

Cryptocurrency Regulations in ASEAN, East Asia, & America: To Regulate or Not To Regulate

INTRODUCTION

This note compares the current landscape of cryptocurrency regulations in Southeast Asia (ASEAN member states: Brunei, Cambodia, Indonesia, Laos, Malaysia, Myanmar, Philippines, Singapore, Thailand, and Vietnam),¹ East Asian nations excluding China (Japan, South Korea, North Korea, Hong Kong, and Taiwan), and the United States.

The terms cryptocurrency, blockchain, and Bitcoin are all heavily associated with one another, but each refer to distinct things. Part one provides a background on these terms, as well as the recent history of cryptocurrency adoption throughout the world.

The main body of this note will categorize these nations into groups based on the type and level of regulations implemented (i.e. a proactive stance implementing regulation and favoring usage of cryptocurrencies, a reactive stance with restrictive regulation, a hesitant stance with slowness to enact any regulation at all, a restrictive stance with a complete ban on usage, etc.). This note also addresses a key question that every nation now faces due to the increased global usage of cryptocurrencies: Should countries regulate their cryptocurrency markets? And if so, how and to what extent should they do so? Finally, Part III argues that the type of regulatory scheme which Japan, Hong Kong, Singapore, and Thailand have utilized (a proactive liberal approach) is the best method.

¹ *What is ASEAN?*, BBC (Nov 13, 2014), <https://www.bbc.com/news/world-asia-30015680>.

PART 1A: BACKGROUND & DEFINITIONS
(BITCOIN, BLOCKCHAIN, & CRYPTOCURRENCY)

The simplest definition for cryptocurrency is: “A . . . digital or virtual currency that uses cryptography for security Many cryptocurrencies are decentralized systems based on blockchain technology, a distributed ledger enforced by a disparate network of computers. A defined feature of a cryptocurrency . . . is its organic nature; it is not issued by any central authority, rendering it theoretically immune to governmental interference or manipulation.”² Blockchain technology:

[R]efers to the system’s protocol, a common phrase in software terminology that describes a fundamental set of programming instructions that allow computers to communicate with each other. Bitcoin’s protocol is run over a network of computers that belong to the many people around the world that are charged with maintaining its core blockchain ledger and monetary system. It provides those computers with the operating instructions and information they need to keep track of and verify transactions among people operating within the bitcoin economy. The system employs encryption, which lets users key in special passwords to send digital money directly to each other without revealing those passwords to any person or institution. Just as important, it lays out the steps that computers in the network must perform to reach a consensus on the validity of each transaction. Once that consensus has been reached, a payee knows that the payer has sufficient funds – that the payer isn’t sending counterfeit digital money.³

Put more simply, cryptocurrency is an asset existing in virtual rather than physical form and blockchain is the technology making that happen.

Of these digital currencies, Bitcoin is generally considered the first completely decentralized currency⁴ and is far and away the most widely

² See Jake Frankenfield, *Cryptocurrency*, Investopedia (2019), <https://www.investopedia.com/terms/c/cryptocurrency.asp> (last visited Oct 16, 2019).

³ PAUL VIGNA & MICHAEL J. CASEY, *THE AGE OF CRYPTOCURRENCY: HOW BITCOIN AND DIGITAL MONEY ARE CHALLENGING THE GLOBAL ECONOMIC ORDER* 9 (2015).

⁴ See Nathan Reiff, *Were There Cryptocurrencies Before Bitcoin?*, INVESTOPEDIA (June 25, 2019), <https://www.investopedia.com/tech/were-there-cryptocurrencies-bitcoin/>.

used cryptocurrency.⁵ Broken down to its simplest form, Bitcoin is made up of “the digital units of value that are used by people in exchange for goods and services or other currencies, and whose price tends to swing wildly against traditional government issued currencies.”⁶ Because of this, many laws and regulations fashioned by governmental institutions in order to regulate cryptocurrencies often refer to these currencies as bitcoin(s), utilized as a catch-all term to refer to cryptocurrencies more broadly.

A summation of the three concepts and how they relate to one another is as follows:

[T]he simple genius of this technology is that it cuts away the middleman yet maintains an infrastructure that allows strangers to deal with one another At their core, cryptocurrencies are built around the principle of a universal, inviolable ledger, one that is made fully public and is constantly being verified by these high-powered computers, each essentially acting independently of the other The network-based ledger – which in the case of most cryptocurrencies is called a blockchain – works as a stand-in for the middlemen since it can just as effectively tell us whether the counterparty to a transaction is good for his or her money.⁷

One final important term to note and define is the Initial Coin Offering (ICO). An ICO is “a fundraising mechanism in which new projects sell their underlying crypto tokens” in exchange for other cryptocurrencies (such as Bitcoin) or fiat currencies (such as US dollars).⁸ It is similar to an IPO (Initial Public Offering) where investors purchase shares of a company (usually listed on a stock exchange), but differs in that investors merely own some amount of the newly launched cryptocurrency rather than ownership

⁵ See Bernard Marr, *A Short History of Bitcoin and Cryptocurrency Everyone Should Read*, FORBES (Dec. 6, 2017), <https://www.forbes.com/sites/bernardmarr/2017/12/06/a-short-history-of-bitcoin-and-crypto-currency-everyone-should-read/#70edd3813f27>.

⁶ PAUL VIGNA & MICHAEL J. CASEY, *THE AGE OF CRYPTOCURRENCY: HOW BITCOIN AND DIGITAL MONEY ARE CHALLENGING THE GLOBAL ECONOMIC ORDER* 8 (2015).

⁷ *Id.* at 5.

⁸ *Bitcoin Guides: What Is An ICO?*, BITCOIN MAG., <https://bitcoinmagazine.com/guides/what-ico> (last visited Jan. 15, 2021). Discussing some of the key features to ICOs, including the possibility they can lead to raising “astronomical” sums of money, are launched “pre-product,” and are “easy to structure.”

stake in a company.⁹ Additionally, the US Securities & Exchange Commission (SEC) has closely regulated IPOs since the 1930s,¹⁰ while ICOs have thus far had few restrictions placed on them, presenting much greater risks to potential investors.¹¹

Benefits of virtual currencies include the anonymity of transactions, cutting out rent seeking financial middlemen, and universal recognition of the currencies.¹² Drawbacks range from potential theft, lack of guidance in regards to tax and regulatory implications, and extreme volatility.¹³ One particularly notable drawback evidenced in recent years has been the vulnerability of cryptocurrency exchanges to theft as investors risk having their cryptocurrencies stolen directly from an exchange.¹⁴

Exchanges are cryptocurrency platforms that allow investors and consumers to “buy, sell, and trade cryptocurrencies through fiat currency” such as US dollars or other cryptocurrencies.¹⁵ These numerous and varied exchanges provide a vital function by acting as a marketplace for cryptocurrencies, but create the “additional risk” of having one’s cryptocurrency stolen on an exchange.¹⁶

⁹ *Id.*

¹⁰ See *US IPO Guide*, LATHAM & WATKINS, at 11, (Dec. 3, 2019), <https://www.lw.com/thoughtLeadership/lw-us-ipo-guide> at 11, providing a history of IPO regulation in the US.

¹¹ See Benjamin Sherry, *What Is An ICO?*, INVESTOPEDIA (June 25, 2019), <https://www.investopedia.com/news/what-ico/>. Explaining one of the risks inherent to investing in an ICO is that “you’re gambling that the currently worthless currency you pay for now will increase in worth later and make you money.”

¹² See *The Benefits of Using Cryptocurrency*, NASDAQ (Feb. 27, 2017), <https://www.nasdaq.com/articles/benefits-using-cryptocurrency-2017-02-27>.

¹³ See Dante Disparte, *Beware of Crypto Risks—10 Risks to Watch*, FORBES (July 21, 2018), <https://www.forbes.com/sites/dantedisparte/2018/07/21/beware-of-crypto-risks-10-risks-to-watch/#1a5be8ba5f17>.

¹⁴ See Brian Fung, *Why Bitcoin Exchanges Keep Getting Hacked—And How to Protect Yourself*, WASH. POST (June 20, 2018), <https://www.washingtonpost.com/news/the-switch/wp/2018/06/20/why-bitcoin-exchanges-keep-getting-hacked-and-how-to-protect-yourself/> (discussing the vulnerability of cryptocurrency exchanges to attacks by hackers and how such attacks occur).

¹⁵ See Sarah Hansen, *Guide to Top Cryptocurrency Exchanges*, FORBES (June 20, 2018), <https://www.forbes.com/sites/sarahhansen/2018/06/20/forbes-guide-to-cryptocurrency-exchanges/#7d8d07812572> (providing an overview of what cryptocurrency exchanges are and which ones are most notable).

¹⁶ Sherry, *supra* note 11.

As governments around the world increase their knowledge and subsequent regulation of cryptocurrencies these regulations tend to refer less to Bitcoin specifically and to cryptocurrencies generally. These regulations have rapidly increased in recent years, as nations scramble to regulate cryptocurrencies as their usage explodes globally,¹⁷ especially in the ASEAN states.¹⁸

If well designed, these could bolster cryptocurrencies by making people feel better protected from their more dangerous elements. But the bureaucrats may go too far with regulation and end up quashing innovative start-ups' ability to make full use of this technology's potential to empower individuals, break down monopolies, and reduce cost, waste, and corruption.¹⁹

Striking a balance between these inherent tensions in cryptocurrency regulations is a key challenge governments face when addressing these currencies.

