

Article Information

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Blockchain Bites: Singapore slings new guidance to protect consumers, Austrian bank rolling out retail crypto trading in January, AI artistry wins: Beijing court paves way for copyright recognition, the TLDR on AFCA and ASIC's MOU

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

Singapore slings new guidance to protect consumers

The Monetary Authority of Singapore (MAS) [has released its final tranche of responses](#) to feedback received on its proposed regulations for Digital Payment Token (DPT) service providers in Singapore.

The proposals seek to “[discourage cryptocurrency speculation by retail customers](#)”, in effect seeking to protect customers from spilling their wealth, in particular by:

1. requiring customer's to pass a risk awareness assessment before accessing DPT services;
2. refusing to offer any incentives to trade in cryptocurrencies;
3. refusing to offer financing, margin or leverage transactions for DPT services;
4. refusing to accept locally issued credit card payments; and
5. limiting the value of cryptocurrencies in determining a customer's net worth (which is relevant to determining whether a customer passes the SGD\$2M “[accredited investor](#)” test, similar to Australia's “[sophisticated investor](#)” exemption to certain disclosure and reporting requirements).

The recent announcement and guidance release represents part two of Singapore's responses to feedback received on its proposed regulations. The first part, [released in July 2023](#), required providers to deposit customer assets under a statutory trust before the end of the year for safekeeping.

The measures also include service system availability and recoverability requirements for DPT service providers, in line with the current requirements imposed on systemically important financial institutions, but *not* payment service providers, meaning this is a special carve out specifically for cryptocurrency.

The release is not without controversy. Regulation that protects consumers without stifling innovation remains a Herculean task, especially with the inherent complexities of blockchain technology and fears arising from a lack of understanding. Posts on X expressed disappointment with the news, lamenting that the proposed new regulations fail to strike the appropriate balance, like a bouncer preventing the entry to the bar:



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Here we go, crypto regulation in Singapore means a swathe of consumer protection rules to make it more difficult for retail customers to buy and trade crypto. Quite different in tone to the HK regulations which are more permissive to retail customers.



MAS @MAS_sg

MAS today published business conduct and consumer access measures for Digital Payment Token services in Singapore to limit potential consumer harm. They will be implemented through regulations and guidelines, which will take effect in phases from mid-2024. mas.gov.sg/news/media-rel...



The infographic is divided into two main sections. The left section, titled 'BUSINESS CONDUCT MEASURES', highlights that DPT trading is highly risky and not suitable for retail customers. It notes that while MAS measures aim to limit potential consumer harm, regulations alone cannot insulate consumers from the inherent risks of DPT trading. Consumers are urged to remain vigilant and exercise utmost caution. The right section, titled 'MANAGING TECHNOLOGY AND CYBER RISKS', states that DPT service providers must implement consumer access measures. It lists three key requirements: determine a customer's risk awareness to access DPT services, not offer incentives to trade in cryptocurrencies, and not provide financing, margin or leverage transactions. It also notes that DPT service providers operate in a novel environment with significant IT and cyber risks, and will be required to maintain high availability and recoverability of their critical systems.

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Although Singapore has recently been raising a glass to the pro-innovation movements with forward-thinking legislative and regulatory developments (see the recent [High Court decision recognising crypto as property](#) and the [new stablecoin framework](#)), the jurisdiction remains cautious of the industry, one might say nursing the cup of innovation rather than draining it and going for a refill. Ho Hern Shin, Deputy Managing Director (Financial Supervision) of the MAS, said:

DPT service providers have the obligation to safeguard the interests of consumers who interact with their platforms and use their services. While the business conduct and consumer access measures can help meet this objective, they cannot insulate customers from losses associated with the inherently speculative and highly risky nature of cryptocurrency trading. We urge consumers to remain vigilant and exercise utmost

caution when dealing in DPT services, and to not deal with unregulated entities, include those based overseas.

The rules are set to be implemented in small sips starting from the middle of next year to provide an “adequate transitional period” for their enforceability.

Singapore’s cheers to the potential of blockchain is evident in the tailored provisions for cryptocurrency, differentiating them from traditional financial entities. As Singapore continues to navigate the evolving landscape and continue to fill their innovation cup (we can do this all day), the global community watches on, while they also consider the difficult balance of mixing both safeguards for consumers and embracing innovation and aiming for just the right balance of a refreshing draught of innovation with coasters to safely catch any spills.

By Michael Bacina and Luke Higgins

Austrian bank rolling out retail crypto trading in January

Raiffeisen Bank, one of the largest banks in Austria, has announced plans to roll out cryptocurrency trading services to nearly 18 million retail customers by the end of January 2024. The bank boasts an impressive AUD\$215 billion in assets and its announcement marks a significant step forward in mainstream financial institutions embracing digital currencies, particularly in Europe.

Raiffeisen Bank is partnering with Bitpanda, a fellow Austrian retail broker, which provides trading services for securities, commodities as well as cryptocurrencies. Bitpanda is also regulated by the Financial Market Authority in Austria and the Federal Financial Supervisory Authority in Germany.

[A declaration of intent](#) has been signed between the parties, with an evaluation process for a specific offer being aimed for the end of the year.

Michael Höllerer, General Director of Raiffeisen Bank said:

The examination of the partnership The aim of Bitpanda is to add an innovative, secure facet to our product range and should enable all customers to easily build wealth.

