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Blockchain Bites: Singapore to curb crypto speculation, State Street on the road to tokenisation, Tether loan to Celsius could be tested, ASX completes blockchain settlement pilot, NFTs shareable on Facebook and Instagram

Michael Bacina, Steven Pettigrove, Jade McGlynn, Luke Misthos, Jordan Markezic and Lola Hickey of the Piper Alderman Blockchain Group bring you the latest legal, regulatory and project updates in Blockchain and Digital Law.

"Learning by doing": Singapore to curb crypto speculation

In a wide-ranging speech on Monday, the Managing Director of the Monetary Authority of Singapore (**MAS**), Ravi Menon, reiterated MAS' intention to develop a thriving digital asset ecosystem in Singapore while taking steps to curb cryptocurrency speculation. The speech touched on a number of important topics including use cases for distributed ledger technology (**DLT**), cryptocurrency speculation, stablecoins, CBDCs, and market manipulation in cryptocurrency markets.

For several years, Singapore has been near the forefront in adopting digital assets, introducing a licensing regime for digital payment token services and encouraging a range of digital asset projects, including custodial services and CBDC initiatives. However, more recently, there has also been significant industry concern about mixed signals from the MAS about digital assets.

Mr Menon noted these concerns in his speech and stated that Singapore's focus on innovation and regulation should not be viewed as contradictory. He stated:

Our vision is to build an innovative and responsible digital asset ecosystem in Singapore.

Mr Menon identified a four-pronged approach to achieving this vision:

1. exploring the potential of DLT in promising use cases;
2. supporting the tokenisation of financial and real economy assets;
3. enabling digital currency connectivity; and
4. anchor players with strong value propositions and risk management.

Menon also reiterated the MAS' recent tough line on cryptocurrency speculation:

> *cryptocurrencies have taken on a life of their own outside of the distributed ledger – and this is the source of the crypto world's problems…This speculation in cryptocurrencies is what MAS strongly discourages and seeks to restrict.*

Menon confirmed that the MAS is considering additional measures to curb speculation in cryptocurrency markets including:

1. adding friction on retail access to cryptocurrencies;

2. customer suitability tests;
3. restricting the use of leverage and credit facilities for cryptocurrency trading;
4. regulation of market manipulation in cryptocurrency markets.

Menon added that there is no use banning retail access to cryptocurrencies due to the borderless environment in which they exist but imposing restrictions is more appropriate, similar to how Canadian crypto exchanges Bitbuy and Newton imposed limitations on the annual purchases of their customer's crypto.

He went on to indicate the MAS' support for projects involving:

1. the tokenisation of financial and real economy assets;
2. the use of stablecoins that are securely backed by high quality reserves and well regulated;
3. wholesale CBDCs, especially for cross-border payment and settlements.

Interestingly, Mr Menon stated that MAS does not see a compelling case for a retail CBDC in Singapore, but is nevertheless building the technology infrastructure that would permit the issuance of a retail CBDC should conditions change.

Menon's speech gave a candid insight into the MAS' thinking on digital assets and future plans to promote and regulate digital assets and cryptocurrencies. We expect his comments will be weighed with interest far beyond Singapore as policymakers and regulators continue to grapple with a wide range of policy challenges in relation to digital assets.

State Street on the road to tokenisation

State Street, one of the world's largest asset management and custody firms, has announced plans to work towards tokenising funds and private assets using distributed ledger technology (**DLT**). The strategic move follows its digital arm's initiative to offer institutional clients custodial services for digital assets by the end of this year.

State Street's intention in tokenising private assets is to improve efficiency for both the fund issuer and end investor, accessibility in the secondary market and liquidity in those assets. State Street's vice president of digital product development and innovation, Nicole Olson, said that:

> *'[Tokenization] is exciting for me because there's a significant opportunity there for State Street to play and for State Street clients…it's broadly adding digital tech to those more traditional assets and bringing them into the future.'*

Olsen also praised the benefits of asset tokenisation:

> *'Tokenization holds the promise of greater liquidity, more transparency and faster transactions. If its potential can be exploited fully, the world of assets will be more accessible than ever.'*

In 2021, State Street partnered with Lukka, a cryptoasset data and software provider, to offer its private clients digital and cryptocurrency fund management services. State Street Digital has partnered with Cooper.co on its digital custody offering for institutions. State Street is also working on incorporating smart contracts and DLT technology to automate the process of trade collateralisation.

State Street's announcement is the latest in a string of announcements by leading financial institutions, such as Blackrock, Barclays, Santander, and ANZ, that are looking to leverage the benefits of DLT and tokenisation and increase their crypto-related offerings to clients. Despite large sell-offs in cryptocurrency markets since November 2021, institutional investment and interest in digital assets has continued to grow unabated.

Tether loan to Celsius could be tested by crypto creditors

The application of insolvency principles to digital assets has come under speculation after stablecoin issuer Tether recovered a USD$840 million loan from Celsius Networks, which is currently under Chapter 11 Bankruptcy protection in the US.

