

UDC 2024
Nov. 14 2024

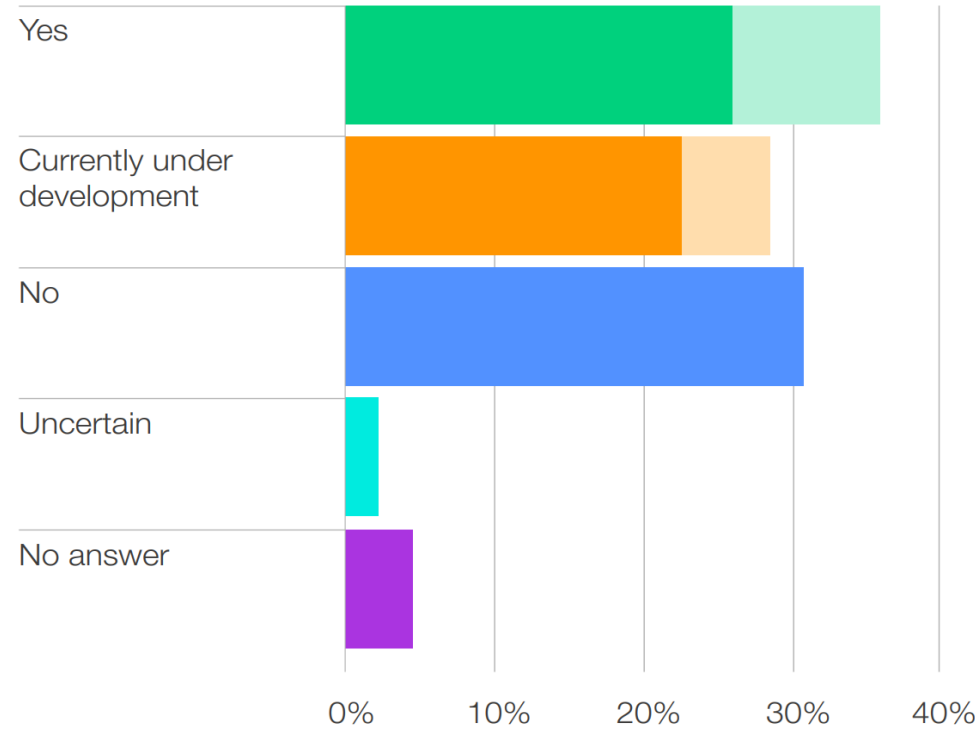
In Brief

Global Regulatory Trend and the Future of Digital Assets

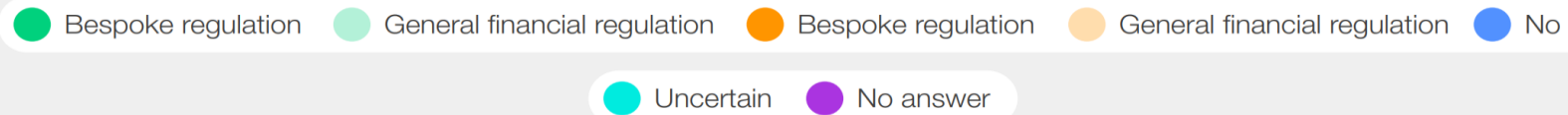
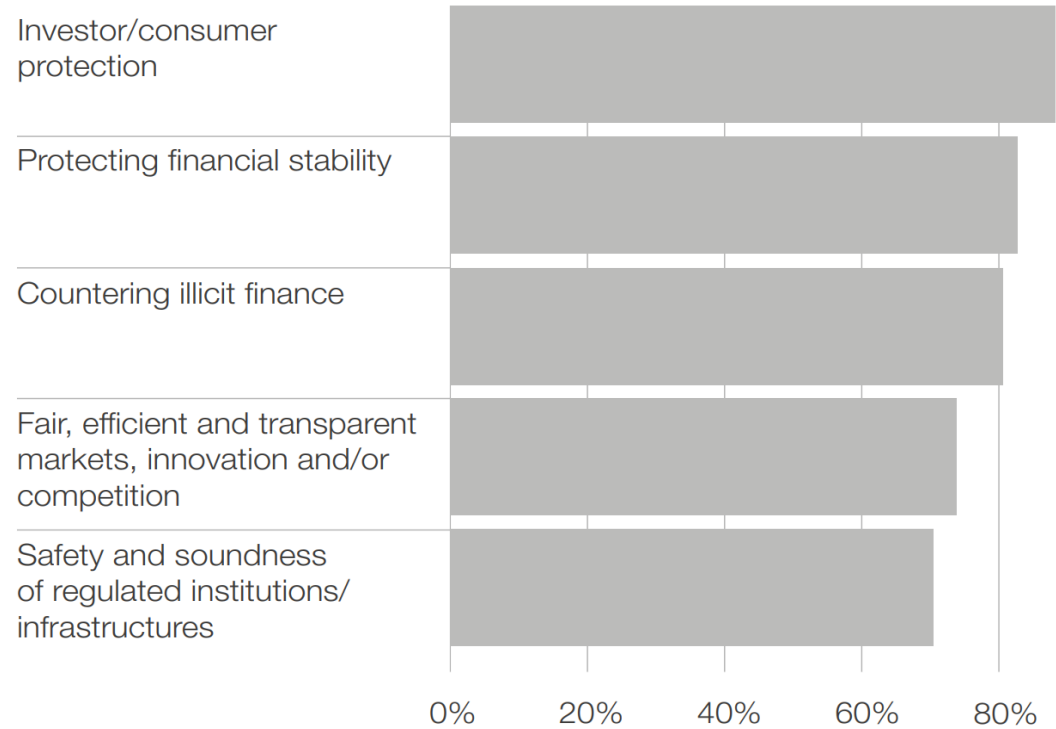
- **Haeboong Lee** (DUNAMU, former FSS)
- **Angela Ang** (TRM Labs, former MAS)
- **Clara Chiu** (QReg, former HKSF)
- **Dimitris Psarrakis** (Warton BS, former EP)
- **Jason Somensatto** (Chainalysis, former CFTC)

