Deloitte.

CENTRE *for*
REGULATORY STRATEGY
EMEA

Navigating the fragmented global digital assets regulatory landscape

Strategic regulatory considerations for banks

MAKING AN IMPACT THAT MATTERS since 1845

Executive Summary

This report

This report is intended to help internationally-active banks develop a digital assets strategy and the necessary underlying capabilities (e.g. governance, risk management frameworks) in the context of an evolving and fragmented regulatory landscape.

We focus on regulatory approaches and policy around the following broad groups of digital assets:
- Tokenised financial instruments
- Stablecoins
- Unbacked digital assets
- Retail CBDC

For each group we map regulatory taxonomies and compare the following jurisdictions' approaches: UK, EU (supranational level), Japan, Singapore, Hong Kong and Australia.

In light of continued regulatory uncertainty, we have not included the USA in our detailed mapping and comparison exercise. Instead, we include a spotlight on the USA digital assets regulatory landscape, including key unanswered policy questions.

We conclude with an illustrative case study to bring to life how the evolving international regulatory landscape will influence a firm's digital asset strategy.

Who is this report for?

This report is intended primarily to inform and support the following roles in internationally-active banks:
- Boards, senior management, and heads of digital assets and innovation that are responsible for shaping the bank's digital assets strategy.
- Digital assets leads in risk, compliance and regulatory affairs teams.

Overview

- Digital assets markets experienced significant disruption and challenges in 2022. Banks around the world are considering what role (if any) to play in the digital assets ecosystem, alongside their existing offerings. They are generally taking a cautious and considered approach.
- As at end-June 2022, only a small proportion of banks reported digital assets exposures or assets under custody.[1] Prudential exposures make up only 0.013% of total exposures on a weighted average basis across the sample of banks reporting digital asset exposures. Meanwhile digital assets under custody make up only 0.005% of total exposures. This considered approach has only been reinforced by the market events in 2022.
- At the same time, policymakers around the world continue to shape their future digital assets regulatory frameworks. They are aiming to ensure that regulators are equipped to address new/enhanced digital assets risks, while facilitating exploration of the potential benefits of the underlying DLT in financial markets.
- We note five key drivers behind international regulatory responses to digital assets: financial stability, monetary sovereignty, investor protection, financial crime and competitiveness.
- Nevertheless, regulatory responses are distinct. One of the first challenges faced by internationally-active banks in this area is navigating local regulatory taxonomies.
- We see greater regulatory clarity around distinguishing between different types of digital assets. Nevertheless, regulatory perimeters and frameworks tend to capture different types of digital assets and underpinning activities in distinct ways:
  - **Tokenised financial instruments:** All six in-scope jurisdictions rely on existing capital markets frameworks to regulate underpinning activities. This – in part – explains wholesale banks' interest in issuing/providing custody of tokenised bonds.
  - **Unbacked digital assets:** Frameworks differ significantly in terms of maturity. As a result, coupled with market disruption in 2022, banks are generally adopting a wait and see approach to this group.
  - **Stablecoins:** Fiat-backed variants are a key focus, with rules for issuers in the pipeline across all jurisdictions. However, stablecoin frameworks also differ significantly in terms of maturity.
  - **Retail CBDC:** Remains a long-term project. Clear role for banks in almost all jurisdictions, but significant work remains to shape the underlying key features of local CBDCs.
- Even where regulation is emerging, further details are required in many areas to enable banks to fully execute their digital assets strategies. This is especially the case where existing regulation is leveraged to regulate digital assets activities, e.g. existing capital markets rules to govern tokenised financial instruments.

1. BCBS, *Basel III Monitoring Report*, February 2023, available at https://www.bis.org/bcbs/publ/d546.pdf

The structure of this report

Four sections covering international regulatory approaches and an illustrative case study highlighting the strategic implications for a bank building a digital assets custody offering

Click the green box to navigate to each section

Section 1: Regulatory objectives

An overview of the key regulatory objectives driving jurisdictions' regulatory responses to digital assets.

Section 2: Key terminology – navigating local regulatory taxonomies

This section defines the four broad groups of digital assets that this report focuses on and maps these broad groups to local regulatory taxonomies.

Section 3: Comparing international regulatory perimeters and approaches

This section compares the following jurisdictions' regulatory approaches to digital assets: UK, EU (supranational level), Japan, Singapore, Hong Kong and Australia.

Section 4: Case Study – implications for an internationally-active bank building a digital assets custody offering

Navigating this fragmented regulatory landscape is especially challenging for banks with an international footprint. This section brings some of these challenges to life through an illustrative case study, highlighting how the evolving landscape may affect the bank's strategy and business model.

STRATEGIC CHOICES

- WHAT PRODUCTS TO OFFER
- WHEN TO LAUNCH
- OPERATING MODEL CHOICE
- WHERE TO LAUNCH
- TARGET CLIENTS

NECESSARY UNDERLYING CAPABILITIES

- GOVERNANCE AND RISK MANAGEMENT
- PEOPLE AND SKILLS
- RISK APPETITE
- CAPITAL PLANNING
- REGULATORY ENGAGEMENT

Key takeaways (1/2)

We use an illustrative case study to bring to life how the evolving global regulatory landscape will affect an internationally-active bank building a digital assets custody offering and some of the key strategy and business model decisions it will need to take.

Digital assets custody regulatory landscape – key takeaways

- Tokenised financial instruments have relatively more regulatory clarity across in-scope jurisdictions. Regulators generally use traditional frameworks as a starting point. The next wave of regulatory attention in regard to tokenised financial instruments will focus on tailoring these frameworks.
- Building a framework for custody of unbacked digital assets and fiat-backed stablecoins is a common policy priority across in-scope jurisdictions. Nevertheless, frameworks differ significantly in terms of maturity.

		UK	EU	JPN	SGP	HK	AUS
Custody of...	Tokenised financial instruments						
	Unbacked digital assets						
	Fiat-backed stablecoins						

- Activity currently regulated
- Finalised rules to regulate this activity, pending implementation
- Rules to regulate this activity under consultation
- Regulatory initiative forming, i.e. white paper/discussion paper published

Custody strategy implications

What products to offer

- Tokenised financial instruments have the clearest regulatory framework and therefore is the most viable starting point.
- Unbacked digital assets generally least viable for now given less mature regulatory environment in most jurisdictions and banks' own risk appetite.

When to launch

- Custody launch can take 12-18 months – significant preparatory work to design and implement a regulatory compliant operating model.
- Even launching a tokenised financial instrument offering requires significant lead time and should be factored in to develop realistic launch timelines.

