


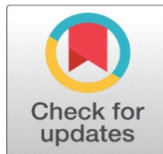


CRYPTOCURRENCY REGULATIONS: AN INTERNATIONAL PERSPECTIVE AND IMPLICATIONS FOR VIETNAM

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ABSTRACT

The paper analyses how mature regulatory regimes in the European Union, Japan, the United States govern cryptocurrencies and distils lessons that can shape a coherent, innovation-friendly yet risk-aware framework for Vietnam, where regulation is still fragmented and largely prohibitive.

Adopting a socio-legal methodology, the paper combines doctrinal review of statutes and policy papers with comparative, case-study, and policy-oriented analysis. Legal instruments, enforcement actions and market outcomes in benchmark jurisdictions are systematically compared to Vietnam's current rules. Qualitative content drawn from legislation, court cases, and expert commentaries is triangulated to identify regulatory gaps and best-practice components.

Vietnam recognises crypto assets as property and enforces rigorous AML rules, yet its regime is fragmented: payment bans, scant consumer protection and no regulatory sandbox stifle innovation and competitiveness. Comparative review shows that jurisdictions with precise definitions, tiered licensing, and proportionate safeguards, such as the EU's MiCA and Japan's PSA/FIEA, enjoy stronger market integrity and capital inflows. This study outlines a four-stage roadmap for Vietnam: codify crypto definitions and licensing; broaden AML/CFT and disclosure duties; embed consumer-protection and tax rules; and launch sandboxes to nurture compliant innovation, closing gaps and enhancing financial stability.

This paper is the first to synthesize doctrinal, comparative, and policy-oriented analyses of EU MiCA, Japan's PSA/FIEA, the United States' dual federal-state regime, and to convert the insights into a phased roadmap expressly tailored to Vietnam's civil-law system and policy priorities. By moving beyond earlier descriptive surveys to expose legal inconsistencies, measure consumer-protection gaps, and propose a unified regulator plus sandbox pilot, it delivers actionable guidance for Vietnamese decision-makers and fills the regional research void on balanced, innovation-friendly crypto governance in emerging economies.

Keywords: Cryptocurrency Regulations, Consumer Protection, Vietnam Legal Framework

1. INTRODUCTION

Cryptocurrency, a digital or virtual currency secured by cryptography, has revolutionized the financial world since the inception of Bitcoin in 2008 [Higgins \(2019\)](#). It operates on decentralized networks based on blockchain technology, ensuring transparency and security [Pernice and Scott \(2021\)](#). Cryptocurrencies have grown exponentially, with a global market capitalization exceeding \$1 trillion [Bazán-Palomino \(2023\)](#). They offer potential benefits such as lower transaction costs, FI, and new investment opportunities. However, the rapid adoption and

proliferation of cryptocurrencies have also introduced challenges, including market volatility, regulatory uncertainties, and the potential for illicit activities [Irwin and Turner \(2018\)](#).

Effective regulation of cryptocurrencies is crucial to harness their potential while mitigating risks. Regulations ensure CP, market integrity, and financial stability. They address issues such as Anti - money laundering (AML) and Combating the financing of terrorism (CFT) [Raymaekers \(2015\)](#). Furthermore, clear regulatory frameworks provide legal certainty, encouraging responsible innovation and investment in the cryptocurrency sector. Without proper regulations, the risks associated with cryptocurrencies, including fraud, market manipulation, and financial crimes, could undermine public trust and hinder their long-term viability.

Vietnam has experienced a significant rise in cryptocurrency usage and investment, reflecting a global trend. The country ranks among the top in cryptocurrency adoption, with growing users and transactions [Dang \(2019\)](#). Despite the increasing popularity, Vietnam's regulatory approach to cryptocurrencies remains fragmented and evolving. The States Bank of Vietnam (SBV) has issued warnings about the risks associated with cryptocurrencies and declared them illegal as a means of payment [Nhungs and Hanh \(2019\)](#). However, there is no comprehensive legal framework governing cryptocurrency trading and investment. This regulatory ambiguity creates challenges for stakeholders, including investors, businesses, and regulators, highlighting the need for a well-defined and robust regulatory framework to manage the risks and opportunities presented by cryptocurrencies in Vietnam.

2. INTERNATIONAL AND REGIONAL REGULATIONS

2.1. THE INTERNATIONAL MONETARY FUND

IMF plays a pivotal role in the global financial system, providing member countries with policy advice, financial assistance, and technical expertise [Bordo and James \(2000\)](#). As cryptocurrencies have grown in prominence, IMF has increasingly focused on their potential impacts on global economic stability, financial integrity, and the effectiveness of monetary policy [Lee and Teo \(2020\)](#). Although IMF does not create binding regulations or laws, it issues influential guidelines, reports, and recommendations that shape how member countries approach cryptocurrency regulation.

