

Regulating the Crypto-economy?

Iris H-Y Chiu, UCL

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