

# HONG KONG CRYPTO REGULATION

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# REGULATORY APPROACHES

- 01** Outright ban
- 02** Severe restrictions on use
- 03** Specific regulatory framework
- 04** Regulate to the extent they fall within existing categories of regulated financial instruments



## BTC Price / Market Cap. 2020 YTD



Source : Refinitiv  
© Financial Times



**8,164**

cryptocurrencies (with a total market cap. of US\$893bn)

**US\$614bn**

market cap of Bitcoin

# CONSUMER CRYPTO USE

18-20%

crypto adoption rates  
in Brazil, Colombia and  
Mexico

11,497

Bitcoin ATMs installed  
worldwide

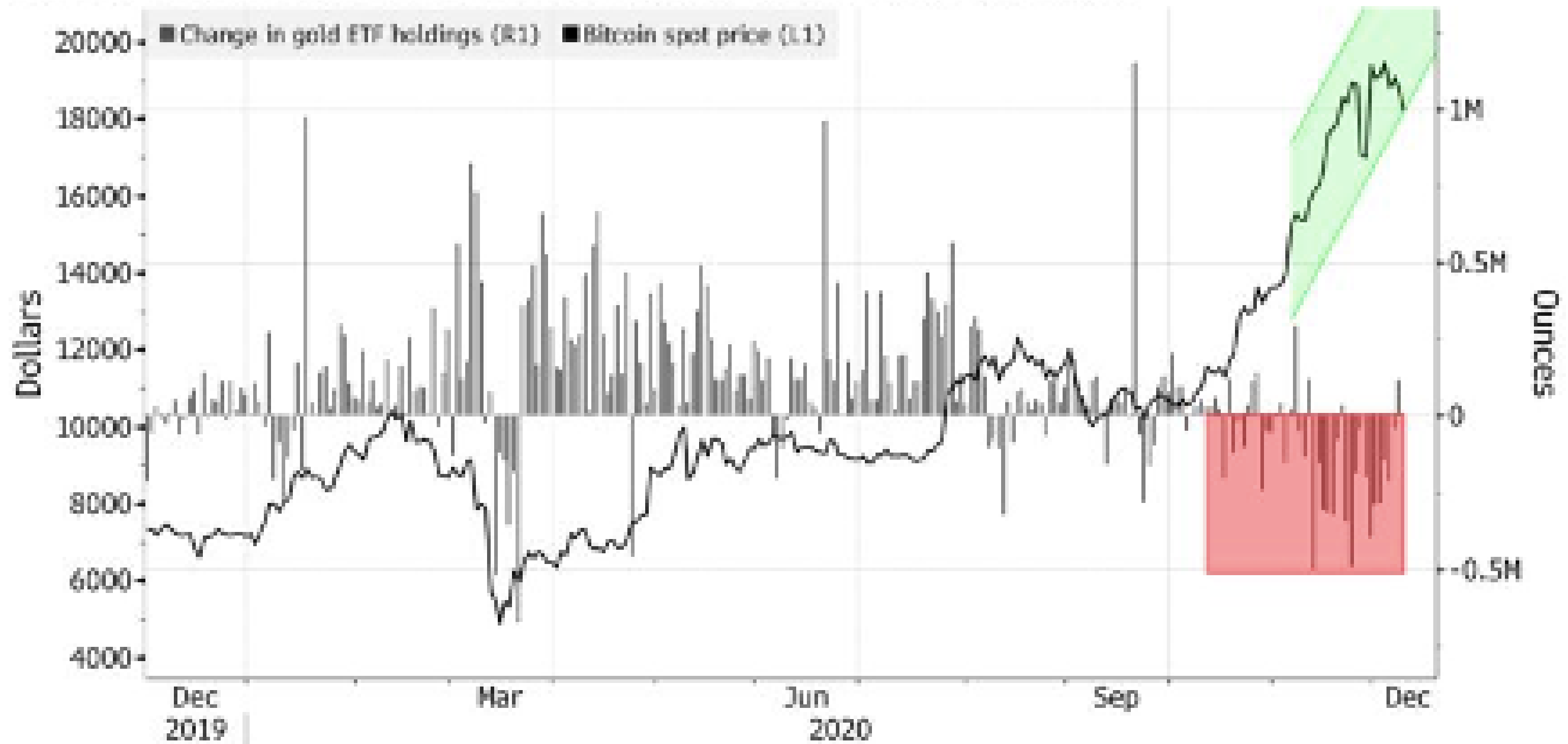
# INSTITUTIONAL INTEREST

**36%** of institutional investors own crypto

**60%** of institutional investors actively looking at crypto investment

**0.5%** of all BTC in circulation is held in the treasuries of publicly traded companies

# INSTITUTIONAL HOLDINGS: GOLD VS. BTC



Source: Bloomberg

# INTEREST OF TRADITIONAL FINANCIAL PLAYERS

J.P.Morgan

FEB 2020

JP Morgan launched JPM Coin

Goldman Sachs

JUL 2020

Matthew McDermott appointed as Goldman Sachs' new Global Head of Digital Assets



# DeFi

US\$7.7 bn tied up in the DeFi market



# STABLECOINS

*Binance USD market cap. Nov 2019 - Sep 2020*





# FACEBOOK'S LIBRA

# CBDCs



**01**

**improving financial inclusion**



**02**

**maintaining the central bank's relevance in the monetary system**

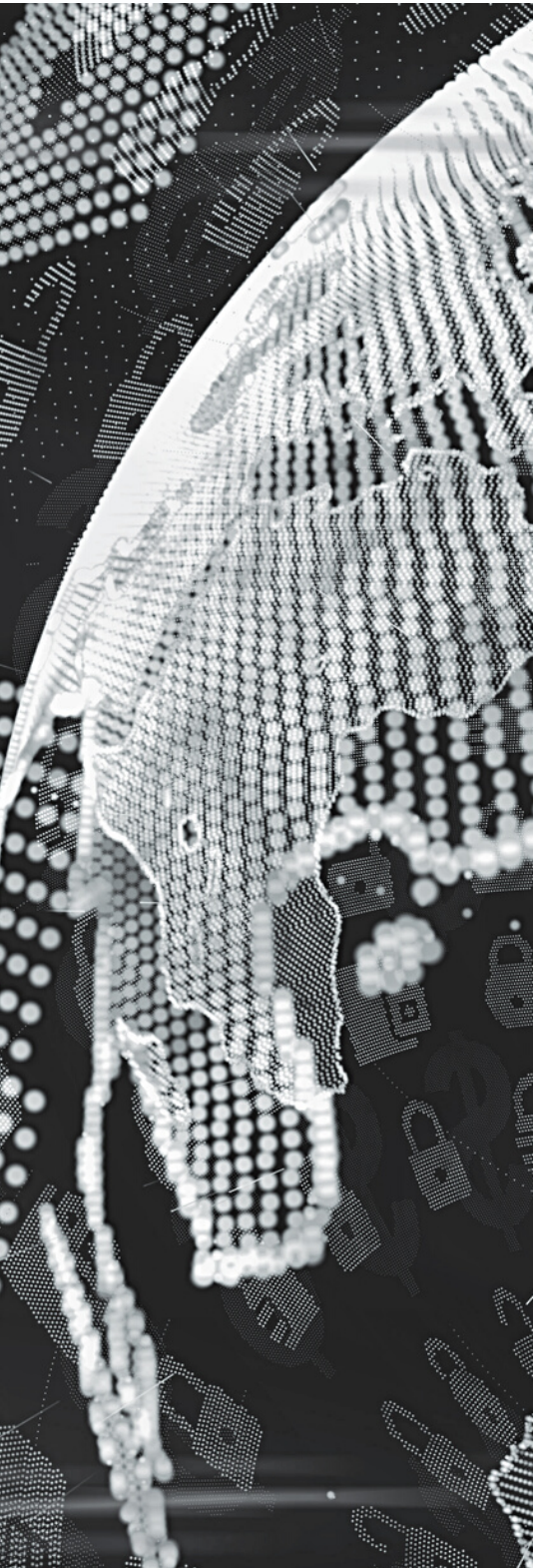
# RISKS ASSOCIATED WITH CRYPTO

- Fraud
- Financial Crime
- Security
- Misselling and market abuse activities
- Failure
- Volatility

# BENEFITS OF CRYPTO

- More efficient and cheaper transactions
- Alternative to the traditional banking sector
