

## Article Information

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## **Blockchain Bites: 29% UK Fund Managers to tokenize in the next 1-5 years, National Anti-Scam Centre efforts start to show results, Aragon DAO fuels legal battle over token distribution, OFAC: Sinbad mixer is bad and a sin, Santander welcomes clients into the crypto fold**

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

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### **UK Fund Managers to tokenize in the next 1-5 years**

A [report](#) from the UK Investment Association has found that UK fund managers are embracing and planning for fund tokenisation with 29% of fund managers expecting to tokenize their funds within the next 1-5 years and half of fund managers expecting tokenisation within the next 10 years.

A tokenised fund is:

Sometimes also known as 'digital funds', these funds issue tokenised shares or units to represent the investor's interest in them and are generally traded and recorded on a distributed ledger rather than a traditional system of records.

The report highlights there are a number of moving parts to tokenising funds in the UK, which are applicable in Australia including:

- Regulatory certainty for funds managers;
- How AML/CTF compliance will operate in a tokenised fund world;
- The availability of a central bank or commercial bank digital currency or stablecoin to facilitate settlement;
- How funds can hold tokenized versions of real world assets;
- How exiting custody and securities depository services need to change to accommodate tokenisation;
- Digital identity and how that can integrate with tokenised funds;
- The availability of banking services to businesses involved in tokenisation.

Europe has been piloting different models of tokenised funds with the German [Sustainable Growth fund](#) using a public chain and allow-list for holders, a [Luxemberg money market fund](#) using a distributed ledger for their register.

The Financial Conduct Authority indicated in a letter agreement to a 'baseline' first stage with:

replacing an authorised fund's traditional register of unitholders with tokens on a private permissioned (not publicly accessible) blockchain for which the authorised fund manager takes responsibility.

[With] the existing roles of the parties ... unchanged.

Settlement ... carried out in the usual way 'off chain', with no use of any form of digital money.

The fund would be comprised of traditional assets.

The fund would continue to provide a valuation point daily or on another timescale consistent with existing regulation and market practice.

This first stage and supportive approach of the regulator is sure to encourage the growth of blockchain based funds in the UK. In Australia the Assistant Governor of the Reserve Bank of Australia recently [said](#):

It is a perennial regulatory challenge to ensure innovation can flourish in a way that is consistent with financial stability and consumer protection. Some innovations in tokenised finance have occurred in a grey zone, on the edge of the regulatory perimeter. A common theme globally is uncertainty around governance and risk management responsibilities – if a smart contract on a programmable ledger goes awry, cross-border and anti-money laundering responsibilities do not disappear, but who is accountable? Only a small number of jurisdictions have established new regulatory frameworks supporting tokenised asset markets, while others have observed that innovations in tokenised finance should operate within existing regulatory frameworks.

With potential transaction savings of \$1B – \$13B a year identified by the Assistant Governor, tokenisation of funds and other assets is sure to be an ongoing area of interest to the Australian government.

*By Michael Bacina*

### National Anti-Scam Centre efforts start to show results

Anti-Scam Week in Australia has seen the first concrete results in efforts to reduce scams, with the Assistant Treasurer [announcing](#) the National Anti-Scam Centre's [Quarterly Update](#):

While scam losses are still significant, the report shows a 16% decrease in losses compared to the same quarter last year. It also reveals that losses from investment scams have declined by 6%, and romance scam losses have declined by 28%.

This is a promising turn, however, for the period January to September, total losses reported to Scam Watch are up 9% on the same period last year, dominated heavily by investment scams. This has occurred despite banks [restricting deposits to crypto exchanges](#), highlighting that scammers will take advantage of whatever payment options they have to move funds from their victims.

