Regulatory Strategies
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Business Public Law

Computer Science & Maths

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Regulators
Payment regulation objectives

- **Guarantee payments**
  - Liability
  - Operational risks mitigation
A simple credit card transaction
Payment regulation objectives

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  - Liability
  - Operational risks mitigation

- **Protect data**
  - Personal data protection
  - Data security
  - Data sharing
Payment regulation objectives

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- **Protect User data**
  - Personal data protection
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  - Data sharing

- **Avoid illicit activities**
  - Anti-money laundering
  - Terrorism financing
  - Other illicit activities (including tax fraud)
Payment regulation objectives

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  ○ Liability
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  ○ Personal data protection
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● Avoid illicit activities
  ○ 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 Crawfurd v The Royal Bank of Scotland
Mixing
Mixing

Poison
Mixing

Poison

Haircut
Clayton’s case (Devaynes v Noble 1816)
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Mixing

Clayton’s case (Devaynes v Noble 1816)
Mixing

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
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- 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!
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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