## Article Information

Authors: Steven Pettigrove, Jake Huang, Lola Hickey, Luke Misthos, Michael Bacina
Service: Blockchain
Sector: IT & Telecommunications

---

# Blockchain Bites: First Australian crypto-exchange rescue, Siemens issues bond on blockchain, Paxos forced to park BUSD stablecoin, Rihanna NFT gives out royalties

***Michael Bacina, Steven Pettigrove, Jake Huang, Luke Misthos and Lola Hickey of the Piper Alderman Blockchain Group bring you the latest legal, regulatory and project updates in Blockchain and Digital Law.***

---

**First Australian crypto-exchange rescue starts Digital Surge ready to surge back to life**

There has been considerable fall-out and financial suffering from the FTX collapse throughout the crypto community, and in December 2022, Digital Surge, a Queensland based Australian digital currency exchange entered voluntary administration, with AUD$32M of crypto trapped on FTX.

While 76% of companies which enter administration go on to enter liquidation, often leaving little recovery for their customers, the directors of Digital Surge, Josh Lehman and Dan Rutter, refused to let that happen. They stepped up and backed the business, putting forward a rescue proposal with AUD$1.3M of their own money to support the rescue. Under the plan, customers with balances of AUD$250 or below will be paid back in full, and other customers will receive a rebalance of approximately 45% of the value of their crypto accounts when trading resumes. The remaining 55% will be paid from any profits of Digital Surge over the next 5 years, with an interface showing customers how much has been paid to date as distributions are made.

In January 2023, creditors of Digital Surge overwhelmingly voted to support the rescue plan, which could see customers made whole from profits of Digital Surge. Such a restructuring rescue is rare generally and has never been seen in Australia for a crypto-exchange before.

KordaMentha were appointed Administrators and will now be Trustees of a Creditors' Trust charged with overseeing the company for the next five years. Administrator David Johnstone said:

> *This is a great result for all stakeholders and provides the best possible return to customers and creditors given the circumstances*

KM's Digital Assets team, led by Paul Hewson, supported by the author, worked closely with the directors through the restructure, which faced unique challenges arising from the nature of digital assets. Zerocap provided insured safe custody for crypto assets during the administration and the directors have worked around the clock to get the business positioned to recommence trading early next week.

The dedication of the directors of Digital Surge combined with the collaborative spirit of the blockchain community seen through customers voting the deal through overwhelmingly, is a rare point of good news for digital currency exchanges.

**Siemens issues €60m digital bond on blockchain**

Siemens, the German engineering and technology giant, has become the first company to successfully issue bonds on a public blockchain under Germany's Electronic Securities Act 2021.

The offering raised €60 million on the Polygon blockchain. By using a public blockchain, Siemens was able to sell the bonds directly to investors without using a bank to function as an intermediary in issuing the bonds. The offering also makes paper-based global certificates and central clearing unnecessary. Investors in the bonds included ekaBank, DZ Bank, and Union Investment.

Peter Rathgeb, Corporate Treasurer at Siemens hailed the bond issuance as a huge success for the company and an important milestone in the development of digital securities in Germany:

> *By moving away from paper and toward public blockchains for issuing securities, we can execute transactions significantly faster and more efficiently than when issuing bonds in the past.*

According to Siemens, investors paid for the bonds using the traditional banking system as the digital euro is not yet available. The transaction was able to be completed within two days. Direct payment on chain using digital currency or CBDCs offers the promise of further efficiency in the future.

It has been possible to issue blockchain-based digital bonds in Germany since the Electronic Securities Act came into effect in June 2021. A number of German companies have taken up this opportunity, but Siemens is reportedly the first to do so using a public blockchain.

This is not Siemens' first foray into blockchain technology. The firm has reportedly experimented with blockchain technology for energy trading and car sharing.

Given the advantages of blockchain based offerings, Siemen's successful bond issuance is likely to pave the way for other companies to issue securities on public blockchains within existing regulatory frameworks.

**Please don't stop the music: Rihanna NFT holders to receive royalties**

Rihanna's hit song "B**** Better Have My Money,", released in 2015, has sold after being offered as a non-fungible token (**NFT**) by Deputy, one of the co-producers of the song. Deputy, who collaborated with Rihanna, Kanye West, and Travis Scott to produce the hit song, has partnered with AnotherBlock, a Web 3 startup focused on boosting investment in the music streaming industry.

