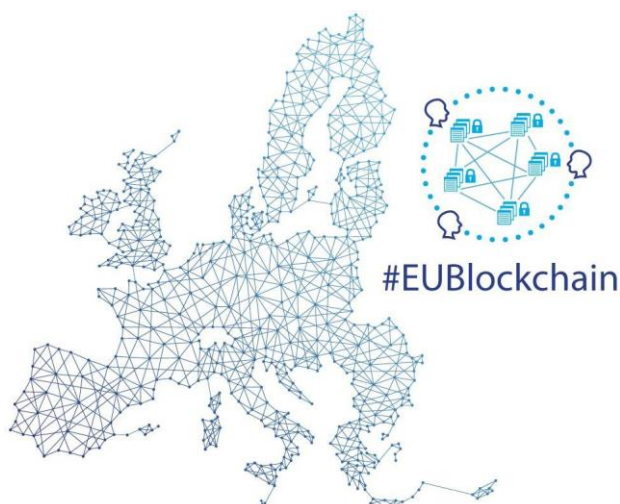


EU BLOCKCHAIN OBSERVATORY & FORUM

Markets in Crypto-Assets Act & DeFi Regulation
(EU Blockchain Week 2021) –
Online Video Conference, 24 September 2021



By the European Commission, Directorate-General of Communications Networks, Content & Technology.

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Author: Marianna Charalambous

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Comments and inquiries may be addressed to the following email: info@eublockchainforum.eu

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INTRODUCTION

The EU Blockchain Observatory and Forum in the framework of the EU Blockchain Week 2021, under the auspices of the Slovenian Presidency of the EU co-organized a workshop with two panels focused on Markets in Crypto-Assets act and DeFi Regulation. The Markets in Crypto-Assets act panel was co-organized with INATBA and the Blockchain Think Tank Slovenia while the DeFi Regulation panel was co-organized with INATBA and the Blockchain Alliance Europe.

PANEL DISCUSSION 1: MARKETS IN CRYPTO-ASSETS ACT

Moderated by Anja Blaj, Blockchain Think Tank Slovenia

- Marc Taverner, INATBA
- Jeff Bandman, EUBOF Expert Panel Member
- Florian Glatz, Bundesblock, EUCI
- Marina Markezic, Blockchain Think Tank, Slovenia, EUCI
- Paul Worthington, Public Policy Manager, Facebook
- Rok Zvelk, European Commission, Directorate-General for Financial Stability, Financial Services and Capital Markets Union
- Klara Rozman, National Delegate at the Slovenian Ministry of Finance in Capital Market Division

Objectives of the session:

- To explore the Markets in Crypto-Assets Act (MiCA) and its benefits to the European blockchain ecosystem
- To discuss the areas that need further attention in MiCA

Main outtakes from the session:

- The moderator, **Anja Blaj** presented the panelists and initiated the discussion, asking Mr Rok Zvelk from DG FISMA, European Commission to introduce the EU perspective on MiCA regulation.
- **Rok Zvelk**, took the floor and presented the motivations for the European Commission to propose two proposals: the Regulation on markets assets (MiCA) and the Regulation on a pilot regime for DLT market infrastructures. In particular for the Regulation on markets assets (MiCA), he referred to regulating issuers and crypto-asset service providers (CASPs), covering crypto-assets not covered elsewhere under the EU financial services legislation and regulating the so-called “stable coins”. For the Regulation on a pilot regime for DLT market infrastructures, he referred to covering “tokenised securities” already regulated by EU law, the regulation for “market infrastructures” (trading and post-trading) based on distributed ledger technology, the legislative instrument allowing for exemptions from EU law and gain evidence base about possible obstacles to the application of DLT. MiCA regulates three categories that are not covered by the existing legislation: E-money tokens (EMTs), Asset-referenced tokens (ARTs) and other crypto assets. There is also a lot of provision, and in case the stable coins become very big projects, the supervision shifts to the European Union, to the European banking authority under the Commission’s proposal. In summary, what the EC regulates is the issuers