2.1.1. IMF'S STANCE ON CRYPTOCURRENCIES

IMF has adopted a cautiously optimistic stance towards cryptocurrencies, acknowledging their potential benefits, such as increased FI, enhanced efficiency of payment systems, and the promotion of innovation, while highlighting significant risks. These risks include the potential for cryptocurrencies to undermine financial stability, facilitate illicit activities like money laundering and terrorism financing, and complicate the implementation of monetary policy. [Wilson \(2019\)](#)

2.1.2. KEY DOCUMENTS AND GUIDELINES

- [Global Financial Stability Report \(2021\)](#): In its Global Financial Stability Report, IMF discusses the growing role of cryptocurrencies and the need for a coordinated global approach to regulation. The report emphasizes that while cryptocurrencies can improve the efficiency of payments and foster FI, they also pose risks to financial stability due to

their volatility, the potential for capital flow reversals, and the growing interconnection with traditional financial systems. IMF recommends that regulators establish comprehensive frameworks to address these risks, including robust CP measures, enhanced cross-border cooperation, and efforts to close data gaps related to cryptocurrency markets. [International Monetary Fund \(2021\)](#)

- [Policy Paper on Digital Money \(2019\)](#): IMF's "The Rise of Digital Money" policy paper extensively analyses digital currencies, including cryptocurrencies and CBDCs. The paper explores the implications of digital money for financial stability, monetary policy, and global financial integration. IMF suggests that countries should develop a clear regulatory perimeter that distinguishes between different types of DA (e.g., stablecoins, unbacked cryptocurrencies) and apply relevant regulatory standards accordingly. The paper also emphasizes the need for international collaboration to address cross-border risks associated with digital currencies. [Adrian and Mancini-Griffoli \(2021\)](#)
- **Financial Sector Assessment Programs:** Through this Program, IMF evaluates the stability and soundness of financial sectors in its member countries, including their approaches to cryptocurrency regulation [International Monetary Fund. Legal Dept \(2023\)](#). The FSAP reports often include recommendations on strengthening regulatory frameworks to address risks associated with DA. For instance, IMF has advised countries to enhance their AML/CFT frameworks by including cryptocurrency exchanges and wallet providers under their regulatory scopes, which is in line with The Financial Action Task Force (FATF) guidelines [Khan and Malaika \(2021\)](#).
- **Technical Assistance and Capacity Development:** IMF provides technical assistance and capacity development to member countries to help them build effective regulatory frameworks for DA. This support includes advising on the design of regulatory policies, enhancing the capabilities of financial regulators, and developing systems for monitoring and supervising cryptocurrency activities. Through this assistance, IMF helps countries tailor their regulatory approaches to fit their unique economic contexts while adhering to international best practices.
- IMF's involvement in cryptocurrency regulation underscores the need for a balanced approach that fosters innovation while safeguarding financial stability and integrity. Through its reports, policy advice, and technical assistance, IMF provides critical guidance that shapes how countries develop their regulatory frameworks for DA. As cryptocurrencies continue to grow in importance, IMF's role in coordinating international efforts and promoting best practices will be essential in ensuring a stable and secure global financial landscape.

2.2. THE EUROPEAN UNION

EU has been at the forefront of developing a comprehensive regulatory framework for cryptocurrencies and DA. To foster innovation while protecting consumers and ensuring financial stability, EU has introduced a series of regulations and directives that set clear rules for the cryptocurrency industry across its member states. EU's approach is characterized by harmonizing laws to create a unified

market, reducing regulatory arbitrage and providing legal clarity for businesses and investors operating within the region. EU's key Regulations and Directives including:

2.2.1. MARKETS IN CRYPTO-ASSETS REGULATION (MiCA)¹

MiCA is EU's flagship legislative proposal specifically aimed at regulating cryptocurrencies and DA. Proposed as part of EU's broader Digital Finance Strategy, MiCA seeks to create a comprehensive regulatory framework that applies across all member states, providing legal certainty and protecting consumers while promoting innovation. Key features of MiCA include:

- **Scope and definitions:** MiCA covers a broad range of crypto-assets, including utility tokens, asset-referenced tokens (stablecoins), and e-money tokens. It defines these categories and sets out specific regulatory requirements for each type [Van Der Linden and Shiraz \(2023\)](#).
- **Licensing Requirements:** Under MiCA, CASPs, such as exchanges, wallet providers, and issuers of crypto assets, are required to obtain authorization from national regulatory authorities to operate within EU². This includes meeting standards for capital requirements, governance, and security protocols.
- **CP and Disclosure:** MiCA mandates comprehensive disclosure requirements, ensuring that issuers of crypto assets provide clear, accurate, and non-misleading information to investors.³ This includes publishing whitepapers that detail the risks, rights, and obligations associated with the assets.
- **Market Abuse and Integrity:** MiCA introduces rules to prevent market manipulation, insider trading, and other forms of market abuse within the crypto-asset markets, aligning them with the standards applied to traditional financial markets.

2.2.2. FIFTH ANTI-MONEY LAUNDERING DIRECTIVE (AMLD5)⁴

AMLD5 came into effect in January 2020, marked a significant step in regulating the cryptocurrency sector by extending AML/CFT obligations to cryptocurrency exchanges and wallet providers. Key provisions of AMLD5 include:

- **Inclusion of Crypto-Asset Service Providers:** AMLD5 requires crypto-asset exchanges and custodian wallet providers to register with national authorities, conduct customer due diligence, and comply with the Know Your Customer (KYC) requirements [Barbureau and Bodó. \(2023\)](#). This integration brings cryptocurrency service providers in line with other financial institutions regarding AML/CFT obligations.

