10-12-2021

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Cardozo International & Comparative Law Review

CICLR Oct 11, 2021 4 min read

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Updated: Oct 12, 2021

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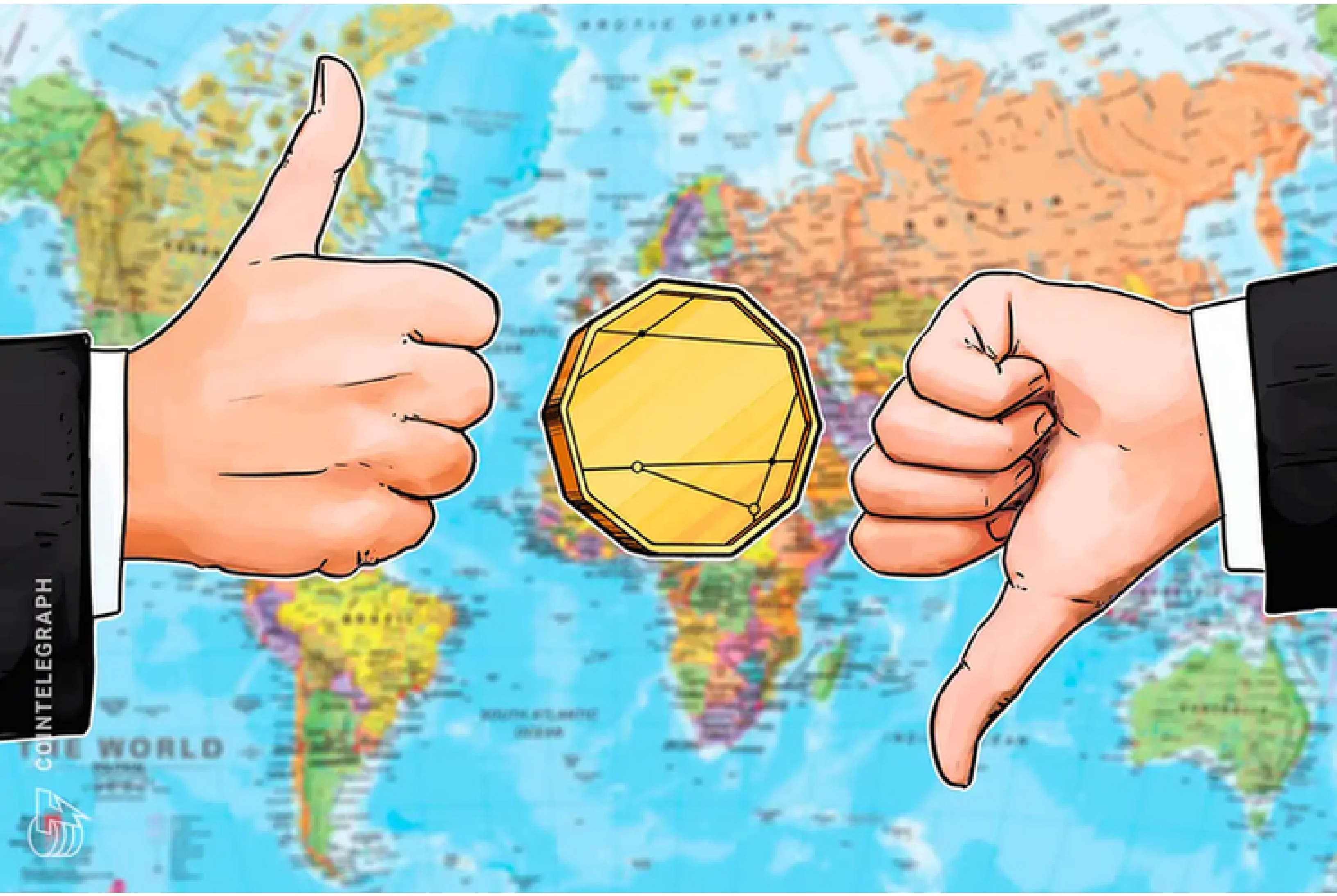

Whether it be about Bitcoin surging or falling, Dogecoin going viral, or Ethereum's volatility, the narrative surrounding digital currencies and their lack of regulation and stability usually lies with crypto. When it comes to international transactions, crypto is known for surpassing regulators given its anonymous nature. However, most international transactions occur through banks, and digital currencies are far more versatile than simply crypto. Many central banks throughout the world are looking to expand into central-bank digital currencies, meaning that countries would issue an additional form of currency that is somehow linked to the existing currency.

