

Legal and regulatory challenges of Web3

June 13, 2023



Topics

- ▶ Regulatory headlines – misuse, action?
- ▶ What are we talking about?
- ▶ Regulatory needs
- ▶ Legal needs
- ▶ How the future could look like
- ▶ Personal remarks

Some Facts

Regulatory
headlines

Regulatory headlines

Regulators (central) to act

Newsroom

Press Releases

Speeches and Statements

SEC Stories

Securities Topics

Media Kit

Press Release

SEC Files 13 Charges Against Binance Entities and Founder Changpeng Zhao

Charges include operating unregistered exchanges, broker-dealers, and clearing agencies; misrepresenting trading controls and oversight on the Binance.US platform; and the unregistered offer and sale of securities.

Source: <https://www.sec.gov/news/press-release/2023-101>, visited June 11, 2023

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BREAKING

What Happened To FTX? The Crypto Exchange Fund's Collapse Explained.

Darreonna Davis Former Staff
Temporary, Explainers and Trends Reporter

Jun 2, 2023, 10:35am EDT

Updated Jun 5, 2023, 01:00pm EDT

Web3

Concept, explanations

Web3

🌐 26 languages ▾

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From Wikipedia, the free encyclopedia

This article is about the concept of a World Wide Web based on public blockchains. For the concept based around machine-readability, also called Web 3.0, see [Semantic Web](#).

Not to be confused with [Web3D](#).

Web3 (also known as **Web 3.0**^{[1][2][3]}) is an idea for a new iteration of the [World Wide Web](#) which incorporates concepts such as [decentralization](#), [blockchain technologies](#), and token-based economics.^[4] Some technologists and journalists have contrasted it with [Web 2.0](#), wherein they say data and content are centralized in a small group of companies sometimes referred to as "[Big Tech](#)".^[5] The term "Web3" was coined in 2014 by [Ethereum](#) co-founder [Gavin Wood](#), and the idea gained interest in 2021 from [cryptocurrency](#) enthusiasts, large technology companies, and [venture capital](#) firms.^{[5][6]} Though the concepts of Web3 were first represented in 2013.^{[7][8]}

Source: <https://en.wikipedia.org/wiki/Web3>, visited on June 11, 2023

Web3 – main points

Some characteristics

WEB3

New approaches for the World Wide Web

- ▶ Decentralization
- ▶ Blockchain Technology
- ▶ Token-based online economy
- ▶ Power of the blockchain (rules)?
- ▶ Controller vs. Controlled?

WEB2

Today's structure of the World Wide Web

- ▶ Centrally organized (ICANN)
- ▶ Web as a platform
- ▶ Data-driven
- ▶ Regulators
- ▶ Individuals & State

Web3 – Regulatory facts

- ▶ Centralized, fixed approach based on Constitution & laws
- ▶ Approved laws based on a legal procedure
- ▶ Defined responsibilities towards companies and individuals
- ▶ Enforceability
- ▶ Long procedures
- ▶ Missing flexibility
- ▶ Globalization vs. Regional organization

Web3 – Regulation

EU

- ▶ KYC & AML requirements
- ▶ MiCA regulation: Digital finance – Markets in Crypto-Assets of May 31, 2023¹
 - Regulation of crypto-assets with access to capital markets
 - Regulation of corresponding service providers
 - Transparency and protection for holders and clients of corresponding players and services providers
 - Liabilities of the parties involved
 - Link to further Financial Markets Regulation

¹ <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32023R1114>

Web3 – Regulation

EU – GDPR in a decentralized world

- ▶ Controller – Processer
- ▶ Liability
- ▶ Right to be forgotten
- ▶ Enforceability

Infographic - Data protection regulation



<https://www.consilium.europa.eu/en/infographics/data-protection-regulation-infographics/>

Web3 – eIDAS 2

EU – European Digital ID Wallet

- ▶ eIDAS 1 (harmonization for digital signature) – to be nationally introduced
- ▶ Recognition of a system EU-wide once accepted on a national level
- ▶ eIDAS 2: Digital Identity Wallet for each European Citizen till 2024



