



# Luna-Tics & Un-Stable Coins – Forging Effective Regulatory Swords & Shields

Iain Sheridan, Associate Director, Grant Thornton

Thursday, 17 November 2022



# A Word From Today's Chairman

**Professor Michael Mainelli**  
Chairman  
Z/Yen Group





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# Today's Agenda

- 10:00 – 10:05 Chairman's Introduction
- 10:05 – 10:25 Keynote Presentation – Iain Sheridan
- 10:25 – 10:45 Question & Answer



## Today's Speaker

**Iain Sheridan**  
Associate Director  
Grant Thornton



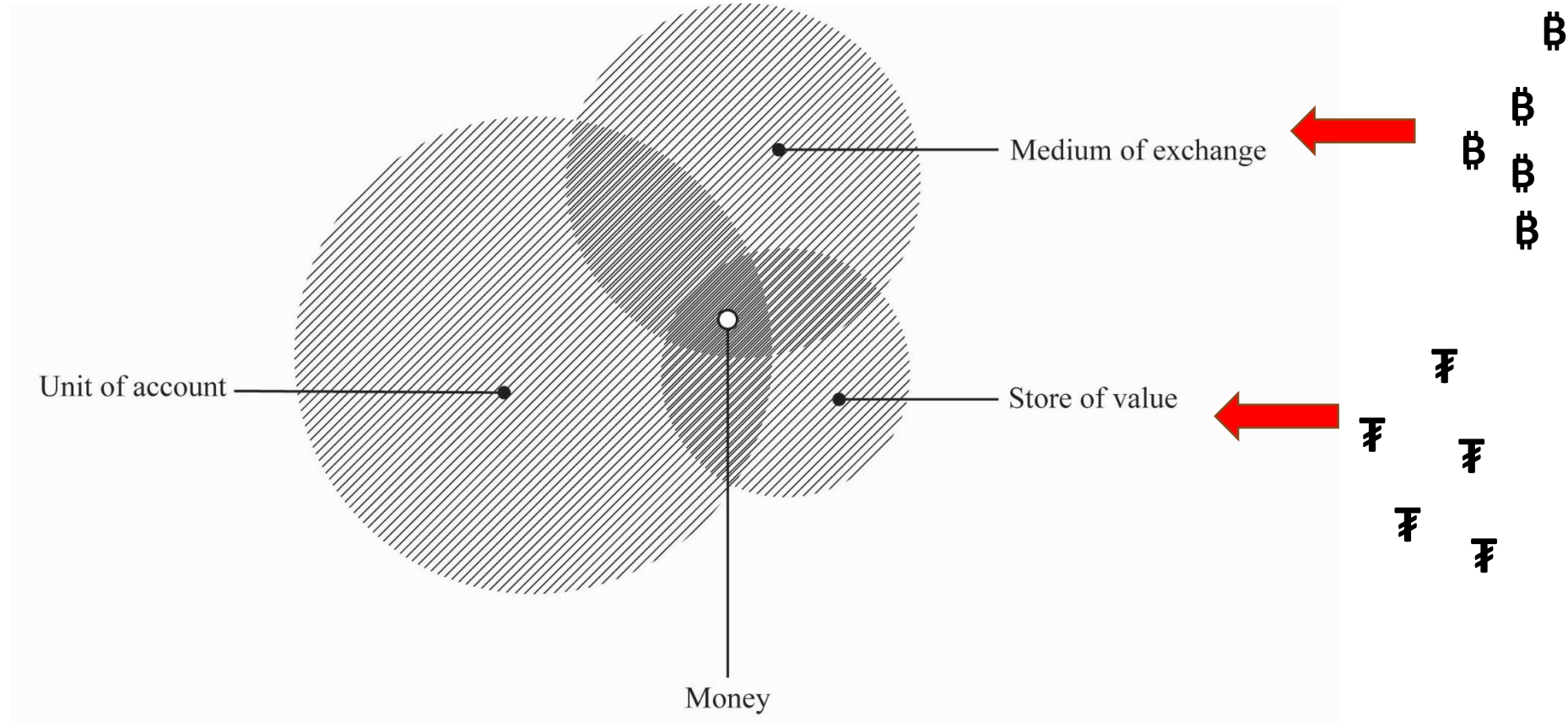


# Luna-tics and Un-stable coins – forging effective regulatory swords and shields

- The Lost Battles - fiat money versus crypto assets
- Background to the Terra Luna crash
- Strategies and tactics in UK, EU, Singapore and US
- What is the best evolving regulator strategy?
- What else should be in the regulators' armouries?



