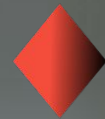


Regulatory Strategies



building on bitcoin



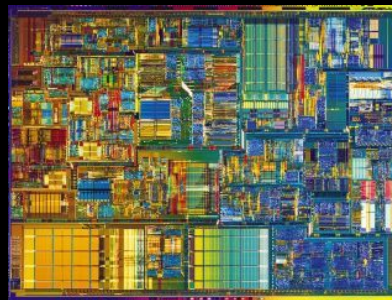
ECAN

Xavier Lavayssière

Business Public Law



Computer Science & Maths



@XavierLava





是故勝兵先勝而後求戰，敗兵先戰而後求勝。



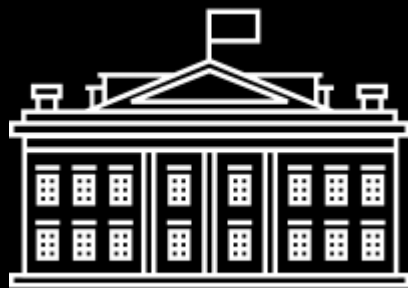
Regulators

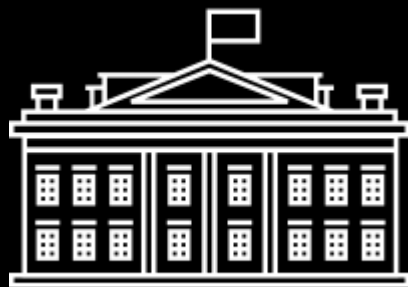


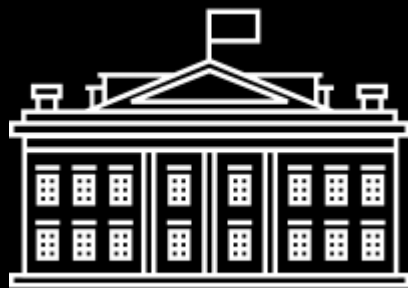






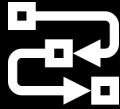




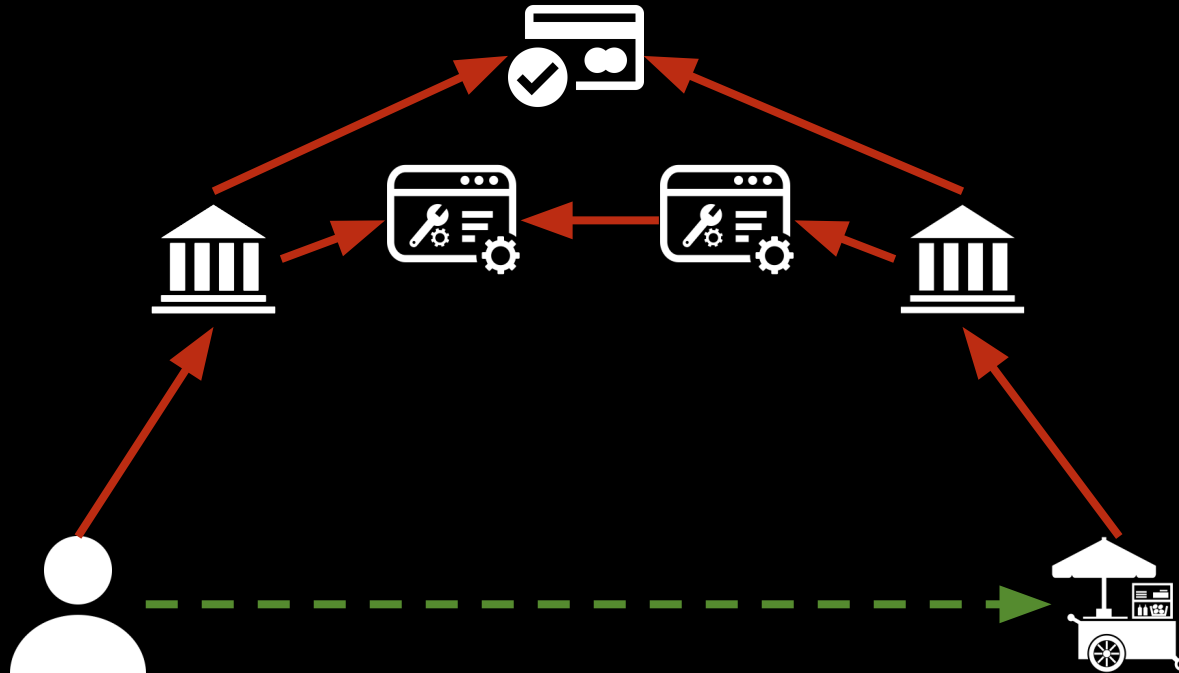


Payment regulation objectives

- **Guarantee payments**
 - Liability
 - Operational risks mitigation



A simple credit card transaction



Payment regulation objectives

- **Guarantee payments**

- Liability
- Operational risks mitigation



- **Protect data**

- Personal data protection
- Data security
- Data sharing



Payment regulation objectives

- **Guarantee payments**

- Liability
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- **Avoid illicit activities**

- Anti-money laundering
- Terrorism financing
- Other illicit activities (including tax fraud)



- **Protect User data**

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Payment regulation objectives

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- Anti-money laundering
- Terrorism financing
- Other illicit activities (including tax fraud)



- **Promote a fair and open market**

- Allow new entrants
- Facilitate competition



Challenges of regulators

- Institutional competition
- Public opinion
- Information acquisition
- Decision process
- Regulatory capture
