

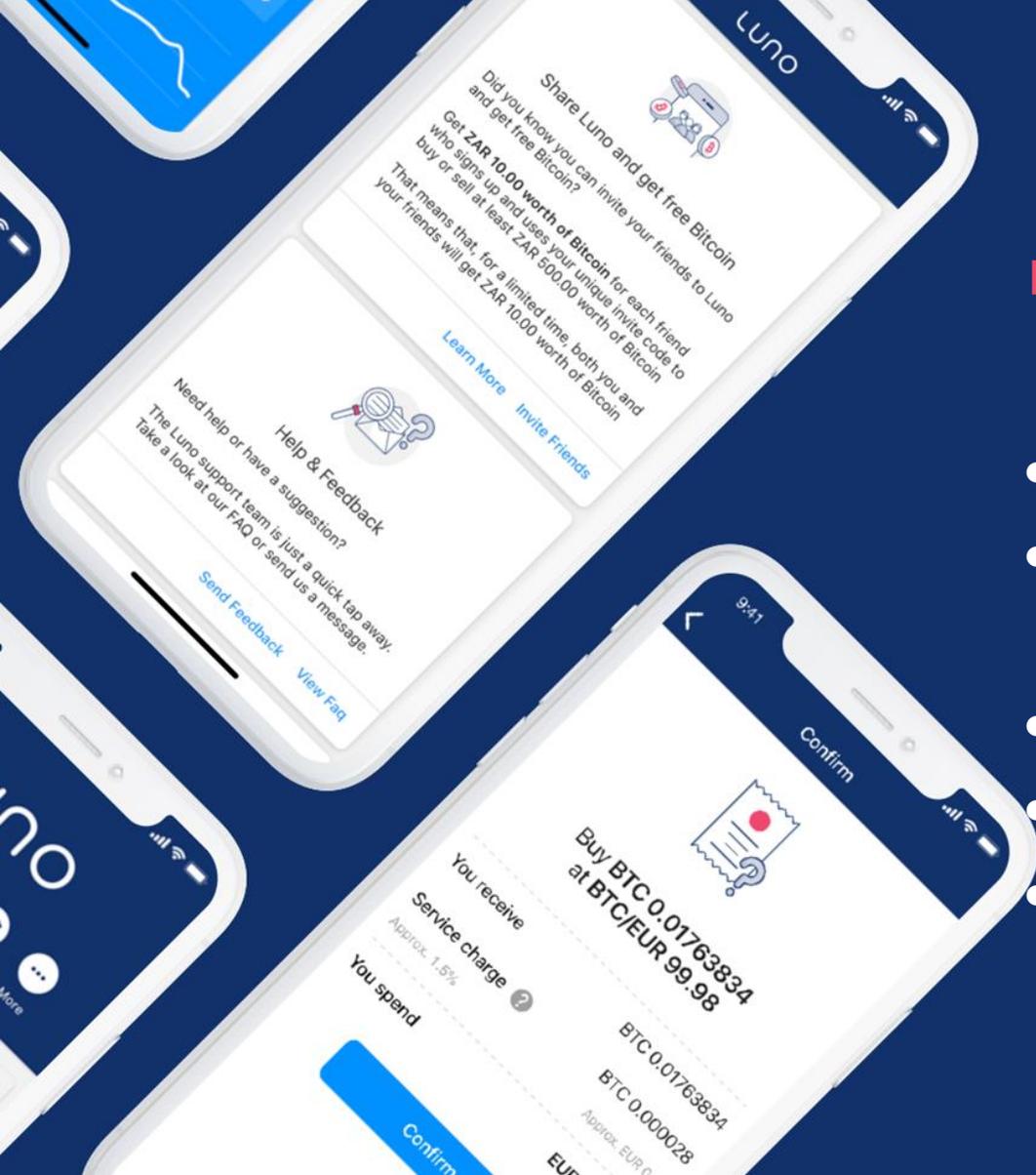
The logo for Luno, featuring the word "LUNO" in a white, rounded, sans-serif font. The letters are centered within a dark blue circle, which is itself surrounded by a lighter blue ring, all set against a dark blue background.

LUNO

Blockchain Talks

Regulatory/Compliance landscape

February 2019



Let's start....