# The Lost Battles





# Diverse Combatants

Digital Asset	Symbol	Controlling Minds	Blockchain consensus mechanism	Key aspects	Est.	Mkt Cap (USD\$ billions)
Bitcoin	BTC	N/A	Proof of Work	Computer hardware needed to act as a validator	2009	340
Ether	ETH	Ethereum	Proof of Stake, Sep 2022 onwards; PoW 2015-2022	32 ETH need to act as a validator (£45,000)	2015	156
Tether (formerly branded Realcoin)	USDT	Tether Ltd	Proof of Work and Proof of Stake depending on the network	Proof of reserves	2015	68
Ripple (formerly branded OpenCoin)	XRP	Ripple Labs	Specific XRP consensus mechanism	Ripple Labs decides who may act as a validator	2013	19





# The Collapse of Terra Luna in May 2022

- Terraform Labs created, incorporated in 2018, launched a blockchain protocol that linked two crypto tokens - TerraUSD and Terra Luna
- The value of TerraUSD was determined by exchanging one TerraUSD for one US dollars' worth of its sister token Terra Luna
- Theoretically, arbitrage activity kept one TerraUSD close to USD \$1, with any volatility absorbed by adjusting the supply of Terra Luna
- In early May 2022, the TerraUSD-Terra Luna model broke down
- Between 9th -13th May 2022 the value of one Terra Luna moved from \$61 to zero
- On 12th May 2022, the price of TerraUSD dropped from US\$ 0.99 to US\$ 0.95
- Consequent estimated loss of USD \$40 billion with 280,000 Koreans affected



# Question 1 – What is the current price of TerraUSD?

- A. USD \$0.99
- B. USD \$0.63
- C. USD \$0.37
- D. USD \$0.03



# UK Approach – Shields but Planned Castle Moat

- From 2021, crypto asset firms must register with the FCA.<sup>1</sup> Most significant documents include:
  - AML/counter terrorist finance framework and staff AML training manual
  - business plan, including 36m of budget forecasts and corporate structure
  - marketing plan, including a description of customers and distribution channels
  - crypto asset public keys and wallet addresses
  - key IT systems and outsourcing arrangements
  - In 2023, the Financial Services and Markets Bill is likely to amend FSMA 2000, to include any “asset, right or interest” in a crypto asset as a regulated activity (s.22) and a restricted financial promotion (s.21)

1. Section 56 Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (SI 2017/692), as amended. See [www.legislation.gov.uk/ukxi/2017/692/regulation/56](http://www.legislation.gov.uk/ukxi/2017/692/regulation/56)



Question 2 – What percentage of crypto firms applying for FCA registration have either had their application rejected or decided to withdraw it?

- A. 20 per cent
- B. 40 per cent
- C. 60 per cent
- D. 80 per cent



# EU approach – Planned Castle Moat with Archers

- Markets in Crypto Assets (MiCA) Regulation<sup>1</sup> passed by EC in October 2022
- MiCA covers many aspects (380 pages), including AML, consumer protection and accountability of crypto firms
- Defines crypto asset as a ‘digital representation of a value or right’ + DLT or equivalent technology
- Fines of EUR €5m or annual turnover 3% to 12.5%
- Liability for loss of crypto assets
- ‘White paper’ concept: detailed document submitted on any crypto assets admitted to trade on a platform - all subsequent marketing consistent
- MiCA expected to take effect from Q2 2024

1. Proposal for a Regulation of the European Parliament and of the Council on the Markets in Crypto assets, and amending Directive (EU) 2019/1937.



# Singapore approach – Hadrian's Wall

- Financial Services and Markets Act 2022<sup>1</sup> requires digital asset providers to be licensed and subject to local AML and Combating the Financing of Terrorism (CFT) requirements
- Second, under Monetary Authority of Singapore (MAS) guidelines (January 2022) restrict digital asset service providers because they must not:
  - advertise in public areas including on public transport, public websites, social media platforms, broadcast and print media, or provision of physical ATMs
  - advertise via social media influencers, and
  - can only advertise on their own corporate websites, mobile applications or official social media accounts

1. Financial Services and Markets Act 2022, available at <https://sso.agc.gov.sg/Acts-Supp/18-2022/Published/20220511?DocDate=20220511>



# US approach – Two-Handed Claymore Sword

- In last 18 months SEC has started actions against, among many other firms, Coinseed, Coinschedule, DeFi Money Market, and CryptoFX
- In 2020 SEC started a lawsuit against Ripple arguing that Ripple's pre-mining release of the XRP digital asset qualifies as an investment contract
- U.S. Supreme Court Howey Test case determines if a transaction qualifies as an "investment contract"<sup>1</sup>
- Gary Gensler, the SEC chair, is committed to supporting new regulation that increases crypto asset oversight

1. SEC v. W. J. Howey Co., 328 U.S. 293 (1946)



# SEC v Ripple triggered class action by >70,000 XRP owners



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70,100 as of now.

@GaryGensler & @SECEnfDirector over 70K  
#XRPHolders from diverse backgrounds from all 50  
states, every U.S. territory, and 141 Countries around  
the 🌍 have joined together to fight **VS** your  
unlawful expansion of Howey.