- Limited resources



Information acquisition

- Rapport France Stratégie
- Etude du Ministère de l'économie
- Commission parlementaire blockchain
- Commission parlementaire crypto
- Consultation publique ordonnance minibons
- Consultation publique ICO
- Rapport Landeau
- ...



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Payments



US

- Money Services Business

- Virtual Currency Guidance (2013)
- Registration, Reporting obligations



- Money transmitter

- State registration
- Additional local requirements
- > apply to payment processors & exchanges



Canada

- **Proceeds of Crime (Money Laundering) and Terrorist Financing Act (PCMLTFA) (2014)**
 - “dealing in virtual currencies” - > money services business
 - Record keeping
 - Verification procedures
 - Reporting obligations to FINTRAC
- **Explicit requirements on ID documents**
- **Tax**
 - Purchase = barter transaction - > Income Tax





- VAT Directive & CJUE 22 October 2015 Hedqvist
- Anti money laundering Directive (2015/849/EU) & Regulation on information accompanying transfers of funds
 - Risk assessment, Due diligences, Central beneficial ownership registry, Politically exposed persons
- **Payment Services Directive** (2015/2366/EU)
 - Third party payment providers : Account information services, Payment initiation services
 - Registration, Licensing, and Supervision
 - Authentication, non-discrimination
- GDPR



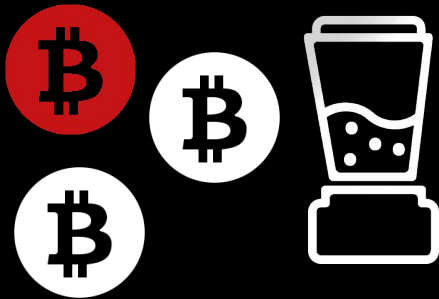
Mixing



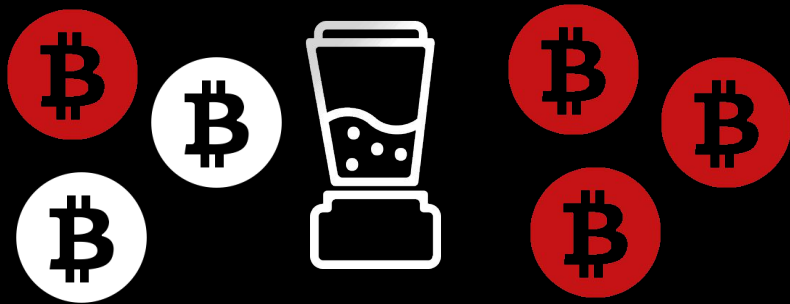
1749 Crawford v The Royal Bank of Scotland



