SEBA BANK

October 2021

China bans; the US doesn't
Crypto wins

The Digital Regulator

Redefining Finance for the New Economy

Table of Contents

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Executive summary

On 24 September 2021, China's key monetary and financial agencies issued a blanket ban on all crypto transactions and mining. This confirmed and reinforced the May 2021 ban on financial institutions and payment companies providing cryptocurrency-related services that enable cryptocurrency transactions. Similar bans were issued in 2013 and 2017, and there was, more broadly, a relentless effort to suffocate the domestic cryptocurrencies market. The latest ban came days after the securities regulatory commission re-affirmed the work on introducing smart contracts and blockchain-based services to digitise the securities and futures market; it also followed a period of heavy work by the monetary authority that culminated in the release of the e-yuan in 2020. China has always supported the distributed ledger technologies-based applications.

On 1 October 2021, the chair of the US Federal Reserve System clarified that the US does not intend to ban cryptocurrency. The chair of the securities and exchange commission (SEC) took the same stance on 5 October 2021. The statement followed several months of intense scrutiny and analyses of the cryptocurrency markets, and political procedural steps by the federal monetary and financial regulators. These steps were undertaken to address the cryptocurrency market's weaknesses exposed by the correction that took place in May 2021, such as those related to market infrastructure, market conduct, and investor protection. On 1 September 2021, the SEC urged crypto exchanges to embrace the regulation in order to not lose public trust, and on 5 September 2021, it called for the crypto space to work in cooperation with regulators.

Daily bitcoin price charts evidence that strong statements made by superpowers do move the market. Investors should consider such statements within a broader context and be mindful of the following. First, cryptofinance cannot be stopped unless the Internet is shut down or extensively controlled. Second, regulatory adoption and sustainable practices are necessary conditions for mass cryptofinance adoption. Then, recent global developments show that cryptofinance-unfriendly jurisdictions are increasingly a minority.

The last few weeks have offered several regulatory developments in the digital space. The Swiss Financial Market Supervisory Authority (FINMA) issued the first-ever approval for a stock exchange to trade tokens and for a cryptocurrency fund, solidifying Crypto Nation's primacy. The US SEC once again postponed decisions on bitcoin ETFs, although their approval seems to be a matter of 'when' rather than 'if'. CBDC's uninterrupted momentum continued, with important developments from the Bank for International Settlements and several central banks. Importantly, for the stability of cryptocurrency markets, the stablecoin Tether had half of its New York Court claims dismissed.

Global superpowers, China and the US, debate cryptocurrencies and take opposing positions, making international headlines. Considering the broader context, cryptocurrencies win.

1. China, the US, and Crypto

News headlines such as China banning cryptocurrencies and the US not banning cryptocurrencies cause movement in the market. The negative impact on bitcoin price on 24 September 2021–when China's key monetary and financial agencies issued the blanket ban on cryptocurrency transactions and mining–and the positive impact on 1 October 2021–when the US monetary authority confirmed it will not ban cryptocurrencies–are stark reminders. Investors need to appreciate these headlines in a broader context. What follows recasts the recent headlines in such a broader context and endeavours to offer an interpretation.

China

- The Chinese authorities always distinguished sharply between blockchain technology and cryptofinance. The country also demonstrated global leadership in the area of central bank digital currency.
- The first cryptocurrency ban dates back to 2013. Further, in September 2017, it was made clear that bitcoin will not serve as a fiat currency and all initial coin offerings (ICOs) should be regarded as illegal financing activities. The pronouncements continued with explicit prohibitions on the use of cryptoassets as investment tools for trusts and investment funds, with bitcoin to be accepted by financial institutions or payment-processors as payment.
- During 2020, the government focused heavily on CBDC, releasing the e-yuan and committing to making the official digital yuan the only yuan-pegged stablecoin in China. In November 2020, China's President urged the G20 to support CBDCs and pass supportive regulation.
- During the second quarter of 2021, China reiterated and reinforced the prohibition for banks and payment firms to provide services related to cryptocurrency transactions. Furthermore, it resolved to crack down on crypto mining and improper trading behaviour as part of the effort to control financial risks.
- Then, on 24 September 2021, 10 agencies, including the central bank and financial, securities, and foreign exchange regulators, issued a blanket ban on all crypto transactions and mining. The repeated prohibitions evidence the difficulty of identifying cryptocurrency-related transactions. The alleged reasons for the bans include the disruption of economic and financial order, the promotion of illicit activities such as money laundering, mushrooming fraud, and pyramid schemes.
- The authorities have otherwise been highly supportive of blockchain technology, announcing plans to make Beijing a blockchain innovation hub by 2022, proposing a blockchain trade financing platform for a regional construction project, introducing a national blockchain platform to assist faster and cheaper deployments, and committing to devising national blockchain standards.

