

## L45: Global Regulatory Landscape

### Module G: Regulation & Future

Blockchain & Cryptocurrency Course

December 2025

- Understand why governments regulate cryptocurrencies
- Compare regulatory approaches across major jurisdictions
- Analyze the US fragmented regulatory landscape
- Evaluate EU MiCA as comprehensive framework
- Assess enforcement actions and their impact
- Understand the significance of Bitcoin ETF approval

## Regulatory Concerns

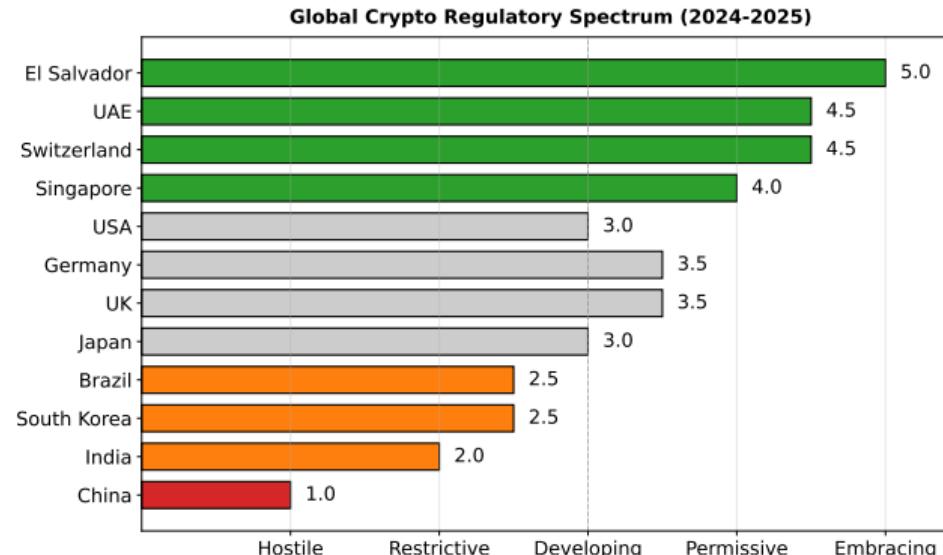
- **Money Laundering:** Anonymous transactions facilitate illicit finance
- **Consumer Protection:** Scams, rug pulls, exchange failures
- **Market Manipulation:** Pump-and-dump, wash trading
- **Tax Evasion:** Unreported capital gains
- **Systemic Risk:** Contagion to traditional finance

**Core Tension:** Innovation vs consumer protection vs financial stability

## Industry Arguments

- **Legitimacy:** Legal certainty attracts institutional capital
- **Innovation:** Clear rules enable compliant products
- **Consumer Trust:** Regulated exchanges reduce fraud
- **Financial Inclusion:** Regulated stablecoins for payments

# Global Regulatory Spectrum



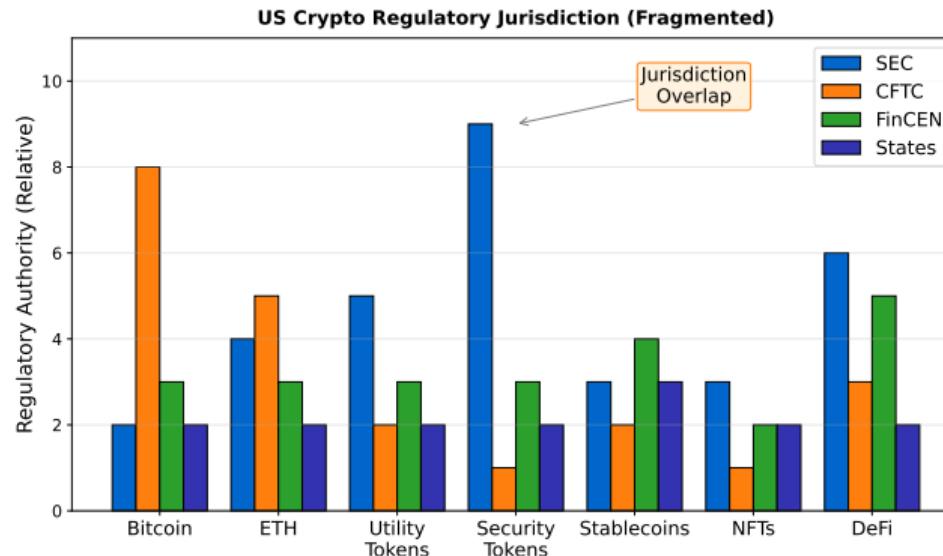
*Most jurisdictions moving from restrictive toward regulated permissiveness*