Where to launch

- Tokenised financial instruments offer a greater degree of flexibility in choosing a jurisdiction as frameworks are clearer across all in-scope jurisdictions.
- Unbacked digital assets and fiat-backed stablecoins – potential pilot offerings in JPN/SGP/EU.

Target clients

- Offering for professional investors and ultra-high net worth individuals (as opposed to pure retail) is generally more viable from regulatory perspective.

Operating model choice

- Outsourcing custody – with robust oversight – may become more attractive as regulation emerges and custodians become regulated firms.
- However, some jurisdictions (e.g. EU) have strict location requirements which may affect the overall custody operating model.

Key takeaways (2/2)

Implications for key underlying custody capabilities

GOVERNANCE AND RISK MANAGEMENT

- Develop standardised policies and procedures to support digital assets offering.
- Develop group-wide custodian onboarding framework to determine whether to enter into third-party relationship with custodians.
- Build specific digital assets compliance function and firm-wide committees to ensure risk alignment across the bank.

RISK APPETITE

- Set out risk appetite and clarify red lines at group-level, e.g. only outsourcing to fully regulated custodian, banning anonymity enhanced tokens.
- At the same time, ensure that local risk appetite reflects local digital assets activity.
- Capture digital assets risks to more stringent and granular level. Move beyond financial crime to consider compliance risks, e.g. operational, cyber and conduct risks.

REGULATORY ENGAGEMENT

- Ensure alignment and consistent digital assets strategy messages to regulators.
- Start engagement before launch decision, allowing time to bake in regulatory considerations.
- Build regulatory horizon scanning capability to identify and assess the impact of regulatory change on custody plans.

PEOPLE AND SKILLS

- Ensure key decision makers such as Boards and relevant senior management are sufficiently upskilled to review, challenge and provide oversight of custody offering.
- Evidence to local regulators that local management, risk and compliance teams have sufficient expertise, and have challenged and signed off custody plans.
- Use lead time before launch to upskill a wider set of stakeholders and teams, e.g. including risk and compliance functions.

CAPITAL PLANNING

- BCBS standards enable custody as a more viable starting point since the more punitive credit, market and liquidity risk requirements are not intended to apply to custody.
- However, a degree of divergence in country-level implementation of BCBS standards seems inevitable. Plans need to remain agile as local rules emerge in 2023/24.

Section 1

ty objectives

Key regulatory drivers

We identified five key regulatory objectives and focus areas across in-scope jurisdictions

Around the world we note five key drivers behind regulatory responses to digital assets.

Although we see some commonalities in terms of key risks that policymakers are concerned with, regulatory responses are distinct.

As we explore in sections 2 and 3, this means that different jurisdictions' regulatory taxonomies, perimeters and frameworks often capture different types of digital assets and underpinning activities in distinct ways.

FINANCIAL STABILITY

- Policymakers across all in-scope jurisdictions and at the supranational level (e.g. the FSB) are alert to increasing financial stability risks posed by digital assets, largely due to four key reasons.
  1. The increasing interconnectedness of digital assets/traditional markets. While banks' direct exposure to digital assets is limited for now, this could change if their activities give rise to balance sheet exposures. This could increase the interconnectedness between these markets – a trend the IMF already noted[1] – and stability risks.
  2. The emergence of stablecoins. In particular, concerns that stablecoins backed with risky assets and/or weak reserve management may not support all redemptions, making them unsuitable for wide use in payments.
  3. The use of leverage in digital assets investments.
  4. Vertical integration in digital assets markets. Service providers often carry out a range of functions under one roof, e.g. digital assets exchanges may also carry out custody, lending and proprietary trading activities. This presents a complex risk profile, and risks originating in individual functions may transmit across functions.

MONETARY SOVEREIGNTY

- Policymakers across all in-scope jurisdictions are alert to threats that digital assets – especially stablecoins used widely as means of payment – could have implications for transmission of monetary policy. E.g. if a systemic stablecoin is used widely as a store of value, it could weaken the effect of monetary policy on interest rates and credit conditions.
- Policymakers are also alert to potential risks posed by retail CBDCs to monetary stability. E.g. bank disintermediation could affect the transmission of monetary policy to the real economy.

INVESTOR PROTECTION

- Some of regulators' key concerns include unbacked digital assets' price volatility, product complexity, misleading marketing and lack of retail consumer awareness.
- This has led to limited prohibitions for certain retail offerings. In the UK, the sale of digital assets derivatives to retail consumers is banned.
- Regulators globally also regularly educate and warn consumers on the high-risk and generally unregulated nature of unbacked digital assets.

FINANCIAL CRIME

- Across all in-scope jurisdictions, initial regulatory responses to digital assets since 2018 are largely driven by financial crime concerns, leading to a number of jurisdictions extending AML/CFT frameworks to digital assets.
- There have been some initial attempts to harmonise regulatory responses to AML/CFT risks, e.g. FATF travel rule.

COMPETITIVENESS

- Some jurisdictions (especially UK and SGP) have set out their ambition of attracting digital assets technology and investment, with initiatives to provide regulatory clarity and policy facilitators (e.g. sandbox/pilot testing environments) as key enablers.

1. IMF, *Global Financial Stability Notes - Cryptic Connections: Spillovers between Crypto and Equity Markets*, January 2022, available at https://www.imf.org/en/Publications/global-financial-stability-notes/Issues/2022/01/10/Cryptic-Connections-511776#:~:text=In%20absolute%20terms%2C%20spillovers%20from,the%20variation%20in%20equity%20returns

Section 2

ogy – navigating
ory taxonomies

Key terminology

Regulatory taxonomies and definitions vary significantly across jurisdictions.

Matching these generally accepted terms to local taxonomies is one of the key initial challenges faced by internationally-active banks designing a digital assets strategy. This is an important step to identify relevant existing and emerging regulatory requirements, and understand their impact on digital asset based products and services.

Four broad groups have caught policymakers' attention – based on their underlying features – and are the focus of this report. These groups differ in terms of how (if at all) their value is backed, their economic function, and by whom they are issued.

Key terminology and definitions for this report

UNBACKED DIGITAL ASSETS

Digital assets whose value is not derived from an underlying tangible asset, but from supply and demand. NFTs are considered out of scope.

TOKENISED FINANCIAL INSTRUMENTS

Digital assets that provide rights and obligations similar to traditional regulated financial instruments like equity and debt (e.g. ownership, repayment of a sum of money).

STABLECOINS

Digital assets whose value is referenced to one or more underlying assets. Three common types:

- **Fiat-backed** – backed by one or more fiat currencies.
- **Asset-backed** – backed by any other asset or value, e.g. a commodity or a basket of assets.
- **Algorithmic** – aim to maintain stable price through an algorithm that facilitates a change in supply/demand between the coin and digital assets that support it.