¹ Regulation (EU) 2023/1114 of European Parliament and of the Council of 31 May 2023 on markets in crypto assets, amending Regulations (EU) No 1093/2010 and (EU) 1095/2010 and Directives 2013/36/EU and (EU) 2019/1937 [2023] OJ L150/1.

² Pursuant to Article 11 Markets in Crypto-Assets Regulation.

European Securities and Markets Authority, 'Final Report on Draft Technical Standards Specifying Certain Requirements of the Markets in Crypto Assets Regulation (MiCA) – First Package' (ESMA18-72330276-1634, 25 March 2024), at p. 97.

³ Pursuant to Annex II(C) Markets in Crypto-Assets Regulation.

⁴ Council Directive (EU) 2018/843 of 30 May 2018 amending Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing and amending Directives 2009/138/EC and 2013/36/EU [2018] OJ L156/43.

- **Reporting Obligations:** Providers must report suspicious transactions to national Financial Intelligence Units (FIUs) [Huang \(2021\)](#), enhancing the oversight and monitoring of potentially illicit activities involving cryptocurrencies.
- **Increased Transparency:** AMLD5 aims to increase transparency in financial transactions involving cryptocurrencies, thereby reducing the anonymity that has often been exploited for illegal activities such as money laundering and tax evasion. [Lui and Ryder \(2021\)](#)

2.2.3. GENERAL DATA PROTECTION REGULATION (GDPR)

Although not specific to cryptocurrencies, GDPR has implications for the sector, particularly concerning the management of personal data by crypto businesses [ITGP Privacy Team \(2017\)](#) GDPR's stringent data protection and privacy requirements impact how crypto-asset service providers handle user data, ensuring that consumers' privacy rights are respected.

2.2.4. PILOT REGIME FOR MARKET INFRASTRUCTURES BASED ON DISTRIBUTED LEDGER TECHNOLOGY (DLT)

The DLT Pilot Regime is part of EU's strategy to explore the use of blockchain technology within financial market infrastructures. This regulation, which accompanies MiCA, allows market participants to operate DLT-based financial market infrastructures under a temporary regulatory framework, known as a sandbox. The aim is to test innovative solutions while maintaining investor protection and market integrity. This pilot regime is designed to assess the potential of DLT in trading and settlement processes, paving the way for broader adoption of blockchain technology within traditional financial systems. [Zaccaroni \(2022\)](#)

EU's approach to cryptocurrency regulation aims to balance innovation with security, CP, and market stability. By creating harmonized regulations through MiCA, AMLD5, and other related directives, EU seeks to provide a clear and predictable legal environment for businesses and investors, reducing the fragmentation that previously existed between member states. These efforts are intended to foster a thriving digital finance ecosystem while addressing the risks associated with the rapidly evolving cryptocurrency market.

EU's comprehensive and harmonized regulatory approach to cryptocurrencies sets a strong example for other jurisdictions aiming to integrate DA into their financial systems. Through a combination of targeted regulations and supportive measures like the DLT Pilot Regime, EU is positioning itself as a leader in digital finance, striving to harness the benefits of blockchain technology while ensuring that the associated risks are effectively managed.

3. NATIONAL REGULATIONS

3.1. UNITED STATES

US has adopted a multi-agency approach to regulating cryptocurrencies, reflecting the complexity and diversity of the digital asset market. Several federal agencies, including FinCEN, SEC, CFTC, and IRS, have issued specific regulations and guidance to address different aspects of cryptocurrencies, ranging from AML compliance to securities laws and tax obligations.

3.1.1. FINCEN

A bureau of the U.S. Department of the Treasury, plays a key role in regulating cryptocurrencies under Bank Secrecy Act of 1970⁵. In March 2013, FinCEN issued a guidance document, FIN-2013-G001 [Financial Crimes Enforcement Network \(2013\)](#), clarifying that the BSA applies to virtual currencies, including Bitcoin. FinCEN classified digital currencies as MSBs, which are subject to BSA requirements such as registration, reporting, and record-keeping. Specifically:

- **Registration and Reporting:** According to 31 U.S.C. § 5330, MSBs must register with FinCEN, file registration paperwork every two years, maintain records, submit currency transaction reports, and file suspicious activity reports (SARs). Failure to comply can result in significant penalties, including criminal prosecution under 18 U.S.C. § 1960⁶ for operating an unregistered money-transmitting business [Financial Crimes Enforcement Network \(2013\)](#).
- **Coverage Under Federal Statutes:** FinCEN's guidance clarified that Bitcoin and other virtual currencies fall under the scope of US money laundering statutes, including 18 U.S.C. §§ 1956⁷ and 1957⁸. These laws address financial transactions involving proceeds from unlawful activities, thereby broadening the reach of traditional anti-money laundering regulations to include digital currencies.
- **Application to Virtual Currency Mining and Exchanges:** FinCEN extended its regulatory scope in subsequent documents FIN-2014-R001 [Financial Crimes Enforcement Network \(2014\)](#), clarifying that virtual currency miners and exchanges, whether based in US or conducting significant business in the US, must comply with BSA and AML regulations. This comprehensive application ensures that a wide range of cryptocurrency-related activities are subject to financial oversight.