Tether, the company behind the widely used USDT stablecoin, recovered the amount before Celsius filed for bankruptcy last month. This was done by selling a vast amount of bitcoin that Celsius Network had provided to Tether as collateral for a loan agreement.

As Bitcoin prices fell, Celsius was apparently unable to post more collateral to continue the loan agreement resulting in Tether selling the Bitcoin to cover the loan, which led to further losses for Celsius.

We will now see whether the Tether loan transaction will be attacked and if Celsius can recover some of the USD$840 million which would then become available to pay other creditors, many of whom have suffered losses as a result of Celsius' bankruptcy. A key issue, should an action arise, could be whether Tether has "perfected" its security over the Bitcoin which was sold.

In Australia, a security interest is an interest in property granted to a person as security for a debt or another obligation and a "perfected" security interest has priority over "unperfected" interests, meaning parties with perfected interests will have priority over assets. Should Tether be able to demonstrate it has perfected it's security then it may not have to refund the security taken.

To perfect a security interest in Australia, a secured party must:

1. Attach the security interest to collateral property – for example by a lender advancing a loan amount to a borrower under loan terms, establishing a security interest in the collateral, say Bitcoin;
2. Entering into an agreement documenting the granting of the security – such as a properly documented loan agreement; and
3. Register the security interest on the Personal Properties Securities Register (**PPSR**) to perfect the interest.

Any action seeking to recover money from Tether raises important and interesting questions of law over when and how security interests over crypto-assets can be perfected and if that follows the same path as traditional security interests.

Any lawsuit will be closely watched by crypto lenders around the world and may lead to changes in their processes. How it would play into self executing smart contract lending Dapps is also an interesting question. In Australia at least a self-executing smart contract couldn't perfect a security interest as it would be unable to register a security interest on the PPSR.

Practical matters around the identification of parties to such arrangements may pose an initial hurdle, but tracing of crypto transactions is only becoming more widespread and easier.

ASX completes test pilot of blockchain settlement

The Australian Securities Exchange (**ASX**) recently won their first victory in their blockchain settlement scheme, effecting a test-pilot with Zerocap – a Melbourne-based digital custody provider – to store and trade digital assets on the exchange.

The new platform has been touted by ASX as the replacement to the CHESS platform – the core system that performs the processes of clearing, settlement, asset registration, as well as other post trade services which are critical to the orderly functioning of the market. The replacement platform has been delayed five times since it was announced in the Summer of 2015.

Earlier in August, ASX chief executive Helen Lofthouse confirmed the exchange did not expect the platform to be live before well into 2024. Paul Stonham – DLT Solutions general manager – said:

> *This in particular is a new business line for the ASX because it's not an insignificant cost to spin up your own blockchain*

Last November, the ASX launched its Distributed Ledger Technology as a service platform called Synfini, and put the call out to the private sector to take the initiative with pilots.

The Reserve Bank of Australia (RBA) has also announced their work with the Digital Finance Cooperative Research Centre to establish use cases for a central bank digital currency which is expected to include smart contract functionality, faster transaction settlement tests, more transparently and potentially efficiency improvements involving supply chains.

These new developments are significant for the ASX as they signal new industry opportunities, and particularly with the CHESS replacement being a substantial replacement of legacy exchange technology.

NFTs now shareable on Facebook and Instagram says owner Meta

Following on from Meta's announcement that users of Instagram can now display and share their NFTs on their newsfeed, the American conglomerate has now expanded the new functionality to Facebook.

Thanks to this update showing off a digital collectible is now a matter of connecting their digital wallets and clicking share for NFT holders.

Meta said in a recent blog post:

> *As we continue rolling out digital collectibles on Facebook and Instagram, we've started giving people the ability to post digital collectibles that they own across both Facebook and Instagram. This will enable people to connect their digital wallets once to either app in order to share their digital collectibles across both.*

With both social media services clocking billions of users each (Facebook presently at 2.9 billion monthly users and Instagram estimated to have over 2 billion monthly users) this development is bound to increase public awareness of this one-of-kind digital asset.

Not everyone is excited by this announcement, with some blockchain enthusiasts voicing concerns on the loss of privacy that will take place if a NFT holder dares to share their digital collectibles online.

One blockchain professional tweeted:

> *While I'm sure there's some utility in allowing people to 'share' (read: flex) their NFTs on social media platforms, the underlying requirement is to connect whichever wallet holds your NFTs. At which point you are now pairing your public social media profile with your pseudonymous Web3 profile… And now Meta (and any organisation it shares data with: private or public sector) has the ability to track any activities performed with that wallet from public ledger data.*

For those NFT enthusiasts who would prefer to have their cake and eat it too i.e. to maintain their privacy but also show off NFTs on FB and or Instagram, perhaps a solution may be a matter of setting up a separate and dedicated wallet for this special purpose.

The further integration of NFTs into social media may annoy some in Web3, but it could also be a valuable bridge between Web2 to Web3, and maybe show Meta/Facebook a way forward and to evolve their business model in the face of falling user numbers.