- Financial access for the world's unbanked





# FATF STANDARDS ON AML/CFT

Member Countries must:

- (1) regulate VASPs for AML/CFT purposes;
- (2) license or register VASPs; and
- (3) subject VASPs to effective systems for monitoring and supervision

# IMPLEMENTATION OF FATF RECOMMENDATIONS - JUNE 2020

- 32 regulatory authorities had introduced regulation of VASPs (EU 5MLD, Singapore Payment Services Act 2019)
- 3 regulatory authorities had prohibited VASPs
- 19 jurisdictions had not yet implemented a regime regulating VASPs



## VIRTUAL ASSET SERVICE PROVIDERS

- i. exchanges virtual assets and fiat currencies
- ii. exchanges different forms of virtual assets
- iii. transfers virtual assets
- iv. provides safekeeping and/or administration of virtual assets or instruments enabling control over virtual assets
- v. participates in and provides financial services related to an issuer's offer and/or sale of a virtual asset

# INR.15



- **apply risk-based approach and address AML/CFT risks**
- **require licensing or registration of VASPs**
- **ensure VASPs are subject to adequate AML/CFT regulation and supervision**
- **apply all FATF preventative measures**
- **designate a competent authority**
- **place certain requirements on competent authorities to protect against ML/TF**
- **empower competent authorities to ensure VASPs' compliance with AML/CFT obligations**
- **put in place sanctions to deal with non-compliance**

# APPLICATION OF FATF GUIDANCE

- recommendations do not apply to a person who is not engaging in the activities as a business for or on behalf of another person
- may not be a VASP if simply provides a forum for buyers and sellers of virtual assets to post bids and offers and parties trade at an outside venue