RETAIL CENTRAL BANK DIGITAL CURRENCY

A digital form of sovereign currency, issued by – and treated as a liability of – a central bank. They may or may not be cryptographically secure or issued on DLT. CBDCs can be for retail or wholesale use:

- A retail CBDC is a digital equivalent of cash for households and businesses to use.
- A wholesale CBDC is defined for restricted access by financial institutions and is similar to central bank reserve and settlement accounts. It is intended for the settlement of large interbank payments or to provide digital central bank money to settle securities transactions between institutional counterparties.

This paper focuses on retail CBDCs only.

Key terminology

The table below maps local regulatory taxonomies to our five broad categories

Conventional taxonomy	Local regulatory taxonomies: UK	EU	Singapore	Hong Kong	Japan	Australia
Unbacked digital assets	Exchange token; utility token	Utility token; MiCA also captures most digital assets not caught by existing FS legislation[1]	Digital payment token[2]	Unbacked cryptoassets[3]	Cryptoasset	Public token system • Network Tokens (Cryptocurrency and General-purpose)
Tokenised financial instruments	Security token	DLT financial instrument	Security token	Security token	Security token	Intermediated token system • Crypto Asset Services
Fiat-backed stablecoins	Fiat-backed stablecoin used for payments	E-money token[5]	Single Currency Stablecoin[4]	Stablecoins that purport to reference to one or more fiat currencies[3]	Digital money type stablecoin (Electronic Settlement Instrument)	Intermediated Token System • Intermediated Crypto Asset
Asset-backed stablecoins	Not defined	Asset-referenced token	Security token; digital payment token	Not defined	Not defined	Intermediated Token System • Intermediated Crypto Assets – Wrapped 'real world' assets
Algorithmic stablecoins	Not defined	Algorithmic cryptoasset	Digital payment token	Algorithm-based stablecoins[3]	Cryptoasset	Intermediated Crypto Assets

1. Subject to certain exceptions. See here for an overview of MiCA, including its scope.
2. The Payment Services Act is applicable to any digital representation of value that is not denominated in nor pegged to any currency and is or is intended to be a medium of exchange as payment for goods or services or as payment for a debt.
3. Subject to HKMA's Conclusion of Discussion Paper on Crypto-assets and Stablecoins.
4. Only for fiat-backed stablecoins pegged to SGD or G10 currencies.
5. Defined in MiCA as a digital asset that aims to maintain a stable value by reference to one official currency.

This information should be treated as indicative and should not be relied on for digital assets solutions and compliance.

Please see here for a spotlight on the US digital assets regulatory landscape.

Section 3

nternational
erimeters and

Tokenised financial instruments

Tokenised financial instruments have relatively more regulatory clarity across most jurisdictions

Key observations

- All in-scope jurisdictions rely on existing capital markets regulatory frameworks as a starting point to regulate these core activities.
- However, regulators recognise that these frameworks were not designed with DLT-based financial instruments in mind and applying them in practice can be challenging. The next wave of regulatory attention in UK, EU, JPN, AUS and HK is set to focus on tailoring these traditional regulatory frameworks.
- Nevertheless, this degree of regulatory clarity means that, around the world, wholesale banks are exploring providing issuance and custody services related to this group in initial phases of digital assets strategies. Banks are able to leverage existing risk and compliance approaches as a basis, tweaking to the specific risks of blockchain-based financial instruments.
- Tokenised bonds are a common area of interest. We expect to see the continued emergence of industry proofs of concepts and more advanced exploratory work in the next 1-3 years.
- The EU and UK will provide special controlled environments for firms to test and optimise their operating model and risk and compliance approaches for issuing, trading and settling tokenised financial instruments. Firms in other jurisdictions may be able to leverage existing regulatory sandboxes to experiment with tokenised financial instruments.
- These EU/UK pilot initiatives may lead to tailored rules, but this will take time. In the interim, the onus is firmly on banks to consider how best to apply these traditional rules to their activities.
- The USA's regulatory approach to digital assets – including tokenised financial instruments – remains complex, with significant open policy questions. Click here for more details.

		UK	EU	JPN	SGP[1]	HK[2]	AUS
Key activities	Issuance						
	Operating a trading venue						
	Broker						
	Advice						
	Portfolio mgmt						
	Lending						
	Custody						
	Mining or validating transaction						
Regulatory approach	Activities captured by existing capital markets regulatory framework?	Yes	Yes	Yes	Yes	Yes	Yes
	Initiatives underway or planned to tailor existing framework?	Yes	Yes	Yes	No	Yes	Yes
Core components of regulatory framework	Licensing	✓	✓	✓	✓	✓	✓
	AML/CFT	✓	✓	✓	✓	✓	✓
	Prudential	✓	✓	✓	✓	✓	✓
	Disclosure and financial promotion	✓	✓	✓	✓	✓	✓
	Safeguard client assets	✓	✓	✓	✓	✓	✓
	Corporate governance	✓	✓	✓	✓	✓	✓
	Operational resilience	✓	✓	✓	✓	✓	✓
	Market manipulation and fraud	✓	✓	✓	✓	✓	✓

Activity currently regulated

✓ Detailed requirements consulted on or finalised

1. Tokenised financial instruments that meet the definition of capital market products are regulated under the Securities and Futures Act.
2. Subject to HK SFC Statement on Security Token Offerings.

Unbacked digital assets

Significant divergence in terms of maturity of frameworks, but degree of alignment on core activities

Key observations

- JPN, SGP and HK are first movers globally, with rules already in place to capture key intermediaries.
- EU is closely following, with clarity on primary requirements, but more work to follow in 2023/24 to define detailed firm-level requirements. Frameworks in other jurisdictions are comparatively less developed.
- Custody and broker activities are two of the three most common activities that regulators are targeting. This is unsurprising given their gatekeeper roles in the digital assets ecosystem. But the frameworks underpinning these activities differ significantly in terms of maturity.
- This presents challenges for internationally-active banks that want to provide e.g. custody services to their clients globally. Coupled with the market events of 2022, this regulatory complexity means that banks are generally progressing cautiously when considering whether to offer services in this part of the ecosystem.
- Putting in place detailed rules for this segment of the market will be a key area of focus for policymakers in 2023/24, as "second mover" jurisdictions (e.g. UK, HK, AUS) start to ramp up policy efforts.
- The USA regulatory approach to digital assets – including unbacked digital assets – remains complex, with significant open policy questions. Click here for more details.
- At the supranational level, attention is starting to shift to this digital asset sub-category. E.g. the FSB finalised its global recommendations to establish comprehensive digital assets frameworks in July 2023. Meanwhile IOSCO's draft recommendations – set to be finalised in Q4 2023 – will also feed into the rules underpinning this part of the market.
- Overall, further international consensus will help facilitate a degree of alignment across jurisdictions on core components of rules underpinning unbacked digital assets.