### Scam losses

January to September 2023

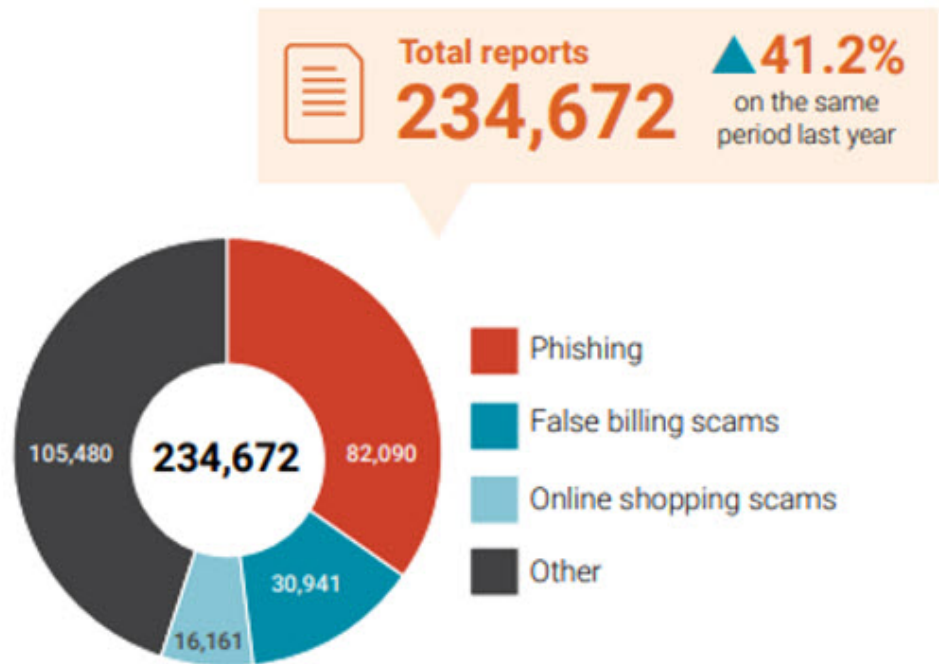


Scam reports are up 41.2% on the same period last year, and given that losses have not increased more this might indicate

that the government's efforts at better education and making reporting easier has helped scams to be reported earlier and before victims suffer greater losses.

## Scam reports

January to September 2023



The impact of moves by [ASIC, who reported](#) that in just 5 months the regulator had taken down 2,100 scam websites and 400 more were in the process of being taken down, may only just be being felt, given scams can take months to be discovered. The kinds of websites targeted included fake investment, crypto-asset scams and imposter sites where scammers pretend to be financial services business.

Simon Callaghan, CEO of Blockchain Australia, which serves on the Advisory Committee of the National Anti-Scam Centre, said:

We all need to be vigilant against scams, and no part of the Australian Blockchain industry wants to see crypto or blockchain being used for illicit purposes.

This bold action, coupled with the targeted fusion cells and education being driven by the National Anti-Scam Centre is likely to have significant and ongoing impacts on the numbers of scams and we hope that the next report from the Anti-Scam Centre will show a continued trend downwards in the ongoing battle against scams.

*By Michael Bacina (Mr Bacina serves as Chair of Blockchain Australia)*

## Aragon DAO fuels legal battle over token distribution

In a recent development, the Aragon DAO, a prominent industry decentralised autonomous organisation, is embroiled in a legal dispute with its own founding team. The Aragon Association's [decision to dissolve its governing body](#) and distribute substantial assets to tokenholders without consulting the DAO has ignited tensions within its community.

On 2 November, the Aragon Association made a bold announcement, revealing its plan to dissolve the governing body and utilize the organisation's treasury to allow ANT tokenholders (ANT being the governance token of the Aragon DAO) to redeem their ANT tokens for ETH. This strategic move was set to return approximately USD\$155 million in digital assets to the stakeholders.

However, the decision to shut down the ANT token and dissolve the governing body without prior consultation with the DAO has sparked discontent within the community. This dissent came to a head on 21 November [when the DAO passed a vote](#) to allocate 300,000 USDC of the treasury's funds to Patagon Management, a Delaware-based company owned by Diogenes Casares, tasking them with leading negotiations and a lawsuit against the Aragon Association team.