The US

- The US has traditionally suffered from its intricate federal and state-based regulatory system and a directionally unsettled economic policy stance. A cryptocurrency ban was never on the agenda.
- At the federal level, the SEC has been clear on its position that if a coin or token meets the Howey test, it will be deemed to be a security regulated under the Securities Act and the issuer must register the security with the SEC or offer it pursuant to an exemption from the registration requirements.
- At the political level, Congress has failed to agree on a blockchain or cryptocurrency Act thus far. The federal regulatory agencies and Congress have dominated the discussion around cryptofinance regulation in 2021, compared to past years when individual member states were equally prominent.
- Following the cryptocurrency market correction that took place in May 2021, the federal financial and banking regulators have teamed up to pursue, rapidly and rigorously, a clear and explicit cryptocurrency regulatory framework capable of addressing the weaknesses exposed by the correction. These include market infrastructure, market conduct, and investor protection.

- On 20 May 2021, the Office of the Comptroller of the Currency (OCC) launched a collaboration with the Federal Reserve (FED) and the Federal Deposit Insurance Corporation (FDIC) to produce a joint cryptocurrency regulatory framework. On 26 May, the SEC reported that cryptocurrency markets are currently subject to regulatory gaps and announced steps to regulate cryptocurrency exchanges similarly to traditional exchanges.
- In August 2021, the SEC took a stance on decentralised finance (DeFi), making it clear that it believes investor protections are particularly lacking in the DeFi space. On 1 October 2021, the FED's chair stated that the agency has no intention to ban cryptocurrency.

Assessment

A broader look at the regulatory stances that have prevailed over time for each of the superpowers, China and the US, shows that Chinese authorities have always distinguished clearly between blockchain technology–which they consistently promoted–and cryptofinance–which they repeatedly attempted to ban. The statement made on 24 September 2021 by Chinese authorities is unsurprising from an historical perspective. The periodic reiteration of the prohibition statements is a stark reminder of the difficulty of practically implementing such statements. Cryptofinance cannot be stopped unless the Internet is shut down or extensively controlled, and the development of DeFi does not make the implementation of bans easier. The US authorities' ability to deal with cryptofinance has long been hampered by the complex nature of the intricate system of federal and national regulators, which has produced complexity and uncertainty. The intent has, however, never been to prohibit cryptocurrency finance but, rather, to promote sustainable practices. In 2021, the US federal authorities intensified their actions and their collaboration at the analytical level, indicating an intention to introduce a regulatory framework aimed at fostering sustainable cryptofinance practices and, under this condition, eventually mass adoption. The statement made on 1 October 2021 that cryptocurrencies will not be banned, further confirms this stance. Cryptofinance-unfriendly jurisdictions are certainly increasingly a minority from a global perspective, and investors should always weigh headlines from an historical perspective.

2. Other Noteworthy Developments

The Swiss FINMA issued its first-ever approval for a stock exchange to trade tokens and for a cryptocurrency fund. Thus, the Swiss Crypto Nation solidifies its global primacy.

- FINMA authorised SIX Digital Exchange AG to act as a central securities depository and the associated company, SDX Trading AG, to act as a stock exchange. The licence facilitates the trading of digital securities in the form of tokens and their integrated settlement, consolidating the value chain ranging from issuance and trading to the settlement and custody of tokenised assets.
- FINMA also approved the first fund according to Swiss law that invests primarily in cryptoassets. The investment fund belongs to the category 'other funds for alternative investments' with particular risks. Distribution of this fund is restricted to qualified investors.