		UK	EU	JPN	SGP[1]	HK	AUS
Key activities	Issuance	Rules to regulate this activity under consultation	Finalised rules to regulate this activity, pending implementation	Activity currently regulated	Outside regulatory perimeter	Outside regulatory perimeter	Outside regulatory perimeter
	Operating a trading venue	Rules to regulate this activity under consultation	Finalised rules to regulate this activity, pending implementation	Activity currently regulated	Activity currently regulated	Activity currently regulated	Rules to regulate this activity under consultation
	Broker	Rules to regulate this activity under consultation	Finalised rules to regulate this activity, pending implementation	Activity currently regulated	Activity currently regulated	Activity currently regulated	Rules to regulate this activity under consultation
	Advice	Outside regulatory perimeter	Finalised rules to regulate this activity, pending implementation	Outside regulatory perimeter	Outside regulatory perimeter	Activity currently regulated	Rules to regulate this activity under consultation
	Portfolio mgmt	Outside regulatory perimeter	Finalised rules to regulate this activity, pending implementation	Outside regulatory perimeter	Outside regulatory perimeter	Outside regulatory perimeter	Outside regulatory perimeter
	Lending	Rules to regulate this activity under consultation	Outside regulatory perimeter	Outside regulatory perimeter	Rules to regulate this activity under consultation	Outside regulatory perimeter	Rules to regulate this activity under consultation
	Custody	Rules to regulate this activity under consultation	Finalised rules to regulate this activity, pending implementation	Activity currently regulated	Activity currently regulated	Activity currently regulated	Rules to regulate this activity under consultation
	Mining or validating transaction	Outside regulatory perimeter	Outside regulatory perimeter	Outside regulatory perimeter	Outside regulatory perimeter	Outside regulatory perimeter	Outside regulatory perimeter
Core components of regulatory framework	Licensing	●	✓	✓	✓	✓	●
	AML/CFT	✓	✓	✓	✓	✓	●
	Prudential	●	●	✓	✓	✓	●
	Disclosure and financial promotion	●	–	✓	✓	✓	●
	Safeguard client assets	●	✓	✓	✓	✓	●
	Corporate governance	●	–	✓	✓	✓	●
	Operational resilience	●	–	✓	✓	✗	●
	Market manipulation and fraud	●	–	✓	✓	✓	●

- Activity currently regulated
- Finalised rules to regulate this activity, pending implementation
- Rules to regulate this activity under consultation
- Outside regulatory perimeter

- ✓ Detailed requirements consulted on or finalised
- – Primary legal requirements clear, but detailed requirements yet to be consulted on
- ● Confirmed regulatory focus area, but primary and more detailed requirements yet to be consulted on
- ✗ Not included or undefined in framework or proposals

1. Digital payment token service providers are currently regulated under the Payment Services Act. New/proposed additional requirements are under consultation.

Stablecoins

Shared focus on fiat-backed stablecoins, but frameworks emerging at different pace

Key observations

Fiat-backed stablecoins

- This asset is a priority for policymakers with all in-scope jurisdictions pursuing frameworks for their issuance. These frameworks are generally based on rules governing traditional forms of electronic money.
- Initiatives differ in terms of maturity. JPN is a global first mover with rules for issuers in application, with EU closely behind. Other jurisdictions at consultation phase. Significant policy uncertainty at USA federal level.
- Across all in-scope jurisdictions, banks are generally allowed to leverage their existing authorisation to issue fiat-backed stablecoins. Although banks' experimentation is limited to date, we expect this increased clarity will lead more banks to consider in 2023/24 what role to play in this space.
- Rules governing other key activities related to fiat-backed tokens – in particular custody – are generally the same as those governing the same activity related to unbacked digital assets. This means banks can tweak risk and compliance capabilities according to the unique risks, rather than needing to meet requirements in two separate frameworks.
- **Asset-backed stablecoins:** Most jurisdictions have not adopted bespoke frameworks for this group. In part, this reflects the limited number of real-world use cases. The EU is the exception, developing a specific framework for issuers. However, significant details remain to be defined via detailed technical standards and guidance over 2023/24.
- **Algo-backed stablecoins:** Jurisdictions tend to follow the same approach as unbacked digital assets.

1. Depending on the type of asset backing, stablecoins are currently regulated as either digital payment tokens under the Payment Services Act or security tokens under the Securities and Futures Act.
2. Algo-backed tokens that meet the definition of a digital payment token are regulated under the Payment Services Act for operating a trading venue, broker, lending and custody.
3. The information provided in the sections below on fiat-backed stablecoins key activities and core components of regulatory framework refers to e-money tokens in MiCA.

		UK	EU[3]	JPN	SGP[1]	HK	AUS
Fiat-backed stablecoins Key activities	Issuance						
	Operating a trading venue						
	Broker						
	Advice						
	Portfolio mgmt						
	Lending						
	Custody						
	Mining or validating transaction						
Fiat-backed stablecoins Core components of regulatory framework	Licensing						
	AML/CFT						
	Prudential						
	Disclosure and financial promotion						
	Safeguard client assets						
	Corporate governance						
	Operational resilience						
	Market manipulation and fraud						
Regulatory approach to asset-backed tokens	Issuance				1		
	Other key activities				1		
Regulatory approach to algo-backed tokens	Issuance				2		
	Other key activities				2		

Fiat-backed stablecoins – key activities

- Activity currently regulated
- Finalised rules to regulate this activity, pending implementation
- Rules to regulate this activity under consultation
- Regulatory initiative forming, i.e. white paper/discussion paper published
- Outside regulatory perimeter

Fiat-backed stablecoins – core components of framework for issuers

- Detailed requirements consulted on or finalised
- Confirmed regulatory focus area, but detailed requirements yet to be consulted on
- Confirmed regulatory focus area, but primary and more detailed requirements yet to be consulted on
- Not included or undefined in framework or proposals

Regulatory approach to activities underpinning asset-backed/algo-backed tokens

- Same approach as unbacked digital assets
- Case-by-case – caught by mixture of traditional FS regulatory framework and digital assets-specific frameworks
- Caught by bespoke regulatory framework
- Outside regulatory perimeter

