opportunities are here to stay, and so is regulatory scrutiny. Thus, companies must carefully consider—and ensure entity-wide understanding—of all relevant rules and requirements prior to touching digital assets.

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<sup>1</sup> Global Cryptocurrency Charts: Total Cryptocurrency Market Cap, COINMARKETCAP (last visited June 16, 2021), <https://coinmarketcap.com/charts/> (showing a peak market cap of \$2.538 trillion on May 11, 2021, 42.3% of which was made up of Bitcoin).

<sup>2</sup> Many terms, including cryptoasset, cryptocurrency, virtual asset, and digital asset, are used in different jurisdictions. We will be using 'digital assets' for consistency and clarity. Similarly, we will consistently use the term 'digital asset business' to describe an entity involved in the cryptoasset industry, although the exact terminology may vary from jurisdiction to jurisdiction. When relevant, we will note variations in the definitions of either digital assets or digital asset businesses among the different jurisdictions.

<sup>3</sup> Hema Parmar, Steve Cohen's Point72 is Exploring Bitcoin, Crypto Sector, BLOOMBERG (May 13, 2021), <https://bloom.bg/2SVvUDh>.

<sup>4</sup> Rodrigo Coelho, Jonathan Fishman & Denise Garcia Ocampo, FSI Insights on Policy Implementation No 31: Supervising Cryptoassets for Anti-Money Laundering, FIN. STABILITY INST. 3 (April 2021), <https://www.bis.org/fsi/publ/insights31.pdf> ("While certain cryptoassets have the potential to make payments and transfers more efficient, some of their features may heighten money laundering/terrorist financing (ML/TF) risks.").

<sup>5</sup> Crypto Crime Summarized: Scams and Darknet Markets Dominated 2020 by Revenue, But Ransomware is the Bigger Story, CHAINALYSIS (Jan. 19, 2021), <https://blog.chainalysis.com/reports/2021-crypto-crime-report-intro-ransomware-scams-darknet-markets>.

<sup>6</sup> Viliana Hajric, Bitcoin Volatility Decline Paves Way for Banks, JPMorgan Says, BLOOMBERG (Apr. 1, 2021), <https://bloom.bg/3ill1yd>.

<sup>7</sup> Martin Cheek, Is Cryptocurrency Making Money Laundering Easier?, TRADERS MAG. (June 18, 2021), <https://www.tradersmagazine.com/am/is-cryptocurrency-making-money-laundering-easier/>.

<sup>8</sup> Three of our previous client alerts discuss this topic in detail. See Brian R. Michael, Daniel R. Kahan, Matthew B. Hanson, Shaswat K. Das & Jacob Gerber, Pumping the Brakes: FinCEN Reopens Comment Period for Controversial Crypto Reporting & Recordkeeping Rules, KING & SPALDING (Jan. 15, 2021), <https://www.kslaw.com/news-and-insights/pumping-the-brakes-fincen-reopens-comment-period-for-controversial-crypto-reporting-recordkeeping-rules>; Katherine Kirkpatrick, Jeffrey Telep, Shaswat Das & Jacob Gerber, FinCEN 'Travel Rule' Update Sets Challenges for Crypto Cos., KING & SPALDING (Oct. 11, 2019), [https://www.kslaw.com/attachments/000/007/292/original/10-16-19\\_Law360.pdf?1571344814](https://www.kslaw.com/attachments/000/007/292/original/10-16-19_Law360.pdf?1571344814); Katherine Kirkpatrick, Jeffrey M. Telep, Shaswat K. Das & Jacob Gerber, FinCEN Proposes Lower Travel Rule Threshold for Fiat and Virtual Currencies, KING & SPALDING (Nov. 4, 2020), [https://www.kslaw.com/attachments/000/008/315/original/FinCEN\\_Proposes\\_Lower\\_Travel\\_Rule\\_Thresholds\\_for\\_Fiat\\_and\\_Virtual\\_Currencies.pdf?1604511071](https://www.kslaw.com/attachments/000/008/315/original/FinCEN_Proposes_Lower_Travel_Rule_Thresholds_for_Fiat_and_Virtual_Currencies.pdf?1604511071).

<sup>9</sup> Hannah Murphy, The Rise of Crypto Laundries: How Criminals Cash Out Bitcoin, FIN. TIMES (May 28, 2021), <https://on.ft.com/3cRyXTX>.

<sup>10</sup> See Samuel Haig, Bitcoin ATMs Face Tighter Regulations Over Money Laundering, COINTELEGRAPH (June 3, 2020), <https://cointelegraph.com/news/bitcoin-atms-face-tighter-regulations-over-money-laundering> (stating that Bitcoin ATMs "will become 'a greater point of regulatory focus,' focusing 'the need for more uniform regulatory enforcement and compliance' regarding crypto ATMs moving forward").