17 See Jess Klein, *The Government Is Finally Taking Bitcoin Seriously: Which Means They Are Going to Start Taking It Seriously.*, OUTLINE (Aug. 1, 2019),

<https://theoutline.com/post/7727/the-government-is-finally-taking-bitcoin-seriously?zd=1&zi=lfscyikt>. The article discusses Facebook's creation of its own "Libra" currency leading to scrutiny by the US Senate, as well as a raft of state legislation aimed at regulating cryptocurrencies.

18 See Preetam Kaushik, *Decoding the Future of Blockchain for ASEAN in 2019*, ASEAN TODAY (Jan. 21, 2019), <https://www.aseantoday.com/2019/01/decoding-the-future-of-blockchain-for-asean-in-2019/> ("Virtually all governments in the region have a positive attitude towards cryptocurrencies and have passed laws to regulate currency markets and exchanges."); see also Leo Jakobson, *Central Banks Across Southeast Asia are Embracing Blockchain*, MOD. CONSENSUS (Apr. 12, 2019), <https://modernconsensus.com/regulation/asia-australia/central-banks-across-southeast-asia-are-embracing-blockchain/> ("Financial Authorities across Southeast Asia are embracing blockchain technology and digital currencies as a way of helping the poor get better access to banking services that can help lift them out of poverty, as well as speeding and improving interbank payments and cross-border settlements.").

19 Fung, *Supra* note 14, at 13.

Part 1B: Legality of Cryptocurrency by Country

The following is an overview on current legality and potential limits on uses of cryptocurrencies in various countries, focused on ASEAN member states, East Asian nations, and the United States specifically.

USA (Legal)

The United States Treasury treats Bitcoin and other cryptocurrencies as a “convertible virtual currency.”²⁰ There is still much uncertainty around cryptocurrency regulation in the US as various government agencies treat it differently. “One example is the confusion around whether a particular token or coin constitutes a security (subject to SEC regulation), a commodity (subject to CFTC regulation), or a payment (subject to money transmitter requirements under FinCEN and state regulation).”²¹ The confusion over whether cryptocurrencies should be treated as either securities, commodities, payments, or some combination of the three, is in part due to its versatility.²² This confusion²³ creates a headache for US regulators as this question is integral in determining which agency (the SEC, CFTC, or FinCEN) should have primary authority over shaping regulations.²⁴

20 See U.S. TREASURY, FIN. CRIMES ENF’T NETWORK, STATEMENT OF JENNIFER SHASKY CALVERY, DIRECTOR, FINANCIAL CRIMES ENFORCEMENT NETWORK, UNITED STATES DEPARTMENT OF TREASURY (Nov. 19, 2013), <https://www.fincen.gov/news/testimony/statement-jennifer-shasky-calvery-director-financial-crimes-enforcement-network>.

21 PWC, *Regulatory Brief: Carving Up Crypto: Regulators Begin to Find Their Footing*, (2018) <https://www.pwc.com/us/en/financial-services/regulatory-services/publications/assets/cryptocurrency.pdf> at 2.

22 See Team Luno, *Cryptocurrency: Is It a Security, Currency, or Asset?*, MEDIUM (Nov 18, 2018), <https://medium.com/luno-money/cryptocurrency-is-it-a-security-currency-or-asset-1785acb1e60f> (“[I]t’s this versatility that offers such great opportunities for a diverse range of people. For a migrant worker sending money to their family with heavy transfer fees, it acts as a currency. For an investor looking to diversify their portfolio, it acts as a commodity or security. For a developer looking to improve their Bitcoin network as a hobby, it might merely be seen as software.”).

23 See J. Riley Key, Lee Gilley & Erin Jane Illman, *Cryptocurrencies: Currency, Commodity, Security, or Something Else?*, FIN. SERV. PERSP. (Feb. 5, 2019), <https://www.financialservicesperspectives.com/2019/02/cryptocurrencies-currency-commodity-security-or-something-else/> (analyzing recent American legal decisions covering how cryptocurrencies should be defined, and how these definitions clash amongst the various US regulatory agencies: “While the SEC appears to take a broad view of what constitutes a security in the cryptocurrency space, not all regulators and courts agree”).

24 Luno, *supra* note 22.

Adding further complexity is the fact that there also exist differing state regulations on cryptocurrencies, which can potentially extend beyond federal regulation.²⁵ This growing and perplexing patchwork of both federal and state regulations can lead to greater confusion than might exist if only one regulatory body governed. This has understandably led to “concerns from market participants over complying with the patchwork of regulation” as parties struggle to understand what is or isn’t allowed, and then comply with those laws.²⁶

ASEAN Member States

Singapore (Legal)

The Monetary Authority of Singapore (the central bank and chief financial regulatory authority) treats Bitcoin as legal and takes a hands-off approach.²⁷ Interestingly, the Singaporean government first announced this stance in 2013, ahead of many of its ASEAN peers which didn’t begin to address the issue until 2016 or later. Earlier this year in 2019 the Singaporean Parliament passed the Payment Services Act which regulates Bitcoin and other cryptocurrencies as “digital payment tokens.”²⁸ This noninterventionist approach has led Singapore to become a hotspot for cryptocurrency exchanges²⁹ and startup companies based around innovations in the blockchain space.³⁰

25 See Rakesh Sharma, *More US States May Roll Out Cryptocurrency Regulations*, INVESTOPEDIA (June 25, 2019), <https://www.investopedia.com/news/majority-us-states-are-still-acknowledge-cryptocurrencies/> (discussing the shift away from individual states’ laissez-faire approach towards cryptocurrency regulation, to a more “hostile” view, with California and New York spearheading the effort).

26 PWC, *supra* note 21, at 2.

27 See Terence Lee, *Singapore Government Decides Not to Interfere with Bitcoin*, TECH IN ASIA (Dec. 23, 2013), <https://www.techinasia.com/singapore-government-decides-interfere-bitcoin> (outlining the Singaporean government’s early laissez-faire approach to cryptocurrency regulation).

28 See MONETARY AUTH. SING., *A GUIDE TO DIGITAL TOKEN OFFERINGS*, at 14 (Apr. 5, 2019), <https://www.mas.gov.sg/-/media/MAS/Regulations-and-Financial-Stability/Regulations-Guidance-and-Licensing/Guide-to-Digital-Tokens-Offering-last-updated-on-5-April-2019.pdf> at 14.

29 See Christine Vasileva, *Five Countries with the Most Number of Crypto Exchanges*, BITCOINIST (Sept. 12, 2019), <https://bitcoinist.com/top-5-countries-for-crypto-exchanges/> (anking Singapore as the fourth country in the world based on number of cryptocurrency exchanges.)

30 See Nidhi Singh, *Why Singaporean Startups Are Riding High on Blockchain Technology*, ENTREPRENEUR (Oct. 30, 2018), <https://www.entrepreneur.com/article/322528/>.

This liberal approach to regulation, “coupled with the country’s high level of indigenous talent, entrepreneurial spirit, and fintech development,”³¹ has led the Singaporean government agency Infocomm Media Development Authority (IMDA) to estimate that the blockchain market in Singapore has “the potential to achieve a market spending between US \$201 million to US \$272 million” by 2022 and upwards of US \$2 billion by 2030.³²

Brunei (Legal for trading/holding, not usable as tender)

The Brunei Monetary Authority (AMBD) issued a press release in late 2017 confirming the government’s stance that “cryptocurrencies are not legal tender in Brunei Darussalam and are not regulated by AMBD,” in addition to warning residents “to be vigilant and exercise extreme caution when dealing with such currencies that are privately issued.”³³

The AMBD’s stance that cryptocurrencies are not “legal tender” indicates that under Brunei law transactions completed with cryptocurrencies will not be recognized by the government as legitimate, in contrast with transactions completed with recognized legal tender (such as Brunei or US dollars).³⁴ However, the AMBD didn’t take the additional step of declaring them illegal, signifying that they are still legal to hold and trade for use as a store of value or as a commodity such as gold, rather than a currency. The AMBD has not issued any further statements on the issue since its 2017 press release.

31 *Deloitte’s 2019 Global Blockchain Survey: Blockchain Gets Down to Business*, DELOITTE, 13–14 (2019), https://www2.deloitte.com/content/dam/Deloitte/se/Documents/risk/DI_2019-global-blockchain-survey.pdf (discussing how Singapore has successfully “positioned itself to promote cryptocurrency”).

32 See INFOCOMM MEDIA DEV. AUTH., THE FUTURE OF SERVICES (ANNEXES A-4: ARTIFICIAL INTELLIGENCE & DATA AND BLOCKCHAIN), https://www.imda.gov.sg/-/media/Imda/Files/Industry-Development/Infrastructure/Technology/Technology-Roadmap/Annexes-A-4-Artificial-Intelligence-and-Data-and-Blockchain_Full-Report.pdf (last visited Jan. 16, 2021).

33 See Press Release, Autoriti Monetari Brunei Darussalam, Public to Exercise High Caution with Cryptocurrencies (Dec 22, 2017), <https://www.ambd.gov.bn/SiteAssets/Lists/News/News/AMBD%20Press%20Release%20-%20Cryptocurrencies.pdf>.

34 *Id.*

Cambodia (Ambiguous, but effectively legal with restrictions placed only on banks)

The National Bank of Cambodia has asked banks not to facilitate transactions involving cryptocurrencies,³⁵ and also released a joint statement with the Cambodian Securities and Exchange Commission and the National Police force regarding future regulation. This statement left open the possibility of if, when, or how such regulation might occur.³⁶ However, the statement did provide a vague notion of the potential penalties one might face for “engaging in unregulated activities,” essentially meaning unlicensed activities.³⁷

More recently, the Cambodian Central Bank appears to have softened its stance towards blockchain technology (at least internally) with plans to create an “in-house digital wallet.”³⁸

35 See Sok Chan, *Bitcoin a Risky Business NBC Warns*, KHMER TIMES (Dec. 6, 2017), <https://www.khmertimeskh.com/94114/bitcoin-risky-business-nbc-warns/> (quoting the National Bank of Cambodia Director General as requesting “banks in Cambodia not to allow people to conduct transactions with cryptocurrencies”).