3.1.2. SECURITIES AND EXCHANGE COMMISSION (SEC)

SEC oversees the regulation of securities in US and has applied securities laws to certain types of DA, particularly those that function as investment contracts. SEC uses the Howey Test⁹ to determine whether a digital asset qualifies as a security, focusing on whether there is an investment of money in a common enterprise with an expectation of profits derived from the efforts of others.

- **ICOs and Enforcement actions:** The SEC has actively pursued enforcement actions against ICOs that failed to register as securities offerings. Notable actions include the case Munchee Inc., where the SEC issued a cease-and-desist order in 2017 for conducting an unregistered

⁵ Bank Secrecy Act of 1970, 31 USC §§ 5301-5367.

⁶ 18 U.S. Code § 1960 - Prohibition of unlicensed money transmitting businesses.

⁷ 18 U.S. Code § 1956 - Laundering of monetary instruments.

⁸ 18 U.S. Code § 1957 - Engaging in monetary transactions in property derived from specified unlawful activity.

⁹ The Howey standard refers to the Supreme Court's long-established standard in SEC v. W.J. Howey Co., 328 U.S. 293 (1946) to determine whether certain transactions qualify as 'investment contracts'. Under this test, an investment is a security under the Securities Act of 1933 and the Securities Exchange Act of 1934 if there is 'an investment of money in a common enterprise with a reasonable expectation of profits to be derived primarily from the entrepreneurial or managerial efforts of others'.

ICOs¹⁰. The SEC's 2018 "Statement on Cryptocurrencies and Initial Coin Offerings" [Clayton \(2017\)](#) further elaborated on when a token might or might not be considered a security, signaling the SEC's intent to rigorously enforce securities regulations in the crypto space.

- **Regulatory guidance:** In 2017, the SEC issued a Report of Investigation under Section 21(a) of the Securities Exchange Act of 1934¹¹, concluding that tokens sold by the DAO were securities. This report underscored that securities laws apply to virtual organizations or capital-raising entities using distributed ledger technology, emphasizing the need for compliance with foundational securities regulations.
- **Commodity Futures trading Commission**

The CFTC¹² classifies virtual currencies, such as Bitcoin, as commodities under CEA¹³ in its Statement [Commodity Futures Trading Commission \(2017\)](#). This classification empowers the CFTC to regulate futures, options, and derivatives markets related to these DA.

- **Fraud and manipulation oversight:** CFTC has authority over fraud and manipulation in the trading of cryptocurrency derivatives and has taken enforcement actions against entities engaging in deceptive practices in the crypto markets. For example, CFTC allowed the trading of Bitcoin futures on regulated platforms such as the Chicago Board Options Exchange and the Chicago Mercantile Exchange¹⁴.
- **Compatibility with SEC Jurisdiction:** CFTC has clarified that its jurisdiction over commodities does not conflict with SEC's jurisdiction over securities, allowing for a cooperative regulatory approach where certain DA can be simultaneously classified as commodities and securities based on their specific use cases.

3.1.3. INTERNAL REVENUE SERVICE

The IRS treats cryptocurrencies as property for tax purposes, as outlined in Notice IR-2019-167 [Internal Revenue Service \(2019\)](#). This classification means that transactions involving cryptocurrencies, such as buying, selling, or exchanging DA, are subject to capital gains tax.

- **Tax Reporting and Compliance:** Under US tax law, the sale or exchange of cryptocurrencies can result in taxable events, requiring individuals and businesses to report gains or losses. This includes using cryptocurrency to pay for goods or services. The IRS has been proactive in enforcing compliance, sending warning letters to taxpayers and adding specific questions about digital asset transactions to tax forms.

¹⁰ Securities and Exchange Commission, 'In the Matter of Munchee Inc., Order Instituting Cease-and-Desist Proceedings Pursuant to Section 8A of the Securities Act of 1933, Making Findings, and Imposing a Cease-and-Desist Order' (Release No. 10445, 11 December 2017) Administrative Proceeding File No. 3-18304.

¹¹ Securities and Exchange Commission, 'Report of Investigation Pursuant to Section 21(a) of the Securities Exchange Act of 1934: The DAO' (Release No. 81207, 25 July 2017).

¹² The Commodity Futures Trading Commission (CFTC) is the regulatory authority responsible for overseeing both on-exchange and off-exchange trades of futures contracts. The CFTC regulates futures, options, and derivatives contracts, including those that involve virtual currencies. Its regulatory powers are derived primarily from the Commodity Exchange Act.

¹³ 7 U.S. Code §§ 1 - Commodity exchanges.

¹⁴ The CME Group, a leading global derivatives marketplace and rival to CBOE, announced the launch of Bitcoin futures trading on its platforms.

- **Recent Tax Changes:** The 2017 Tax Cuts and Jobs Act amended Section 1031 of the Internal Revenue Code to explicitly exclude cryptocurrencies from like-kind exchange treatment, clarifying that crypto-to-crypto exchanges are taxable events. [Staci \(2018\)](#)

US approach to cryptocurrency regulation involves multiple agencies with overlapping jurisdictions, each addressing different aspects of DA under existing legal frameworks. This multifaceted regulatory environment aims to protect consumers, prevent financial crimes, and ensure market integrity while accommodating the rapid evolution of the cryptocurrency landscape. As the market continues to grow, ongoing regulatory developments will be essential to balance innovation with effective oversight in US crypto ecosystem.