<sup>11</sup> Nicole Perlroth, Erin Griffith & Kate Brenner, Pipeline Investigation Upends Idea that Bitcoin is Untraceable, N.Y. TIMES (June 9, 2021), <https://nyti.ms/3wqmJIL>.

<sup>12</sup> Press Release, Department of Justice Launches Global Action Against NetWalker Ransomware, DEP'T OF JUST. (Jan 27, 2021), <https://www.justice.gov/opa/pr/department-justice-launches-global-action-against-netwalker-ransomware>.

<sup>13</sup> Press Release, Three North Korean Military Hackers Indicted in Wide-Ranging Scheme to Commit Cyberattacks and Financial Crimes Across the Globe, DEP'T OF JUST. (Feb. 17, 2021), <https://www.justice.gov/opa/pr/three-north-korean-military-hackers-indicted-wide-ranging-scheme-commit-cyberattacks-and>.

<sup>14</sup> Id.

<sup>15</sup> Id.

<sup>16</sup> Stewart Bishop, Feds Accuse Bitcoin Fog Operator of Money Laundering, LAW360 (Apr. 28, 2021), <https://www.law360.com/articles/1379609/feds-accuse-bitcoin-fog-operator-of-money-laundering>.

<sup>17</sup> Basel Committee on Banking Supervision, Consultative Document: Prudential Treatment of Cryptoasset Exposures, BANK FOR INT'L SETTLEMENTS (June 2021), <https://www.bis.org/bcbs/publ/d519.pdf>.

<sup>18</sup> Gary Silverman & James Politi, US Regulators Signal Bigger Role in Cryptocurrencies Market, FIN. TIMES (May 30, 2021), <https://on.ft.com/2TDZM7e>.

<sup>19</sup> Id.

<sup>20</sup> Id. ("Gensler said the Treasury department has been focused on 'anti-money laundering and guarding against illicit activity' in the crypto market.").

<sup>21</sup> See UK Regulatory Approach to Cryptoassets and Stablecoins: Consultation and Call for Evidence, HER MAJESTY'S TREAS. (Jan. 2021), [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/950206/HM\\_Treasury\\_Cryptoasset\\_and\\_Stablecoin\\_in\\_consultation.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/950206/HM_Treasury_Cryptoasset_and_Stablecoin_in_consultation.pdf).

<sup>22</sup> The primary anti-money laundering legislation in the United Kingdom is the Proceeds of Crime Act 2002 ("POCA"), the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 ("MLR"), and the Sanctions and Anti-Money Laundering Act 2018 ("SAMLA").

<sup>23</sup> Ryan Browne, Many Cryptocurrency Firms Are Not Meeting Money Laundering Rules, UK Watchdog Warns, CNBC (June 3, 2021), <https://cnb.cx/3wJNtVY>.

<sup>24</sup> Joshua Oliver, UK Regulator Warns on Crypto Industry's Anti-Money Laundering Practices, FIN. TIMES (June 3, 2021), <https://on.ft.com/3xtvmmH>. See also Joshua Oliver, Most Would-Be Crypto Investors Unaware of UK Regulator's Warnings, FIN. TIMES (June 17 2021), <https://on.ft.com/3iZlz2U> ("[T]he Financial Conduct Authority found that general understanding of cryptos, including among those invested in the assets, had dropped as the popularity of the digital coins had increased.").

<sup>25</sup> The FCA and the Bank of England has warned consumers of the risks involved in investing in digital assets. See Kalyeena Makortoff, Bitcoin: Be Prepared to Lose All Your Money, FCA Warns Consumers, THE GUARDIAN (Jan 11, 2021), <https://www.theguardian.com/business/2021/jan/11/bitcoin-be-prepared-to-lose-all-your-money-fca-warns-consumers-risk-productis-cryptoassets>.