36 See Ross Taylor, Dino Santaniello, Jay Cohen & Praew Annez, *Cryptocurrency Regulations in Mainland Southeast Asia*, LEXOLOGY (Sept. 9, 2019), <https://www.lexology.com/library/detail.aspx?g=33dabdac-5ee5-4fb3-af6f-9d7ea38b340f> (authors affiliated with Tilleke & Gibbins).

37 Marie Huillet, *Cambodian Regulators Say Dealing in Crypto Without License is Illegal*, COIN TEL. (June 19, 2018), <https://cointelegraph.com/news/cambodian-regulators-say-dealing-in-crypto-without-license-is-illegal> (“The statement appeals to the public to be ‘cautious’ of dealing with cryptocurrencies without duly obtaining a license, stating that unlicensed activities will be subject to penalties ‘in accordance with applicable laws.’”).

38 Danny Nelson, *Cambodia’s Central Bank Testing Digital Wallet to Ease Cross-Border Payments*, YAHOO! NEWS (Oct. 18, 2019), <https://news.yahoo.com/cambodia-central-bank-testing-digital-050014686.html> (“The National Bank of Cambodia (NBC) signed an agreement last week with Malaysia’s Maybank to determine how the banks’ respective digital payment platforms—Bakong and Maybank2u—can work in tandem to reduce often crippling remittance fees.”).

Indonesia (Legal for trading/holding, not usable for payments)

In early 2018, the Indonesian Central Bank issued a press release³⁹ regarding a new regulation⁴⁰ which cautioned against the dangers of cryptocurrencies and reaffirming their illegality as a payment system. The press release “warned all parties not to sell, buy, or trade virtual currencies” and also stated “that virtual currencies, including bitcoin, are not recognized as legitimate instrument of payment, and therefore not allowed to be used for payment in Indonesia.”⁴¹

Early in 2019 an agency within the Indonesian Ministry of Trade promulgated guidelines for the trading of cryptocurrency futures which require minimal capital requirements for cryptocurrency traders.⁴² These guidelines provided clarification that cryptocurrencies status in Indonesia is as a commodity, while also stifling potential investment in it. This stifling of investment is due to the new “minimum paid-up capital for a new trader offering future contracts for crypto assets,” set at over \$71 million USD.⁴³ This represents a greater minimum capital amount than is required to merely open a bank in most parts of the country, effectively freezing out most potential firms who might wish to enter the market.⁴⁴

Additionally, the Indonesian Attorney General’s office recently hosted a multiday cryptocurrency summit for ASEAN lawyers, created as a response to “an alleged increase in illicit activity worldwide using bitcoin and other

39 See Press Release, Bank Indon., Bank of Indonesia Warns All Parties Not to Sell, Buy, or Trade Virtual Currency (Jan. 13, 2018), https://www.bi.go.id/en/ruang-media/siaran-pers/Pages/sp_200418.aspx.

40 See PRESIDENT REPUBLIC INDON., REGULATIONS ON CRYPTOCURRENCIES (2011), <https://perma.cc/DNX8-FR6Z>.

41 Press Release, Bank of Indon., *supra* note 39.

42 See Tabita Diela, *Cryptocurrency Traders Protest Indonesia’s New Futures Rules*, REUTERS (Feb. 13, 2019), <https://www.reuters.com/article/us-indonesia-crypto/cryptocurrency-traders-protest-indonesias-new-futures-rules-idUSKCN1Q30IM> (“To encourage trade and protect customers, the Commodity Futures Trading Regulatory Agency . . . last week issued a regulation that set a . . . (\$71.17) million as the minimum paid-up capital for a new trader offering future contracts for crypto assets.”).

43 *Id.*

44 *Id.*

tokens,” further demonstrating Indonesia’s unfavorable outlook on the usage of cryptocurrencies.⁴⁵

Laos (Not illegal for individuals per se but prohibitions have been placed financial institutions)

The Bank of Laos has only issued two notifications regarding cryptocurrencies while not putting any regulatory scheme into place. These notifications did not declare cryptocurrencies to be legal or illegal, but did affirmatively state that financial institutions are restricted from facilitating their transactions.⁴⁶ However, potential penalties have yet to be laid out, so individuals may be open to legal liability for using them.⁴⁷

Malaysia (Legal as a security, with a ban on ICO’s but allowance of IEO’s)

The Malaysian government has created much more developed laws than some of its neighbors when it comes to the regulation of cryptocurrencies, with a flood of prominent regulations since early 2019. These efforts are spearheaded by the Malaysian Securities Commission and the Central Bank of Malaysia who treat cryptocurrencies as a security rather than as a currency or commodity.⁴⁸

45 Anja van Oosterhout, *Indonesia Trains Lawyers in Crypto Crime as Bitcoin Ban Continues*, BITCOINIST (Oct. 1, 2019, 6:00 AM), <https://bitcoinist.com/indonesia-trains-lawyers-in-crypto-crime-as-bitcoin-ban-continues> (analyzing how Indonesia has “doubled down on its zero-tolerance policy” regarding a ban on usage of cryptocurrencies as forms of payment within the country).

46 See Jay Cohen, *Cryptocurrency Regulations in Mainland Southeast Asia*, 10 INFORMED COUNS. 1, 2 (2019) (“Some have interpreted this response as the BOL waiting to learn more about cryptocurrency before deciding upon its approach—merely urging caution rather than taking steps towards providing a clear legal framework. However, although cryptocurrency has not been declared illegal *per se*, the BOL’s position lays the groundwork for a potentially negative response.”).

47 *Id.*

48 See Quek Li Fei, Mike Chiam, Samuel Ling & Adrian Toh, *The State of Cryptocurrency Regulation: Southeast Asia*, CNPLAW (Feb. 22, 2019) <https://www.cnplaw.com/the-state-of-global-cryptocurrency-regulation-southeast-asia/> (detailing Malaysia’s regulatory scheme along with other ASEAN member states in the region: “In Malaysia, issuances of digital assets via ICOs and the trading of digital assets at digital asset exchanges in Malaysia must comply with laws administered by both the Securities Commission Malaysia (“SC Malaysia”) and Bank Negara Malaysia (“BNMN”). All digital currencies and tokens are prescribed as securities under securities law”).

The earliest statement from the Central Bank of Malaysia came in 2014 stating Bitcoin “is not recognized as legal tender.”⁴⁹ However, in 2019 Malaysia made significant strides in regulating investment in cryptocurrencies,⁵⁰ with the Central Bank of Malaysia giving approval for three particular companies to “operate digital asset exchanges or crypto currency exchanges in Malaysia” and requiring exchanges not approved by the governing bodies to “cease all activities immediately and return all monies and assets collected from investors.”⁵¹

In 2020 Malaysia took a further progressive regulatory step in banning ICOs but allowing IEOs (Initial Exchange Offerings).⁵² The key difference between the two is that IEOs must be “carried out through a cryptocurrency exchange rather than a sole token issuer.”⁵³ The Malaysian Securities commission “cited overwhelming industry support” for the change, with investors set to benefit from due diligence requirements placed on exchange operators.⁵⁴ In addition to the due diligence requirements, IEO operators

49 See Press Release, Bank Malay., Statement on Bitcoin (Jan. 2, 2014). The full statement reads: “The Bitcoin is not recognized as legal tender in Malaysia. The Central Bank does not regulate the operations of Bitcoin. The public is therefore advised to be cautious of the risks associated with the usage of such digital currency.” *Id.*

50 See Liz Lee, *Malaysia to Regulate Initial Coin Offerings & Cryptocurrency Trade*, REUTERS (Jan. 14, 2019), <https://uk.reuters.com/article/us-crypto-currencies-malaysia/malaysia-to-regulate-initial-coin-offerings-cryptocurrency-trade-idUKKCN1P80PH> (“The [finance] minister said an order to recognize digital currencies and digital tokens as securities will come into force on Jan. 15 [2019] under the regulation of the Securities Commission Malaysia.”).

51 Ooi Tee Ching, *SC Conditionally Approves 3 Crypto Currency Exchanges*, NEW STRAITS TIMES (June 4, 2019), <https://www.nst.com.my/business/2019/06/493892/sc-conditionally-approves-3-crypto-currency-exchanges> (providing further details on the approval of three specific exchanges, including that the companies would be allowed “up to nine months to fully comply with all regulatory requirements prior to receiving a full license” and that “all cryptocurrencies and digital assets will require prior approval before they can be traded on any exchanges”).

52 See Christina Comben, *Malaysia Bans Initial Coin Offerings*, YAHOO! FINANCE (Jan 16, 2020), <https://finance.yahoo.com/news/malaysia-bans-initial-coin-offerings-160014310.html>.