The US SEC once again postponed decisions on bitcoin ETFs. Nonetheless, an approval seems certain—it is only a matter of when it will be approved.

- In September 2021, the SEC extended its consideration of VanEck's Bitcoin exchange-traded fund application by 60 days, to 14 November 2021. In early October, the SEC extended the deadline of the applications by Global X Bitcoin Trust, Valkyrie XBTO Bitcoin Futures Fund, WisdomTree Bitcoin Trust, and Kryptoin Bitcoin ETF by 45 days to 21 November, 8 December, 11 December, and 24 December, respectively.

CBDC’s uninterrupted momentum continued, with important developments from the BIS and several jurisdictions.

- The BIS stated that the collaboration between the private and public sectors is crucial for the effective development of a CBDC system. Sound collaboration is needed to ensure effectiveness, interoperability, and coexistence with the broader payment system.
- The BIS also requested central banks to intensify the efforts to develop CBDCs. It emphasised that a well-designed CBDC will be a safe and neutral means of payment and settlement. It also stated that a well-designed CBDC will serve as a common interoperable platform around which the new payment ecosystem can be organised, enable an open finance architecture that is integrated while welcoming competition and innovation, and preserve democratic control of the currency.
- The Monetary Authority of Singapore (MAS) selected 15 companies for its CBDC challenge. These include one company each from Barbados, Germany, Switzerland, Australia, and France. There are also four companies from the US and six companies from Singapore.
- The US FED reported being on track with its work on CBDC and emphasised the importance of the central bank in maintaining a stable currency and payment system for the public’s benefit.
- Bhutan announced a pilot CBDC project in collaboration with Ripple.

Stablecoin Tether had half of its New York Court claims dismissed—an important news event supporting the stability of the cryptocurrencies market.

- The US District Court for the Southern District of New York issued a 127-page opinion and order dismissing half of the class action plaintiffs’ claims against Tether and Bitfinex.

A relentless adoption of cryptofinance globally, with developments in Ukraine, Italy, Argentina, Colombia, and Dubai.

- The Ukrainian Parliament passed the so-called ‘Virtual Assets Bill’, which classifies cryptoassets as intangible assets and creates norms for exchange operations. Thus, citizens may open and use bank accounts to transact with cryptoassets.
- The Italian financial regulatory agency Consob recognised that lack of proper oversight would result in cryptocurrency markets suffering from suboptimal transparency and lead to poor choices by participants and the illicit use of such platforms. The agency joined the movement to regulate cryptocurrencies to avoid misuse and create trust, which is pivotal for adoption.
- The Central Bank of Argentina issued a statement declaring that it has no problem with counterparts choosing to accept cryptocurrencies for payments and emphasised the need to educate and protect investors.
- The Central Bank of Colombia believes that acceptance and regulation of cryptocurrencies represent an important step, and it anticipates regulatory work in the field.
- The Dubai World Trade Centre Authority (DWTCA) signed an agreement with the UAE’s Securities and Commodities Authority (SCA) to support the regulation and trading of cryptoassets within the DWTCA free zone. The DWTCA is empowered to issue approvals and licenses required to operate cryptocurrencies’ financial activities. The SCA will supervise such activities.

3.
Conclusion

Markets are often materially influenced by news headlines. On 24 September and 1 October, the bitcoin price reacted markedly to the news that China would ban cryptocurrencies and that the US will not ban cryptocurrencies, respectively. Investors should maintain a longer and global perspective on cryptofinance and trust the following truth and trend: A negligible innovation such as blockchain found its legitimate place within finance in less than 10 years, first in a small but financially important jurisdiction such as Switzerland, then–at an increasing pace–in what is now over 125 jurisdictions and all relevant international regulatory and political bodies. The bottom line is that the jurisdictions that ban cryptofinance altogether are an increasingly small minority and that implementing an outright ban is difficult–as evidenced by the regularly reiterated statements from China regarding its ban over the years. The prevailing momentum that is reinforced significantly by the latest pronouncements and initiatives in the US is one that focuses on integrating cryptocurrency meaningfully into finance keeping in mind sustainability aspects (AML/investor protection).

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