Source: <https://www.thalesgroup.com/en/markets/digital-identity-and-security/government/identity/eidas-regulations>

Web3 – Regulatory Challenges

Copyrights

- ▶ Parties
- ▶ Ownership of Data in a decentralized world
- ▶ Enforceability
- ▶ Regulation and infringements



Web3 – Regulatory Challenges

Switzerland

- ▶ Constitution
- ▶ Federal Act on Data Protection (FADP)
- ▶ Copyright Act (CoPA)
- ▶ Code of Obligation (CO)
- ▶ Code of Unfair Competition
- ▶ Etc.

Web3 – Regulatory Challenges

USA

- ▶ Different initiatives on state and federal level
- ▶ Regulatory actions of SEC and FTC
- ▶ Summarize of activities around Web3 presented at the hearing in May 2023 (Daniel Schönberger) ^{1/2}

¹ <https://financialservices.house.gov/calendar/eventsingle.aspx?EventID=408754>

² Testimony https://www.linkedin.com/posts/daniel-schoenberger-9107836_web3-foundation-written-testimony-may-10-activity-7061406403436892160-GBMh/?originalSubdomain=ch

Web3 – Legal Challenges

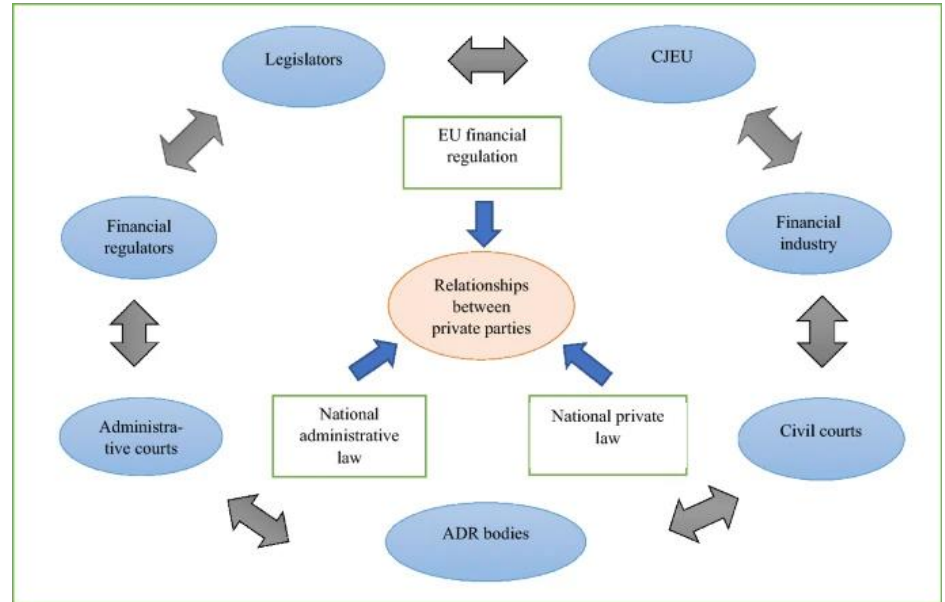
Dezentralization
& Rights &
obligations

Web3 – Legal Challenges

- ▶ Access as Key topic: Who has access to which decentralized net?
How?
- ▶ Applicability of rules – extra and intra chain?
- ▶ Local law yes – but which one?
- ▶ External influences
- ▶ Transparency & explainability

Web3 – Legal Challenges

- ▶ Parties
- ▶ Power of the Technology owner
- ▶ Accessibility - Terms
- ▶ Liability
- ▶ Applicable law
- ▶ Enforceability