53 *Id.* This article explains that who is eligible to operate IEOs is subject to a number of limitations. These include “necessary permission from the Securities Commission” and maintenance of “a trust account for funds received from investors that is licensed by a Malaysian financial institution.” Additionally, token issuers face “several stipulations” as well, including the need to be locally incorporated, having “at least two executive employees whose principle residence is in Malaysia,” maintaining minimum paid-up capital requirements of US\$125,000,” and finally demonstrating that the new token “provides meaningful digital value or an innovative solution for Malaysia.” *Id.*

54 *Id.* (these due diligence requirements include assessing “the viability and characteristics of the token”).

must also meet minimum capital requirements “equivalent to US \$1.2 million.”⁵⁵

Myanmar (Ambiguous for individuals, with explicit restrictions on financial institutions)

The only statement made by the Central Bank of Myanmar (CBM) regarding cryptocurrencies came in May of 2019, “clarifying that it does not recognize digital currencies as legal tender. The CBM also stated that financial institutions in Myanmar are not allowed to accept or facilitate transactions involving digital currencies and transactions and exchanges involving digital currencies.”⁵⁶ Furthermore, the CBM laid out potential punishments which might be levied on financial institutions for disobeying its statement, including “administrative sanctions up to and including the revocation of licenses”⁵⁷ while merely providing a warning to individual users. Myanmar is similar to fellow ASEAN member state Laos, in both its lack of regulation on the issue and the particular stance taken.

Philippines (Legal)

Use of cryptocurrencies in the Philippines has been legal since 2014,⁵⁸ and the Central Bank published guidelines in 2017 for their usage as well as establishment of virtual currency exchanges and potential penalties.⁵⁹ Rules for “entities” acting as exchanges include the need to obtain “Certificates of Registration . . . register with the country’s Anti-Money Laundering Council Secretariat,” and also subject themselves to “registration and annual fee services.”⁶⁰ Penalties range from mere written reprimands and fines to, most

55 Osato Avan-Nomayo, *Malaysia Bans ICO’s Issues Regulations for IEOs Instead*, BITCOINIST (Jan. 15, 2020), <https://bitcoinist.com/malaysia-bans-icos-regulates-ieos-instead/> (explaining the move from ICOs to exchange backed IEOs).

56 *Central Bank of Myanmar Warns Against Use and Trade of Cryptocurrencies*, ALLEN & GLEDHILL (May 29, 2019), <https://www.allenandgledhill.com/mm/publication/articles/10979/central-bank-of-warns-against-use-and-trade-of-cryptocurrencies>.

57 Press Release, Bank of Indon., *supra* note 39.

58 See Press Release, Cent. Bank Phil., *Advisory on the Use of Virtual Currencies* (Dec. 29, 2017).

59 See Office of the Governor, *Guidelines for Virtual Currency {VC} Exchanges*, Mem. Circ. No. 944 (Jan. 19, 2017) (Phil.).

60 Stan Higgins, *The Philippines Just Released New Rules for Bitcoin Exchanges*, COINDESK (Feb. 7, 2017), <https://www.coindesk.com/philippines-just-released-new-rules-bitcoin-exchanges> (providing a short summary of the regulations at the time they were announced).

importantly, cancellation of registration and thus the ability to operate legally as an exchange.⁶¹ Since the regulations have been enacted, there have been at least thirteen Virtual Currency Exchanges (VCE's) licensed by the Central Bank as of October 2019.⁶²

In recent years, the Central Bank has taken repeated steps to warn the public about potential dangers of investing in cryptocurrencies, primarily due to the volatility of their market prices.⁶³ A recent high-profile cryptocurrency scam (originating in the country but targeted at China)⁶⁴ appears to have emboldened the government to act and tighten regulations.⁶⁵ The success of these regulatory schemes has even caught the eye of the IMF, which has “urged the Philippines to improve collection of transaction data for crypto assets.” Nevertheless, the country continues to attract cryptocurrency investors.⁶⁶

61 Guidelines for Virtual Currency {VC} Exchanges, *supra* note 59, at 5.

62 See Ben O. de Vera, *IMF Sees PH Potential as Key Market for Cryptocurrency, Other Internet-Based Wealth*, INQUIRER.NET (Jan. 2, 2020, 3:54 PM), <https://business.inquirer.net/286444/imf-sees-ph-potential-as-key-market-for-cryptocurrency-other-internet-based-wealth> (providing an update on the current number of registered VCEs).

63 See Lawrence Agcaoili, *BSP to Public: Be Wary of Cryptocurrencies*, PHILSTAR GLOB. (June 10, 2019, 12:00 AM), <https://www.philstar.com/business/2019/06/10/1925041/bsp-public-be-wary-cryptocurrencies> (quoting the BSP Deputy Governor as stating that “bitcoins are limited in use at this point[], value is very volatile,” along with listing “limitations of bitcoins as substitute for fiat money”).

64 See Daxim L. Lucas, *Raid on Chinese-Manned Firm Exposes Cryptocurrency Scam*, INQUIRER.NET (Sept. 16, 2019, 4:59 AM), <https://business.inquirer.net/279076/raid-on-chinese-manned-firm-exposes-cryptocurrency-scam> (detailing the arrest of “277 Chinese nationals during a raid . . . on suspicion of using cryptocurrency operations to dope unsuspecting would-be investors back in China”).

65 See Kevin Helms, *Changes Afoot for Philippines Crypto-Friendly Economic Zone*, Bitcoin.com (Sept. 19, 2019), <https://news.bitcoin.com/changes-afoot-for-philippine-crypto-friendly-economic-zone/> (“The special economic zone in the Philippines known for its crypto friendliness is undergoing some changes. Government-owned Cagayan Economic Zone Authority (Ceza) is investigating a case involving one of its licensed crypto exchanges after a tip from the Chinese government. The authority has also issued new directives to all of its licensees, including 40 crypto exchange operators.”).

66 Lucas, *supra* note 64.

Thailand (Legal, but with restrictions on the banking sector from their use)

Thailand has the most well developed and clear-cut regulation of cryptocurrencies (alongside Singapore) in the ASEAN region,⁶⁷ with regulations focused on “businesses undertaking digital-asset-related activities.”⁶⁸ The initial regulation came in the form of an “Unofficial Decree on Digital Asset Businesses”⁶⁹ and was later followed with two additional regulations, all issued by the Thai Securities and Exchange Commission.⁷⁰

The key to understanding Thailand’s regulatory structure is knowing that digital assets are categorized into either “cryptocurrencies”⁷¹ or “digital tokens,”⁷² and then that “there are two activities which are regulated under this law, namely (1) the offering of Digital Tokens to the public in the primary market and (2) the operation of Digital Asset Businesses in the secondary market.”⁷³ The restrictions placed on issuers, investors, financial institutions, and other interested parties stem from the above categories.⁷⁴

The Bank of Thailand later listed the restrictions placed on banks when dealing with cryptocurrencies, directed at stopping any potential trading or creation of exchanges for the currencies.⁷⁵ The country has also taken steps to approve four new cryptocurrency service providers in July of 2019⁷⁶ to

67 See BAKER MCKENZIE, A COMPLETE GUIDE TO REGULATIONS ON CRYPTOCURRENCIES AND ICOS IN THAILAND (2018), https://www.bakermckenzie.com/-/media/files/insight/publications/2018/09/bk_thailand_completeguidecryptoicos_sep18.pdf?la=en.

68 Quek Li Fei et al., *supra* note 48.

69 See Emergency Decree on Digital Asset Businesses, B.E. 2561 (2018) (unofficial translation by Linklaters (Thailand) Ltd.), https://cdn.crowdfundinsider.com/wp-content/uploads/2018/11/Thai-digitalasset_decree_2561_EN.pdf.

70 See Quek Li Fei et al., *supra* note 48.

71 BAKER MCKENZIE, *supra* note 67, at 4–6.

72 *Id.*

73 *Id.*

74 *Id.*

75 See Helen Partz, *Bank of Thailand Allows Banks to Open Subsidiaries for Crypto Dealings*, COIN TEL. (Aug. 4, 2018), <https://cointelegraph.com/news/bank-of-thailand-allows-banks-to-open-subsidiaries-for-crypto-dealings>.

76 See Kevin Helms, *Thailand Approves 4 New Cryptocurrency Service Providers*, BITCOIN.COM (July 13, 2019), <https://news.bitcoin.com/thai-government-approves-new-cryptocurrency-service->

help usher in the first legal launch of an ICO⁷⁷ and plans to amend its SEC regulations in 2020 to continue facilitating “the growth of digital assets,”⁷⁸ as blockchain-focused startups continue to set up shop in the country.⁷⁹

This welcoming environment has led to a number of recent successes, including a partnership between popular cryptocurrency Ripple and Thailand’s oldest financial institution Siam Commercial Bank,⁸⁰ along with another partnership between Ripple and Thai cryptocurrency exchange Bitkub.⁸¹ However, the public reception to these successes has been weakened due to a collapse of a high-profile cryptocurrency pyramid

providers/ (“The Thai Securities and Exchange Commission has approved four new crypto business operators to legally operate in the country. In addition to licensing a new crypto exchange, the government has officially approved the country’s first three digital token portals. Meanwhile, new rules, conditions, and procedures have been introduced for digital asset businesses.”).

77 See *SE Digital Keen to Democratise Thai Financial Markets as the Official ICO Portal*, BANGKOK POST (Oct. 11, 2019, 12:45 PM), <https://www.bangkokpost.com/thailand/pr/1769989/> (“SE Digital Co., Ltd (SE Digital) . . . has officially obtained approval from the Securities and Exchange Commission (SEC) to fully operate in Thailand as an Initial Coin Offering (ICO) Portal. Its inaugural ICO portal operation will mark the official beginning of the regulated digital capital market and drive the transformation of Thailand into an advanced economy.”).