Mixing



Mixing



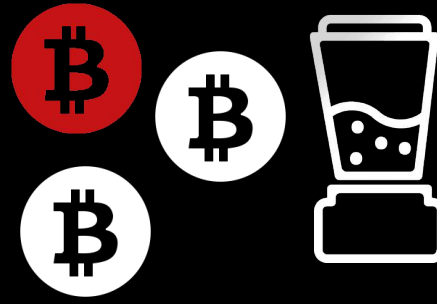
Poison



Mixing



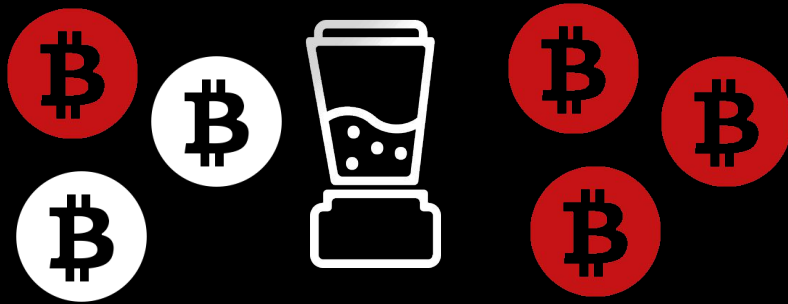
Poison



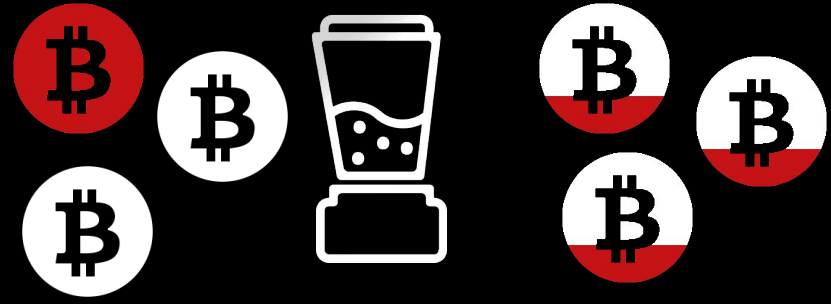
Haircut



Mixing



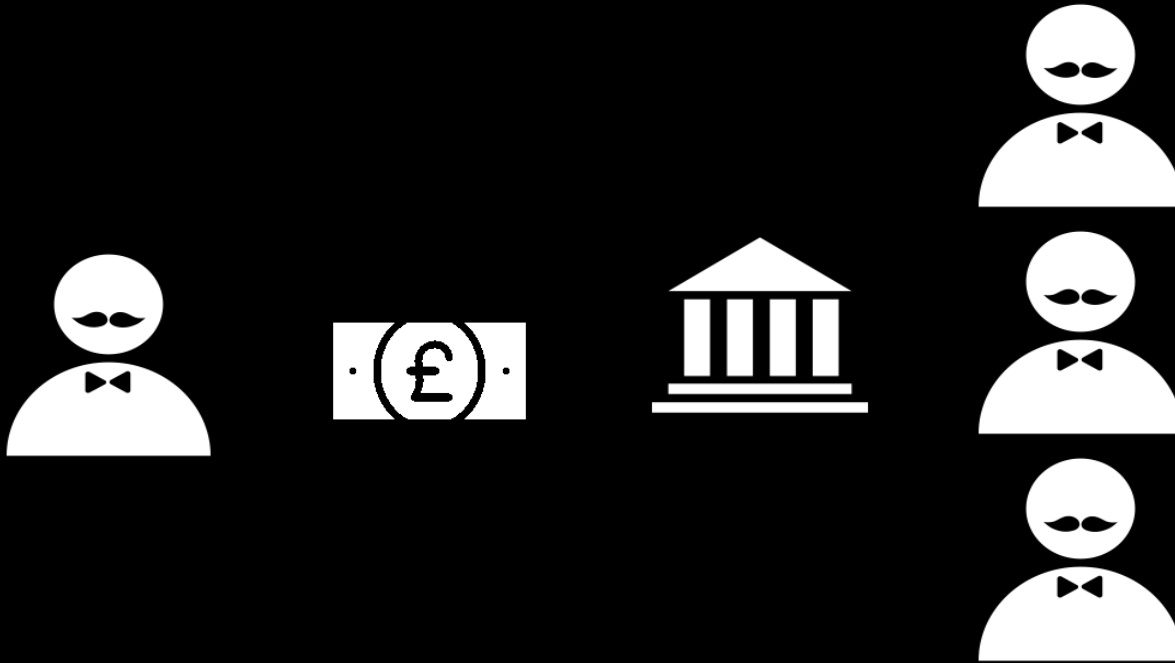
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Pro rata