3.2. JAPAN

Japan has established one of the most comprehensive regulatory frameworks for cryptocurrencies globally, making it a leader in the space of digital asset regulation. The Japanese government, through its FSA, has implemented a series of laws and amendments aimed at enhancing the regulatory oversight of cryptocurrencies, ensuring CP, and mitigating risks associated with DA.

3.2.1. PSA AND FIEA

In 2019, Japan amended both PSA and FIEA to create a more robust regulatory environment for cryptocurrencies [Johnstone \(2021\)](#). These amendments were driven by the need to address vulnerabilities exposed by high-profile hacks, such as the 2018 Coincheck hack, which resulted in the theft of over \$530 million worth of cryptocurrencies [Derousseau \(2019\)](#).

- **Renaming and Definition Update:** The PSA revisions included changing the term “virtual currency” to “crypto assets” to align with international terminology and better reflect the nature of DA [Omagari and Sako \(2019\)](#). The definition now covers proprietary value that can be used for payments or exchanged electronically, excluding fiat currencies like the Japanese yen or U.S. dollar.
- **Crypto Asset Exchange Providers:** PSA requires entities wishing to operate as crypto asset exchange providers to register with FSA. Registration criteria include maintaining a minimum capital of JPY 10 million, having sufficient financial resources, and demonstrating robust internal control systems. These requirements aim to ensure that only financially stable and well-managed entities are allowed to operate in the cryptocurrency market.
- **Enhanced Security and Custody Requirements:** Under the PSA, CAEPs are required to separate customer funds from their own assets and use third-party custodians, such as trust companies, to store these funds, preferably in cold wallets (offline storage). If customer funds are stored in hot wallets (online storage), the exchange must maintain an equivalent amount of assets as collateral, enhancing security measures against hacking incidents [Arora \(2020\)](#).
- **Regulation of crypto asset derivatives and ICOs:** The FIEA amendments introduced specific regulations for crypto asset derivatives and ICOs [Stettner and Satchell \(2019\)](#), marking significant

advancements in how these financial instruments are treated under Japanese law.

- **Crypto Asset Derivatives:** The FIEA categorizes crypto assets as financial instruments, bringing derivatives based on these assets under the regulatory scope.¹⁵ This change means that crypto asset derivatives are subject to the same rules as other financial derivatives, including requirements for transparency, disclosure, and fair-trading practices. Market participants offering these products must register and comply with the same stringent standards applicable to other financial instruments.
- **ICOs:** The amendments introduced new regulations for ICOs, classifying them as “electronic recording transfer rights” under the FIEA. This classification requires that ICOs undergo similar scrutiny as securities offerings, including registration requirements and continuous public disclosure mandates. The regulation protects investors by ensuring that ICO issuers provide adequate and accurate information about their projects. [Omagari and Sako \(2019\)](#)
- **Prohibitions on Unfair Trading Practices**

The 2019 amendments to the FIEA also introduced prohibitions on unfair trading practices related to crypto assets, such as market manipulation, fraud, and misleading statements.¹⁶ These rules are modeled after existing regulations for traditional securities and aim to prevent market abuse and protect investors in the cryptocurrency market. Notably, insider trading regulations were not included due to the difficulty in defining material non-public information for decentralized DA.

3.2.2. AML AND KYC REQUIREMENTS

Japan has stringent AML and KYC requirements under the Act on Prevention of Transfer of Criminal Proceeds, which applies to all crypto asset exchange providers registered under the PSA [Stettner and Satchell \(2019\)](#). These entities must conduct thorough customer due diligence, maintain transaction records, and report suspicious transactions to the FSA. These measures are designed to prevent the misuse of cryptocurrencies for illicit activities, such as money laundering and terrorist financing. [Arora \(2020\)](#)

Japan’s regulatory framework for cryptocurrencies, through the PSA and FIEA amendments, reflects a comprehensive approach to managing the risks associated with DA while fostering innovation. By setting clear rules for exchange providers, imposing robust security measures, and regulating derivatives and ICOs, Japan has created a secure and transparent environment for cryptocurrency activities. The ongoing developments and updates from the FSA, including the possibility of additional rulemaking and self-regulatory initiatives, indicate Japan's commitment to staying at the forefront of cryptocurrency regulation.

¹⁵ Pursuant to Art 156(7) Financial Instruments and Exchange Act 1948.

¹⁶ Pursuant to Art 159 of Financial Instruments and Exchange Act 1948.

4. THE CURRENT LEGAL FRAMEWORK OF CRYPTOCURRENCY IN VIETNAM

4.1. LAWS AND REGULATIONS GOVERNING CRYPTOCURRENCY

The legal framework governing cryptocurrencies in Vietnam remains underdeveloped, with the government taking a cautious approach due to the risks associated with DA. Currently, Vietnam does not officially recognize cryptocurrencies as legal tender or a legitimate means of payment.