SWIFT, the Society of Worldwide Interbank Financial Telecommunication, acts as a messenger between banks to convey that parties are attempting a money transfer.[1] This global organization makes it possible for financial institutions and governments to keep track of money transfers and meet the basic requirements of compliance simply by the way its run: institutions must be SWIFT members. Banks who are not SWIFT members usually have to go through the hurdles that SWIFT assists with to issue any kind of international bank to bank transfer. Logically, the more institutions that use SWIFT, the better SWIFT works. [2]

Because most major financial institutions use SWIFT, there are very clear tensions between major political powers. "The issue, therefore, is that the recent political tug of war over SWIFT has impacted the financial sector's opinion regarding these key characteristics, as have recent technological advances, namely blockchain."[3] Obviously, with an organization that most major banks abide by that also acts as a basic regulator, any entity trying to get around regulators likely looks to avoid this system.[4] Due to its ties with the entire Western financial system, countries like Russia, China, and North Korea have been attempting to undermine and replace SWIFT for quite some time.

Along with many if not most major banks, SWIFT is trying to get ahead of the curve and prove its usefulness during the crypto era.[5] Crypto, however, is not SWIFT's biggest competitor; central-bank digital currencies ("CBDCs") are.[6]Unlike crypto, CBDCs are "a digital form of central bank money that is different from balances in traditional reserve or settlement accounts," meaning that they are essentially what a typical consumer thinks of as crypto, but with a direct tie and safeguard to a central bank.[7]

Countries' financial institutions must create digital currencies to remain relevant in the face of blockchain and cryptocurrency. However, the creation of CBDCs does not come without drawbacks. SWIFT represents a central third-party-like system that regulators rely on for safety and security;[8] CBDCs have the potential of creating a gray area that makes it much easier for consumers and countries to go around this. Russia, for example, has been threatened with being removed from the SWIFT network. As a result, the Central Bank of Russia is working on a digital ruble—to potentially be tested in a few Russian banks—that could potentially engage in trade without evading or alerting foreign regulators through SWIFT.[9] Granted that CBDCs' status is a happy medium between cryptocurrencies and traditional currencies, this status nonetheless creates a concerning gray area for regulators.

One of the primary concerns and safeguards of CBDCs is that they are tied to the central bank. In contrast, a typical bank note is the end point representative of currency, and whoever the holder is simply controls where it goes or does not go.[10] With CBDCs, on the other hand, no matter who trades the CBDC—whether it be a digital ruble or digital franc—the ultimate liability of the digital currency lies with the central bank.[11]

This direct nature between central bank and consumer puts CBDCs at the same person-to-person level as cryptos, while also avoiding intermediary bodies like SWIFT.[12] A central bank adopting a CBDC and then encouraging the dissemination of its use absolutely presents economic considerations. However, the issue of what state or country would have jurisdiction in a dispute arising out of CBDC misuse is vast.[13]

The first to suggest introducing international rules for CBDC use was the People's Bank of China.[14] The realization of CBDCs would look like regulated crypto; however, without an intermediary like SWIFT, China proposes that the CBDC system come together and agree on rules for their respective proposed CBDCs.[15] Part of China's proposal includes using distributed ledger technology like blockchain to facilitate the use of a foreign oversight group.[16]

From a macroeconomic lens, the development and rollout of crypto, and then blockchain, and then CBDCs, should have made SWIFT irrelevant by now, considering consumers expanded the ways they interact with money and with one another. Realistically, long-term high value investors are dissuaded to take the gamble on crypto because of crypto's notorious volatility. Should CBDCs be designed by central banks with little regulatory and compliance standards, the same will occur.

As countries like Venezuela, El Salvador, and Iran adopt either CBDCs or cryptocurrencies,[17] there is an absolute possibility that central banks will lackadaisically issue CBDCs without determining sufficient safeguards to protect their national currencies or meet regulatory guidelines. This possibility is unlikely given the amount of research and resources countries are putting into CBDCs.[18] Nonetheless, the difficulties of international regulation without a body like SWIFT, or SWIFT themselves, would likely be far too intricate to be desirable for major CBDCs.

> ***Camilla Oliva is a 2L at Cardozo Law School. Before law school, Camilla attended New York University for undergrad, double majoring in English and Latin American Studies.***

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[3] *Id.*
[4] Mike Orcutt, *"Crypto Rogue" Nations Want to Use Blockchains to Undermine the US Dollar*, MIT Tech. Rev. (2019), https://www.technologyreview.com/2019/08/01/133942/crypto-rogue-nations-want-to-use-blockchains-to-undermine-the-us-dollar/.
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[16] *Id.*
[17] *Id.*
[18] *Central Bank Digital Currency Tracker*, Atlantic Council, https://www.atlanticcouncil.org/cbdctracker/ (last visited Sept. 19, 2021).