

# Regulating the Crypto-economy?

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# Do we need to regulate?

- Surfacing of problems  $\neq$  Need for regulation (at least based on the FCA's *Effective Regulation (2016)*)
  - Scams/Misplaced hopes- over 80% of ICOs do not culminate in a live project
  - Wallet/custodial providers for crypto-assets 'lose' these assets
    - Cyberhacking (Binance, Coincheck, Mt Gox)
    - Business continuity issues (Bitfinex)
    - Loss of keys (QuadrigaCX, and also individual losses of keys through forgetfulness etc)
  - Market abuse on crypto-markets (pump and dump is commonplace)

# Do we need to regulate

- Levi-Faur's and Braithwaite's 'regulatory capitalism'
- A vision of 'steering' while private sector does the 'rowing'
  - Aspect of partnering industrial policy, building sectors and markets
  - Aspect of governance and control
- *Both* aspects are relevant to the crypto-economy

# Another look at the crypto-economy

- Bitcoin blockchain pioneered a private payments system as alternative to 'the establishment'
- 'parasitic' in nature, as the payment system does not support an alternative economy
- The development of the ethereum blockchain and smart contracts brought about potential for the development of a new economic space
- New virtual 'goods' or 'services' and new ways of commodification can be supported by new p2p markets powered by distributed ledger technology
  - Iungo
  - Peer2peer energy trading sector, eg WePower, Electron

# Perspectives for the Crypto-economy

- The crypto-economy has ‘productive’ potential
  - New forms of economic mobilisation and participation
  - ‘unshackled’ from barriers in established/conventional markets
- There is arguably a good reason for token financing besides regulatory arbitrage
  - Pre-sales of the native coin of the ledger is sensible to secure critical mass of network effects
- Problem is: what happens when-
  - The funds raised at the token sale stage becomes more important than the project itself?
  - Holder of tokens are more interested in quick speculation than patient commitment to the project development?
  - You cannot tell if token pre-sales are for genuine endeavours or scams?

# Perspectives for the Crypto-economy

- The crypto-economy has become highly financialised even before its productive potential has taken off
- Key to this is the liquidity of the tokens
- More financiers are being attracted to this space
  - ‘new asset class’
  - Crypto-funds and crypto-derivatives
- Impact of financialisation
  - Regulators issue consumer warnings (diametrically opposed to the ethos of disintermediation and new p2p marketplaces for new commodification)
  - Regulators’ attention is funnelled towards financial regulation
  - Missing paradigm- can regulation provide a framework for the productive aspects, safeguard access, provide governing norms of conduct? This aspect can be usefully integrated with the financialised aspects and contribute to design of bespoke regime.

# Regulatory approaches

- Focused on financial regulation- usually in search for functional equivalence
- Finance disembedded from ‘real economy’?
  - Reg competition at work in Thailand and France
  - Prohibitive regimes in China and S Korea due to policy concerns
  - Functional equivalence approaches in Switzerland, Singapore, potentially UK
  - US approach- mixed as Uniform Law seems to be liberal but SEC and CFTC adopt fiercely defensive approach to their regulatory remits

# Thinking about Holistic Regulation for the crypto-economy

- Should we think about registering DLT based business models?
  - P2P marketplace v collective community, individual anonymity v commons creation, pockets of power and decision-making
  - Not necessarily a corporate form
  - Weed out contrivances eg Ebay Sponso story
- Should there be thinking about governance structures and frameworks for those that maintain the ledger, participants that co-create wealth in the sharing economy?
- Should we think about rights, obligations and even distribution?
  - These basic questions underlie the fund-raising model and whether we permit it, what rights/obligations are involved in both fund-raising and governance.



# Potential benefits of such shift in thinking

- Bigger picture in relation to promoting innovation for economic development and mobilization
- Role of regulation against market for lemons
- Recent FT piece on the need to shift policy thinking from financialisation to de-financialisation ie thinking about real economic development and boosts and not financial sector growth or more financial solutions for the world
- Fulfils regulation's holistic mandate of steering- building and making frameworks to facilitate economic and commercial activity while providing governance and order