- **Vietnam Civil Code No. 91/2015/QH13:** Under the Civil Code, cryptocurrencies are recognized as a type of property. This classification allows them to be traded, owned and transferred as assets, similar to securities or other commodities. However, the Civil Code does not extend to treating cryptocurrencies as a form of currency or payment method, limiting their functionality in the Vietnamese economy [The National Assembly of Vietnam \(2015\)](#).
- **Decree No. 101/2012/ND-CP on Non-Cash Payments (amended by Decree No. 80/2016/ND-CP):** This decree defines the non-cash payment instruments that are legally recognized in Vietnam, such as bank cards, checks, and payment orders. Cryptocurrencies are explicitly excluded from this list, reaffirming that they cannot be used for payments within Vietnam's financial system. This exclusion effectively prohibits businesses and individuals from using cryptocurrencies for transactions, purchases, or any form of payment. [Vietnamese Government \(2012\)](#)
- **Decision No. 1255/QD-TTg (2017):** This decision, issued by the Prime Minister, acknowledges the need to develop a comprehensive legal framework for managing virtual currencies. It sets forth a plan for relevant ministries and agencies to conduct research and propose measures to regulate cryptocurrencies, reflecting the government's cautious yet forward-looking approach. While this decision represents an important step towards regulation, it has yet to translate into detailed and specific laws, leaving many regulatory gaps unaddressed. [Prime Minister of Vietnam \(2017\)](#)
- **Directive No. 10/CT-TTg (2018):** Issued by the Prime Minister, this directive outlines measures to enhance the management of activities involving Bitcoin and other similar digital currencies. It explicitly bans credit institutions and intermediary payment service providers from engaging in cryptocurrency-related services, including the issuance, trading, and brokerage of digital currencies. This directive aims to curb the illegal use of cryptocurrencies in financial transactions and prevent potential threats to Vietnam's financial stability [Prime Minister of Vietnam \(2018\)](#).
- **Directive No. 02/CT-NHNN (2018) from SBV:** This directive reinforces the ban on using cryptocurrencies as a means of payment and calls for heightened vigilance against the risks associated with digital currencies. It directs financial institutions to implement strict AML measures and enhance oversight to prevent the misuse of banking services for cryptocurrency-related transactions. This includes monitoring and reporting suspicious activities involving DA [The State Bank of Vietnam \(2018\)](#).

Vietnam's current legal stance on cryptocurrencies is primarily prohibitive, focusing on limiting their use as a means of payment while acknowledging them as a type of property under the Civil Code. The government's cautious approach reflects concerns about financial stability and the potential for illegal activities associated with digital currencies. By excluding cryptocurrencies from recognized non-cash payment instruments and implementing strict oversight through directives, Vietnam aims to safeguard its financial system from the volatility and risks posed by DA.

However, this regulatory environment also significantly challenges the development of the cryptocurrency market in Vietnam. The absence of clear, detailed regulations for trading, investment, and the operation of cryptocurrency exchanges leaves many stakeholders in a legal grey area. Moreover, the restrictive approach may hinder innovation and technological advancement in the blockchain and fintech sectors, potentially putting Vietnam at a disadvantage compared to countries that have embraced more balanced regulatory frameworks.

5. WEAKNESSES OF VIETNAM'S CURRENT LAW ON CRYPTOCURRENCY COMPARED TO INTERNATIONAL REGULATION

Vietnam's approach to cryptocurrency regulation is marked by a cautious and restrictive stance, primarily aimed at preventing financial instability and illegal activities. However, when compared to international regulatory standards, significant weaknesses in Vietnam's legal framework become evident, highlighting gaps that may hinder the country's ability to keep pace with global developments in the digital asset space.

5.1. LACK OF COMPREHENSIVE AND SPECIFIC REGULATIONS

Unlike EU's comprehensive MiCA framework, which provides clear definitions, licensing requirements, and specific regulations for various types of crypto-assets, Vietnam lacks a unified and detailed legal framework. The current Vietnamese regulations are fragmented, with cryptocurrencies only recognized as property under the Civil Code and explicitly prohibited as a means of payment. This limited recognition fails to address the complexities of cryptocurrency activities, such as trading, exchanges, and ICOs, leaving market participants in a legal grey area. In contrast, jurisdictions like Japan have developed robust frameworks under the PSA and FIEA, which regulate crypto exchanges and provide clear guidelines for the classification and handling of DA.

5.2. RESTRICTIVE APPROACH LIMITING INNOVATION

Vietnam's restrictive stance on the use of cryptocurrencies as payment methods and the absence of regulatory sandboxes contrasts sharply with the approaches taken by countries like US and EU, which have implemented regulatory sandboxes to foster innovation. EU's DLT Pilot Regime, for example, allows market participants to experiment with blockchain technology in a controlled environment, balancing the need for oversight with support for technological advancement. Vietnam's prohibition on cryptocurrency payments, driven by a desire to protect the national currency and financial stability, also stifles the growth of its fintech and blockchain sectors, discouraging foreign investment and domestic innovation. This

restrictive environment puts Vietnam at a disadvantage compared to countries that have embraced a more progressive and supportive regulatory approach.

5.3. INSUFFICIENT CONSUMER PROTECTION MEASURES

Vietnam's current regulations do not adequately address consumer protection, leaving individuals vulnerable to fraud, hacking, and other risks associated with digital asset transactions. In contrast, EU's MiCA includes stringent consumer protection measures, such as mandatory disclosures and safeguards against market manipulation. The absence of clear dispute resolution mechanisms, protocols for fund recovery, and protection against fraudulent exchanges in Vietnam's framework undermines consumer confidence and participation in the cryptocurrency market. Countries like the United States have established clear guidelines through agencies like SEC, which actively enforce protections against fraudulent ICOs and provide oversight on crypto-related investment products.

