CRYPTO, BLOCKCHAIN, REGULATORY LAG, and REGULATORY UNCERTAINTY

A simple view of where we are as we enter 2021, and why
“Americans should not settle for incremental, ad hoc adjustments to a system created a generation ago for a world that no longer exists.”

Although this quote is from the 9/11 Commission Report published in 2004, it may apply in this context: can we make incremental, ad hoc adjustments to a regulatory system created a generation ago for a world that no longer exists?
Some people believe that blockchain technology or Distributed Ledger Technology will transform the way we transact, and that cryptocurrencies, virtual assets, convertible virtual currencies, digital tokens, etc., will replace fiat currencies as a store of value, unit of account, and medium of exchange.

“Bitcoin offers a sweeping vista of opportunity to reimagine how the financial system can and should work in the Internet era, and a catalyst to reshape that system in ways that are more powerful for individuals and businesses alike.”

“I'd like to address the claim made by some critics that Bitcoin is a haven for bad behavior, for criminals and terrorists to transfer money anonymously with impunity. This is a myth, fostered mostly by sensationalistic press coverage and an incomplete understanding of the technology.”


Others aren’t so sure ...

“Bitcoin explained: Imagine if keeping your car idling 24/7 produced solved Sudokus you could trade for heroin” - posted by “The AndyChrist” on Twitter, October 2018

“Blockchain remains a solution in search of problems to solve” - KPMG October 2018 Blockchain Technology Risk Assessment

“Crypto is the Mother of all Scams and (Now Busted) Bubbles While Blockchain is the Most Over-Hyped Technology Ever, No Better Than a Spreadsheet or Database” - title of the written testimony of D. Nouriel Roubini, NYU Professor of Economics for the Senate Banking Committee hearing, “Exploring the Cryptocurrency and Blockchain Ecosystem”, October 11, 2018

One thing is certain, though, and that is that the crypto world and government regulators move at different speeds and have different expectations ...
Gartner’s Technology Hype Cycle™ looks at how expectations of new technologies and technological innovations change over time.
Regulators’ acceptance, and ability to issue rules and regulations, follows a different path ...

**Regulatory “Lag”**... it takes time for regulators to act on anything that is new (it should: regulators need to be thoughtful and deliberate). And acting is not necessarily acceptance, and acceptance can fluctuate over time as technologies change, regulations change, and new guidance comes out.
CRYPTO/BLOCKCHAIN & REGULATIONS

Where are we today?

Depending on the application, we’re probably somewhere in this grey box of revolution, evolution, adoption, and acceptance.

In addition to regulatory lag, not all regulators follow the same course on the same timeline. We’ve seen that recently, with FinCEN’s 12/23/20 proposed rule on recordkeeping and reporting certain transactions with unhosted wallets, and the OCC’s 1/4/21 interpretive Letter giving approval for banks to use Independent Node Verification Networks (INVNs) and stablecoins for payment activities.

Another wildcard? How will the Department of Justice enforce crypto and blockchain: the DOJ’s 10/8/20 Cryptocurrency Enforcement Framework provides clues.
One other thing is certain ... 

“The coming years will be a period of great drama and excitement revolving around this new technology.”