78 Nuntawun Polkuamdee, *SEC to Amend Decree on Digital Asset Businesses*, BANGKOK POST (Nov. 25, 2019, 9:00 AM), <https://www.bangkokpost.com/business/1801374/sec-to-amend-decree-on-digital-asset-businesses> (detailing the SEC’s concerns that “laws should not be outdated and should serve market needs, especially for new digital asset products, and be competitive with the global market. We need to explore any possible obstacles.”).

79 See William Hicks, *Blockchain Edge Entices Startups: Thailand Leads Pack in Adopting New Tech*, BANGKOK POST (Oct. 24, 2019, 4:01 AM), <https://www.bangkokpost.com/business/1778764/blockchain-edge-entices-startups> (contrasting Thailand’s “relatively friendly environment for blockchain companies” with other countries who “are behind in terms of clear regulation from the SEC”).

80 See *Siam Commercial Bank Develops Ripple App for Cross-Border Payments*, Ledger Insights (Jan. 6, 2020), <https://www.ledgerinsights.com/siam-commercial-bank-ripple-cross-border-payments/>. “Thailand’s Siam Commercial Bank (SCB) has leveraged RippleNet to upgrade the mobile app SCB Easy for an instant, low cost cross-border payment solution.”

81 See Solomon Odunayo, *Ripple Seals Partnership With Bitkub to Enhance Cross-Border XRP Transactions*, HERALD SHEETS (Jan. 18, 2020), <https://heraldsheets.com/2020/01/18/ripple-seals-partnership-with-bitkub-to-enhance-cross-border-xrp-transactions/> (reporting on an interview with Bitkub’s CEO who “believes that Ripple’s payment solution would serve as a needed and calculated aid to drastically reduce the cost of cross-border payments”).

scheme⁸² and subsequent kidnapping of a Singaporean cryptocurrency investor in Bangkok.⁸³

Vietnam (Legal to hold/trade, but explicitly banned as a payment tool)

Cryptocurrencies, generally referred to as “virtual assets” in Vietnam, are prohibited as payment tools in the country.⁸⁴ Due to their popularity, and a high-profile scam which affected many Vietnamese citizens in 2018,⁸⁵ the government issued Directive 101 ordering the State Bank and Ministries of Finance and Public Security to either halt, restrict, or monitor usage of virtual assets.⁸⁶ Despite these seemingly harsh restrictions there is at least one cryptocurrency exchange which has launched in the country under in the wake of these restrictions.⁸⁷ However, the legality of the exchange is questionable, as its mere existence appears to be at odds with how the laws were written and initially enforced.

82 See King-Oua Laohong, *DSI to Investigate Cryptocurrency Pyramid Scheme*, BANGKOK POST (Jan. 16, 2020, 7:31 AM), <https://www.bangkokpost.com/thailand/general/1836564/dsi-to-investigate-cryptocurrency-pyramid-scheme> (recounting how victims lost nearly US \$2.5 million to a “cryptocurrency trading scheme called ‘Khung Nong Cryptocurrency Trading’” which was popular in the south of Thailand throughout 2018).

83 See Rachel Genevieve Chia, *Singaporean Kidnapped and Tortured in Thai Forest Said he Paid His Own Ransom in Bitcoin, Then Used Martial Arts to Grab a Gun Pointed at his Head and Escape*, BUS. INSIDER SING. (Jan. 14, 2020), <https://www.businessinsider.sg/singaporean-kidnapped-and-tortured-in-thai-forest-said-he-paid-his-own-ransom-in-bitcoin-then-used-martial-arts-to-grab-a-gun-pointed-at-his-head-and-escape/> (describing how “a Singaporean businessman was kidnapped on a recent work trip to Thailand, tortured, and forced to transfer S\$62,500 in Bitcoin to his abductors”).

84 See note 17.

85 *New Cryptocurrency Scam Hits Vietnam as Miners Leave for US*, NIKKEI ASIA (Aug. 1, 2018, 12:12 PM), <https://asia.nikkei.com/Spotlight/Bitcoin-evolution/New-cryptocurrency-scam-hits-Vietnam-as-miner-leaves-for-US> (“More than 300 investors reported a suspected cryptocurrency scam to Vietnamese authorities . . . after the head of a bitcoin mining startup disappeared along with \$35 million in client money. . . . The case comes three months after Vietnam saw the biggest racket in cryptocurrency history, where investors said they were robbed of as much as \$660 million in initial coin offerings.”).

86 See note 17.

87 See Yashu Gola, *Vietnam to Get Its First Ever Cryptocurrency Exchange—But Is It Legal?*, YAHOO! NEWS (Mar. 27, 2019), <https://sg.news.yahoo.com/vietnam-first-ever-cryptocurrency-exchange-132846242.html> (reporting that “Kronn Ventures AG, a Switzerland-based blockchain firm, is going to launch a cryptocurrency exchange in Vietnam” and allegedly secured a license to do so, which would seem to conflict with Vietnam’s ban on cryptocurrency exchanges).

East Asia

Japan (Legal)

After the collapse of Japanese cryptocurrency exchange Mt. Gox resulted in the disappearance of US \$460 million in 2014 (to date the largest ever cryptocurrency related scandal),⁸⁸ the Japanese government resolved to proffer a regulatory regime which was most recently updated in 2017 with the passage of the Payment Services Act.⁸⁹ This legislation requires that cryptocurrency exchanges businesses register themselves and take a variety of precautionary measures to protect their customers.⁹⁰

This has led to Japan being “one of the leading Asian nations in terms of accepting cryptocurrency and blockchain technology,”⁹¹ going as far as to allow political donations to be made in the form of cryptocurrency⁹² and

88 See Robert McMillan, *The Inside Story of Mt. Gox: Bitcoin's \$460 Million Disaster*, WIRED (Mar. 3, 2014), <https://www.wired.com/2014/03/bitcoin-exchange/> (a lengthy profile detailing how the world's largest bitcoin exchange “collapsed into bankruptcy” as \$460 million disappeared).

89 See LAW LIBR. CONG., GLOB. RSCH. CTR., REGULATION OF CRYPTOCURRENCY IN SELECTED JURISDICTIONS 53 (2018), <https://www.loc.gov/law/help/cryptocurrency/regulation-of-cryptocurrency.pdf> at 53. The Payment Services Act defines cryptocurrency as “property value that can be used as payment for the purchase or rental of goods or provision of services by unspecified persons, that can be purchased from or sold to unspecified persons, and that is transferable via an electronic data processing system; or property value that can be mutually exchangeable for the above property value with unspecified persons and is transferable via an electronic data processing system.” *Id.* The Act “also states that cryptocurrency is limited to property values that are stored electronically on electronic devices.” *Id.*

90 *Id.* Precautionary measures include that “the operator must be a stock company or a ‘foreign cryptocurrency exchange business’ that is a company, has a representative who is resident in Japan, and an office in Japan. A ‘foreign cryptocurrency exchange business’ means a cryptocurrency exchange service provider that is registered with a foreign government in the foreign country under a law that provides equivalent registration system to the system under the Japanese Payment Services Act.” *Id.*

91 See Arnat Leemakdej & Chiraphol N. Chiyachantana, *Establishing an Asia-Pacific Cryptocurrency Hub*, ASIA GLOB. ONLINE (Mar. 28, 2019), <https://www.asiaglobalonline.hku.hk/asia-pacific-cryptocurrency-ico-sto/>.

92 See Christine Vasileva, *Japan Gives Leeway to Political Donations in Cryptocurrency*, BITCOINIST (Oct. 8, 2019, 6:43 PM), <https://bitcoinist.com/japan-gives-leeway-to-political-donations-in-cryptocurrency/> (“Japan recognizes the existence of digital coins, but does not consider them legal tender. Regulations on political donations only affect fiat money and stock. If a political party receives crypto funds, this is perfectly legal. There is also no requirement to disclose the holdings as part of the campaign transparency laws.”).

pioneering the creation of a SWIFT⁹³ type network for cryptocurrencies.⁹⁴ While cryptocurrency has now become more widely used in Japan than anywhere else in Asia,⁹⁵ the increased attention from Japanese regulators may be leading to a decline in its usage as trading it becomes more difficult.⁹⁶

South Korea (Legal, but with an ICO ban)

“There is no existing regulatory regime or statute that specifically regulates cryptocurrency.”⁹⁷ However, the currencies are likely to fall under regulation of either the “Financial Investment Services and Capital Markets Act” or the “Act on the Regulation of Conducting Fundraising Business without Permission,” depending on whether the government views them as securities.⁹⁸ While the government has expressed public

93 See *What SWIFT Is and Why it Matters in the US-Iran Spat*, AL JAZEERA (Nov. 5, 2018), <https://www.aljazeera.com/news/2018/11/swift-matters-iran-spat-181105172906627.html> (giving a simple explanation of SWIFT as “a Belgian-based messaging platform that facilitates cross-border payments. The member-owned cooperative connects more than 11,000 banks, financial institutions and corporations in more than 200 countries and territories around the world.”).

94 See Takahiko Wada, *Japan to Lead Development of SWIFT Network for Cryptocurrency*: Source, RETUERS (July 17, 2019, 9:34 PM), <https://www.reuters.com/article/us-japan-cryptocurrency/japan-to-lead-development-of-swift-network-for-cryptocurrency-source-idUSKCN1UD06U> (“Japan’s government is leading a global push to set up an international network for cryptocurrency payments, similar to the SWIFT network used by banks, in an effort to fight money laundering, a person familiar with the plan said on Thursday.”).

