



By: **Howard Davies**

# How far is the effective regulation in the cryptocurrency sector?



A couple of years ago, the Atlantic Council published a **report** highlighting the remarkable global diversity of attitudes toward cryptocurrencies – which were generally legal in 45 countries surveyed, partly banned in 20, and completely banned in ten.

The same diversity of opinion can be found today within the US Securities and Exchange Commission (SEC).

The new chairman, Paul Atkins, is an enthusiast who previously chaired a crypto industry group, while the remaining Democratic commissioner, Caroline Crenshaw, has **inveighed** against the SEC's new "crypto-friendly" perspective.

She decries the agency's decision to abandon what she sees as well-founded enforcement actions against firms in the sector. Atkins's more permissive approach, she argues, will end in tears.

These sharp differences – and a territorial dispute between the SEC and the Commodity Futures Trading Commission (CFTC) – have held up moves to create a stable regulatory framework for the industry in the United States.

While the SEC has taken the view that cryptocurrencies are akin to securities, the CFTC has sought to characterize them as commodities. Not surprisingly, each agency's perspective implies that it should be the principal regulator.

But the regulatory logjam may be about to break. For starters, US President Donald Trump has experienced his own Damascene conversion in favor of the industry. Just four years ago, he **described** Bitcoin as "a scam."

Yet now he and his wife have launched their own memecoins. Though the value of \$MELANIA quickly slumped, the president appears to be making billions from his \$TRUMP venture, even hosting a dinner for the top buyers.

## A robust legal framework for the sector is needed

Trump has used his enthusiastic promotion of the crypto sector to make peace with Silicon Valley. He also has **issued** an executive order prohibiting the US Federal Reserve from working on a central bank digital currency, which some see as a potential public-sector competitor to private digital offerings.

A second signal is the emerging consensus in Congress, where lawmakers recognize that a robust legal framework for the sector is needed. For example, the Guiding and Establishing National Innovation for US Stablecoins (GENIUS) Act has made good progress in the Senate in recent weeks and now commands a clear majority despite continued opposition from Senator Elizabeth Warren.

The House of Representatives may need more persuading. Ultimately, though, it seems likely that stablecoins will be given a helpful legal wrapper, with workable rules on transparency and asset backing.

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Standard Chartered **estimates** that if the legislation passes, the US stablecoin market will expand from its current size of roughly \$240 billion to \$2 trillion by the end of 2028. Most of that total would be invested in US Treasuries, providing a helpful boost for an administration with a nasty deficit habit to feed.

True, enacting the GENIUS Act would still leave considerable uncertainty about other, racier digital assets. But these, too, may benefit from the changed legislative mood.

Bitcoin's price has surged again, presumably on the expectation (or perhaps just the hope)

that Congress will adopt the view that cryptocurrencies should be regulated by the lighter-touch CFTC. While a bill that would have delivered that outcome failed last year, the political balance has changed.

## Comparisons to Europe

Since many other countries are also grappling with these issues, is there a clear model that the US should adopt? Comparisons to Europe are not fashionable in Washington nowadays.

As Trump **sees** it, the European Union was established precisely “to take advantage of the United States.” And yet, the EU has already studied this issue and come up with what looks like a viable option: the Markets in Crypto-Assets Regulation.

MiCA (which does not have the same ring to it as GENIUS) was adopted in 2023 but implemented only at the end of 2024, so it is still too early fully to assess its implications.

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Nonetheless, there is good reason to believe that the law’s impact will be far-reaching. In fact, its rules on appropriate asset-backing for stablecoins circulating in the EU are already having an effect on the market.

The requirement that reserves be held in stable, solid assets is uncontroversial; but the stipulation that at least 30% be held in EU banks has created problems for the cryptocurrencies Tether and Circle (though the latter seems prepared to comply).

An entity seeking authorization under MiCA must apply initially to its local regulator, though if their assets grow to a systemic level, they may become subject to EU-level regulation.

## Lessons for American legislators

Could MiCA offer some lessons for American legislators? US Treasury Secretary Scott Bessent has **told** American bankers that he will not “outsource” regulation to international bodies (which has alarmed the Basel Committee, whose future is now uncertain).



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But borrowing an idea from elsewhere is not outsourcing. And besides, whatever details are finally agreed for regulating stablecoins – a process that now seems close to completion – there will be more work to do, because “pure,” unbacked cryptocurrencies pose different problems. The virtue of the EU’s MiCA framework is that it covers these, too.

The signals coming out of Congress on this latter issue point in several directions at once.

Bills proposing a strategic Bitcoin reserve, or targeting corruption (with a thinly veiled reference to Trump’s own financial interests), seem unlikely to go anywhere.

Instead, the House Financial Services Committee and the Senate Banking Committee should put their heads together and consider embarking on a fact-finding mission to the EU’s offices in Brussels. They’ll certainly eat well, and they might just learn something.

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