Retail central bank digital currencies

A long-term project

Key observations

- The overall direction of travel is shifting to more advanced CBDC exploratory work, with the launch of pilots in UK, SGP and HK. However, no in-scope jurisdiction has made a firm launch decision yet – retail CBDC remains a long-term project.
- There is a clear trend towards adopting a public-private model for distributing CBDC. In this model the central bank will provide the core ledger, and the private sector provides services (e.g. wallets) to end users. This trend gives banks and other payments firms a degree of confidence to start considering potential use cases.
- The emerging pilots will provide a safer environment for banks to start building and testing necessary business and operational capabilities to play in the CBDC ecosystem. Nevertheless, their plans will need to remain agile in the next ~2-5 years as development work continues and CBDC key features evolve.
- One of banks' major area of concern around CBDCs – and stablecoins – is the extent to which consumers may switch some of their bank deposits to these new forms of digital money. As we have explored previously[1], depending on speed and scale, this could affect the cost and availability of credit. Policymakers in some jurisdictions are exploring holding limits – at least during initial launch phases – as one way to mitigate this.
- Nevertheless, we already note some differences in size of holding limits. The UK and EU is a case-in-point. This will make it difficult for banks with a cross-border footprint to assess potential implications of disintermediation across their whole business, and shape their strategic response.
- Like other aspects of digital assets policy and regulation, the development of a US CBDC is taking time. Click here for more details.

	UK	EU	JPN	SGP	HK	AUS
Expected earliest launch date	2025-2030	2027 at earliest				
Distributed directly by central bank to end users						
Role for the private sector in distribution						
Accessible to households, businesses, both	Both	Both		Both		Both
Direct claim on central bank						
Will central bank and/or government have access to users' account information, including personal payments data				But personal transaction data can be further limited & legally secured		
Interest paid to end users						
Limits on user holdings	£10 – 20k per person	€3 – 4k per person		Amount held or spent over time period	But not specified	
Interchangeable and coexist with other private money						
Use cases: C2B, C2C or both	Both	Both		Both		Both
Offline capabilities						
Accessible by non-residents		Subject to agreements between national authorities		But limited & time bound access		

Yes
No
To be confirmed

This information represents the latest information as at September 2023 and is subject to change as exploratory work continues.

1. Available at: https://www2.deloitte.com/uk/en/blog/emea-centre-for-regulatory-strategy/2023/the-digital-pound-one-step-at-a-time.html

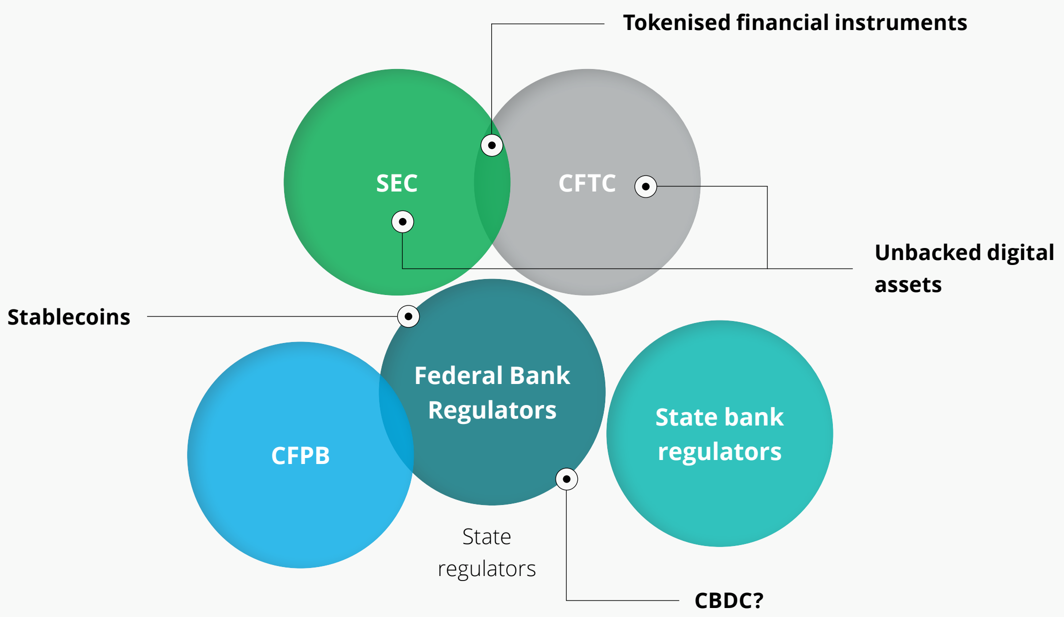
Spotlight: US digital assets regulatory landscape

Continued uncertainty but progress is being made

Key observations

- The US has a fragmented regulatory framework even at the Federal level with multiple market regulators, including SEC and the CFTC. This fragmented approach has led to jurisdictional questions within both government and industry.
- From a legislative perspective, the US has not defined digital or crypto assets in the context of US federal law, which has exacerbated the general lack of regulatory clarity.
- Federal agencies have been tasked with leveraging their existing authorities to regulate crypto and the SEC has taken a stance that most digital assets are securities (under the Howey test) and therefore within its jurisdiction.
- Industry-led legal cases to clarify this approach continue to play out. Meanwhile, Congress is making efforts to legislate and provide more clarity.
- Most recently, the House Financial Services Committee passed several bills in committee, including a framework to regulate stablecoins.
- These parallel tracks of court cases and potential legislation, as well as the business cycle, have left many in traditional finance awaiting more regulatory clarity.
- Like other aspects of digital assets policy and regulation, the development of a US CBDC is taking time and will be influenced by the broader political discussions on the topic.

US JURISDICTIONAL QUESTIONS



* This table is for illustrative purposes only and shows where regulatory authority for certain asset types may reside within the federal framework.

Section 4

avigating the fragmented tory landscape

Case study: introduction

Navigating this fragmented regulatory landscape is especially challenging for firms with an international footprint.