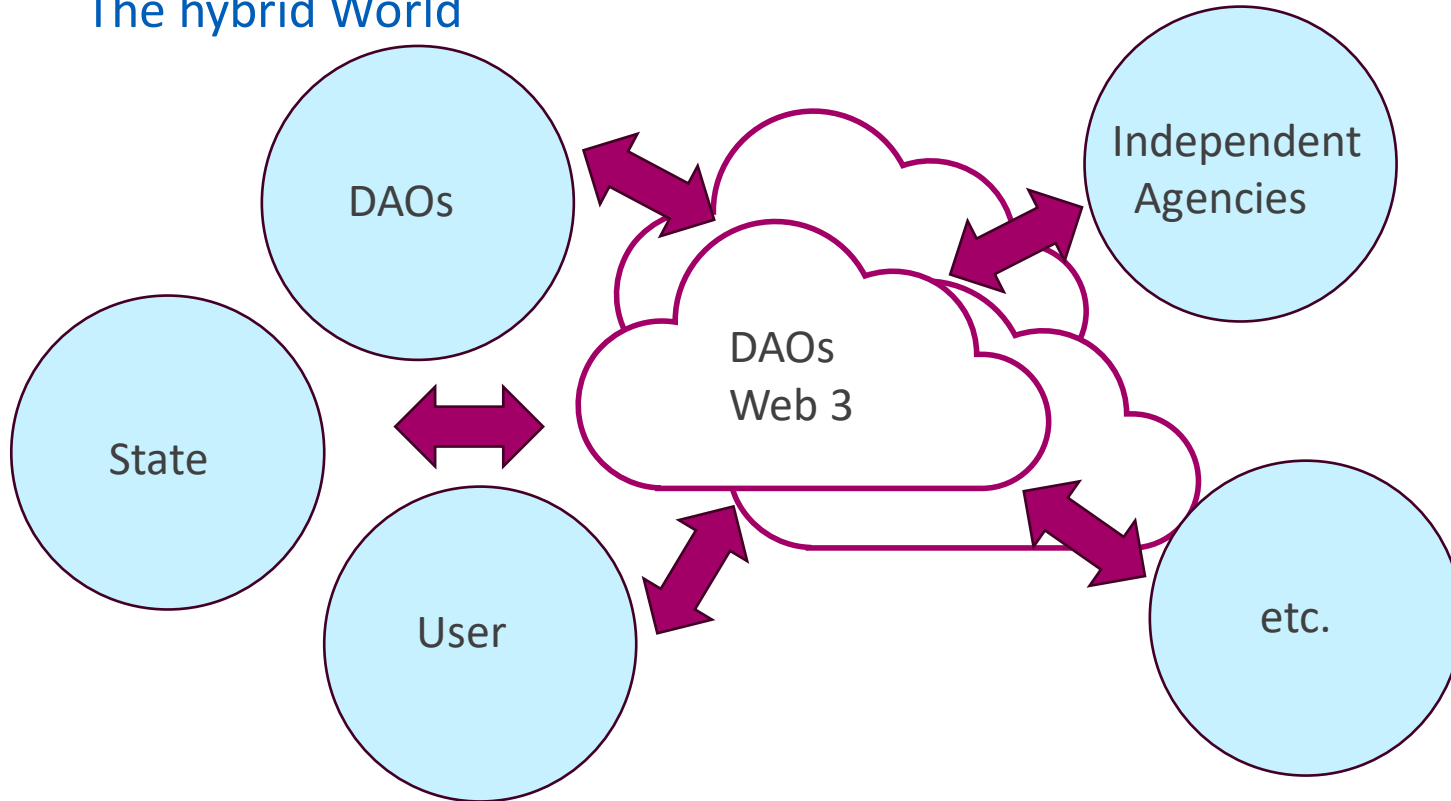


Web3 – Future Models

Regulation in a
decentralized
World

Web3 – Future regulatory approaches

The hybrid World



Latest developments

The future
means...

... Innovation & Regulation

- ▶ Self-Sovereignty vs. Data-driven society
- ▶ What does self-sovereignty mean?
- ▶ Democratic legitimacy
- ▶ Regulation yes – but how?
- ▶ Technology stake: dependency on technology leader – in any case?

Flexible Framework adaptable with rules of enforceability and compliance with national and international requirements

axians

Thank you

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ENERGIES 