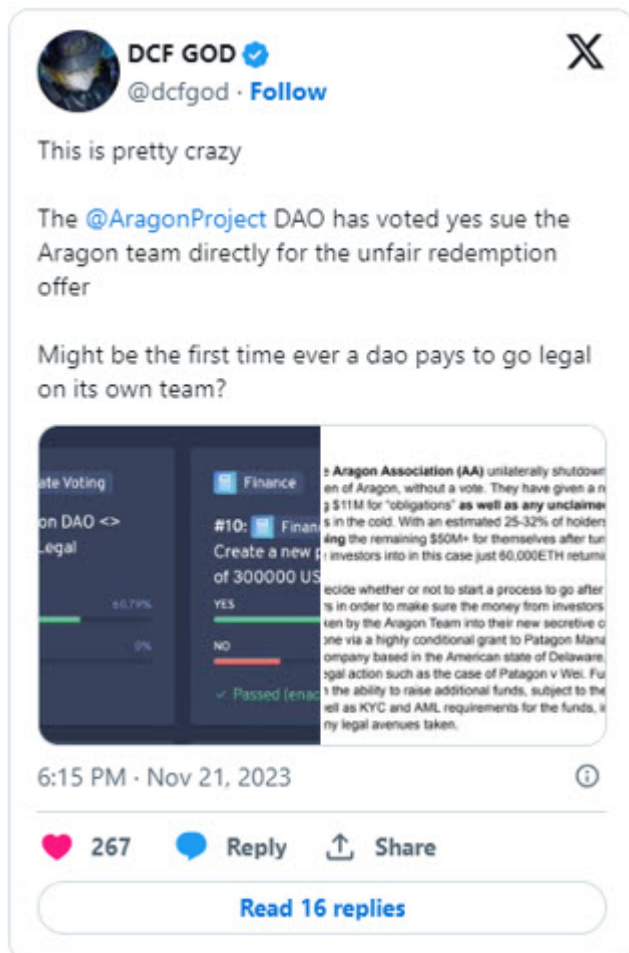
Casares, [in a statement to Cointelegraph](#), expressed concern over the perceived injustice, claiming that the Aragon Association is set to receive an overwhelming 70% of the entire treasury, along with an additional USD\$20 million already set aside. According to Casares, this distribution model would leave investors with a mere USD\$50 million, a fraction of the total assets. He emphasised the absurdity of the situation, citing the team's accelerated vesting of Aragon tokens (ANT), which he believes should have been owned by the DAO, further diluting investors' stakes:

We believe this will be an example case that such blatantly malicious activity is illegal and we are looking forward to proving this in court

Casares sees this legal battle as an opportunity to set a precedent against what he deems as nefarious activity, emphasising the need for accountability and transparency within blockchain governance.

The approved proposal grants Patagon Management the authority to maintain confidentiality during the legal process and make strategic decisions. However, it also mandates transparency in financial transactions related to the case, with all reports made public. Additionally, to prevent any conflicts of interest, Patagon Management will store the funds [in a separate wallet address](#) and a bank account isolated from the company's regular business accounts.

This development is sure to set a precedent in DAO governance, perhaps being one of the first instances that DAO members have collectively voted to pursue a legal action against the founders of the platform. Any decision of a court may also provide much sought after clarity regarding the legal personality of a DAO.



Despite the pending legal battle, the Aragon Association is continuing to make moves. On 30 November, a separate sub-team within the Aragon Association [announced the launch of "OSx"](#), its new DAO infrastructure, alongside the Aragon App on Arbitrum, which is a leading Ethereum Layer-2 network.

Nonetheless, as the legal drama unfolds, the clash highlights the complexities and challenges inherent in blockchain governance, while also underscoring the importance of establishing clear guidelines and ensuring transparency to maintain within a decentralised community.

## OFAC: Sinbad mixer is bad and a sin

Following the sanctioning of Tornado Cash earlier this year, the US Treasury Department has now banned all American citizens and entities from engaging with another piece of software, this time Sinbad.

Sinbad, like OFAC sanctioned [Tornado cash](#) and [Blender.io](#) before it, is a crypto mixer which provides privacy to users by masking and mixing the origin, destination and addresses of Bitcoin transactions, which are otherwise entirely traceable. Earlier this year CoinDesk reported that [Blender.io's](#) founders might be [behind](#) the launch of Sinbad.

OFAC's stated justification for the sanctioning of Sinbad is that it:

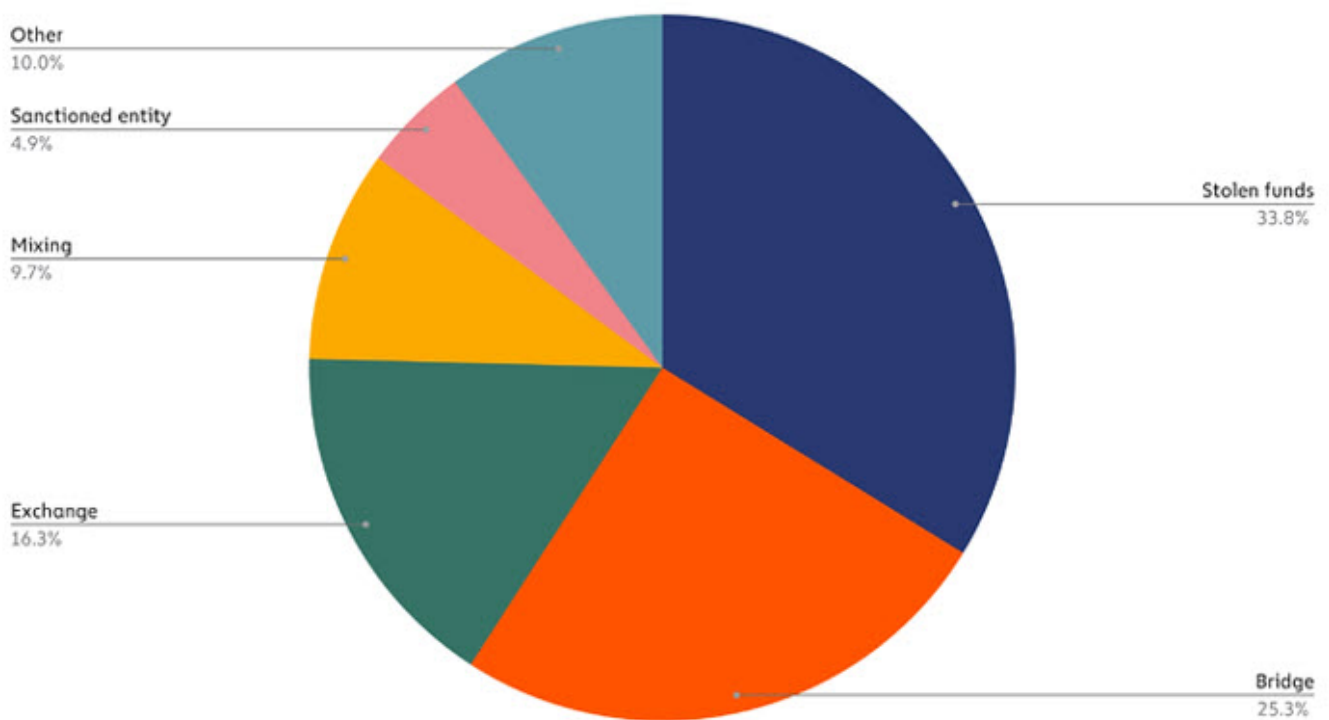
serves as a key money-laundering tool of the [OFAC-designated Lazarus Group](#)... Sinbad is responsible for materially assisting in the laundering of millions of dollars in stolen virtual currency

Secretary of the Treasury Wall Adeymo said:

While we encourage responsible innovation in the digital asset ecosystem, we will not hesitate to take action against illicit actors.

The Lazarus group was sanctioned on 13 September 2019 and is identified as a North Korean Government Hacking group which has been connected to over US\$3B in crypto-assets. Crypto analytics company [Chainalysis tracked](#) the usage of Sinbad from September 2022 to November 2023 as follow:

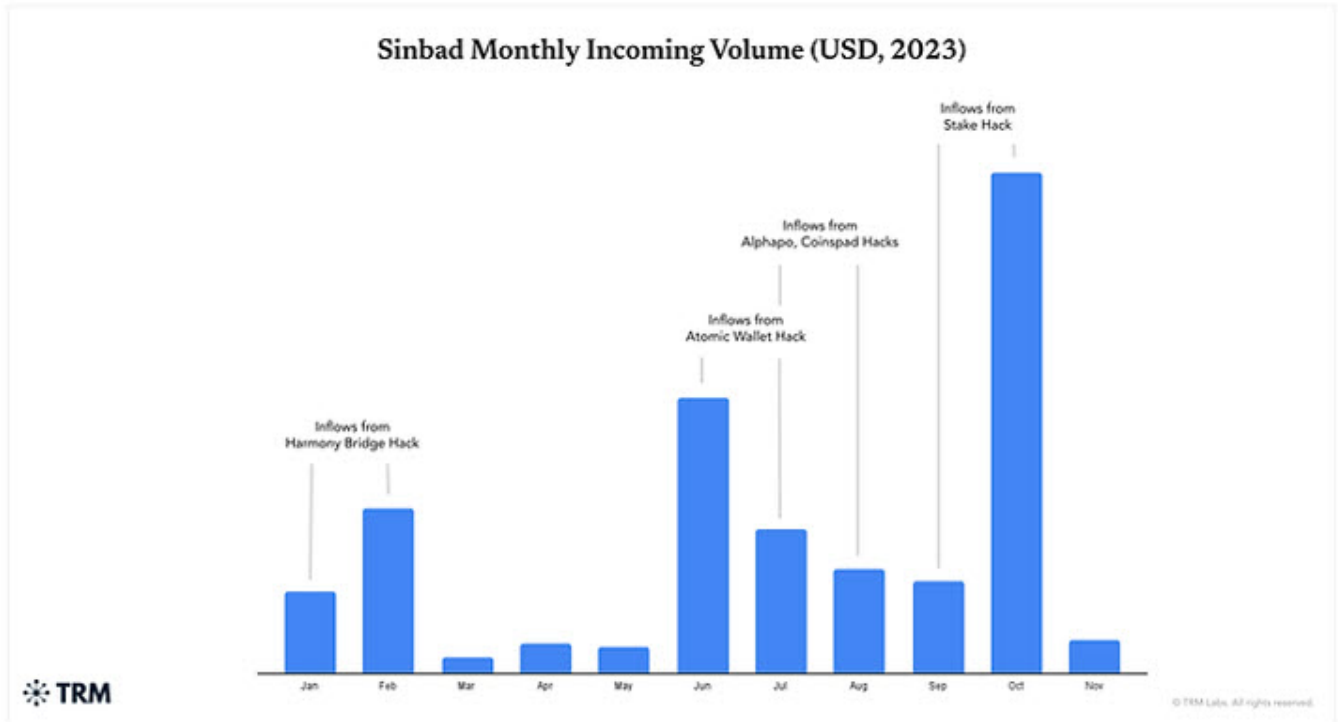
Share of all value sent to Sinbad by source, Sept 2022-Nov 2023