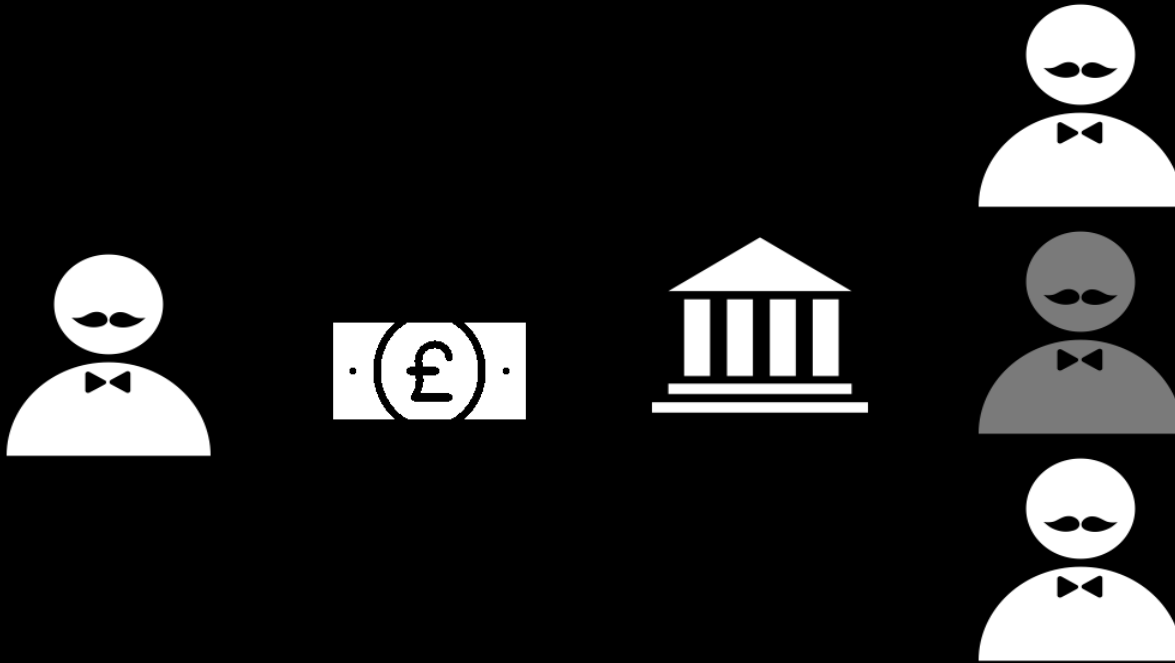
Mixing



Clayton's case (Devaynes v Noble 1816)



Mixing



Clayton's case (Devaynes v Noble 1816)



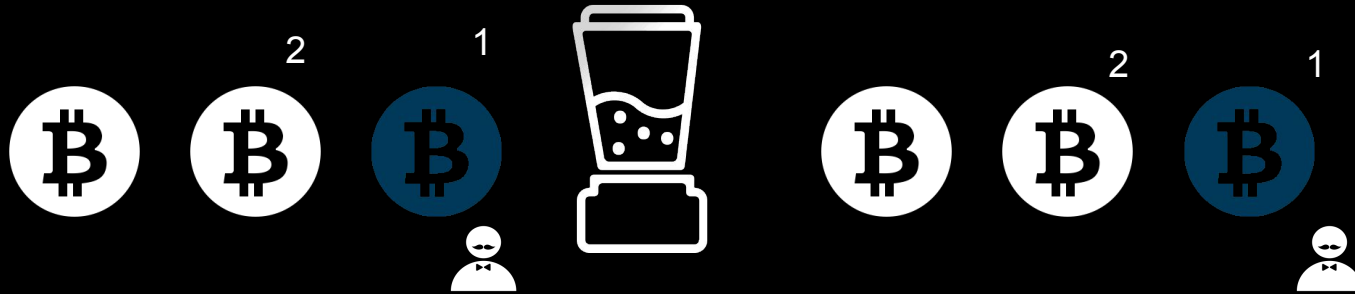
Mixing



Clayton's case (Devaynes v Noble 1816)



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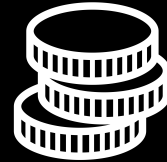
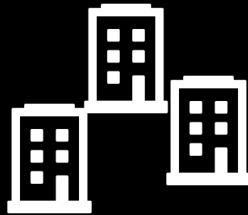
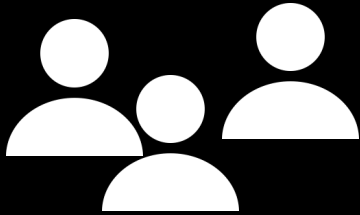
Elizalde v. Elizalde (1902)



Strategies



We?