- <sup>26</sup> RON KALIFA OBE, KALIFA REVIEW OF UK FINTECH 30 (Feb. 26, 2021), [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/978396/KalifaReviewofUKFintech01.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/978396/KalifaReviewofUKFintech01.pdf). This report was created after Chancellor Rishi Sunak asked Ron Kalifa OBE to conduct an independent review of the UK's fintech sector.
- <sup>27</sup> Carolyn H. Jackson, Nathaniel W. Lalone & Neil Robson, *UK Announces New Central Bank Digital Currency Taskforce*, NAT'L L. REV. (Apr. 23, 2021), <https://www.natlawreview.com/article/uk-announces-new-central-bank-digital-currency-taskforce>.
- <sup>28</sup> *Id.*
- <sup>29</sup> See *Discussion Paper: Central Bank Digital Currency: Opportunities, Challenges and Design*, BANK OF ENG. (March 2020), <https://www.bankofengland.co.uk/-/media/boe/files/paper/2020/central-bank-digital-currency-opportunities-challenges-and-design.pdf>.
- <sup>30</sup> Andreas Fillmann, *German Law Aspects of Crypto Assets*, NAT'L L. REV. (Apr. 2, 2020), <https://www.natlawreview.com/article/german-law-aspects-crypto-assets>.
- <sup>31</sup> FED. FIN. SUPERVISORY AUTH., SUPERVISORY PRIORITIES FOR 2021 21 (June 26, 2021), [https://www.bafin.de/SharedDocs/Downloads/EN/Broschuere/dl\\_Aufsichtsschwerpunkte2021\\_en.html](https://www.bafin.de/SharedDocs/Downloads/EN/Broschuere/dl_Aufsichtsschwerpunkte2021_en.html).
- <sup>32</sup> *Id.*
- <sup>33</sup> *Id.*
- <sup>34</sup> GLOB. LEG. INSIGHTS, BLOCKCHAIN & CRYPTOCURRENCY REGULATION 2021 | JAPAN (last visited June 21, 2021), <https://www.globallegalinsights.com/practice-areas/blockchain-laws-and-regulations/japan> [hereinafter JAPAN CRYPTO REGULATION].
- <sup>35</sup> Joon Ian Wong, *One Bitcoin is Now Worth More Than \$5,100, A Record High*, QUARTZ (Oct. 12, 2017), <https://qz.com/1100754/bitcoin-price-breaks-5100-as-japan-is-biggest-market-by-volume/>.
- <sup>36</sup> See JAPAN CRYPTO REGULATION, *supra* note 34.
- <sup>37</sup> Jamie Crawley, *Japan to Adopt FATF Travel Rule for Crypto*, NASDAQ (Apr. 1, 2021), <https://www.nasdaq.com/articles/japan-to-adopt-fatf-travel-rule-for-crypto-2021-04-01>.
- <sup>38</sup> The BMA enforces Bermuda's Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Act 2008, which came in effect in 2009. This act also gives BMA the authority to impose penalties for failure to comply with anti-money laundering laws. The Digital Asset Business Act ("DABA") amended Bermuda's AML laws to include businesses licensed to conduct cryptocurrency business.
- <sup>39</sup> Mary V. Ward & Adam Bathgate, *Bermuda Blockchain and Cryptocurrency Regulation 2020, Second Edition*, CAREY OLSEN (Feb. 7, 2020), [https://www.careyolsen.com/sites/default/files/CO\\_BER\\_Blockchain-and-Cryptocurrency-Regulation-2020-2nd-Edition.pdf](https://www.careyolsen.com/sites/default/files/CO_BER_Blockchain-and-Cryptocurrency-Regulation-2020-2nd-Edition.pdf).
- <sup>40</sup> *Id.* at 2. Bermuda "has implemented a comprehensive regulatory regime aimed at providing legal certainty to industry participants and ensuring that business in the sector conducted in or from Bermuda is done in a properly regulated matter, in accordance with the highest international standards." *Id.*
- <sup>41</sup> *Regulatory Approaches to Cryptoassets: Bermuda*, LIB. OF. CONG. (last updated Dec. 30, 2020), <https://www.loc.gov/law/help/cryptoassets/bermuda.php>.
- <sup>42</sup> GLOB. LEG. INSIGHTS, BLOCKCHAIN & CRYPTOCURRENCY REGULATION 2021 | CAYMAN ISLANDS (last visited July 8, 2021), <https://www.globallegalinsights.com/practice-areas/blockchain-laws-and-regulations/cayman-islands>.
- <sup>43</sup> See *Anti-Money Laundering & Countering the Financing of Terrorism*, CAYMAN IS. MONETARY AUTH. (last visited July 8, 2021), <https://www.cima.ky/amlcft>.
- <sup>44</sup> See *VASP Registration/Notification Requirements*, CAYMAN IS. MONETARY AUTH. (last visited July 8, 2021), <https://www.cima.ky/virtual-asset-service-providers>.
- <sup>45</sup> Crypto Assets Regulatory Working Group, *Position Paper on Crypto Assets*, S. AFR. INTERGOVERNMENTAL FINTECH WORKING GRP. (IFWG) (June 11, 2021), [https://www.ifwg.co.za/wp-content/uploads/IFWG\\_CAR\\_WG\\_Position\\_Paper\\_on\\_crypto\\_assets.pdf](https://www.ifwg.co.za/wp-content/uploads/IFWG_CAR_WG_Position_Paper_on_crypto_assets.pdf).
- <sup>46</sup> *Id.* at 6–8.
- <sup>47</sup> See Anti-Money Laundering and Counter-Terrorism Financing Act 2006 (Austr.).