# The Regulatory Spectrum

| Hostile             | Restrictive              | Permissive                    |
|---------------------|--------------------------|-------------------------------|
| China (2021 ban)    | India (30% tax)          | Switzerland (clear framework) |
| Algeria, Bangladesh | South Korea (strict KYC) | Singapore (licensing)         |
| Nepal, Morocco      | Brazil (no DeFi clarity) | UAE (crypto-friendly zones)   |
|                     | Russia (payment ban)     | Portugal (tax-friendly)       |
|                     | Turkey (payment ban)     | El Salvador (legal tender)    |

**Trend:** Convergence toward licensing regimes with consumer protections

# United States: Fragmented Jurisdiction



*Multiple agencies with overlapping and unclear jurisdiction*

- **No Unified Framework:** Multiple agencies with overlapping jurisdiction
- **Key Regulators:**
  - SEC: Securities regulation (most tokens per Howey Test)
  - CFTC: Commodities (Bitcoin, ETH, derivatives)
  - FinCEN: AML/CTF enforcement
  - OCC: Banking charters for crypto custody
  - IRS: Tax treatment (crypto = property)
  - State regulators: Money transmitter licenses (NY BitLicense)
- **Result:** Regulation by enforcement, legal uncertainty

## SEC Position

- Most tokens are **securities**
- ICOs = unregistered offerings
- Exchanges must register

## Howey Test:

- ① Investment of money
- ② Common enterprise
- ③ Expectation of profits
- ④ From efforts of others

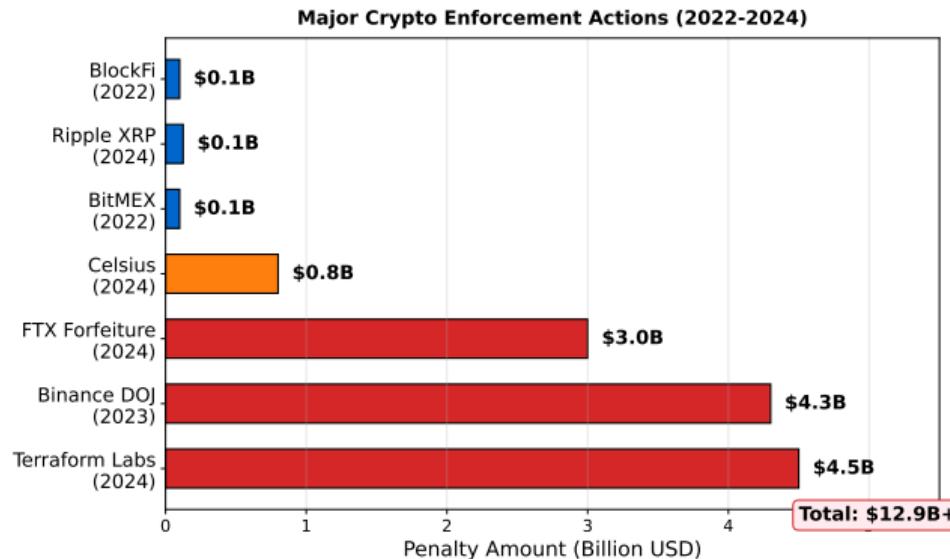
## CFTC Position

- BTC and ETH are **commodities**
- Jurisdiction over derivatives
- Lighter regulatory approach

## Congressional Debate:

- Multiple bills (FIT21, DCCPA)
- Goal: Clarify jurisdiction
- Status: Stalled until 2025