© Chainalysis

Funds from the Axie Infinity and Harmony Horizon bridge attacks as well as Atomic Wallet hacks have been tracked through Sinbad. Chainalysis has flagged addresses beyond the two officially sanctioned bitcoin addresses within their

systems to enable automated compliance. [TRM Labs](#) has shown substantial flows to Sinbad from hacks:



Despite the significant amount of stolen and sanctioned funds moving through Sinbad, it's creator "Mehdi" told [Wired earlier this year](#) that the service was about privacy:

I am against total surveillance, control over internet users, against autocracies and dictatorship ... [e]very living person has the right to privacy.

Mehdi also denied knowledge of the source of hacked funds going through Sinbad, saying:

I couldn't have possibly known about the funds' sources

The ongoing US crackdowns on mixer services highlight a tension in crypto-assets, as the widespread use of public cryptocurrencies may never occur without strong privacy tools because of the traceability of public chain transactions. For example a business would not want competitors to be able to analyze their transaction flow and payments to staff or suppliers, and rightly have an expectation of confidentiality. Governments want to disrupt payments by, to and from criminals and so want visibility into citizens and businesses transactions.

One thing is clear, the blades of US law enforcement will continue to cut up any mixers which permit hacking funds to flow through them.

*By Michael Bacina*

### **Santander welcomes clients into the crypto fold**

Santander Private Banking International, a subsidiary of Banco Santander, is set to provide high net worth clients with Swiss bank accounts the opportunity to trade and invest in major cryptocurrencies such as bitcoin (BTC) and ether (ETH), [according to an internal document seen by CoinDesk](#). This move marks a departure from the conventional stance of many large banks, which typically navigate cautiously around open-access blockchains and cryptocurrencies.

The decision comes as Santander aims to tap into the growing interest in digital assets among its affluent clientele. According to the internal announcement, the bank plans to expand its cryptocurrency offerings over the next few months, subject to rigorous screening criteria.

The service will be accessible solely upon client request through relationship managers, with assets securely held in a regulated custody model. In this model, the bank safeguards private cryptographic keys in a secure environment, emphasising a commitment to the highest standards of security.

Banco Santander, with a rich history spanning over 160 years [and serving 160 million customers globally](#), is making strides to accommodate the evolving financial landscape. The private bank, catering to 210,000 wealthy clients with assets totalling around USD\$315 billion, anticipates that clients will increasingly turn to established financial institutions for responsible management of their cryptocurrency holdings.

Santander's foray into cryptocurrency services for high net wealth clients is not only a strategy move to meet the evolving demands of its clientele, but also indicative of a broader trend among major financial institutions.

With recent discussions from influential players like Citi expressing support for blockchain technology and adoption, the financial landscape is witnessing a potential paradigm shift. The proactive stance of established banks towards embracing and integrating blockchain not only adds credibility to the market but also instills confidence in investors, given the extensive track record of these giants. Ironically, these traditional finance or "TradFi" players may be the ones to herald a new era of collaboration between the old guard and the blockchain frontier.

*By Michael Bacina and Luke Higgins*