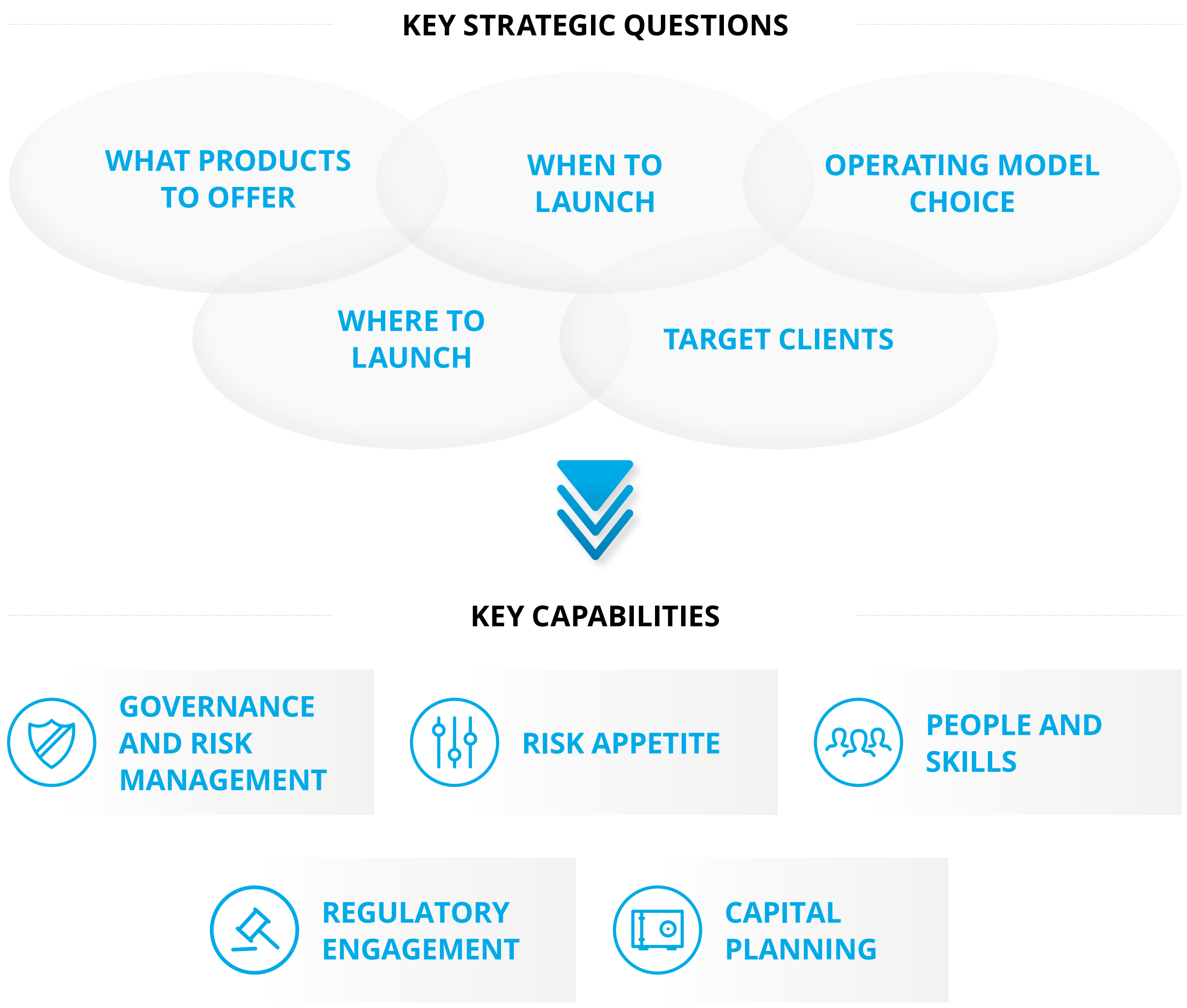
We bring some of these challenges and key considerations to life through an illustrative case study, **based on an internationally-active bank exploring a digital assets custody offering.**

Through this case study we highlight how the evolving international regulatory landscape might affect a bank's:

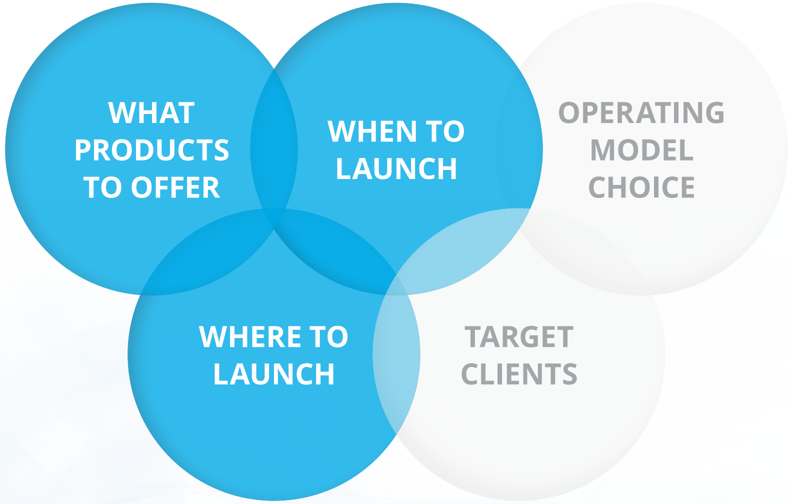
- Strategic choices, in particular five interrelated strategic questions
- Necessary underlying capabilities, in particular governance, risk appetite and risk management, people and skills, capital planning and regulatory engagement functions.

Overview of case study

- MyDigitalBank is a universal bank, i.e. servicing retail and wholesale clients.
- It has an international footprint. This includes across Europe, Asia Pacific and North America.
- MyDigitalBank started considering what role it wants to play in the digital assets ecosystem.
- As an initial step, MyDigitalBank wants to launch a custody offering. As of September 2023, MyDigitalBank is starting to shape its custody strategy, business model and key capabilities in more detail as the regulatory framework continues to take shape globally.



MyDigitalBank case study: strategic regulatory considerations



WHAT PRODUCTS TO OFFER

- Regulatory clarity is a key driver behind banks' choice of what types of digital asset to offer to hold in custody.
- **Tokenised financial instruments**: may represent a viable starting point for MyDigitalBank. Custody of this broad group is within the regulatory perimeter in each in-scope jurisdiction.
- **Unbacked digital assets**: Less mature global regulatory landscape means that MyDigitalBank may be less interested in including this group in its initial roll-out. Only JPN, SGP and HK have custody frameworks in force. MyDigitalBank may decide to explore this group as part of subsequent phases as more regulation emerges.
- **Fiat-backed stablecoins**: From a retail payments perspective, this may represent a viable starting point. Custody of this group is already regulated in JPN and SGP. With regulatory clarity expected imminently in the EU and UK, MyDigitalBank may decide to start with fiat-backed stablecoins and adopt a "wait and see" approach to other stablecoins.