- of crypto assets that are not covered by the existing legislation including, stable coins and also crypto assets, service providers, like custody trading platforms.
- The moderator then asked **Ms Klara Rozman** about the role of the Slovenian Presidency of the Council of the EU, when negotiating these rules. Ms Rozman, said that the main role of the presidency is to ensure the continuity of the legislative procedures. As presidency, Slovenia coordinates negotiations among member states on legislation. The Slovenian presidency chose MiCA as one of the priorities, but the presidency needs to follow a neutral role. That means that the presidency acts as an honest broker while coordinating negotiations among member states. Slovenia can propose a draft proposal in order to reach a compromise, but the positions of the member states on the presidency's proposal can be sought out through a non-objective procedure. Member states provide their views while examining the Commission's proposal at the Council working groups and at the bilateral meetings with members, states, stakeholders, such as ministry bodies and national competent authorities. When all member states reach a general approach, the procedure goes to the next level where the presidency presents all 27 member states.
 - The floor was then given to **Mr Jeff Bandman**, who presented the role of the EU Blockchain Observatory and Forum and his views on MiCA regulation. Mr Bandman briefly reviewed what the EU Blockchain Observatory and Forum does and pointed out that EUBOF has certainly treated MiCA as a very important topic, especially after the legislation was proposed and on January 2021, a [dedicated workshop](#) was organized. He went on to explain his own perspectives on MiCA and referred to how beneficial it is to have this comprehensive regulatory proposal with passporting across the Union while doing it in contact with the DLT pilot and with the other provisions around cybersecurity. It's timely, it's comprehensive, it's highly needed and there is a recognition that there were very significant gaps where some of these novel assets didn't quite fit under the definition of a commodity. He referred to the US where there has been plenty of innovation, but there has not been any comprehensive administrative or legislative action. In the US, regulators have been applying their existing frameworks within their lanes. Having comprehensive legislative proposals is very valuable and there were a couple of challenges with the initial MiCA proposal that have been addressed. However there have also been some concerns that may have not been addressed or may require further attention such as a) the definition and formulation that need to be refined, b) the status of the NFTs and DeFi governance tokens, c) the interaction of GDPR privacy requirements and rights applied and interpreted by national privacy authorities and d) the relationship to official signatures, esignatures, seals and enhanced levels of those. Lastly, Mr Bandman, touched upon what MiCA leaves to the member states: legal status of blockchains, legal status of evidence from a blockchain, legal status of a "smart contract" and supervision or licencing of VASPs under FATF rules until MiCA enters into force.
 - **Paul Worthington** took the floor to explain why does Facebook care about the space. He referred to Novi, a digital wallet built by Facebook that allows people to pay one another, either for domestic or cross border transactions using assets like stable coins that will enable them to leverage new infrastructure, which is interoperable, cheaper to use and secure, built on top of the Diem network using the Diem stable coin. Diem is the new name for Libra, and is made of 26 members alongside other companies and social impact partners. The association has built a new network for payments. On top of that, they are seeking to launch a first stable coin, the Diem dollar which will run on top of the Diem blockchain. Novi will provide consumers with an easier and cheaper way to send money internationally, cutting the time it takes to send money, reducing the cost involved, recognizing that the current global average cost of sending remittances is still about 6.5%, way above the UN sustainable development goal of 3%. Anyone with a smartphone would essentially be able to access Novi, providing there is a regulatory approval to operate in that market. He said that Facebook is excited about the potential of MiCA in the EU, and that there is still a long way to go to improve the way in which money moves.

The opportunity Facebook sees in this area, is the potential for utilizing new payment rails built on blockchain technology, which is one of the reasons why they support the aims behind the proposed MiCA regulation; Facebook sees it as a key enabler for the future of the EU digital finance ecosystem of which Novi would be one constituent parts of it. He referred to the four general objectives of MiCA, which are crucial in framing the policy debate itself: legal certainty, supporting innovation, installing appropriate levels of consumer and investor protection, and ensuring financial stability. He pointed out that a flexible regulatory framework is important to ensure that MiCA has the ability to adapt to a sector where innovation in business models and products are occurring at pace. It's really important that MiCA sets out really clear definitions, both in terms of the roles played by the different regulated actors, but also for the different categorization of tokens captured by MiCA. He closed his remarks by saying that clarity is needed for it to be workable from an industry perspective; MiCA could be a really powerful enabler in the ecosystem across the EU.