- This week's RoundUp - let's **watch**
- Regulation around the world - let's **summarise**
- Legal challenges - let's **think**
- Future - let's **dream**
- Q&A - let's **talk**

Luno Round up



For the rest go to [YouTube.com/LunoMoney](https://www.youtube.com/LunoMoney) and hit subscribe

LUNO

Dealing with other **people's money**
is always going to be **regulated**

Either you want it or not

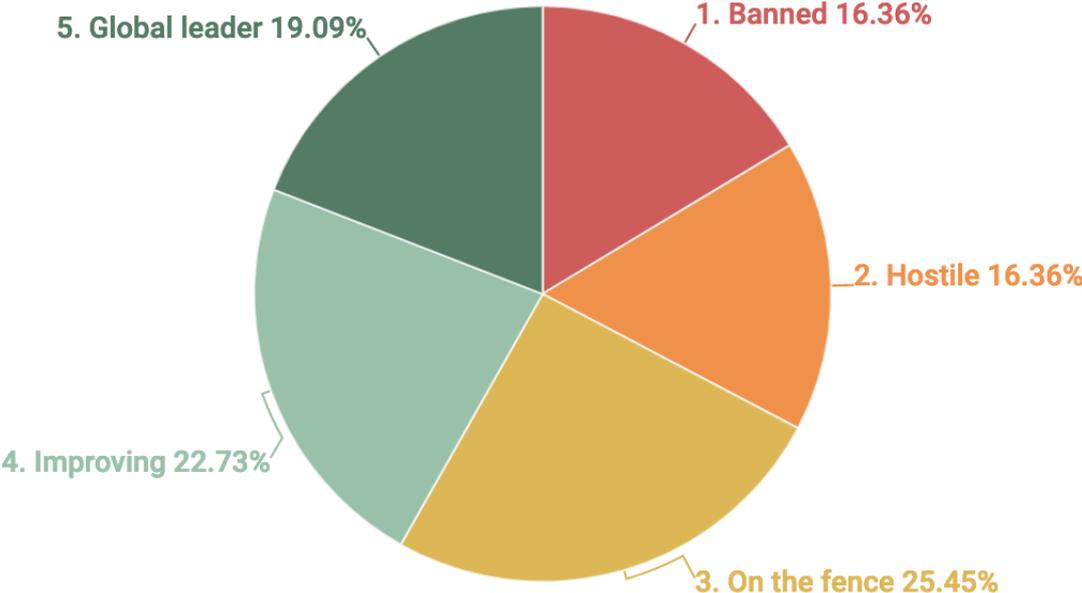
Blockchain is growing, not evaporating

Crypto enthusiast might believe regulation sounds a death knell for blockchain, I think this viewpoint is misguided on 2 counts.

1. regulation **removes and discourages the bad actors** who have done such harm to blockchain's reputation.
2. regulation proves that **blockchain is here to stay.**