Making cryptocurrencies simple is a sentiment echoed by Eric Demuth, CEO of Bitpanda:

The financial market is complex and sometimes exclusive. But we aim to make investing accessible to everyone. It’s about simple, intuitive products for which you don’t need an operating manual.

The companies will integrate trading into Raiffeisen Bank’s existing mobile application, ensuring a familiar user experience. This move is aligned with the regulatory clarity around cryptocurrency in the European Union, [thanks to MiCA](#), which further legitimises the spread of digital currencies in the EU.

Raiffeisen Bank joins [Santander Private Banking International](#) as another major European bank that is opening its doors to crypto trading and pioneering the adoption of cryptocurrencies in Europe.

In contrast to rapidly expanding access, Australia has seen National Australia Bank disband their digital asset team recently and regulation is taking a slower and steady approach. Despite the Australian Securities and Investments Commission (ASIC) [removing crypto-assets from its list of enforcement priorities](#) and [the Australian Treasury releasing a consultation paper on regulating digital asset platforms](#), the movement towards fit-for-purpose legislation in Australia is slower than an Austrian mountain climber as the EU continues to scale towards higher digital asset peaks.

According to Raiffeisen Bank, almost 30% of people aged 20-39 years already purchase digital assets via online platforms, such as Bitpanda, adding further weight to the collaboration between the two companies.

By Michael Bacina and Luke Misthos

AI artistry wins: Beijing court paves way for copyright recognition

In a world first, the Beijing Internet Court has granted copyright protection to AI-generated images, setting a notable precedent for the evolving landscape of technology and intellectual property rights ([full decision](#)). The case, involving plaintiff Mr Li and the use of [Stable Diffusion](#), an artificial intelligence tool, acknowledges that there is human creative input in the AI generation process.

The plaintiff's claim was made against an internet blogger who used the plaintiff's AI-generated images without permission and removed the plaintiff's watermark. The court ruled that the AI-generated images in question met the criteria of "originality" and reflected the plaintiff's "intellectual investment", therefore deeming them as works protected by Chinese copyright law. This decision stands in stark contrast to a [recent decision by the US Copyright Office in Zarya of the Dawn](#), indicating a global divergence in approaches to regulating AI-generated content.

The plaintiff's case can be distinguished on the facts from the [recent Thaler decision](#) in the United States. The Thaler decision involved an application that works authored by Mr Thaler's "Creativity Machine" (an AI program) should be subject to copyright protection (i.e. the AI program is the author), whereby the Beijing decision contemplates the *person* using the AI as a tool as the author. In the Beijing case, the court underscored the importance of attributing the creative output to the individual using the AI tool, rather than the AI as an autonomous author.

The court's reasoning provides insight into the creative process employed by the plaintiff, from conceiving the initial image to the final selection. The court noted that the plaintiff made "intellectual investments" in designing characters, selecting prompt words, arranging their order, and setting parameters.

The court's decision emphasised the need for protecting the rights of individuals utilising AI tools. In this case, the plaintiff not only owned the copyright to the images but also maintained control over the AI model used. Although the damages awarded in the matter were nominal (RMB 500 or approximately AUD\$100), the decision sends a clear message about the gravity of unauthorised use and misattribution in the digital realm and acts as a strong precedent in support of recognising intellectual property rights in AI-generated works.

This case prompts a broader discussion on the need for comprehensive and adaptive regulations surrounding AI-generated content. As technology continues to advance, legal frameworks must evolve to ensure fair attribution, protect intellectual property rights, and foster innovation. The Beijing Internet Court's decision sets a positive tone for the future, signaling a move towards harmonising technological adoption with legal protections for creative businesses in the modern digital age.

By, Michael Bacina, Steven Pettigrove and Luke Higgins

The TLDR on AFCA and ASIC's MOU

Two key players in Australian financial services regulation jungle have [signed a memorandum of understanding \(MoU\)](#) focusing on fostering a fair and efficient financial services landscape and information sharing.

The Australian Financial Conduct Authority (**AFCA**) and the Australian Securities and Investments Commission (**ASIC**) have signed the MoU to document how the entities will better engage, through information sharing and other forms of cooperation and coordination.

The MoU sets out a range of possible intertwined responsibilities, such as AFCA's responsibility to resolve complaints about financial firms, including firms regulated by ASIC, and ASIC providing regulatory oversight functions in relation to the AFCA scheme.

The commitment to inform, consult, collaborate and engage effectively with one another and share as much information as possible to assist in the proper function of their powers could play out in a better process for complaints to be dealt with more efficiently and for ASIC to better manage their enforcement function and learn about patterns of complaints.

The Chief Executive Officer and Chief Ombudsman of AFCA, Mr David Locke [said](#):

This MoU reflects our already productive relationship and our intention to maintain that proactive, open and collaborative relationship in performing our respective functions

While the Chair of ASIC, Mr Joe Longo echoed that sentiment:

We share a common interest in ensuring that financial firms treat consumers fairly and properly resolve issues when loss has been caused. We know that a well-regulated and stable financial services sector is important for promoting consumer confidence

The collaboration comes off the back of [Anti-Scam Week in Australia](#) and joins a nation-wide push to reduce the amount of people that are affected by scams each year. While [there has been a 16% decrease](#) in losses compared to the same quarter last year, there is still significant scam losses occurring in Australia and AFCA, ASIC and other regulators all need to work together to keep fighting the never-ending battle against scams..

By Michael Bacina and Luke Misthos