- **Marc Taverner** followed and gave an introduction on INATBA saying that in the beginning there was a particular concern because there were certain requirements around legal entities, which present an existential threat for DeFi and could scare away innovators. He expressed the opinion that the Commission, the Parliament and the whole ecosystem working on this, have really been quite open-minded, open to learning, open to receiving evidence, even open to changing the text in places. However, there are still certain areas that need attention: principles, brought policies and big objectives. He then went on to highlight some of the areas that need some further investigation. Within MiCA there is a certain stipulation that already licensed actors in the field don't need to prove their ability to run as crypto asset service providers. But a new market entrance needs to prove their ability, they need to prove that their systems, their knowledge, their governance structures, and their people are fit to run these services, so that particular topic could use a bit of work. There should be a requirement for existing license players to at least reach a certain level of competencies of systems, of safeguards, of governance structures, so that they can demonstrate that they have the ability to provide services in the realm of crypto assets, with the type of responsibility and safeguards that the public should learn to accept from them. The second area that needs attention is the one of technology neutrality, as with MiCA there is a limit placed on projects that don't issue white papers of a million euros and that doesn't exactly provide the type of technology neutrality. The third area that needs attention, is the incredibly innovative decentralized finance market, decentralized autonomous organizations and non-fungible tokens. Perhaps MiCA isn't the right place for them, but these topics should be discussed in the broader digital finance act and maybe draw a little bit on the pilot regime, which probably isn't the right place for it either, but maybe there is a space to carve out a sandbox or a safe, innovative space with parameters where Europe can play a home to foster innovation to drive these entrepreneurs towards great things within the parameters of defined risk and bring together the private sector to share learning with the public sector, with the regulators, with parliamentarians, with governments. He closed his remarks with a general call out to people in parliament, in governments, in the Commission and across the industry, for the establishment of this safe, innovative space for DAOs, DeFi and NFT projects.
- **Florian Glatz** was the next panelist who explained Bundesblock role/perspective and said that Germany has been very active in terms of regulating the crypto finance space, exclusively as there is not much other regulation around other things than financial applications of blockchain technology. It started in 2013 categorizing Bitcoin as a financial instrument which had a huge impact on the development of the space in Germany. It continued in 2018, around the ICO hype where Germany issued some guidance around the nature of tokens, that tokens could be securities. Germany pioneered a blockchain strategy in 2019, which contains this infamous statement that Germany is going to engage on the European level to prevent stable coins, which looking back at this with the background of what's been happening in particularly in the past

year and the decentralized finance space, it becomes clear how tragic that initial reaction to the emergence of the idea of stable coins when this was drafted, actually is nowadays. Germany will have to change course on this particular stance. In 2020 Germany introduced the custody license when it transposed the AML directive into a German national law, and the reaction to the custody license has been mixed. In particular it created insecurity in that space that uses decentralized technologies and various schemes where there is this gray area. Germany has been introducing electronic securities and a dedicated national regulation, paving the way in terms of some civil law regulations for issuing debts of bonds as tokens on the blockchain. This whole market of electronic securities is very early, it's not where generally the innovation has been happening for the past year or two, so the impact of that regulation is yet to be seen. What MiCA really does well is to provide a coherent set of rules for centralized use cases of crypto assets, but all decentralized applications and use cases of crypto assets are currently not sufficiently recognized by MiCA and cannot be properly regulated in the scheme of the rules as they are set up. The importance of DeFi stable coins and open networks for Europe should be recognized and promoted in a dialogue with the regulators.

- **Marina Markezic** presented how the Slovenian Blockchain Think Tank has been one of the first to discuss with regulators in the last few years. She pointed out how important it is to address the issues together on a European level and went on to describe how the EU Crypto Initiative was born; all founders have been working in the industry for at least five years and there were all lawyers. Their role is to represent the projects and the industry that is mainly open source, working on permissionless innovation while educating different stakeholders on their principles and ideas. What the EU Crypto Initiative has been doing in the past year is talking to different stakeholders, regulators, different organizations, all over Europe, and present what are the trends, what is happening in the industry and how innovation really looks like. In the last few months different trends like DeFi and NFTs have been growing a lot, and when the MiCA draft was written, maybe DeFi was not that important and did not have such a big market, but right now it is a very important part of the industry. Europe is one of the most important markets in the world and has been welcoming for projects that are willing to innovate in this space.
- The panel discussion ended with brief conclusion remarks from each panelist.