95 Arnat Leemakdej & Chiraphol N. Chiyachantana, *supra* note 91.

96 See Vinnie Singh, *Data from Financial Regulator Suggests that the Japanese Are Turning Away from Crypto*, COINGAPE (Sept. 3, 2019), <https://coingape.com/data-from-financial-regulator-suggests-that-the-japanese-are-turning-away-from-crypto/> (“A recent report from the Japanese financial regulators, Financial Services Agency (FSA) has revealed that the number of inquiries concerning virtual currencies has dropped from 574 in Q1 2019 to 494 in Q2 2019. . . . [t]he reason for the decline . . . may be attributed to the fact that the Japanese regulators are implementing strict controls in this market.”).

97 Jung Min Lee, Samuel Yim & Joon Young Kim, *Korea*, in BLOCKCHAIN & CRYPTOCURRENCY REGULATION 367 (Josias Dewey ed., 2019), https://www.acc.com/sites/default/files/resources/vl/membersonly/Article/1489775_1.pdf. The article explains the history of cryptocurrency regulation in Korea as follows: “The classification of cryptocurrencies from a legal perspective has just begun in Korea and will likely develop in the near future. Other Korean regulatory authorities may have a different view from the FSS’s announcement and the legal classification of cryptocurrencies. As a result, there is currently no law or clear guidance from any regulatory authority in Korea that provides clarity on the legal issues relating to cryptocurrencies and how they will be treated. . . . [But] [b]ased on recent events, the Korean government has shown a mixed view on its attitude toward cryptocurrencies.”

98 *Id.* at 368.

support in favor of cryptocurrency trading⁹⁹ (a step many other countries have yet to take), it notably continues to enforce a blanket ban on ICO's in maintenance of a "cautious stance" given the volatility surrounding ICO's and potential cybersecurity issues.¹⁰⁰

Despite the ICO ban, digital currencies have caught on with the South Korean population¹⁰¹ to such an extent that it has become a cultural phenomenon,¹⁰² with the country representing an important component in the fluctuations of Bitcoin's prices as the world's third largest market for virtual currencies.¹⁰³ With public pressure from the opposition political party to legalize ICOs,¹⁰⁴ the decision to introduce a cryptocurrency "regulation-free" zone in Busan,¹⁰⁵ and recommendations in favor of liberalizing cryptocurrency laws from an important presidential

99 See Samburaj Das, *South Korea Govt Will Support Cryptocurrency Transactions: Financial Regulator*, CCN MKT. (Feb. 20, 2018), <https://www.ccn.com/south-korea-govt-will-support-cryptocurrency-transactions-financial-regulator/> ("The head of South Korea's financial regulator and watchdog has now confirmed the government will support cryptocurrency trading while encouraging banks to facilitate transactions with exchanges, effectively killing any fears of a rumored ban.").

100 See Valentin Voloschak, *What Hides Behind South Korean Cryptocurrency Regulation Policy?*, DIPLOMAT (Nov. 30, 2019), <https://thediplomat.com/2019/11/what-hides-behind-south-korean-cryptocurrency-regulation-policy/> (arguing that South Korea has a "strong rationale" for its continued ban on ICO's due to the "substantial risks of defrauding due to anonymity of ICO transactions" and the unique cybersecurity issues South Korea faces due to its proximity to and relationship with North Korea).

101 See Alexandra Stevenson & Su-Hyun Lee, *Cryptocurrency Was Their Way Out of South Korea's Lowest Rungs. They're Still Trying*, N.Y. TIMES (Feb. 10, 2019), <https://www.nytimes.com/2019/02/10/business/south-korea-bitcoin-cryptocurrencies.html> ("South Korea remains the third-largest market for virtual currency. A total of \$6.8 billion in cryptocurrencies changed hands in January . . . South Korea is a major trading hub for Bitcoin, the best-known cryptocurrency, as well as a wide variety of other virtual currencies that exist without the backing of any country's central bank.")

102 *Id.*

103 See Nathan Reiff, *Why is South Korea so Important to Bitcoin Prices?*, INVESTOPEDIA (June 25, 2019), <https://www.investopedia.com/news/why-south-korea-so-important-bitcoin-prices/> (offering potential reasons for this popularity such as the "strong IT infrastructure across the country, allowing 14-fold increases in the number of cryptocurrency app users in just three months", along with "a slowing economy and rising rates of unemployment in recent years" which has "fueled new interest in making money in innovative ways" such as "cryptocurrency investing").

104 Voloschak, *supra* note 100.

105 *Id.*

committee,¹⁰⁶ it may not be long before South Korea adopts a new regulatory scheme allowing ICO's.

North Korea (Ambiguous, presumably legal at the state level)

While information on cryptocurrency regulations within North Korea remains sparse, the country has gained international notoriety for its theft of cryptocurrencies¹⁰⁷ (amassing more than \$670 million USD).¹⁰⁸ Beyond issues of theft, North Korea plans to develop an internal virtual currency¹⁰⁹ in an attempt to circumvent international sanctions it faces¹¹⁰ from the United Nations “since 2006 over its nuclear and ballistic missile programs.”¹¹¹ This follows the now annual Pyongyang Blockchain and

106 See Landon Manning *South Korea Moves Towards Institutional Acceptance of Cryptocurrency*, NASDAQ (Jan. 9, 2020), <https://www.nasdaq.com/articles/south-korea-moves-toward-institutional-acceptance-of-cryptocurrency-2020-01-09> (“The South Korean Presidential Committee on the Fourth Industrial Revolution (PCFIR), a committee focused on coordinating regulatory policy around cutting-edge technology in the country, has made recommendations that the government work toward institutional acceptance of crypto assets, causing some to speculate that South Korea is preparing for a ‘crypto arms race’ against the Chinese digital yuan.”).

107 See John Power, *Watch Out: North Korean Hackers are Coming for Your Bitcoin*, S. CHINA MORNING POST (Nov. 29, 2018), <https://www.scmp.com/week-asia/geopolitics/article/2175525/watch-out-north-korean-hackers-are-coming-your-bitcoin> (“North Korean hackers have taken to stealing cryptocurrency from individual investors as part of a new strategy by Pyongyang to blunt the impact of international sanctions. The targeting of individuals holding virtual currencies such as bitcoin marks a departure from its previous methods, which have targeted exchanges and financial institutions. Analysts say the shift shows Pyongyang is seeking a new source of income as it buckles under sanctions targeting its illicit nuclear weapons programme.”).

108 See Anthony Cuthbertson, *North Korea Has Amassed \$670 Million in Bitcoin and Other Virtual Currencies Through Hacking*, INDEPENDENT (Mar. 12, 2019), <https://www.independent.co.uk/life-style/gadgets-and-tech/news/north-korea-bitcoin-cryptocurrency-blockchain-un-report-a8819446.html> (providing a way for North Korea to “evade sanctions” due to the difficulty of tracing virtual currencies, the ease of which they can be laundered, and their independence from governmental regulation).

109 See David Gilbert, *North Korea Is Building Its Own Bitcoin*, VICE (Sept. 18, 2019), https://www.vice.com/en_us/article/9ke3ae/north-korea-is-building-its-own-bitcoin (“North Korea is in the early stages of developing its own cryptocurrency in a bid to avoid crippling international sanctions and circumvent the U.S. dominated global financial system.”).

110 See Willis Krumholz, *North Korea's Cryptocurrency Shows the Limits of Trump's 'Maximum Pressure'*, BUS. INSIDER (Sept. 26, 2019), <https://www.businessinsider.com/north-korea-cryptocurrency-shows-limits-of-trumps-maximum-pressure-2019-9> (“North Korea, along with Russia, Venezuela, and Iran, have all pursued cryptocurrencies, largely as a means to circumvent sanctions.”).

111 Michelle Nichols, *Exclusive: U.N. Sanctions Experts Warn—Stay Away From North Korea Cryptocurrency Conference*, REUTERS (Jan. 15, 2020), <https://www.reuters.com/article/us-northkorea-sanctions-un-exclusive/exclusive-u-n-sanctions-experts-warn-stay-away-from-north-korea-cryptocurrency-conference-idUSKBN1ZE015> (recounting the arrest of an American national who spoke at the 2019 North Korea Cryptocurrency conference).

Cryptocurrency Conference Convention,¹¹² which the United Nations recently warned attendance at would result in sanctions violations for individual attendees.¹¹³

Hong Kong (Legal)

The Hong Kong Monetary Authority treats cryptocurrencies, generally termed “virtual currencies” by Hong Kong government agencies, as virtual commodities and therefore unable to qualify as a means of payment.¹¹⁴ This gives Hong Kong’s legal treatment of virtual currencies a much looser approach than those of mainland China, which has cracked down on Bitcoin and virtual currencies in the past two years,¹¹⁵ albeit with speculation that this could change.¹¹⁶ The main regulatory focus in regards to virtual currencies in Hong Kong has been an attempt to crack down on money laundering.¹¹⁷

The recent Hong Kong protests beginning in the summer of 2019, however, have led to an increased demand for cryptocurrencies,¹¹⁸ most notably with the recent acceptance of Bitcoin from the non-profit Hong

112 See Tae-Jung Kang, *A Closer Look at North Korea’s Virtual Currency Ambitions*, DIPLOMAT (Apr. 29, 2019), <https://thediplomat.com/2019/04/a-closer-look-at-north-koreas-virtual-currency-ambitions/>.

113 Krumholz, *supra* note 110.

114 See Yu Pui Hang, *Hong Kong*, in *Blockchain & Cryptocurrency Regulation* 325 (Josias Dewey ed., 2019), https://www.acc.com/sites/default/files/resources/v1/membersonly/Article/1489775_1.pdf.

115 *Chinese Investors Fume Over Beijing’s Bitcoin Crackdown*, S. CHINA MORNING POST (Oct. 1, 2017), <https://www.scmp.com/news/china/economy/article/2113560/chinese-investors-fume-over-beijings-bitcoin-crackdown>.

