



## Blockchains and Cryptocurrencies: Privacy, Regulatory Certainty, and Innovation

Blockchain and cryptocurrency experts discussed their 2019 policy priorities at [TPI's recent luncheon](#) on Capitol Hill on March 15, 2019. The conversation focused on stablecoins, privacy, and regulatory uncertainty.

### 5 Takeaways:

1. "Stablecoins," cryptocurrencies backed by resources like fiat money, property, or metals, offer the kind of price stability that cryptocurrencies like Bitcoin do not.
2. Some aspects of new privacy laws are incompatible with blockchain. For example, GDPR mandates a "right to be forgotten," but that's impossible on an immutable blockchain.
3. Regulatory uncertainty is holding back investment. Congress needs ongoing discussions on what good policy means rather than waiting until some crisis triggers a hastily-convened hearing and potentially bad laws.
4. Government may want to consider ways of actively promoting blockchain, just as it does with quantum computing and artificial intelligence.
5. Cryptocurrencies are challenging the distinction between banking and securities regulation.

Wild changes in the prices of Bitcoin and Ethereum make it difficult for anyone to trust them to be stores of value, which is what currencies are supposed to be. "Stablecoins" have emerged, partly as a response, to offer price stability that Bitcoin or Ethereum cannot guarantee. Stablecoins come in at least two flavors: fiat-based and algorithmic-based.

**Jerry Brito** of Coin Center clarified the differences between fiat- and algorithmic-stablecoins. A fiat-stablecoin is a crypto-asset backed by resources such as fiat money. An algorithmic-stablecoin maintains its relatively constant value via an algorithm that increases and decreases the coin supply according to rules embedded in the algorithm. Brito explained that some, but not all, fiat-backed stablecoins comply with financial regulations by holding dollars in trust and escrow, while expressing some skepticism of the long-run viability of algorithmic-stablecoins, which do not.

**Daniel Gorfine** of the U.S. CFTC emphasized that stablecoins can be backed by resources other than fiat money, such as precious metals or other property. Stablecoins backed by fiat money may attract much attention today, but the tokenization of other property creates interesting use cases for cryptocurrency exchange. He suggested a comparison of stablecoins to warehouse receipts, where a token might be used to represent proof of ownership of a single commodity or a basket of commodities.

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New crypto-asset markets are testing the limits of traditional public banking law and financial securities regulation. Banking and securities regulators are both figuring out how virtual currencies fit into rules governing money, securities, and commodities. **Diego Zuluaga** of the Cato Institute has been researching how state money transmission laws apply to crypto-assets. While generally supportive of federalism's laboratory model of competing state laws, he suggested that the definition of money transmission could be an area where federal regulators could provide guidance. **Jerry Brito** noted that state laws may need to be updated to clarify differences between transmission and custody of crypto-assets and consumer funds.

Some states regulate entities that engage in the transmission of money, but do not specify whether these regulations extend to entities that never actually hold customer funds. The lack of distinction between transmission and custody exist because with fiat money, the two were often interchangeable since money technically could not be transmitted without also having custody of funds, if only briefly. Crypto-assets, however, can be transmitted by entities that do not have custody of funds. Several states, including Colorado and Wyoming, have passed legislation that exempts non-custodial crypto-asset exchanges from money transmission laws, while maintaining rules for custodial entities.

Privacy policy is another realm of traditional regulation that is difficult to reconcile with blockchain in some respects, and established enterprises are seeking regulatory certainty from Congress. **Mark O'Riley** of IBM urged staffers and regulators to engage with the private sector to provide guidance on questions of privacy and software liability. For example, GDPR includes a right to be forgotten, but that is impossible on an immutable blockchain. What happens if defamatory speech is placed on a public ledger? O'Riley urged policymakers to engage with the private sector and develop principles and guidelines that address this issue rather than wait and react to adverse events.

He continued, noting that the government should adopt a forward-looking approach in general to provide more regulatory certainty to promote continued investment in public and private blockchains. Federal legislation could even support blockchain development like it does in other areas of nascent technology such as quantum computing and artificial intelligence.

I asked the panelists about the pace and direction of crypto development in the U.S. compared to Asia or Europe. The panelists suggested that we should study regulatory differences in other jurisdictions such as Singapore, Switzerland, and China and its impact on crypto development. The potential of crypto as electronic, anonymous cash may be an important benefit, or concern, of global regulators over time, especially as economies become increasingly cashless and digitally intermediated.

Video of the event is available on [YouTube](#)! Audio of the event is available on [Soundcloud](#). Stay tuned for more on crypto research with TPI.

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