# Major Enforcement Actions

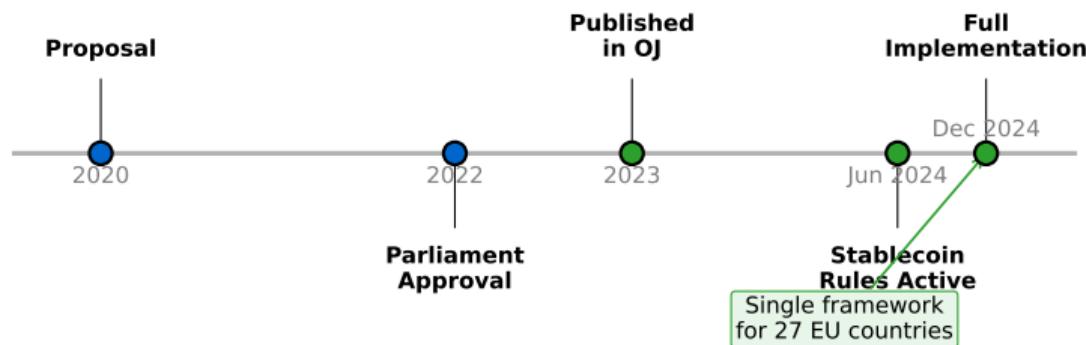


*Regulation by enforcement creates legal uncertainty for industry*

- **Ripple Labs (2020-2024)**: SEC sued for \$1.3B unregistered XRP sales
  - Result: Institutional sales = securities, retail sales = not securities
  - Final penalty: \$125M (reduced from \$2B SEC request)
- **Binance (2023)**: \$4.3B DOJ settlement, CZ resigned and served prison time
- **Terraform Labs (2024)**: \$4.5B penalty for UST/LUNA fraud
- **FTX (2022-2024)**: Criminal fraud charges, SBF convicted
- **Pattern**: Enforcement first, rulemaking later

- **MiCA (Markets in Crypto-Assets Regulation):** Comprehensive EU framework
- **Timeline:** Approved 2023, full implementation December 2024
- **Scope:**
  - Crypto-asset service providers (CASP)
  - Stablecoin issuers (EMT, ART)
  - NFTs excluded (unless fungible/fractionalized)
- **Key Requirements:**
  - Authorization and capital requirements for CASPs
  - Market abuse prohibitions
  - Consumer protection (disclosure, conflicts)
  - Stablecoin reserve requirements
- **Impact:** Single framework across 27 EU countries

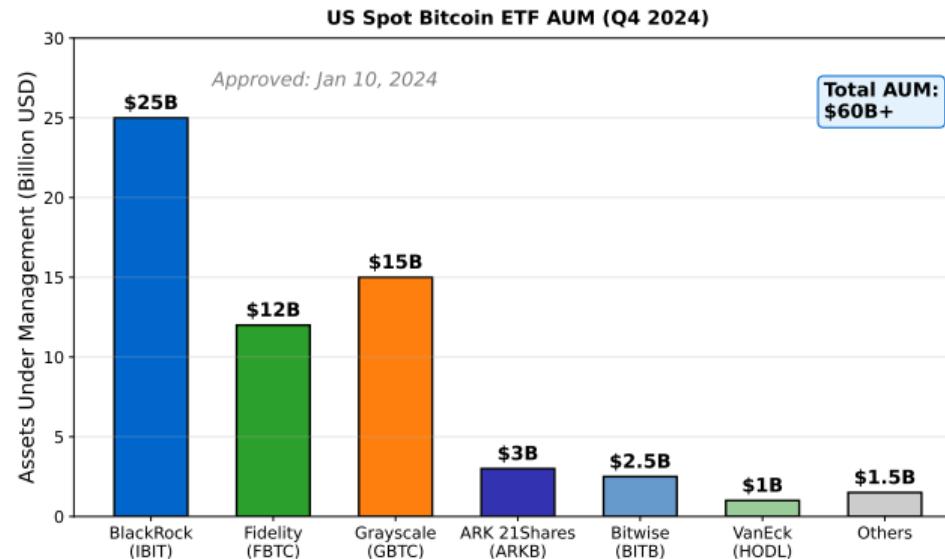
## EU MiCA Regulation Timeline



*First comprehensive crypto regulation covering entire trading bloc*

- **E-Money Tokens (EMTs):** Pegged to single fiat (USDC, USDT)
  - Issuers must be credit/e-money institutions
  - 1:1 reserve backing in segregated accounts
  - Redemption at par value anytime
- **Asset-Referenced Tokens (ARTs):** Basket or non-fiat pegged
  - Stricter capital and governance requirements
- **Significant Tokens:** Enhanced EBA oversight
- **Algorithmic Stablecoins:** Effectively banned (post-Terra)
- **Practical Impact:** Tether (USDT) compliance issues, Circle (USDC) compliant

# 2024 Milestone: Bitcoin ETF Approval



SEC approved 11 spot Bitcoin ETFs on January 10, 2024

- **January 10, 2024:** SEC approves 11 spot Bitcoin ETFs
  - First spot Bitcoin ETFs in US history (after decade of rejections)
  - Issuers: BlackRock (IBIT), Fidelity (FBTC), Grayscale (GBTC)
- **Impact:**
  - \$50B+ inflows in first year
  - Institutional access via traditional brokerage accounts
  - Bitcoin legitimized as investable asset class
  - BTC reached new ATH >\$100k (late 2024)
- **July 2024:** SEC approves spot Ethereum ETFs
- **Significance:** Major shift from SEC's hostile stance