116 See Billy Bambrough, *China Could Be About to Throw Its Weight Behind Bitcoin*, FORBES (July 29, 2019), <https://www.forbes.com/sites/billybambrough/2019/07/29/china-could-be-about-to-throw-its-weight-behind-bitcoin/#3ea516857650>.

117 Hang, *supra* note 114, at 329 (“In Hong Kong, the principal AML/CTF [Anti Money Laundering] legislation is the Anti Money Laundering and Counter Terrorist Financing Ordinance (Cap. 615) (“AMLO”) which applies to financial institutions . . . and ‘designated non-financial business and professions’ . . . and also creates a licensing regime for money service operators, and trust and company services providers.”).

118 See Roger Huang, *As Protests in Hong Kong Surge, So Does Demand for Cryptocurrency*, FORBES (Aug. 11, 2019, 12:06 PM), <https://www.forbes.com/sites/rogerhuang/2019/08/11/as-protests-in-hong-kong-surge-so-does-demand-for-cryptocurrency/#3a5c4b6875f6> (demonstrating the surge in bitcoin interest in Hong Kong in the wake of the protest movement, as well as how the decentralized currencies can help provide anonymity in transactions which many protestors crave).

Kong Free Press.¹¹⁹ There is belief that this might lead to a subsequent potential crack down by authorities on cryptocurrency trading in Hong Kong.¹²⁰

Taiwan (Legal for personal use, but with a banking ban)

While “Taiwan has not promulgated any laws or regulations specifically dealing with the rise of certain applications of blockchain technology,” the country has issued a number of press releases on the topics warning the public of its dangers.¹²¹ The legality of virtual currencies isn’t completely clear, but it can be generally inferred that Bitcoin (and by extension other cryptocurrencies) is a digital “virtual commodity” and not legal tender or a currency.¹²² In recent years Taiwan has taken the confusing steps of appearing to liberalize its approach to cryptocurrency regulation (by making it easier for individuals to trade)¹²³ while also doing the opposite (by increasing reporting requirements on exchanges themselves).¹²⁴

119 See Roger Huang, *Hard-Hitting Investigative Journalism You Can Support with Cryptocurrencies*, FORBES (Dec. 26, 2019, 6:39 PM), <https://www.forbes.com/sites/rogerhuang/2019/12/26/hard-hitting-investigative-journalism-you-can-support-with-cryptocurrencies/#15fbd0ff52c8>.

120 See Enoch Yiu, *‘We’re Watching You,’ Regulator Warns Hong Kong Cryptocurrency Exchanges*, S. CHINA MORNING POST (Feb. 9, 2018, 2:00 PM), <https://www.scmp.com/business/banking-finance/article/2132692/were-watching-you-regulator-warns-hong-kongs-cryptocurrency>.

121 Robin Chang & Eddie Hsiung, *Taiwan, in Blockchain & Cryptocurrency Regulation 454* (Josias Dewey ed., 2019), https://www.acc.com/sites/default/files/resources/vl/membersonly/Article/1489775_1.pdf.

122 *Id.*

123 See Ralph Jennings, *Taiwan Edges Towards Liberalizing Cryptocurrency as Other Asian Countries Tighten Rules*, FORBES (Mar. 22, 2018, 7:00 PM), <https://www.forbes.com/sites/ralphjennings/2018/03/22/taiwan-edges-toward-liberalizing-cryptocurrency-as-others-in-asia-tighten-rules/#39f0d32829d3> (discussing the government’s recent passage of legislation designed to make it easier to trade cryptocurrencies in the hopes of energizing the nation’s fintech sector).

124 See Joseph Young, *Taiwan is Tightening Regulations on Crypto Exchanges, Possible Pressure from China?*, COIN TEL. (Nov. 26, 2018), <https://cointelegraph.com/news/taiwan-is-tightening-regulations-on-crypto-exchanges-possible-pressure-from-china> (“On November 2nd, Taiwan officially tightened anti-money laundering polices targeted at crypto exchanges, requesting exchanges to monitor and prevent any illegal transaction processed using digital assets.”).

PART 2A: ORGANIZING THE NATIONS BY REGULATORY SCHEME

The aforementioned countries can be broken down into the following list of regulatory approaches:

- Japan/Hong Kong/Singapore/Thailand – Proactive in seeking to regulate and allow usage/investment of cryptocurrencies, while also taking a liberal/open approach.
- The Philippines/Malaysia/Indonesia/South Korea/Taiwan – Fairly proactive in seeking to regulate the usage/investment in cryptocurrencies while allowing it to occur, but with a restrictive and cautious approach.
- North Korea – Not much information in regard to their regulatory approach, but appears to be legal or soon to be legal.
- Cambodia/Vietnam – Not completely clear in their regulatory approach, but generally treats their usage and investment as illegal.
- Myanmar/Laos – Offering next to nothing in regards to how their governments plan to deal with cryptocurrency usage beyond warnings/caution.
- Brunei – Complete restriction of cryptocurrency investment and warnings regarding usage.

PART 2B: TO REGULATE, OR NOT TO REGULATE: THAT IS THE QUESTION

Confronted with the rapid spread of cryptocurrencies around the world, a market already estimated at US \$856 billion at the end of 2018,¹²⁵ countries and their regulatory agencies face the decision of how to respond to this growth.

“You can understand why governments are wary: cryptocurrencies erode the monopoly of central banks to issue and regulate currencies. But the debate remains live whether regulation or a blanket ban is the better strategy for controlling the misuse of cryptocurrencies.”¹²⁶ Arguments in favor of a blanket ban on cryptocurrencies in regards to criminality include their potential for use in smuggling, money laundering,¹²⁷ ponzi schemes,¹²⁸ and facilitating unmonitored transfers of wealth.¹²⁹ From a financial perspective, some argue that investing in cryptocurrencies can lead to dangerous speculation,¹³⁰ putting not just individual investors but also entire financial

125 *Global Cryptocurrency Market Growth, Leading Players and Forecast to 2024*, SLOG (Oct. 24, 2019, 12:44 PM), <https://slog.media/s/5ozQ8cdZQrwBjUpfKpxnYD8YEKaMNzeSPwP7hi3ppjam> (“Key factors facilitating high demand of cryptocurrencies include high remittances in developed countries, increasing fluctuation in monetary regulations, and growth in venture capital investments According to the research report, the global cryptocurrency market is projected to display robust growth represented by a CAGR of 11.9% during 2019–2024.”).

126 See Smarak Swain, *Governments Should Regulate Not Entirely Ban Cryptocurrencies*, NIKKEI ASIA (Nov. 15, 2019, 3:00 AM), <https://asia.nikkei.com/Opinion/Governments-should-regulate-not-entirely-ban-cryptocurrencies> (arguing that a top down “system of rules” is the best way “to deter money-laundering and support central banks”).

127 See Mike Orcutt, *Criminals Laundered \$2.8 Billion in 2019 Using Crypto Exchanges, Finds a New Analysis*, MIT TECH. REV. (Jan. 16, 2020), <https://www.technologyreview.com/f/615064/cryptocurrency-money-laundering-exchanges/> (providing a brief overview of how cryptocurrency is used by criminals to launder money and the extent to which it was reportedly done in 2019).

128 See David Z. Morris, *The Rise of Cryptocurrency Ponzi Schemes*, ATLANTIC (May 31, 2017), <https://www.theatlantic.com/technology/archive/2017/05/cryptocurrency-ponzi-schemes/528624/> (detailing a number of high profile ponzi schemes in the cryptocurrency space and how “[s]cammers are making big money off people who want in on the latest digital gold rush but don’t understand how the technology works”).

129 *Id.*

130 See *So You’re Thinking About Investing in Bitcoin: Don’t*, GUARDIAN (Jan. 15, 2018, 5:00 PM), <https://www.theguardian.com/technology/2018/jan/15/should-i-invest-bitcoin-dont-mr-money-moustache> (comparing cryptocurrencies to previous “manias” by stating that it “has become an investment bubble, with the complementary forces of human herd behavior, greed, fear of missing out, and a lack of understanding of past financial bubbles amplifying it”).

markets at risk.¹³¹ Further downsides come from the fact that mining cryptocurrencies generates tremendous amounts of e-waste¹³² and consumes enormous amounts of electricity.¹³³

In contrast, however, are stronger arguments standing in favor of regulating cryptocurrency. If cryptocurrencies become regulated “cryptocurrency exchanges and traders will have to maintain detailed know-your-client documentation. Most transactions will happen through these exchanges. Regulators will have access to the flow of cryptocurrencies across wallets and users, and the exchanges will be a trove of intelligence and data for enforcement agencies.”¹³⁴ Rather than letting trading be conducted away from regulatory scrutiny, “regulation has the potential to make the market much safer.”¹³⁵ Cryptocurrencies don’t deserve further scrutiny than traditional currencies when it comes to fear of money laundering,¹³⁶ and law enforcement is well equipped to deal with the

131 See Dan Murphy, *Bitcoin is a ‘Dangerous Speculative Bubble,’ Yale Expert Says*, CNBC (Dec. 12, 2017, 10:43 AM), <https://www.cnbc.com/2017/12/04/bitcoin-is-a-dangerous-speculative-bubble-yale-expert-says.html> (quoting economist Stephen Roach who stated that bitcoin is “a toxic concept for investors”).