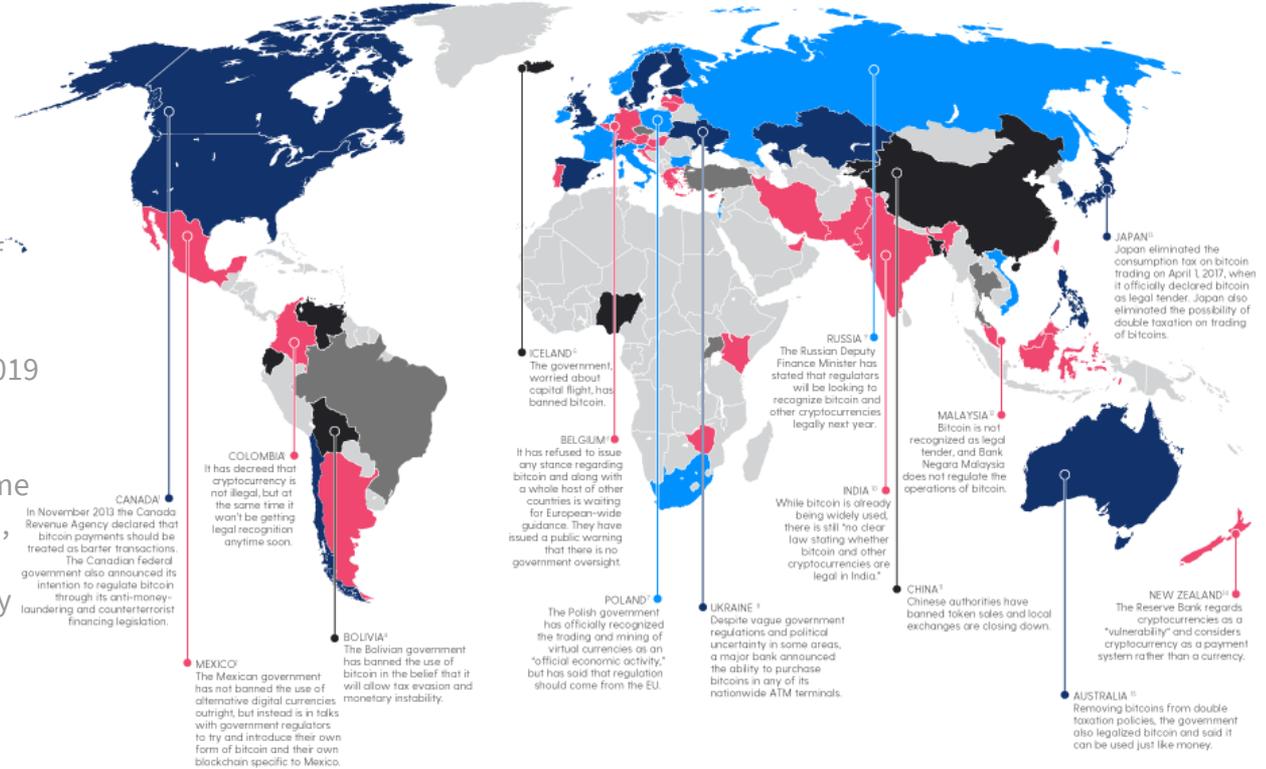
There's no need to regulate a fad; it will expire well before a bill reaches committee. An enduring new asset, however, needs a place in a legal framework.

Legal stances towards cryptocurrency **around the world**



A **positive** approach

- Crypto is **banned** in only a handful of countries
- Regulation is slowly being shaped, 2019 will be a big year
- Certain countries have tried to become “crypto havens” - eg. Gibraltar, Malta,
- Luno operates on 40 markets globally and in 2019 we will enter 20+ more



What is **cryptocurrency**?

Different classifications by country:

- Income
- Asset
- Commodity
- Security
- Property
- Money
- Currency
- Private money
- Unit of account
- Payment option
- Digital gold
- Store of value



A varied **Regulatory** landscape

- **Japan** - Legally accepted means of payment
- **China** - not recognized, banned for trading
- **US** - no Federal framework, states are making moves
- **Germany** - private money
- **Switzerland** - properties
- **South Korea** - not defined
- **Malta** - digital medium of exchange, unit of account, store of value
- **Malaysia** - A security



Where to look?

Need a detailed info - go to: <https://www.finder.com/global-cryptocurrency-regulations#country>

Country	Regulation ranking	Cryptocurrency regulation landscape
Netherlands	4. Improving	<ul style="list-style-type: none">• Cryptocurrency is considered an item of barter, meaning it can be relatively freely exchanged and falls outside most existing regulations• There are no plans to ban cryptocurrency• AML regulations for exchanges are expected to be implemented by the end of 2019• EU member

Death and **Taxes**

- Australia - **Property** - Capital gains tax and goods services tax is not applicable
- Germany - **Private money** - No capital gains tax, sales tax no applicable, if owned less than 1yr a progressive income tax up to 45% applies
- Switzerland - **Foreign currency** - No capital gains tax, Sales tax not applicable
- US - **Property** - Capital gains tax, Sales tax not applicable
- UK - **Asset or private money** - Capital gains tax, sales tax not applicable
- Japan - **Legal method of payment** - Capital gains tax, Exempt from consumption tax
- Chile - **Virtual commodity** - No taxes
- Netherlands - **Virtual currency, item of barter**



What comes **next**?

- 5th EU AML Directive (Due 10 Jan 2020)
- GDPR (zero knowledge proof or PKs destruction)
- FAT-F Recommendations (due Q3)
- 6th EU AML Directive
- 7th EU AML Directive...
- 8th....

Who drives European **legislation**?