Regulatory framework for stablecoins and other cryptoassets (BIS 2023 survey)

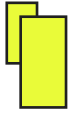
Presence in the jurisdictions



Regulatory objectives



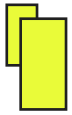
* Source: Bank for International Settlement (2024). Annual economic report No. 147: Embracing diversity, advancing together – results of the 2023 BIS survey on central bank currencies and crypto. www.bis.org/pub/bpldf/bispap145.pdf; World Economic Forum, Insight Report (Oct. 2024), **Digital Asset Regulation: Insights from Jurisdictional Approaches**.



- ❖ **Act on Reporting and Using Specified Financial Transaction Information** (Amended)
 - **AML/CFT measures** including **Travel Rule, CDD, EDD, STR** obligations
 - **Special provisions** regarding **VASPs** (business qualification, use of identified **real-name bank accounts**, separation of transaction history by customers, deal with regulated VASPs, prohibition on receiving illicit money, handling VAs issued by related party, etc.)

- ❖ **(phase 1) Act on the Protection of Virtual Assets Users** (effected July 2024)
 - **Segregation** of users' deposited money and virtual assets; threshold for **cold-wallet safekeeping; insurance; prohibition on market abuse** including market manipulation; VASPs obligation for **real-time market oversight, record-keeping** for 15 years, etc.

- ❖ **(phase 2 legislation?)**
 - Expected to include requirements for the **issuer, issuance, offering, listing/delisting** of virtual assets; **disclosures** in the market; **types & business conduct rules** of VASPs, etc., which is covered by **Guidelines on Best Practices** (issued by Digital Asset Exchanges Alliance/**DAXA**).



❖ **Financial Action Task Force (FATF)**

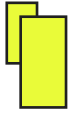
- Updated Guidance for a Risk-Based Approach: VAs and VASPs (2021.10);
- Targeted update on Implementation of the FATF Standards on VAs and VASPs (2021.~2024)

❖ **International Organization of Securities Commissions (IOSCO)**

- Issues, Risks and Regulatory Considerations Relating to CATPs (2020.02)
- **BIS-CPMI & IOSCO**, Application of the Principles for Financial Market Infrastructures to stablecoin arrangements (2022.07)
- Final Report, Policy Recommendations for Crypto and Digital Asset Markets (2023.11)

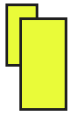
❖ **International Monetary Fund (IMF) & Financial Stability Board (FSB); G20**

- IMF-FSB Synthesis Paper: Policies for Crypto-Assets (2023.10) - roadmap of implementation and review of policies; adopted as **G20 FMCBG Communique**



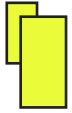
❖ Monetary Authority of Singapore (MAS)