You will lose the war.



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Replying to @RuleXRP and @ProCoinNews

101 people away from hitting 70K.

2:59 AM · Aug 8, 2022



2.5K



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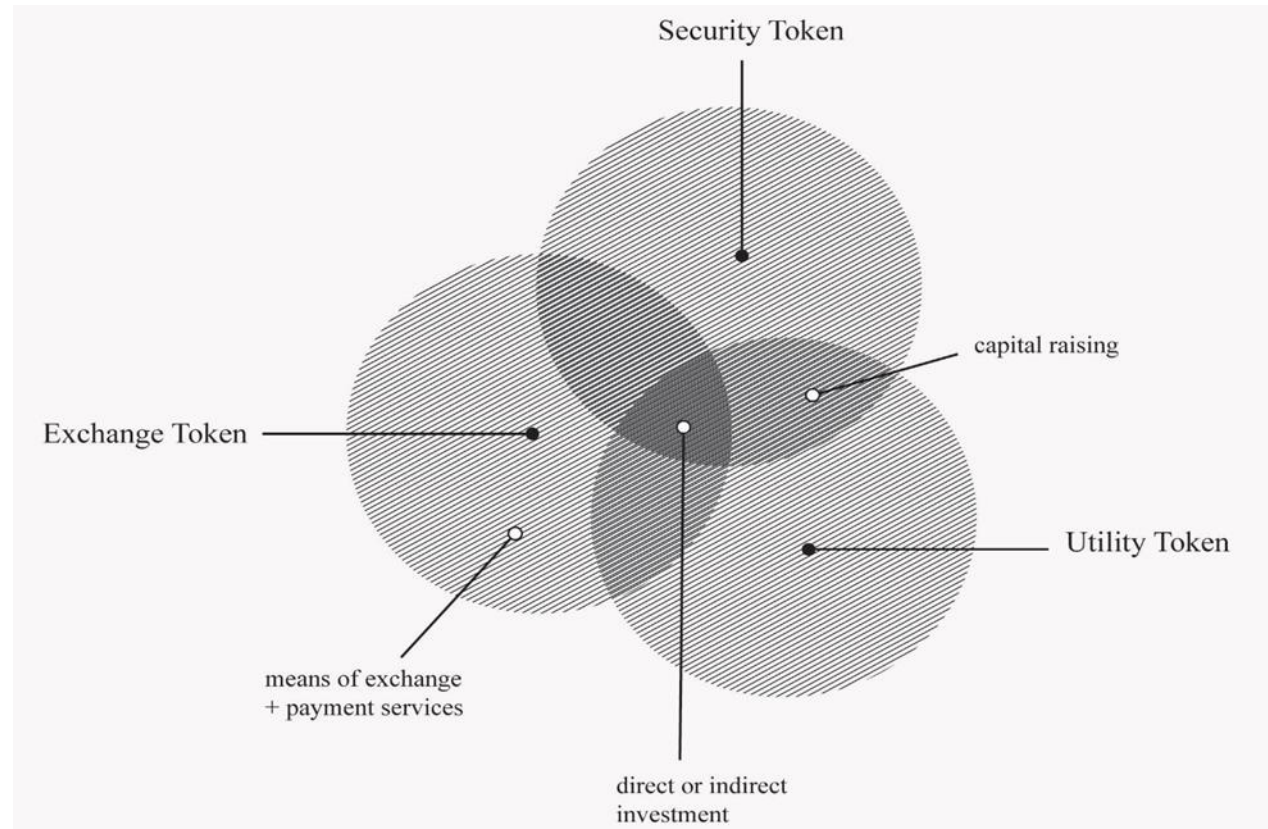
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# What is the best evolving regulator strategy?





## Question 3 – What is your risk assessment of crypto assets?

- A. A low to medium risk investment
- B. A medium risk investment
- C. A high risk adventurous investment
- D. A gamble



# What else should be in the regulators' armouries?

- Ban the smoke and mirrors of misleading crypto asset marketing, especially ~~coin~~, ~~crypto-currency~~ and ~~stablecoin~~
- Communicate about crypto firms with good governance
- Communicate about crypto firms with poor governance
- Algorithmic governance and testing akin to MiFID RTS



# Comments, Questions & Answers





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## Forthcoming Events

- Thu, 22 Nov (09:00-09:45)      Launch Of Smart Centres Index 6
- Wed, 23 Nov (11:00-11:45)      The Elephant In The Room – Software Risk & Digital Resilience
- Thu, 24 Nov (15:00-15:45)      How Does Government Use Corporate Finance Techniques To Support Taxpayers?
- Fri, 25 Nov (11:00-11:45)      Financial Centres Of The World 2022: Focus On Tallinn

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