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Virtual Event Series

Global Crypto Regulation News

Guest Speaker:

Gabby Kusz
Non-Executive Director
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Hosts:

Kenny Estes
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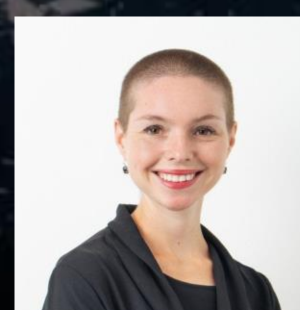

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DiffuseTap: Global Crypto Regulation News

Last time on DiffuseTap, Gabby Kusz, Non-Executive Director at Global DCA, talked to us about what the new executive order means for the blockchain industry, the case for having a CBDC, and why regulators suddenly shifted their focus to the crypto industry in 2021.

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DiffuseTap

This networking session is part of our weekly virtual events series. Networking (you'll bump into at least a dozen high caliber fund managers) meets purposeful (you'll tap into brand-new sources of ideas) … straight from your armchair like a boss.

Meet the Speaker

Gabriella Kusz is a strategist, policy maker, and thought leader with over 17 years of experience in financial services public policy and sustainable programming innovation. Gabby is a Director at the Global Digital Currency Association, which focuses on the digital asset and cryptocurrency industry. She is also Principal of Strategic Initiatives at the International Federation of Accountants and Co-Chair of the Regulator Working Group at the Government Blockchain Association. LinkedIn: @gabriella-kusz

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KENNY ESTES: Ms. Gabriella, do you want to tell the folks a little about yourself?

GABBY KUSZ: Sure. First of all, Kenny and Ayla, thank you so much for the opportunity to be part of your community today. We were joking in the breakout rooms about how what we're going to talk about today is a very appropriate topic, given the recent executive order that was released.

Just to give a brief snapshot of who I am and my background, my name is Gabriella Kusz. I have a bit of a different background from most people in the digital asset space. I focused heavily on the international financial sector and economic development. I've worked with the World Bank, I've worked with the International Federation of Accountants, I've been a contractor in U.S. Agency for International Development (USAID) projects.

I'll talk a little bit about how some of my previous life has come to bear as very important to navigating some of the complexity and ambiguity that we see in the digital asset space. I've worked in 50 different countries around the world, and I focused on a very particular niche – was governance institutions – and setting up self-regulatory entities.

These are entities that, either by legal mandate or industry mandate and given jurisdiction, helped drive private sector-led responsible innovation and development for an industry. And so, I've been able to carry that forward as a board director at the Global DCA. You can visit our website to learn a little bit more about who we are and what we do.

AYLA KREMB: Beautiful. I'm going to jump right in and kick off the questions with you. From 2012 to 2020, what was the regulatory landscape like when it came to crypto? And then subsequently, what on earth changed in 2021?

GABBY: I think that that's a really good question to set the stage for today's conversation. What we've seen around the world is that everybody at the same time has been trying to understand how and in what way they're going to begin to approach digital asset regulation. Each country is seeing this through their own cultural context, through their own economic structure, and through their own financial sector and regulatory approach.

It's really a unique opportunity where, at this point, you're seeing everybody start to realize that a lot of what we had previously created in terms of frameworks can't really work in terms of being shoehorned in. I think initially people went to what they knew, and they started to look at things like the Howey Test in the U.S., and looking at other existing legal and regulatory pieces, thinking about how and in what way this could be applied to digital assets. Additionally, in the first instance, we're still viewing this very much as an asset class that could be bounded by national borders, where national laws and regulations can be discreetly applied without regard for global harmonization.

For an asset class that is truly transformative and so easily transcends borders this old way of thinking (shoehorning + national approach) is not going to work. Maybe it can be applied when we are talking about earlier aspects of the digital financial sector such as Bitcoin or Ethereum (maybe). But these represent only the tip of the iceberg and miss the greater financial sector transformation that is hurtling us towards decentralized finance

Now, for some countries, they have recognized the transformative power of what we are witnessing. In these countries, let's take Nigeria and India, for instance, the regulators saw the evolution of the market and started to say to themselves, "Slow down. We need to pump the brakes on this. We aren't ready yet." That's where you started to see them move towards banning digital assets. And in that space, knowing the capacity of the regulators to deal with this, I don't think it was ever intended to be a flat-out ban.

It was meant to help slow the transformation so that they could catch up in terms of understanding what this was, how to keep markets safe, consumers protected, and ultimately, how to approach regulation. The problem with that is, as soon as you start to ban or even posture somewhat negatively against digital assets, the result is to chill the innovation in that country.