- **Project Ubin**, optimizing cross-border payment with wholesale CBDCs (2016~2020.7);
- **Payment Services Act** (2019; 2020 amended)
- **Project Orchid** (global CBDCs); **Partior** (Blockchain-based inter-banks clearing network); **Dunbar** (multi-currency clearing platform); **PayNow** (foreign payment systems) (2021)
- **Consultation** on Proposed Regulatory Measures for Digital Payment Tokens (DPT) Services (2022.10); **Regulatory Measures for DPT Services** (2023.11)
- **Consultation** on Stablecoin Regulatory Approach (2022.10); **Response to Consultation on Stablecoin Regulation** (2023.08);
- **Financial Services and Markets (amendment) Bill** (2022-2023);
- **Guidelines on Consumer Protection Measures by DPT Service Providers under the Payment Services Act** (2024.4)



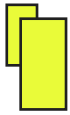
- ❖ **HK Government, Monetary Authority (MA), Securities and Futures Commission (SFC)**
 - Policy Statement on Development of Virtual Assets in Hong Kong (2022.10)
 - [HKMA] Consultation Conclusion: Legislative Proposal to Implement the Regulatory Regime for Stablecoin Issuers in Hong Kong (2024.07)
 - [HKSF] Framework on the Regulation of Virtual Asset Fund and Trading Platform Operators (2018); Guidelines for Virtual Assets Trading Platform Operators (2023);

- ❖ **HK Legislative Council**
 - The AML and CTF (Amendment) Ordinance 2022 [AMLO] (2022.12) - AMLO licensing regime, VATP business is required to be licensed by the SFC
 - Subcommittee on Issues Relating to the Development of Web3 and Virtual Assets, “Background brief on development and regulation of virtual assets in Hong Kong” (2024.07)



- Digital Finance Package under the “Digital Finance Strategy” (2020)
- [DLTR] Regulation on a Pilot Regime for Market Infrastructures based on DLT (2022.05., implemented 2023.03.)
- [MiCA] Regulation on Markets in Crypto-Assets (2023.05., implemented 2024.06.30~)
- [AMLR] Regulation on Information accompanying transfer of funds and certain crypto-assets (2023.05., implement 2024.12.)
- [NIS2] Network and Information Security Directive II (2023.05, implemented 2024.6.30~)
- [DORA] Digital Operational Resilience Act (2022.12., implement 2025.01.17)
 - NIS2 & DORA aim to ensure nation-wide cybersecurity and operational resilience;
 - DORA requirements including enhanced TLPT testing and ICT incidents reporting will apply to financial institutions including Crypto-Asset Service Providers (CASPs)

※ *EU, Inter-institutional Agreement on Better Law-making (2016)*



- **[SEC]** Framework for “Investment Contract” Analysis of Digital Assets (2017, 2019); Statement and Requests Comment regarding the Custody of Digital Asset Securities by Special Purpose Broker-Dealers (2020.12); Staff Accounting Bulletin No. 121 (2022.04~) – mandate custodians holding digital assets on behalf of customers recognize a liability on their balance sheets, keeping effect surviving the House-Senate overturning Resolution;
- **[Treasury]** PWG report on Stablecoin and Recommendation (2021.11)
- **[White House]** E.O. on Ensuring Responsible Development of Digital Assets (2022.03)
- **[Senate]** Lummis-Gillibrand Responsible Financial Innovation Act bill (2022.06~); Cynthia Lummis, the *Boosting Innovation, Technology and Competitiveness through Optimized Investment Nationwide (BITCOIN) Act* – creating a [strategic Bitcoin reserve](#), implement a 1-million-unit Bitcoin purchase program, affirm self-custody rights of private Bitcoin holders
- **[House]** Financial Innovation and Technology for the 21st Century Act (2024.06~) – to provide for a system of regulation of digital assets by the **CFTC** and the **SEC**, etc.

❖ Dubai (UAE)

- **Law No. (4), Regulating Virtual Assets in the Emirate of Dubai (2022)** – create a new regulator, the Virtual Assets Regulatory Authority;
- **[DIFC] Digital Asset Law; new Law of Security (2024.03)** – in line with the **UNIDROIT Principles on Digital Assets and Private Law (2023.05)**

❖ United Kingdom

- **The Financial Services and Markets Act of 2023**, provides extensive guidance on financial matters, including the treatment of digital asset settlements.
- **[FCA] Financial promotion rules for crypto assets (2023.06); Launch of permanent digital sandbox (2023.07); Regulating Crypto assets phase 1: Stablecoins (2023.11)**
- **[Law Commission] Digital Assets: Final Report (2023.06)**
- **[HMT] Property (Digital Assets etc) Bill 2024 (2024.09)** – third category of property right