Courts & fundamental rights



- Privacy
- Due process
- Freedom of expression
- Proof value



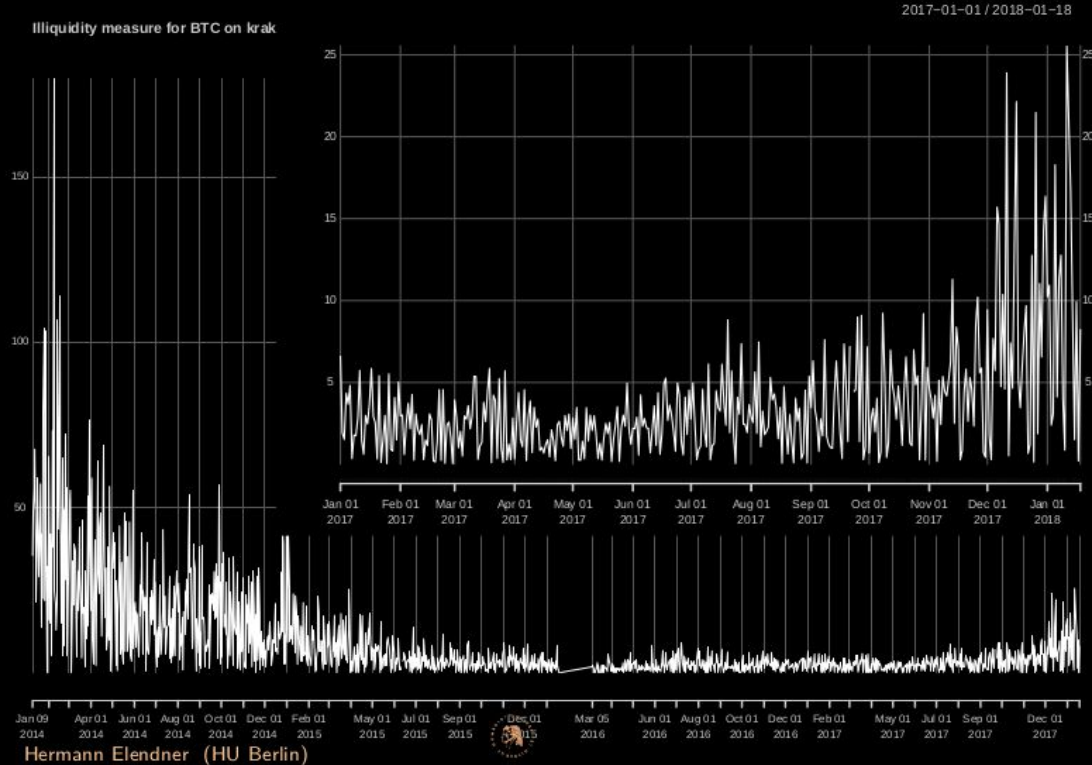
Public debates & media



- Integrity
- Liquidity



Public debates & media



Public debates & media



- Integrity
- Liquidity
- Partial-transparency
- interoperability



Regulatory arbitrage



- Push regulatory competition
- Leverage
- Regulatory Capture



Full decentralisation



- Embedded regulation
- Self regulation
- Defining political consensus



The stronger the process, the stronger the fell through



- Secret mining
- Lawsuit against Bitcoin.com
- Market Manipulation
- Patents



Thank You !


xavier@ecan.fr



Sources

- Banknotes and Their Vindication in Eighteenth-Century Scotland - David Fox and Wolfgang Ernst
- Making Bitcoin Legal - Ross Anderson, Ilia Shumailov and Mansoor Ahmed
- Noun Project
- Towards Risk Scoring of Bitcoin Transactions - Malte Möser Rainer Böhme and Dominic Breuker
- Empirical Properties of Tokens and Crypto-Currencies - Hermann Elendner
-