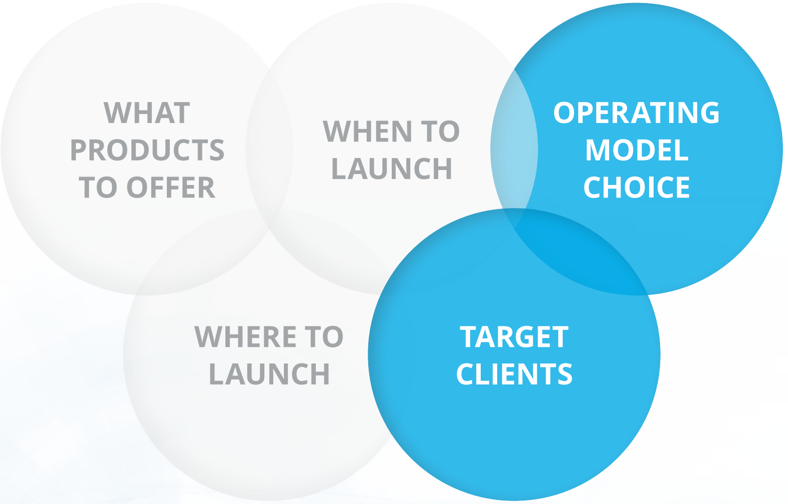
WHEN TO LAUNCH

- Regulation plays a crucial role in shaping go-to-market plans and when exactly to launch specific products. We see many banks phasing the launch of custody businesses alongside the application of regulatory rules.
- Nevertheless, building a custody offering underpinned by the appropriate business and organisational capabilities takes significant time and resources. In our experience, it can take up to 12-18 months to launch an initial offering. MyDigitalBank should factor this in when developing launch plans.
- Even for digital assets custody products that are already regulated (e.g. tokenised financial instruments), this means there will still be a significant lead time before launch.
- If MyDigitalBank wants to be a first mover in the unbacked digital assets segment, it may use this significant lead time to justify preparing itself operationally in jurisdictions where rules are not yet in application (e.g. UK, EU). This includes e.g. seeking registrations with local regulators under AML frameworks.

WHERE TO LAUNCH

- Regulatory clarity plays a similarly key role in determining where to launch digital assets offerings.
- **Tokenised financial instruments**: MyDigitalBank has a greater degree of flexibility in terms of location. It could launch a custody offering in any in-scope jurisdiction and have a detailed regulatory framework.
- **Unbacked digital assets and fiat-backed stablecoins**: The overall regulatory landscape is more fragmented. MyDigitalBank could launch a smaller scale offering in a specific jurisdiction with a more advanced framework (e.g. JPN/SGP/EU). MyDigitalBank could test its operating model and risk and compliance approach, before rolling out group-wide.
- In some jurisdictions, banks may enjoy comparative advantages when launching a digital assets offering. E.g. in the EU, MyDigitalBank could leverage its EU banking licence to launch an unbacked digital assets offering via a regulatory notification, rather than needing to go through a full authorisation process.

MyDigitalBank case study: strategic regulatory considerations



OPERATING MODEL CHOICE

- A number of banks partner with specialist technology providers to build custody solutions in house.
- As custody frameworks take shape globally, digital assets custodians will transition to become fully regulated financial services firms. As this happens, sub-custody may become a more attractive option. This is especially true in jurisdictions where unbacked digital assets/ stablecoin custody frameworks are emerging first (e.g. JPN, SGP, EU).
- Nevertheless, some jurisdictions may impose stringent custody location requirements. We already see this in the EU. If MyDigitalBank offers custody of stablecoins or unbacked digital assets via its EU entity, any sub-custodians it partners with must be EU-based and regulated under MiCA. This means that MyDigitalBank's overall custody operating model could become complex. It may need to partner with multiple third parties across its jurisdictions. In this scenario an alternative option would be to partner with a global regulated digital asset custodian.

TARGET CLIENTS

- Banks are generally taking a cautious approach to client suitability for digital assets custody.
- From a regulatory perspective, offering custody to professional investors and ultra high net worth individuals – rather than pure retail customers – may be an easier starting point for MyDigitalBank across in-scope jurisdictions.
- A MyDigitalBank custody offering for retail clients should be considered carefully from a risk appetite perspective, in particular for unbacked digital assets, given the largely unregulated nature and volatility of the underlying asset. However, final rules for custody of fiat-backed stablecoins in JPN, SGP and the EU may give MyDigitalBank a degree of confidence to shape a targeted local retail custody offering for fiat-backed stablecoins.

MyDigitalBank case study: implications for governance, risk management, and risk appetite

This section focuses on how the evolving global regulatory landscape affects some of the key necessary underlying capabilities that MyDigitalBank needs to put in place to support implementation of its digital assets strategy.

GOVERNANCE AND RISK MANAGEMENT

Develop standardised digital asset evaluation process

- Enables MyDigitalBank to evaluate whether to include certain digital assets in custody offering.
- Develop a standardised evaluation framework and create a formal review board to assess tokens. Carry out regular reviews over the token's lifecycle.
- Develop a framework to consider potentially divergent regulatory treatment in certain jurisdictions.
- Reporting requirements placed on issuers and service providers under new frameworks may help alleviate data challenges.

Develop group-wide custodian onboarding framework

- Consistent criteria enables MyDigitalBank to determine whether to enter into third-party relationships with custodians.
- Key criteria include the custodian's approach to regulatory compliance across in-scope jurisdictions, its ongoing financial and operational resilience, and reputation.

Build digital assets specific governance capabilities as custody business grows

- Includes dedicated digital assets risk and compliance capability, centralised point for digital assets initiatives at MyDigitalBank.
- Horizon scan capability needed to ensure risk and compliance are kept up-to-date on developments in target jurisdictions.
- Ensure firm-wide risk alignment by establishing a firm-wide digital assets risk and compliance steering committee, headed by Group CCO and CRO with senior representatives from business units.

RISK APPETITE

Set out certain group-level "red lines"

- Consider areas such as: outsourcing custody to a fully regulated digital assets custodian, physical exposure to unbacked digital assets, and if offering custody of unbacked digital assets, prohibiting anonymity-enhanced tokens.
- MyDigitalBank Board to sign-off the risk appetite.

But ensure that local risk appetite reflects local activity

- Where regulatory clarity opens up specific products in certain jurisdictions, ensure this is reflected in risk appetite locally.
- As set out on page 13, MyDigitalBank could offer custody of unbacked digital assets to certain clients in SGP/JPN/EU.
- Put in place appropriate reporting to group management to ensure group risk appetite is not exceeded locally.

Expand risk appetite beyond financial crime risks

- MyDigitalBank should ensure its risk appetite captures compliance risks. These include client suitability, conduct risks, regulatory reporting and employee compliance.
- MyDigitalBank should ensure its risk appetite statement captures digital assets to a more stringent and granular level, capturing served client types and planned custody offering, reflecting jurisdictional nuances.

MyDigitalBank case study: implications for regulatory engagement, and people and skills

REGULATORY ENGAGEMENT

Map regulatory stakeholders that will oversee MyDigitalBank's custody business

- Capture key stakeholders at launch and during further expansion (e.g. across jurisdictions or to include additional digital assets).
- Engagement strategy may need to include supranational authorities. E.g. if MyDigitalBank had ambitions to issue a stablecoin as part of its expansion plans, it may be supervised by the EBA.