Individual entrepreneurs and businesses who were either considering investing or who were already present in jurisdictions that banned or took a negative approach to digital assets, were looking to off-road and get into jurisdictions that were, not necessarily less rigorous or less structured, but rather offered clarity and clear "rules of the road" for how they could build their business and protect their investment.

So what happened in 2020 that started to shift everything? I believe the big change that you saw was the increase of interest from institutional investors. Once that started to happen, a lot of this echoing of banning and trying to mitigate this opportunity transformed a bit into, "How can we tax this? How can we create basic guardrails around this industry to protect both institutions as well as retail consumers? And how can we help grow this so that it would be both able to drive domestic industry development as well as protect the end consumer, and broadly the public interest?"

This institutional interest has driven mainstreaming and has brought to the forefront the need to address digital asset regulation rationally and from a point of balance. I don't know if we can drill down on that, but that's just a very high-level view of where we've come from in 2012 to 2020, which is a pivotal shift in terms of interest from institutions. Going forward, as you've seen with the executive order, there is that understanding that there needs to be an unbiased consideration of the risks and benefits, that digital assets may bring to the U.S. as well as the world.

KENNY: You just preempted my next question, well done. I'm putting you on the spot because I'm sure you haven't had the chance to consume it fully, but what is this executive order you speak of? Is that just a next step in the flipping of the regulatory stance? How do you think this is going to play into the large picture?

GABBY: I tend to be an eternal optimist. Looking at this executive order, I think it is very broad. It basically just sets out an agenda for different levels of cooperation and research. And it also very nicely aligns with a lot of the messaging that the Global DCA has been running in D.C., and in the conversations that we've had with legislators and regulators. It requires a holistic view, not just about Bitcoin or

Ethereum, but really understanding the broader impacts of decentralized finance on the domestic financial sector and economy.

We're not looking at just a new asset class or product; we're looking at a transformation of the financial sector overall, to a certain degree, a move away from centralization towards decentralization. We need to look at this, not only from regulating that financial component, but as we say at the Global DCA, we need to be looking at the national security implications; we need to be looking at global positioning; and we also need to be looking at the economic growth and opportunities for job creation.

In addition, you also need to be looking at certain aspects with regards to social outcomes. That includes everything from financial inclusion to small and medium business' access to finance, and helping support and advance those who are currently unbanked or underbanked. I love the fact that they hit on one of the Global DCA's main taglines of "responsible innovation". It was very exciting to see that come through.

One of the key pieces that I think is important and that I am excited about is the fact that this is an opening for us as an industry to come forward and to be an active counterpart in conversations around how the United States can position itself successfully in the digital economy, and also in regard to the decentralized financial sector and its evolution.

AYLA: Beautiful. Maybe we can dig into one little bit there. It's very easy for us as backseat drivers say, "You guys should speed it up. Why is it taking so long?" But if we dialed up the empathy a little bit with the regulators, why is it so difficult to (a) wrap your head around it (b) start making decisions on how to regulate it and (c) create a framework for us to also preempt things that could happen in the future?

GABBY: Sure. Let's put aside the fact that, usually in the public sector, it takes a little bit longer for there to be traction, especially on emerging issues or ideas (proactive vs. response positioning). Also, you have to take into consideration that a government deals with competing priorities in allocating attention and resources to an issue. Although all of us in this industry feel that digital assets and regulation is the most important subject, the reality is that this is one of hundreds of issues facing regulators and legislators.

An important aspect of the E.O. is that its mere existence stands as recognition that this industry is extremely important, and its evaluation should be undertaken from a balanced position.

But that aside, the other reason for delay in action has been a need for engagement, awareness building, and learning both amongst legislators and regulators on Capitol Hill. The Global DCA has been stepping forward very actively, not necessarily in a hard lobbying sense, but more or less in a sense of standing forward as a resource or a center of excellence to provide input into informed policy decisions, and to helping displace some of the myths or misconceptions around digital assets and blockchain technology.

We try to help raise a bipartisan view which highlights why digital assets and blockchain technology are important, and what that means in terms of the trajectory and evolution of our national and global financial sector. Think about the first time that you were exposed to Bitcoin or digital assets. It was perhaps a bit overwhelming, or you were a little bit skeptical of how it would work or what role or importance that could have. Before you can have recognition of the need for a clear and balanced regulatory framework and action in creating this framework, you first have to understand the value and importance of digital assets themselves. Understanding digital assets engenders urgency and urgency is what is needed to create policy action.

When we are talking about the value or importance of cryptocurrency, one of the best use cases is happening now in real time with the crisis in Ukraine, and the fact that we're seeing close to $80 million of crypto donations flowing into the country. I believe the role that crypto has played in helping to both fund military operations as well as humanitarian relief has been a turning point to help vault the asset class onto the global stage and raise the importance of the power of this industry.