1. The Securities and Markets Stakeholder Group (**SMSG**)
2. European Securities and Markets Authority (**ESMA**)
3. **European Commission (EC)**
4. Securities and Exchange Commissions (**SEC**)
5. Financial Action Task Force (**FATF**)
6. EU Data Protection Boards
7. **Local regulators**

Crypto regulation will almost certainly take the form of **updates to existing legislation** rather than brand new rules and laws.

Legal **FAQs** - let's think

1. Will a crypto **ETF** be granted?
2. Can blockchain systems comply with **privacy regulations**?
3. Will international regulators **work together**?
4. Will we be able to **regulate decentralized** exchanges?
5. Will **developers be held responsible** for violations of law?

Will a crypto **ETF** be granted?

The last remaining cryptocurrency-based ETF application, the VanEck/SolidX Bitcoin ETF, may see an answer on **February 27, 2019**.

Some key questions that remain are:

- The scope of the term **“significant markets”**.
- The correct interpretation of **Securities Exchange Act** of 1934 Section 6(b)(5), which requires that the rules of “the exchange” are designed to prevent fraudulent and manipulative acts and practices.
- Whether the underlying bitcoin (or cryptocurrency) spot markets are indeed **resistant to fraud and manipulation** (and how the Department of Justice’s [investigation into Tether will affect this analysis](#)).

Can blockchain systems comply with **privacy regulations**?

- GDPR
- CCPA (2020) and US privacy law
- Zero-knowledge proof
- Destruction of private keys
- Right of erasure

Will the EU Data Protection Board issue guidelines and recommendations to “ensure that blockchain technology is compliant with EU law” [as suggested](#) by the [Committee on Civil Liberties, Justice and Home Affairs](#)?

Will international regulators **work together**

- Geographic decentralization
- Anonymous and/or censorship resistance
- Domestic regulators

Vs

- Harmonization of
 - securities
 - commodities
 - money transmitter
 - tax laws

Will we be able to **regulate decentralized** exchanges?

- In 2018, the SEC [published guidance](#) on online platforms for trading digital assets, ShapeShift [reluctantly introduced KYC](#) in the form of compulsory membership, and the [SEC fined EtherDelta's creator](#) for causing software to violate the law requiring registration of securities exchanges. Perhaps in 2019, true DEXs will emerge and difficult regulatory questions will proliferate.
 - How do you regulate an unstoppable, headless unregistered securities exchange platform?
 - How do you regulate the trading of privacy coins on these platforms?
 - Will recent regulatory guidance push developers to go anonymous?

Will **developers be held responsible** for violations of law?

- 2018 provided hints as to when this could occur: first, when CFTC Commissioner Brian Quintenz [suggested that smart contract code developers could be prosecuted](#) for wrong doing where it was reasonably foreseeable the code would likely be used by U.S. persons in a manner violative of CFTC regulations; and second, when the SEC [charged Zachary Coburn](#) (founder of EtherDelta and writer/deployer of the EtherDelta smart contract) with operating an unregistered national securities exchange.

But.. **What is or is not reasonably foreseeable in an age of constant innovation?**

- How, if at all, will courts and regulators distinguish between the role of the code writer, deployer of the code, and platform operator?
- Will the “tech veil” be pierced further in criminal or civil cases and if so, how will enforcement be affected by decentralized networks, unstoppable smart contracts and anonymous code developers?

When we will embrace all of it (and more like

private coins, sufficient decentralisation, ICOs..) ●●

The future will be bright!

LUNO

The impact of this new **financial system**

Upgrading to this new, better financial system will **empower billions of people by:**



lowering their
cost of living



increasing the
value retention of
their wealth



stimulating
innovation



unlocking new
business models
and economic
opportunities



provide more
financial freedom



driving the velocity of
money flowing
through the economy

Before we will get there, how this year **can look like**

1. **Investing at the bottom:** brighter and warmer days are coming soon.
2. **A new Howey test:** The SEC's increased scrutiny of blockchain. We can expect the courts to promulgate a new test for blockchain, which will let investors place their money with greater confidence.
3. **Better core tech:** We need to pay more attention to improvements in performance and scalability and pay less attention to new projects. **#BUIDL is the new #HODL.**
4. **Decentralized business models:** the rise of decentralized businesses in banking, capital markets, payments, insurance, supply chain and other fields. New players won't be looking for a place on Nasdaq, because they'll be generating network value more than equity value.



Thank you!

[magdalena@luno.com](mailto:magdalenal@luno.com)

LUNO