PANEL DISCUSSION 2 : DEFI REGULATION

Moderated by Lambis Dionysopoulos, Researcher, EU Blockchain Observatory and Forum, University of Nicosia

- Nathan Wandy, Blockchain Helix, INATBA Governance WG Co-Chair
- Magnus Jones, Nordic Blockchain & Innovation Lead, EY Tax & Law
- Jan Klesla, Blockchain Republic Institute, INATBA (DeFi)
- Dr Merav Ozair, PhD, CFQ Quantitative Financial Instruments Strategist, INATBA AAB member (DeFi)

Objectives of the session:

- To understand DeFi and provide the audience with a way of thinking about DeFi and its innovations, as well as how it differs from traditional finance, before expanding on regulation.
- To analyse the current state of DeFi regulation and its potential impact on DeFi, with a particular focus in Europe (MiCA).
- To focus on certain topics such as DAOs, from a regulatory perspective

Main outtakes from the session:

- The moderator, **Lambis Dionysopoulos**, presented the panelists and an overview of the panel topics.
- **Nathan Wandy** took the floor to discuss the definition for decentralized finance, as an industry which leverages blockchain technology to create public and permissionless financial services and products. These products are public in the sense that anyone, as long as they have access to an internet connection can get them. In the traditional financial industry, there's the KYC where if someone doesn't pass these compliance checks, they are not able to access these services or products, but in DeFi there is none of that, which means that people that typically are in areas where there are no banks, like a lot of areas in developing countries, are able to access financial products and services where they wouldn't be able to with traditional finance; it empowers a lot of people to be able to grow themselves financially in ways that just were not possible two decades ago.
- **Jan Klesla** followed, emphasizing that not every financial service on blockchain can be deemed as DeFi. Decentralization is a completely new generation and evolution of financial services without intermediaries.
- **Magnus Jones**, said that one of fascinating things is the ability to build and create financial services such as borrowing and lending, services for which a person previously had to go to an ordinary institution.
- **Merav Ozair** added that DeFi will allow people to get to the decentralized economy, since everything has to do with finance. If everything is on the blockchain and decentralized, then all of those, whatever activity that one does in the economy, whether it is buying coffee or exercise, it will be all integrated into blockchain. The concept with Decentralized Finance will be basically Decentralized economy and all activities, purchases, payments, lending, borrowing will all be from the same place because that's what blockchain is all about. It sounds a little bit futuristic, but there are possibilities of that happening. The technology will eventually evolve towards that and there will be demand because even in traditional services everything has some finance aspect to it, so blockchain can facilitate that in many ways.
- **Nathan Wandy** was the next panelist to expand on the grand vision behind Decentralized Finance. He mentioned that the vision of financial sovereignty started with Bitcoin, where instead of money being issued by sovereign governments, it was issued by the people through technology, like a trust in society in general. This new way of thinking about how sharing value and how value is created, is the real driver that everyone is so excited about.
- **Magnus Jones** followed discussing the risks that come with this grand transition to DeFi. One of the main risks is that this space moves so incredibly fast that even the ones that are in this space as developers do not follow it fully, and not even people that work in the space 24/7 have a full update on what's going on. Things move very fast, meaning there's a huge risk that people are not doing a good enough due diligence on the smart code itself. One of the main challenges in the system right now is the trust, because there's the fact that there are not enough well-developed tools that can review the smart contracts and not enough skilled people who can do a good compliant overview of if something is to be trusted or not.
- **Nathan Wandy** agreed and emphasized the corporate governance risk and the data governance risk. With decentralized governance, when the governance should be given to the people there are issues with admin keys, which give a superpower over what actually is included inside the protocol and this is an area where a lot of regulators have questions when they're doing reviews of these protocols. A lot of people are burning their admin keys so that there's no control and it's completely governed by the people, which is true decentralization. This is where

the strength of blockchain really comes through, where it doesn't matter if you haven't KYC to an individual.