The collection comprises 300 fractionalized NFTs and confers upon holders a share of the streaming royalties for the three-time Platinum-certified song estimated at 6.5% for the first year (based on the selling price of USD$210, but now the NFTs are selling for USD$1400).

To date, most NFTs have been represented as digital art that occasionally grant holders exclusive benefits and opportunities, such as access to the Yacht Club for holders of Bored Ape Yacht Club NFTs, or free entry to the Australian Open Precinct, but NFTs like this show the power of connecting digital assets to a real-world product, eliminating the need for cumbersome paperwork and expensive intermediaries. To ensure the provision of royalties, multiple agreements usually need to be drafted, and the music industry contains various types of royalties with complex structures.

For instance, performance royalties differ from streaming royalties and mechanical royalties, each requiring a distinct agreement. Mechanical royalties are the much rarer form of royalty which only accrue when physical copies, are purchased.

These agreements can include songwriter agreements, record contracts, streaming agreements, and sync licensing agreements, each containing specific clauses determining the distribution of royalties among entitled parties.

This project cuts through the vast complexities which linger over traditional contracts and allows for a quick and efficient public record of who is receiving what royalty as well as an opportunity for fans and investors.

NFTs have experienced a roller coaster of success in recent years, with some projects reaching unprecedented heights while others experiencing significant value losses. Nonetheless, projects like this one are showcasing the full range of possibilities and potential of NFTs to consumers. This offering not only includes royalty payments but promises a 'gated community' of other 'music owners' which superfans of Rihanna are sure to value.

The ability for entities to create an NFT representing any piece of art, such as a song or movie, fractionalising the NFT and distribute to consumers for real-world rewards such as royalties explores an entirely new opportunity for consumers, artists and the financial services sector and these tangible connections are likely to grow in the future.

**Paxos forced to park BUSD stablecoin**

The US Securities and Exchange Commission has advised Paxos Trust Company, the firm behind Binance's stablecoin, that they are considering taking an action against the company, which the SEC alleges should have registered BUSD as a security. The allegation has been rejected by Paxos, who says BUSD is not a security and they are:

> *prepared to vigorously litigate if necessary.*

Stablecoins are digital tokens that are often backed by traditional assets which are intended to hold a steady value. There is also a flavour of stablecoins known as "unbacked" or "algorithmic" stablecoins which are not backed, but BUSD is said to always have been 1:1 backed.

The Chair of the SEC, Gary Gensler appears to take the view that nearly any crypto asset is a security but there has been very few defended actions, with most issuers paying fines on a 'without admissions' basis and changing the nature of their offerings. It is curious that the SEC has only attacked BUSD, when Paxos also issues other stablecoins, which have nothing to do with Binance, and it comes a month after a report claimed that Binance had been inflating the number of BUSD which were issued on the Binance platform, potentially rendering the BUSD unbacked to some degree (if this is true).

The announcement of the action, published via a consumer alert, was made right after the New York Department of Financial Services (**NYDFS**) ordered Paxos to stop minting Binance USD. A NYDFS spokesperson, said that:

> *Paxos violated its obligations for tailored, periodic risk assessments and due diligence checks on Binance and Binance USD customers needed to stop bad actors from using the platform.*

Paxos has advised customers that it would no long issue Binance USD from 21 February 2023, which is backed by traditional cash and US Treasury bills, but would still support and redeem the tokens until at least February 2024. The company said that:

> *Paxos has always prioritized the safety of its customers' assets*

This move, according to Ivan Kachkosvi, FX and crypto strategist at UBS, represents:

> *a big setback for Bianance…[and that]… it remains to be seen whether (and when) Binance will be able to find a U.S.-based partner for its stablecoin. The latter appears crucial in the wake of U.S. regulation on stablecoins that is coming sooner rather than later*

The question of when the US will adopt crypto-asset regulations and what form they will take remains up in the air. If Paxos defend a lawsuit, it is not clear what the SEC's arguments will be or whether they will have success, but what is certain is that it will place stablecoins under a shadow for several years. As always, regulation-by-enforcement is a poor strategy for policymakers to use when industry engagement and tailoring regulation is available.