Ensure clear and consistent messaging to regulators

- Ensure alignment on MyDigitalBank's group digital assets strategy.
- Tailored messaging to specific regulators, given that the risks are very dependent on the type of digital assets held in custody, and the operating model (e.g. in-house vs outsourced).

Engage regulators as early as possible

- Engage before final launch decision and maintain over the lifecycle of the custody offering.
- Enables MyDigitalBank to build regulatory considerations into the design and planning process. As regulation emerges, regulators will have larger pipelines of applications to review.

Build horizon scanning function

- The ability to spot and assess the impact of regulatory change will help MyDigitalBank ensure their custody business and broader digital assets strategy remains relevant over time.

PEOPLE AND SKILLS

Local review and challenge of custody plans

- Demonstrate that local management has reviewed, challenged and signed-off on the new custody business and risk framework.
- Ensure local management feeds into group strategy and custody expansion plans, e.g. from tokenised financial instruments to unbacked digital assets.

Local expertise aligned to use case

- Evidence that local management, risk and compliance teams, and custody product leads have sufficient knowledge of the digital assets ecosystem and its risks.
- As an example, if a local offering is focused on tokenised financial instruments for wholesale clients, the local management team will need expertise of the risks posed by investment-type use cases.

Upskill and share lessons learned

- Use the lead time before launch to upskill existing staff. The battle for digital assets talent will likely place a premium on retraining existing staff, with MyDigitalBank competing with other banks, crypto natives and regulators for talent.
- Put processes in place to ensure personnel in MyDigitalBank's first launch jurisdiction(s) feed back key lessons learned to inform and prepare other parts of the business.

MyDigitalBank case study: implications for capital planning

CAPITAL PLANNING

Local capital costs are likely to be clearer by end-2024

- The BCBS standard is to be implemented locally by 1 Jan. 2025.
- We expect a significant degree of international alignment to the standard. E.g. the ECB already expects banks to comply with the standard and consider it in business and capital planning.[1]
- But some local divergence is inevitable. The SEC's SAB 121 guidance – although published before the BCBS standard – demonstrates that local policymakers will ensure frameworks reflect local priorities and attitudes towards digital assets.

BCBS standard generally enables custody as more viable starting point...

- Final standard clarifies that more punitive credit, market and liquidity risk requirements are not intended to apply to custody.
- If implemented locally as proposed, this will significantly reduce capital costs of MyDigitalBank launching a custody business.

... but consider potential capital charge for operational risk...

- Regulators could add a capital charge for operational risk if they are not convinced that the risks are well-managed. This is important from a technology perspective, since technology underpinning digital assets custody may bring new/enhanced operational risks.

... and a potential infrastructure risk add-on

- BCBS standard gives regulators power to apply capital add-on for infrastructure risk for exposures to Group 1 digital assets. This is especially relevant to tokenised financial instruments and stablecoins.
- Add-on initially is zero but will be increased based on weaknesses in infrastructure underpinning Group 1 digital assets.
- There is potential for divergence. Local regulators may take different views on appropriate add-on – if any – for the same digital asset.

Expansion plans significantly affected by BCBS standard

- If implemented as proposed, expanding digital assets offering to include services that give rise to balance sheet exposures to unbacked digital assets (e.g. market making, lending) is likely to be unviable. These assets include a 1250% risk weight.

1. ECB, *Supervision newsletter - Crypto-assets: a new standard for banks*, February 2023, available at https://www.bankingsupervision.europa.eu/press/publications/newsletter/2023/html/ssm.nl230215_1.en.html

Glossary

AML	Anti-money Laundering
AUS	Australia
BCBS	Basel Committee on Banking Supervision
CBDC	Central Bank Digital Currency
CCO	Chief Compliance Officer
CFPB	Consumer Financial Protection Bureau
CFT	Countering the Financing of Terrorism
CFTC	Commodity Futures Trading Commission
CRO	Chief Risk Officer
C2B	Consumer to Business
C2C	Consumer to Consumer
DLT	Distributed Ledger Technology
EBA	European Banking Authority
ECB	European Central Bank
EU	European Union
FATF	Financial Action Task Force

FS	Financial Services
FSB	Financial Stability Board
HK	Hong Kong
HKMA	Hong Kong Monetary Authority
IMF	International Monetary Fund
IOSCO	The International Organization of Securities Commissions
JPN	Japan
MiCA	EU Markets in Cryptoassets regulation
NFT	Non-fungible Token
SAB	Staff Accounting Bulletin
SEC	Securities and Exchange Commission
SFC	Securities and Futures Committee
SGD	Singapore Dollar
SGP	Singapore
UK	United Kingdom
USA	United States of America

Contacts

Key Deloitte UK contacts

Suchitra Nair
Partner
EMEA Centre for Regulatory Strategy
snair@deloitte.co.uk

Ben Thornhill
Manager
EMEA Centre for Regulatory Strategy
benjaminthornhill@deloitte.co.uk

Ed Moorby
Partner
UK Risk Advisory
emoorby@deloitte.co.uk

Mustafa Kanchwala
Director
UK Risk Advisory
mkanchwala@deloitte.co.uk

Maria Eugenia Morales
Senior Manager
UK Risk Advisory
meugeniamorales@deloitte.co.uk

Global Deloitte network of digital assets experts

Richard Rosenthal
Advisory Principal
USA
rirosenthal@deloitte.com

Nai Seng Wong
Partner
Singapore
nawong@deloitte.com

Masaki Satake
Partner
Japan
masaki.satake@tohmatsu.co.jp

Daniel Houseman
Partner
Australia
dhouseman@deloitte.com.au

Tony Wood
Partner
Hong Kong
tonywood@deloitte.com.hk

Key contributors

With special thanks to the following for their contributions:

Meghan Burns
Manager
USA
megburns@deloitte.com

Kreeban Govender
Director
Australia
kregovender@deloitte.com.au

Ningxin Su
Manager
Hong Kong
nsu@deloitte.com.hk

CENTRE *for*
REGULATORY STRATEGY
EMEA

The Deloitte Centre for Regulatory Strategy is a powerful resource of information and insight, designed to assist financial institutions manage the complexity and convergence of rapidly increasing new regulation.

With regional hubs in the Americas, Asia Pacific and EMEA, the Centre combines the strength of Deloitte's regional and international network of experienced risk, regulatory, and industry professionals – including a deep roster of former regulators, industry specialists, and business advisers – with a rich understanding of the impact of regulations on business models and strategy.

Deloitte.

Designed by CoRe Creative Services. RITM1511764