

## Cryptoassets and the Regulation of Innovation

Over the semester, we have examined how cryptoassets and blockchain technologies are treated under a variety of legal doctrines, from tax law to securities law. A prevalent theme in each of our units has been the legal and regulatory uncertainty faced by those seeking to use these new technologies. In our final unit, we will zoom out from particular fields of law to take a high-level view of the challenges of regulating a fast-moving, new technology.

### READINGS:

Michèle Finck, *Blockchains: Regulating the Unknown*, 19 German Law Journal No. 4 (2018).

<https://static1.squarespace.com/static/56330ad3e4b0733dcc0c8495/t/5b5c857b758d46f72cc9d37a/1532790140829/01+Vol+19+No+4+Finck.pdf>

Nathaniel Popper, *Have a Cryptocurrency Company? Bermuda, Malta or Gibraltar Wants You*, The New York Times, July 29, 2018.

<https://www.nytimes.com/2018/07/29/technology/cryptocurrency-bermuda-malta-gibraltar.html>

Kate Rooney, *Crypto industry leaders warn Congress: Figure out regulation, or watch innovation leave the US*, Yahoo Finance, Sept. 25, 2018.

<https://finance.yahoo.com/news/crypto-industry-leaders-warn-congress-023600101.html>

Korey Clark, *The Coming Era of State Blockchain Regulation*, State Net Capitol Journal, Feb. 9, 2018.

<https://www.lexisnexis.com/communities/state-net/b/capitol-journal/archive/2018/02/09/the-coming-era-of-state-blockchain-regulation.aspx>

*The small economies blazing the trail on cryptocurrencies*, RN Drive with Patricia Karvelas, Australian Broadcasting Corporation, Oct. 4, 2018.

<https://www.abc.net.au/radionational/programs/drive/small-economies-blazing-the-trail-on-cryptocurrencies/10339576> [Download the audio interview]

### REFLECTION QUESTIONS:

Why is there so much uncertainty about answers to legal and regulatory questions related to cryptoassets and/or blockchain technologies?

Is legal/regulatory uncertainty here a problem? Why or why not? What kinds of problems arise from legal uncertainty about blockchain technologies / crypto?

What challenges are there in reducing legal or regulatory uncertainty around these technologies?

What are Finck's suggestions for how to approach regulation of blockchain technologies or cryptoassets? What is good and bad about her recommendations?

Why are countries like Bermuda, Malta, or Gibraltar passing laws related to blockchain tech or cryptoassets? What do they have to gain? What do they have to lose?

What are the risks of regulating a new tech too early? What are the risks of regulating too late?

What is a regulatory sandbox? Why might it be useful? What are its flaws?