Article Information

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Service: Blockchain, FinTech
Sector: Financial Services, IT & Telecommunications

Blockchain Bites:BTC Markets Electrifies Banking with Volt, AFR: Australian regulators yet to understand digital assets, SEC Targets Uniswap Labs

Michael Bacina and Luke Misthos of the Piper Alderman Blockchain Group bring you the latest legal, regulatory and project updates in Blockchain and Digital Law.

BTC Markets Electrifies Banking with Volt

The Australian Financial Review has reported (paywall) that one of Australia's oldest digital currency exchanges, BTC Markets, has partnered with neobank Volt Bank, to offer banking services to crypto investors.

Debanking of digital currency exchanges has been a sufficiently serious problem to gain the attention of the ongoing Senate Inquiry into Australia as a Technology and Financial Centre, Chaired by Senator Bragg. The link up with Volt is quite interesting given it implies that BTC Market's days of being debanked are over.

Steve Weston, CEO of Volt Bank, said:

> The crypto community hasn't been happy with the games being played by banks and making life more difficult

Caroline Bowler, CEO of BTC Markets, politely said:

> Our experience probably mirrors a lot that's already in the public domain about dealing with financial institutions in Australia… [w]e've certainly had a lot of changing relationships with financial institutions

The deal reportedly took 18 months to reach a point where APRA, the Australian Prudential Regulation Authority which has responsibility for regulating banks, was satisfied with arrangements.

The blockchain and crypto community will be marking this announcement and the arrival of the intersection of traditional banking and digital assets, with great interest, as fiat currency on and off ramps have long been considered one of the limiting factors for more entrants into the digital asset ecosystem. Traditional banks will now face pressure to reconsider their position towards digital currency exchanges from a new angle, competition and ultimately their own investors wondering why these banks aren't seeking to play a part in the rapidly growing blockchain space.

AFR: Australian regulators yet to understand digital assets

The Australian Financial Review (**AFR**) has reported shortcomings in the understanding of digital assets in Australia by regulators, specifically the Australians Securities and Investment Commission (**ASIC)**.

A range of inconsistencies in the digital asset space was highlighted in a recent Chanticeer column, including ASIC taking near no steps to stop scammers using social media platforms to lure Australia into scams using famous individuals images and claims of returns from financial product trading platforms, and the Australian Stock Exchange not permitting Bitcoin exchange-traded products while Afterpay's new possible owner Square Inc, which made the majority of its profit in the first six months of this year from Bitcoin, prepares to list.

Despite many international jurisdictions, like Canada and Europe, allowing exchange traded products which treat digital currencies like property or commodities, the AFR accuses Australian regulators of awaiting guidance from the United States, who have had their own tumultuous year with digital regulation.

One unnamed ASIC official was called out for not understanding how Bitcoin works in a recent online meeting, suggesting that because of the way Bitcoin's code *could* change, it should be considered a "standalone asset". This repeats ASIC's suggestions in CP343, a consultation which sets out ASIC's view that crypto-assets can't fit within existing asset classes because there is no certainty of pricing, like indexes (except that S&P offers indexes), because there is challenging to custody of such assets (except there are regulated custody providers already in the space), and the last argument which seems to be remaining, that the code could possibly change.

By virtue of the publicly available source code and long published documentation, it is well known the only way to change the code of the Bitcoin protocol is to have control of over 50 per cent of miners running the network, a feat that would require control of more electricity than is needed to power Australia and would be immediately and easily apparent to all given the code of Bitcoin's protocol is open source and can be inspected at any time.

This notion, that a possible change in an assets use or "class" falls apart if the logic is applied to other common exchange traded products. Real-estate investment trusts and gold exchange traded products hold assets which can change in use or "class", for example if a property changes use or a gold bar is converted into a gold watch.

Regulators need a clear understanding of the things which they seek to regulate, lest a well intentioned desire to protect consumers simply stifle innovation and drive potential purchasers offshore where they will have even less protection from unscrupulous operators.

While the digital asset space continues to grow, it is paramount Australian regulators properly understanding its nature in order to benefit and support the digital economy. Hopefully, the ongoing Bragg Inquiry recommends all Australian regulators receive specific funding to help boost their knowledge understanding of this growing technology so they can better apply their regulatory tookit to the real opportunities and risks in the space.

SEC Targets Uniswap Labs

The United States' Securities and Exchange Commission (**SEC**) has launched an investigation into Uniswap Labs, the company behind the interface to the biggest decentralised finance (**DeFi**) exchange, Uniswap.

The investigation comes amid growing popularity of DeFi and increasing confidence in blockchain technology, peer-to-peer transactions and cryptocurrency trading. Despite the de-centralised nature of the technology, the SEC still insists on attempting to regulate it, a task they have been gearing towards since 2018.

For clarity, Uniswap Labs only provides a web-based interface to the Uniswap Protocol, and is not the protocol itself. The Uniswap Protocol is made up of smart contracts running on public blockchain infrastructure and which is not under the control of any one party. Anyone, with sufficient technical skill, can interface with the protocol directly without needing to use Uniswap Lab's web interface.

The investigation into Uniswap Labs centers on how the interface offered (and potentially the protocol itself) is used and how it is marketed. The probe comes as no surprise considering SEC chairman Gary Gensler has openly criticised DeFi and cryptocurrency networks, expressing a view that most consumers are not educated enough to judge the risks of crypto themselves.

Uniswap, like many decentralised exchanges, focuses on freedom of design. The protocol allows users to interact with "liquidity pools" to trade tokens with all the trades taking place by automated market-makers, and not counterparties. Other DeFi projects are building out fully automated smart contracts providing other services which closely resemble financial products, such as loans, crypto insurance, perpetual swaps and derivatives through decentralised means.

In July, Uniswap Labs restricted access to certain tokens, such as tokenised stocks and stablecoins, on the Uniswap interface they operate following SEC comments concerning digital assets potentially being securities. It remains to be seen how Uniswap will respond to this most recent SEC action. Uniswap's founder Hayden Adams, has been called one of the "top people in crypto" for his work on Uniswap.

Some suggest that strict and sweeping regulation of the digital market will encounter considerable push-back. Negative comments by the SEC chairman coupled with investigations like this risk regulators being seen to be aggressively supressing innovation around. We suggest considered and measured regulation is required to balance the unique innovation of digital assets with consumer protection.