5.4. AMBIGUITY IN TAXATION AND FINANCIAL REPORTING

Vietnam's lack of specific tax regulations for cryptocurrencies creates confusion and compliance challenges for businesses and investors. In comparison, US IRS has issued clear guidance on the taxation of DA, treating them as property for tax purposes and requiring detailed reporting of gains and losses. This regulatory gap in Vietnam not only complicates compliance but also represents a missed opportunity for the government to capture revenue from the growing digital economy. The absence of clear tax rules and financial reporting standards further complicates asset management and accounting for DA, particularly in situations like inheritance or legal disputes.

5.5. SLOW ADAPTATION TO TECHNOLOGICAL ADVANCEMENTS

Vietnam's regulatory framework has struggled to keep pace with the rapid evolution of blockchain technology and emerging financial products such as DeFi platforms, NFTs, and stablecoins. This slow adaptation leaves significant gaps in oversight and creates opportunities for regulatory arbitrage, where businesses may exploit the lack of regulations to engage in potentially harmful practices. In contrast, international bodies like the IMF have called for dynamic and adaptive regulations that can evolve with the market, stressing the importance of international cooperation and continuous updates to regulatory frameworks.

The weaknesses in Vietnam's current CR, highlighted by a comparison with international standards, underscore the need for a more comprehensive, balanced, and forward-looking approach. Vietnam's overly cautious stance and fragmented regulatory environment hinder its ability to compete on the global stage and limit the potential benefits of DA. By drawing on international best practices and creating a unified legal framework that addresses the full spectrum of cryptocurrency activities, Vietnam can better protect consumers, foster innovation, and position itself as a competitive player in the global digital economy.

Vietnam's approach to cryptocurrency regulation reflects a cautious and restrictive stance aimed at safeguarding financial stability and preventing illegal activities. While the government's recognition of cryptocurrencies as property under the Civil Code marks a progressive step, the legal framework remains fragmented, inconsistent, and overly prohibitive. Key directives, such as Decree No.

101/2012/ND-CP and Directive No. 10/CT-TTg, reinforce a ban on using cryptocurrencies as a means of payment, which, while intended to protect the national currency and prevent financial instability, also stifles innovation and discourages the development of the digital asset market.

Compared to international standards, Vietnam's regulatory approach is significantly behind. Countries like Japan and EU have established comprehensive and adaptive frameworks that foster innovation while addressing risks, allowing them to integrate DA more effectively into their economies. Vietnam's lack of clear consumer protection, specific tax regulations, and a unified legal framework for cryptocurrency activities leaves market participants in a legal grey area, vulnerable to fraud, and limits the country's competitiveness in the global digital economy. To keep pace with global developments, Vietnam must adopt a more balanced, forward-looking regulatory approach that supports innovation while safeguarding financial integrity.

6. POLICY RECOMMENDATIONS FOR VIETNAM

6.1. CONCENTRATING POWER IN THE HANDS OF A SINGLE AUTHORITY

To effectively regulate the rapidly growing and complex cryptocurrency market, one of the primary policy recommendations for Vietnam is to concentrate regulatory power in the hands of a single authority. Vietnam's cryptocurrency regulation approach involves multiple agencies, including SBV, the Ministry of Finance, the Ministry of Public Security, and other government bodies. This fragmented regulatory landscape can lead to inconsistent enforcement, overlapping jurisdictions, and regulatory gaps, all of which undermine the effectiveness of cryptocurrency oversight. Concentrating power in a single, dedicated authority could provide a more streamlined and coherent regulatory environment.

6.2. TRANSITION TOWARDS SELF-REGULATION

As the cryptocurrency market in Vietnam continues to evolve, transitioning towards a self-regulatory model presents a promising approach to complement government oversight. Self-regulation allows industry participants, such as cryptocurrency exchanges, blockchain developers, and other stakeholders, to establish and enforce rules, standards, and best practices within the sector. This approach leverages the industry's deep understanding of its own technologies and challenges, fostering a more adaptive and efficient regulatory environment. Transitioning towards self-regulation could provide a flexible framework that balances innovation with CP, ensuring that the cryptocurrency market in Vietnam remains competitive and aligned with global standards.

6.3. LEGAL RECOMMENDATIONS

To effectively manage the complexities and unique challenges of the cryptocurrency market, Vietnam should consider developing a specialized regulatory framework tailored specifically to DA. The current regulatory environment, characterized by a patchwork of general financial and civil laws, does not adequately address the intricacies of cryptocurrencies, such as their decentralized nature, rapid technological advancements, and cross-border dynamics. A specialized framework would provide clear guidelines, reduce

regulatory ambiguity, and promote a safe and innovative environment for the growth of the cryptocurrency sector in Vietnam.

6.4. KEY COMPONENTS OF A SPECIALIZED REGULATORY FRAMEWORK

6.4.1. COMPREHENSIVE CLASSIFICATION OF DA

A specialized framework should begin by clearly defining and classifying various types of DA, such as cryptocurrencies, stablecoins, security tokens, and utility tokens. Each category should have distinct regulatory requirements reflecting specific characteristics and risks. For example, stablecoins that are pegged to fiat currencies should be subject to more stringent capital requirements and transparency standards than other types of DA. This detailed classification would provide clarity for market participants and regulators alike, ensuring that each asset is appropriately regulated based on its function and risk profile.