- **Jan Klesla** additionally mentioned the reputational risks for the DeFi industry itself, emphasizing that now is the time to be very careful because the regulators are looking closely to DeFi, and nobody wants DeFi to be over-regulated. Now it's the time to prove that self-regulation can be efficient. KYC, for instance on a blockchain is much more efficient, however it needs to be first explained to the regulators. It's about striking the right balance to still have this industry open to a 16 year old programmer from a garage, but on the other hand, it's important not to have big losses of consumers money in any fraud. Financial regulators could be some kind of a certification authorities for DAOs.
- **Lambis Dionysopoulos** shifted the conversation to the best timing of regulating DeFi, and asked the panelists whether this is the right time to regulate DeFi or if some time should be allowed for the industry to get developed. **Nathan Wandy** said that this is a very young industry and the goal is to make sure that investors and consumers can have additional options that weren't available beforehand, that's the whole point of human creativity, to create better, more efficient tools to have wealth and grow. One of the best ways to do this is a sandbox approach which will allow DeFi projects to work for a few years in line with the regulators and making sure that the protocols and operations are in line with the best practices and then gradually be decentralized, because no matter the protocol, it always starts centralized. **Jan Klesla** agreed with Mr Wandy's view on the sandbox but this shouldn't be about DeFi aligning with the regulation, but with the regulation aligning with DeFi. **Merav Ozair** also agreed that a sandbox or some other way to collaborate, is correct, to bring the regulators to participate in this process with the industry. It is a long process and regulators need to come to the table in order to build this, whether it's a sandbox or some other collaboration. **Magnus Jones** then added that this is definitely not the time for regulators to specifically regulate DeFi, but it's the time for regulators and governments to actually look into it and understand it.
- The panel discussion ended with brief conclusion remarks from each panelist.

Appendix

Workshop videos

- Videos from this and all other workshops can be found on the [EU Blockchain Observatory and Forum website](#) under the section [Reports](#)
- Videos specific to this workshop: [Markets in Crypto-Assets Act](#) & [DeFi Regulation](#)

Official agenda

Time	Activity
15.00	<p>Panel Discussion 1 – Markets in Crypto-Assets Act <i>Moderated by Anja Blaj, Blockchain Think Tank Slovenia</i></p> <ul style="list-style-type: none"> • Marc Taverner, INATBA • Jeff Bandman, EUBOF Expert Panel Member • Florian Glatz, Bundesblock, EUCI • Marina Markezic, Blockchain Think Tank, Slovenia, EUCI • Paul Worthington, Public Policy Manager, Facebook • Rok Zvelk, European Commission, Directorate-General for Financial Stability, Financial Services and Capital Markets Union • Klara Rozman, National Delegate at the Slovenian Ministry of Finance in Capital Market Division
16.30	<p>Panel Discussion 2 – DeFi Regulation, <i>moderated by Lambis Dionysopoulos, Researcher, EUBOF, University of Nicosia</i></p> <ul style="list-style-type: none"> • Nathan Wandy, Blockchain Helix, INATBA Governance WG Co-Chair • Magnus Jones, Nordic Blockchain & Innovation Lead, EY Tax & Law • Jan Klesla, Blockchain Republic Institute, INATBA (DeFi) • Merav Ozair, PhD, CFQ Quantitative Financial Instruments Strategist, INATBA AAB member (DeFi)
17.30	End of event

Speakers & Moderators



[Marc Taverner](#)



[Jeff Bandman](#)



[Florian Glatz](#)



[Marina Markezic](#)



[Paul Worthington](#)



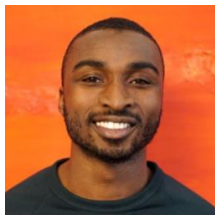
[Rok Zvelk](#)



[Klara Rozman](#)



[Anja Blaj](#)



[Nathan Wendy](#)



[Magnus Jones](#)



[Jan Klesla](#)



[Merav Ozair](#)



[Lambis Dionysopoulos](#)