132 See Gregory Barber, *China Says Bitcoin Is Wasteful: Now It Wants to Ban Mining*, WIRED (Apr. 9, 2019, 7:45 PM), <https://www.wired.com/story/china-says-bitcoin-wasteful-wants-ban-mining/> (“Mining is the process for validating transactions on blockchain networks, with cryptocurrency as a reward, and it has grown notorious for generating e-waste and consuming incredible amounts of electricity.”); see also Umair Irfan, *Bitcoin Is an Energy Hog: Where Is All That Electricity Coming From?*, VOX (June 18, 2019, 12:20 PM), <https://www.vox.com/2019/6/18/18642645/bitcoin-energy-price-renewable-china> (“Another emerging concern around bitcoin is the electronic waste. The . . . mining devices quickly go obsolete, often in just under two years, and they can’t really be repurposed for anything other than mining.”).

133 See Max J. Krause & Thabet Tolaymat, *Quantification of Energy and Carbon Costs for Mining Cryptocurrencies*, 1 NATURE SUSTAINABILITY J. 711 (2018) (estimating that the mining of the four most popular cryptocurrencies worldwide (Bitcoin, Ethereum, Litecoin, Monero) generated “3–15 million tonnes of CO₂ emissions” between January 2016 and June 2018); see also Adam Rogers, *Bitcoin Will Burn the Planet Down: The Question, How Fast?*, WIRED (Nov. 5, 2018, 11:00 AM), <https://www.wired.com/story/bitcoin-will-burn-planet-down-how-fast/> (discussing how “[i]t takes more than four times as much energy to mine \$1 [USD] of bitcoin as mining \$1 [USD] of copper”).

134 Swain, *supra* note 126.

135 Brian Edmondson, *Can Bitcoin Regulations Make Cryptocurrency Safer?*, BALANCE (Mar. 11, 2019), <https://www.thebalance.com/can-bitcoin-regulation-make-cryptocurrency-safer-4173836> (“In the short term, regulations can suppress the trading values of cryptocurrency. But in the longer term, it’s expected that regulation if done properly, will stabilize the market and make it a safer investment.”).

136 See Brian Brooks, *Three Cryptocurrency Regulation Themes for 2020 — And the Flawed Premises Behind Them*, FORBES (Jan. 7, 2020, 11:32 AM),

“privacy” aspects inherent in cryptocurrencies.¹³⁷ In sum, the combined benefits of regulation outweigh the potential negatives.

PART 3: THE BENEFITS OF A STRONG REGULATORY REGIME IN REGARD
TO CRYPTOCURRENCY
(THE JAPAN/HONG KONG/SINGAPORE/THAILAND APPROACH)

The regulatory measures which countries such as Japan, Hong Kong, Singapore, and Thailand have in common include: legalization of cryptocurrencies as both a tender and security, a demonstrated effort to keep interested parties abreast of changes in regulation, a commitment to making changes in regulations as time passes, the allowance of ICO’s (albeit restricted), and diligence in regulating exchanges.

These measures are in line with recent IMF recommendations¹³⁸ which include granting licenses to exchanges as part of an overarching regulatory framework¹³⁹ as these countries have done. Another IMF recommendation includes providing a central bank digital token,¹⁴⁰ something Japan,¹⁴¹

<https://www.forbes.com/sites/brianbrooks/2020/01/07/three-cryptocurrency-regulation-themes-for-2020--and-the-flawed-premises-behind-them/#4c10d75163e3> (dismissing the commonly repeated criticism of cryptocurrencies that they pose a “unique risk[] for illicit activity” by explaining how “criminals will take advantage of nearly any system to achieve their aims” and that in fact “fewer than 1% of exchange-based bitcoin transactions involve illegal activity”).

137 *Id.* (repudiating the claim that privacy token “cryptocurrencies represent a threat to national security and law enforcement” by comparing the early days of cryptocurrency to the early days of the internet, and detailing how law enforcement concerns at the time regarding the anonymity/privacy offered by the internet turned out to be unfounded).

138 See Tobias Adrian & Tommaso Mancini-Griffoli, *The Rise of Digital Money*, FINTECH NOTES (2019), <https://www.imf.org/en/Publications/fintech-notes/Issues/2019/07/12/The-Rise-of-Digital-Money-47097>.

139 See Peter Lin, *Why Regulation Is the Best Thing for Crypto*, COIN TEL. (Aug. 28, 2019), <https://cointelegraph.com/news/why-regulation-is-the-best-thing-for-crypto> (providing an overview of the IMF report noted above regarding how “central banks could grant licenses” and take other regulatory measures in line with IMF recommendations).

140 Adrian & Mancini-Griffoli, *supra* note 138, at 14.

141 See Marie Huillet, *Bank of Japan Must Be Ready to Issue Digital Currency, Says Exec*, COIN TEL. (Jan. 30, 2020), <https://cointelegraph.com/news/bank-of-japan-must-be-ready-to-issue-digital-currency-says-exec> (explaining that although the Bank of Japan doesn’t have “imminent” plans to issue a digital currency it is preparing to do so).

Singapore,¹⁴² Hong Kong,¹⁴³ and Thailand¹⁴⁴ are preparing to do. Hong Kong and Thailand have even gone as far as partnering together in order to achieve this goal.¹⁴⁵ The rollout of clear regulations by these countries should help increase investment from individuals and firms abroad who are seeking clarity in regards to cryptocurrency regulations.¹⁴⁶ Additionally, these countries should benefit from their proactive and well-defined regulations while “the West gets bogged down by their own bureaucracy”¹⁴⁷ with Singapore in particular “set to emerge as a top player.”¹⁴⁸ Finally, with a Coronavirus inspired global recession seemingly imminent,¹⁴⁹ these

142 See Stephen O’Neal, *Singapore AML Framework Can Attract Crypto Businesses, Not Chase It Away*, COIN TEL. (Feb. 6, 2020), <https://cointelegraph.com/news/singapore-aml-framework-can-attract-crypto-businesses-not-chase-it-away> (“The government of Singapore just dropped us a massive teaser of what’s to come. The language is fairly unambiguous, it seems that a central bank digital token could be very much on the way for Singapore.”).

143 See Georgina Lee, *Asia’s Central Banks Are Ahead in the Race to Develop Their Own Digital Currencies, Say Experts*, S. CHINA MORNING POST (Dec. 29, 2019, 11:53 AM), <https://www.scmp.com/business/banking-finance/article/3043805/asias-central-banks-are-ahead-race-develop-their-own> (“Asia is a step ahead of other regions in developing central-bank digital currencies with China, Hong Kong, and Thailand set to roll out sovereign virtual tokens as a means of payment and to better monitor money flows.”).

144 *Id.*

145 See Georgina Lee, *Hong Kong and Thai Central Banks Set to Test Digital Currencies in Real-World Setting After Successfully Completing First Phase*, S. CHINA MORNING POST (Jan. 23, 2020, 9:00 AM), <https://www.scmp.com/business/banking-finance/article/3047250/hong-kong-and-thai-central-bank-set-test-digital> (“The Hong Kong Monetary Authority and the Bank of Thailand said on Wednesday that they have successfully completed the initial phase of their respective sovereign digital currencies project” and want to begin the next stage of the project, “real-world testing of the blockchain-backed digital currency in cross-border payments.”).

146 See Danny Nelson, *More Than Half of Financial Advisors Want Better Regulations Before Investing in Crypto*, COINDESK (Jan. 14, 2020, 7:56 PM), <https://www.coindesk.com/more-than-half-of-financial-advisors-want-better-regulation-before-investing-in-crypto> (“[M]any [advisors] continue to balk at investing, largely because of regulatory uncertainty and questions of access. Fifty-six percent of respondents said ‘regulatory concerns’ are preventing them from embracing crypto assets.”).

147 Martin Young, *How Asia Will Dominate the Cryptocurrency Industry in 2020*, BEINCRYPTO (Jan. 13, 2020, 3:17 AM), <https://beincrypto.com/how-asia-will-dominate-cryptocurrency-industry-2020/> (“With clearer regulations and a race between central banks to develop digital currencies, Asia is leading the way in the cryptocurrency industry. . . . Meanwhile back in the West things are progressing as a snail’s pace as US regulators continue to procrastinate over their classification. The clear leaders in the industry at the moment are all in Asia and that trend is set to continue this year and beyond.”).

148 Yusho Liu, *2020 Crypto Insights by 20 Thought Leaders in Asia (Part 2)*, MEDIUM (Feb. 10, 2020), <https://medium.com/@yusholiu/2020-crypto-insights-by-20-thought-leaders-in-asia-part-2-e5defeace305>.

149 See David J. Lynch & Heather Long, *With Unprecedented Force and Speed, a Global Recession Is Likely Taking Hold*, WASH. POST (Mar. 14, 2020, 3:06 PM), <https://www.washingtonpost.com/business/2020/03/14/recession-economy-coronavirus-jobs/>.

nations stand poised to reap the benefits of potentially strong cryptocurrency markets.¹⁵⁰

In conclusion, a proactive regulatory scheme focused on maximizing access to investment in cryptocurrencies while also protecting investors with safeguards such as the certification of exchanges is the best approach to cryptocurrency regulation. The success of this model in Japan, Hong Kong, Singapore, and Thailand supports this hypothesis.

*Clark Sonksen**

¹⁵⁰ See Benjamin Pirus, *Bitcoin Hedge Argument Growing Stronger with Time, Says Pomp*, COIN TEL. (Feb. 5, 2020), <https://cointelegraph.com/news/bitcoin-hedge-argument-growing-stronger-with-time-says-pomp> (discussing the potential that cryptocurrencies act as “non-correlated assets,” meaning that they don’t correlate to stock market prices and therefore might be unaffected or potentially benefit during a recession).

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