

# **Crypto-Asset Regulation and Unfair Trading Practices: Comparative Studies and Proposals for Taiwan**

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## **Abstract**

As crypto-asset markets have developed, how to regulate unfair trading practices involving crypto-assets, such as crypto-asset fraud, market manipulation, insider trading, etc., has become a crucial regulatory topic. Unfair trading practice scandals involving crypto-assets, such as IBCoin's fraud in Taiwan, Tether's misrepresentation of its USDT reserve assets as found by the U.S. Commodity Futures Trading Commission ("CFTC"), Coinbase's wash sales found by the U.S. CFTC, and a Coinbase employee's insider trading found by the U.S. Securities and Exchange Commission ("SEC"), reveal the need to regulate unfair trading practices involving crypto-assets. That said, after examining Taiwan's existing crypto-asset regulations, which are based on security token regulations and anti-money-laundering laws, this paper highlights their inadequacy in disciplining unfair trading practices involving crypto-assets.

To address the above inadequacy, this paper first refers to the regulatory framework recommended by the International Organization of Securities Commissions ("IOSCO") for regulating unfair trading practices involving crypto-assets. It then reviews the enforcement actions adopted by the U.S. CFTC against unfair trading practices involving crypto-assets, including the Coinbase, Tether, and FTX cases. It further compares the special regulations adopted in the European Union ("EU"), South Korea, Japan, and Hong Kong governing unfair trading practices involving crypto-assets. Based on the above studies, this paper

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proposes that Taiwan include unfair trading practices regulations in the special law for crypto-assets contemplated by Taiwan's financial regulator, which should govern crypto-asset fraud, manipulation of the crypto-asset market, insider trading of crypto-assets, and unlawful disclosure of inside information related to crypto-assets. In formulating its proposal, this paper refers to comparative laws, including those in the EU, South Korea, Japan, and Hong Kong governing unfair trading practices involving crypto-assets, as well as Taiwan's existing unfair trading practices regulations under the Securities Exchange Act and the Futures Trading Act. It finally proposes specific legal texts for each unfair trading practice involving crypto-assets.

**Keywords: crypto-asset, commodities, spot trading, Futures Trading Act, unfair trading practices, fraud, fraudulence, market manipulation, insider trading**