Lastly, in exploring reasons for the slower pace of response by regulators, it is because you are not only seeing the emergence of a new asset class but a fundamental transformation of the nature of the domestic and global financial sector. And *that is a lot* for any entity, whether public or private sector, to respond to. That requires a shift in mindset around the fact that we can't necessarily do everything the way we've done it before, with regards to digital assets.

Like I said previously, regardless of what country you're located and working in, changing laws and regulations is hard and time-consuming. Therefore, it's normal to start with how can we shoehorn this in or how can we use what we have in order to expediently provide consumer protection and facilitate innovation?

The problem is that, as we've seen, very soon after you begin down that path, you realize that that's not possible because you're dealing with a fundamental transformation.

That this is not only a new asset class but a shift away from centralization towards decentralization. Whereas previously a centralized regulatory entity could identify a single point upon which to focus investigations, regulatory actions, and some entity or some person to hold responsible. Now, with decentralization you are seeing what are effectively peer-to-peer communities of participants. The single point of focus, the relatively more reasonable number of points of contact transforms, expands and is multiplied. Formal becomes informal. Bordered nationally domiciled businesses become amorphous communities of global peers. And for regulators, in order to fulfill their mandate of protecting consumers and to provide sufficient regulatory coverage, the reality is that they themselves cannot be immune from transformation.

They, too, will need to transform and mirror the decentralization of the underlying industry that they're responsible for regulating. And… *that's the piece* that is going to take a long time. That philosophical and operational shift.

But I think, again, this E.O. was a great start, and a great opportunity to have visibility and to place importance around transformation and decentralization. I believe ultimately what we are seeing is a beautiful blend of bipartisan concerns, as well as excitement about what digital assets can be and can do for the U.S. and the world.

Furthermore, I believe that it's a great opening for our industry to come to the table and to help during this transformative process, and to provide very strong, unbiased, and expert perspectives, in order to ensure that those policy outcomes and those interventions are well-designed and well-informed.

KENNY: That's great. I'm shifting topics slightly, picking up on Henry's comment from the chat. CBDC is an acronym I've heard a bit, but what is a CBDC? And how do you view the interconnection between CBDCs and more traditional DeFi crypto assets? What does that landscape look like?

GABBY: That's a good question. CBDCs or Central Bank Digital Currencies can be designed in a number of different ways. What you will find is that it depends on, again, the country's context, and whether it's a command economy or it's a free market economy. It depends on the degree to which there are protections of certain rights of citizens. All of this comes into play with regards to the design phase of how you would create and then roll out a Central Bank Digital Currency.

Whenever people say China is ahead or that we've seen a lot of movement on CBDCs in other jurisdictions, I always like to say that it is easier to move faster when you don't have to take into consideration things like privacy or different types of rights and economic freedoms that you may hold dear in your country, or the degree to which you believe your government should or should not have the ability to surveil or have oversight over the use of a monetary instrument.

And so, it's somewhat expected that some of those economies that are more centralized and more "command economies" would be able to move forward faster with this than democracies. But I will also say that India, for example, has also moved forward with CBDCs. We follow both these jurisdictions (China and India) very heavily, and I'll explain why in just a moment.

It is our opinion that CBDCs and crypto can exist in harmony because there are different uses and profiles for how and in what way you would leverage those products. They offer, in some ways, similar but very different functionality. A well-designed CBDC should be interoperable, should be able to cross borders, protect privacy, ensure a strong sound operation from an economic freedom perspective, should be safe and secure, and should be technically and technologically sophisticated.

That's a lot to hit if you're going to create a CBDC. And so, it's going to take some time to come to the table with that if you're doing it in a free market environment. But I will say that I don't necessarily think it has to be one or the other – CBDCs or crypto – as if a CBDC would somehow crowd out or exclude digital assets.

That's because with digital assets, every day, we see something new and different. And with the way that it transforms this industry, the way that we move forward with new and unique products, I think the pace that we're moving at is so fast. With our ability to so nimbly transform in terms of sophistication and technology, I don't believe that the use cases and value that cryptocurrency offers is entirely equal or would be entirely equivalent to that provided by a CBDC.

Like I said, each has different purposes and different uses. I think there is going to be a point where we'll have certain amounts of our personal wealth held in a CBDC for certain purposes. And then maybe, the balance of our wealth will be in crypto, or some other form of digital asset. It's interesting. I think there are lots of cool cases around the world and very different views about how you can create and design CBDCs effectively.

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