# THE "TRAVEL RULE"



**obtain and hold originator and beneficiary information including their name and account number;**



**transmit the information to the beneficiary VASP or financial institution; and**



**make the information available on request to the appropriate authorities**

# COMPLIANCE WITH THE TRAVEL RULE AND CHALLENGES

## To Comply:

- 01** be able to identify when they are transacting with another VASP
- 02** identify whether the counterparty VASP is licensed or registered in a jurisdiction and adequately supervised for AML/CFT purposes

## Challenges:

- 01** conducting timely counterparty due diligence in a secure manner
- 02** peer-to-peer transfers not involving a VASP or financial institution are not explicitly subject to AML/CFT obligations

**32**

FATF members and FSRBs in total  
which have introduced a regulatory  
regime for VASPs

**3**

FATF members and FSRBs in total  
which have prohibited VASPs

# **EU AML DIRECTIVES**

- **harmonised definition of money laundering offences**
- **enhanced definition of "criminal activity"**
- **increased minimum prison sentence for natural persons to 4 years**
- **extension of criminal liability to legal persons**

# IMPLEMENTATION IN OTHER JURISDICTIONS

## SINGAPORE

Payment Services Act 2019

## HONG KONG

SFC Position Paper: Regulation of Virtual Asset Trading Platforms (Nov 2019)

SFC-licensed virtual asset exchanges trading at least 1 security token subject to AML/CTF obligations of AMLO

FSTB Consultation Paper (Nov 2020)

Proposed licensing regime for virtual asset exchanges not trading security tokens. Exchanges will be subject to AML/CTF obligations of AMLO



# TRENDS IN USE OF VIRTUAL ASSETS FOR ML/TF PURPOSES

- generally one type of virtual asset was used
- where more than one type of virtual asset was used, this typically involved the layering of illicit proceeds
- virtual assets are also used in fund-raising activities for terrorism and to evade financial sanctions



# RISK LANDSCAPE

- use of VASPs registered or operating in jurisdictions that lack effective AML/CFT regulation and the use of multiple VASPs; and
- continued use of tools and methods to increase the anonymity of transactions

# STABLECOINS - INCREASED ML/TF RISKS

**01 Anonymity**

**03 Layering**

**02 Global Reach**

**04 Potential for Mass Production**

# APPLICATION OF FATF RECOMMENDATIONS TO STABLECOINS



- entities within the stablecoin ecosystem will have AML/CFT obligations under the FATF Recommendations if they meet the definition of financial institution or a VASP (as set out in Recommendation 15)
- where central governance bodies exist within the stablecoin ecosystem, they will generally be obliged entities under the FATF Recommendations

# RESIDUAL RISKS IDENTIFIED BY FATF



01 |

risks associated with anonymous peer-to-peer transactions via un-hosted wallets

02 |

risks from weak or non-existent AML/CFT regulation by some jurisdictions

03 |

risks associated with stablecoins having a decentralised governance structure

A hand is holding a physical Bitcoin coin, which features the Bitcoin symbol and the text 'BITCOIN: A PEER-TO-PEER ELECTRONIC CASH SYSTEM'. The coin is held over a laptop keyboard. The entire image has a red tint. The text 'MCQs' is overlaid in white, bold, sans-serif font in the center-right area.

**MCQs**

# QUESTION 1

**China's Digital Currency Electronic Payment (DCEP), currently on trial in major cities, will be an example of what when it is formally launched?**

- A. A cryptocurrency similar to Bitcoin.
- B. A central bank digital currency.
- C. A stable coin similar to JP Morgan's JPM coin.
- D. A utility token.



# QUESTION 2

Which of the following is NOT an example of a stable coin?

A. Tether's USDT.

B. Sygnum Bank's Digital Swiss Franc



C. Bitcoin.

D. JP Morgan's JP Coin.



## QUESTION 3

**Under the revised FATF Recommendations, the conduct of which of the following activities would NOT make an entity a Virtual Asset Service Provider?**

- A. Exchanging cryptoassets for fiat currencies.
- B. Exchange of different types of crypto assets.
- C. Providing safekeeping of crypto assets / providing control over the crypto assets.
- D. Exchanging fiat currencies only.



# QUESTION 4

**What does FATF's Travel Rule broadly require?**

- A. Governments to designate an authority to license/register VASPs operating in their jurisdiction.
- B. Develop and implement infrastructure to regulate peer-to-peer transfers of virtual assets.
- C. Ensure certain customer data is disclosed and transferred between counterparties as part of the transaction.
- D. Report suspicious transactions to FATF.



# QUESTION 5

**Which of the following is an example of an un-hosted wallet?**

- A. A wallet accessed through an exchange.
- B. A wallet which stores your private keys online with a third party.
- C. A wallet which receives, transfers and stores convertible virtual currencies on behalf of account holders.
- D. A software hosted on a computer, phone or other device that allows a person to store and conduct transactions in convertible virtual currencies.

# Q&A