6.4.2. LICENSING AND REGISTRATION REQUIREMENTS

The framework should introduce specific licensing and registration requirements for entities engaged in cryptocurrency-related activities, such as exchanges, wallet providers, custodians, and brokers. These requirements should include robust standards for cybersecurity, capital adequacy, governance, and operational resilience. By mandating that businesses obtain licenses from a designated regulatory authority, Vietnam can ensure that only credible and well-managed entities operate in the market, thereby enhancing CP and market integrity.

6.4.3. CLEAR RULES FOR CP AND MARKET CONDUCT

The framework should establish clear rules on transparency, disclosure, and fair-trading practices to protect consumers. This includes requiring crypto service providers to disclose potential risks, fees, and terms of service straightforwardly and understandably. Additionally, regulations should enforce best practices in market conduct, such as prohibitions on market manipulation, insider trading, and other forms of abusive behaviour. These measures would help build consumer trust and foster a fair and competitive market environment.

6.4.4. TAXATION AND REPORTING GUIDELINES

One of the major gaps in Vietnam's current legal framework in digital asset is the lack of clear taxation rules for cryptocurrency transactions. A specialized framework should address this by providing detailed guidelines on taxing digital asset activities, including trading, mining, staking, and income generated from crypto investments. Establishing clear tax obligations would enhance compliance and contribute to the government's revenue collection from the growing digital economy.

6.4.5. AML AND CFT MEASURES

The framework should include stringent AML and CFT measures that are specifically designed for the cryptocurrency sector. This would involve extending current AML laws to cover digital asset service providers and mandating the implementation of KYC protocols, transaction monitoring, and reporting of

suspicious activities. These provisions would align Vietnam's regulations with international standards set by organizations like the FATF, helping to combat the misuse of cryptocurrencies for illicit activities.

6.4.6. SUPPORT FOR INNOVATION AND TECHNOLOGICAL DEVELOPMENT

A specialized regulatory framework should not only address risks but also support innovation in the cryptocurrency and blockchain space. This can be achieved through regulatory sandboxes or pilot programs that allow new technologies and business models to be tested under regulatory oversight. Such initiatives would provide a controlled environment for innovation while ensuring that CPs and financial stability are not compromised.

7. CONCLUSION

This paper explores the historical development, current legal framework, and challenges of CR in Vietnam, contrasting them with international standards. Key findings indicate that Vietnam's approach is characterized by a cautious and restrictive stance aimed at maintaining financial stability and preventing illegal activities. Vietnam recognizes cryptocurrencies as property under the Civil Code but prohibits their use as legal payment methods. Despite incremental steps towards regulatory clarity, significant gaps remain, such as the lack of comprehensive guidelines for trading, investment, and the operation of cryptocurrency exchanges. Compared to more progressive frameworks like the EU's MiCA and Japan's PSA and FIEA, Vietnam's regulations appear fragmented and inconsistent, posing challenges to innovation and international competitiveness. Additionally, there are insufficient consumer protection measures, ambiguity in taxation, and limited adaptation to technological advancements, which collectively hinder the development of the cryptocurrency market in Vietnam.

The study contributes to the policy discourse by highlighting the need for a balanced approach that safeguards financial stability while fostering innovation in the digital economy. The analysis underscores the importance of developing a unified and comprehensive regulatory framework that addresses the complexities of cryptocurrency activities, including trading, exchanges, and ICOs. Policy recommendations include the establishment of clear definitions, licensing requirements, and specific regulations tailored to the Vietnamese context. The study also emphasizes the value of integrating consumer protection measures into the legal framework to enhance trust and participation in the cryptocurrency market. By aligning Vietnam's regulatory approach with international best practices, the government can create a more supportive environment for innovation, attract foreign investment, and position the country competitively in the global digital economy. This involves not only recognizing the risks associated with cryptocurrencies but also capitalizing on their potential to drive FI and technological advancement.

Future research should explore the dynamic and rapidly evolving nature of the cryptocurrency market to provide ongoing insights into effective regulatory strategies. There is a need for studies that investigate the socio-economic impacts of cryptocurrency adoption in Vietnam, particularly in areas like financial inclusion, investment behavior, and technological innovation. Additionally, research should focus on the potential benefits and risks of emerging financial technologies, such as DeFi, NFTs, and stablecoins, to inform adaptive regulatory responses. Comparative

studies between Vietnam and other jurisdictions that have successfully integrated cryptocurrencies into their financial systems could yield valuable lessons and guide policy adjustments. Lastly, future research should examine the effectiveness of existing AML and CP measures in the Vietnamese context, identifying gaps and proposing enhancements to safeguard the integrity of the financial system while fostering a thriving digital asset market.

In conclusion, this study provides a comprehensive analysis of Vietnam's current CR, identifies critical areas for policy improvement, and sets the stage for future research that can further inform the development of a robust and forward-looking legal framework for DA in Vietnam. Addressing these challenges will require coordinated efforts from policymakers, regulators, and stakeholders to ensure that Vietnam not only mitigates the risks associated with cryptocurrencies but also harnesses their potential to drive economic growth and innovation.

CONFLICT OF INTERESTS

None.

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