- **Singapore (MAS):**
  - Payment Services Act licensing
  - Strict AML/CFT, retail protections
- **Hong Kong (SFC):**
  - Mandatory licensing (2023)
  - Positioning as Asian crypto hub post-China ban
- **Japan (FSA):**
  - Early framework (2017), strict custody standards
- **China:** Complete ban (2021) - transactions, mining, exchanges
  - Rationale: Capital controls, CBDC strategy
  - Result: Mining exodus to US, Kazakhstan, Russia

- **Crypto Valley (Zug):** Global blockchain hub
- **Legal Framework:**
  - DLT Act (2021): Tailored regulation for digital assets
  - Token classification: Payment, Utility, Asset tokens
  - Securities law applies to asset tokens only
- **FINMA Guidance:**
  - Clear licensing categories
  - AML/CFT compliance for exchanges
  - No blanket prohibition on specific activities
- **Advantages:** Regulatory clarity, innovation-friendly, strong rule of law

- **FATF Recommendation 16:** Apply to Virtual Asset Service Providers
- **Requirements:**
  - Collect/transmit customer info for transactions >\$1,000
  - Originator and beneficiary details
- **Implementation:**
  - Centralized exchanges: Implemented (Coinbase, Kraken)
  - Cross-border: Technical solutions (TRP, TRUST, Notabene)
  - Self-hosted wallets: Controversial (EU proposed restrictions)
- **Challenge:** DeFi has no intermediary to enforce rules
- **Tension:** KYC requirements conflict with crypto privacy ethos

- **Problem:** Traditional regulation assumes intermediaries
- **DeFi Reality:** Smart contracts, no central operator
- **Key Questions:**
  - Who is liable for smart contract exploits?
  - How to enforce AML without custodian?
  - Are DeFi protocols securities or commodities?
- **Enforcement Actions:**
  - Tornado Cash (2022): Treasury sanctioned mixer protocol
  - Uniswap Labs: SEC Wells Notice
  - Ooki DAO (2022): CFTC sued DAO as legal entity
- **Debate:** Code is speech vs code is conduct

- **2024 Election Impact:**

- Crypto PACs spent \$100M+ on elections
- Pro-crypto candidates elected to Congress

- **New Administration (2025):**

- Promise to make US "crypto capital of the world"
- SEC Chair Gensler resigned
- Strategic Bitcoin Reserve proposal discussed

- **Legislative Outlook:**

- FIT21 (Financial Innovation and Technology Act) revival
- Stablecoin legislation priority
- CFTC vs SEC jurisdiction clarity expected

- **Shift:** From enforcement to rulemaking approach

- **Trend 1: Convergence:** Countries adopting similar frameworks (MiCA template)
- **Trend 2: Stablecoin Focus:** Banking-like regulation for systemic stablecoins
- **Trend 3: DeFi Reckoning:** Regulatory clarity (or crackdown) coming
- **Trend 4: CBDC Competition:** Central banks competing with private stablecoins
- **Trend 5: Global Coordination:** FATF, FSB harmonizing standards
- **Trend 6: Licensing Regimes:** Most jurisdictions requiring VASP licenses
- **Uncertainty Remains:** Technology evolves faster than regulation

## Key Takeaways:

- **Global landscape:** Highly fragmented, evolving rapidly
- **US:** Fragmented (SEC vs CFTC), regulation by enforcement
- **EU:** Comprehensive MiCA framework, December 2024 full implementation
- **Asia:** Diverse (Singapore/HK permissive, China ban, Japan conservative)
- **Switzerland:** Clear framework, crypto-friendly (Crypto Valley)
- **Bitcoin ETF (Jan 2024):** Major legitimization milestone
- **Enforcement:** \$13B+ in penalties (2022-2024)
- **Trend:** Convergence toward licensing with consumer protections

## Questions for Reflection

- ① How does regulatory fragmentation affect crypto innovation in the US?
- ② Why did the EU choose comprehensive legislation (MiCA) vs enforcement?
- ③ What are the trade-offs of China's complete ban approach?
- ④ Should DeFi protocols be regulated like traditional financial services?
- ⑤ How significant is the Bitcoin ETF approval for mainstream adoption?