Article Information

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Blockchain Bites: Australia introduces digitally secured statutory declarations, Congress examines crypto's role in tackling illicit finance, Citi pilots tokenisation of private assets, Circle dumps Tron network as IPO approaches, Swoo and Mastercard swoon customers with token-based loyalty program

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

Australia introduces digitally secured statutory declarations

Following legislative changes in November 2023 allowing wider use of electronic signatures and a digital execution option for Commonwealth statutory declarations, the government has now formally enabled the use of myGov to create digital Commonwealth statutory declarations, using your digital identity in place of a witness.

What did the new law change?

The *Statutory Declarations Amendment Act 2023* (**Act**) amends the *Statutory Declarations Act 1959* to expand the ways in which statutory declarations can be executed under Commonwealth law. These now include:

1. traditional paper-based execution, requiring wet-ink signatures and in person witnessing;
2. electronic execution, through the application of an electronic signature and witnessing via an audio-visual communication link; and
3. digital execution through the use of an approved online platform.

All three methods will be an equally valid and legally effective form of making a Commonwealth statutory declaration. Among them, the 3rd option means instead of having a witness verify your identity, you can now use an approved digital identity – the use of myGov falls under this option.

The government confirmed that myGov is at present the only approved online platform that can create a digital statutory declaration. However, this is unlikely to remain the case forever. If other private, for-profit, digital execution platforms (e.g DocuSign) also satisfy the prescribed technical requirements in the Act and the *Statutory Declarations Regulations 2023* (**Regulations**), then they may be approved for use as well.

What are some of the technical requirements?

The Act and the Regulations apply strict requirements for fraud and privacy protections to approved online platforms and digital service providers. For example:

- Before they are approved, providers must demonstrate their compliance and accreditation under the Commonwealth digital identity accreditation framework – the Trusted Digital Identity Framework (TDIF) – which contains strict rules and standards for usability, accessibility, privacy protection, security, risk management, fraud

control and more.
- The Act does not allow an approved online platform to save any copies of Commonwealth statutory declarations made using the platform.

How to use myGov to sign statutory declarations?

To create a digital Commonwealth statutory declaration without a witness you must have a digital identity connected to your myGov account. Your digital identity also needs to be at least standard digital identity strength.

Once you have created a digital Commonwealth statutory declaration using myGov, it will have a QR code. The QR code is encrypted with the information provided in the declaration. To verify the authenticity of the declaration, anyone with a paper or digital copy of the declaration can scan the QR code with the myGov app. The text and details on the QR code page can then be compared with the declaration received.

The information displayed through the QR code is not stored on myGov. Instead, it is saved on the QR code itself. myGov retains only the additional information (the key) that is used to decode the information from its encrypted form into readable text.

The important role of Commonwealth statutory declarations

Commonwealth statutory declarations are an important and frequently-used tool by Australians – it is a legal document that contains a written statement about something that the declarant is asserting to be true.

These documents are used to create reliable statements and attest to a variety of events for administrative, commercial, civil and private purposes. It is a criminal offence to intentionally make a false statement in a Commonwealth statutory declaration, carrying a maximum penalty of 4 years imprisonment.

Historically, these documents have been strictly paper-based, requiring them to be witnessed in person and signed in ink. However, the old rules were time and cost consuming. According to modelling undertaken for a 2021 Government consultation process, more than 3.8 million statutory declarations are completed each year by small and medium enterprises (SMEs) and consumers in Australia. It was estimated that SMEs and consumers spent around 9 million hours a year printing and collecting declarations, travelling to authorised witnesses, discussing and filling out declarations with witnesses, making copies and submitting completed declarations.

The Attorney-General also provided important numbers around the time and costs that the Act will save:

> Digital statutory declarations could save over $156 million each year, hundreds of thousands of hours and be a productivity winner for the private sector.

Conclusion

The Attorney-General expects the reforms to benefit all Australians seeking a more convenient, and efficient, statutory declaration process – particularly those in rural, remote or regional parts of Australia. He also emphasised that the Act is

> in line with the Data and Digital Government Strategy we are committed to embracing digital technologies to improve service delivery.

Each State and Territory has their own rules on statutory declarations, so the new Commonwealth Act will not directly apply to statutory declarations made under these rules. However, it is possible that States and Territories will follow the lead of the federal government and reform their own rules in due course.

Written by Steven Pettigrove and Jake Huang

Congress examines crypto's role in tackling illicit finance

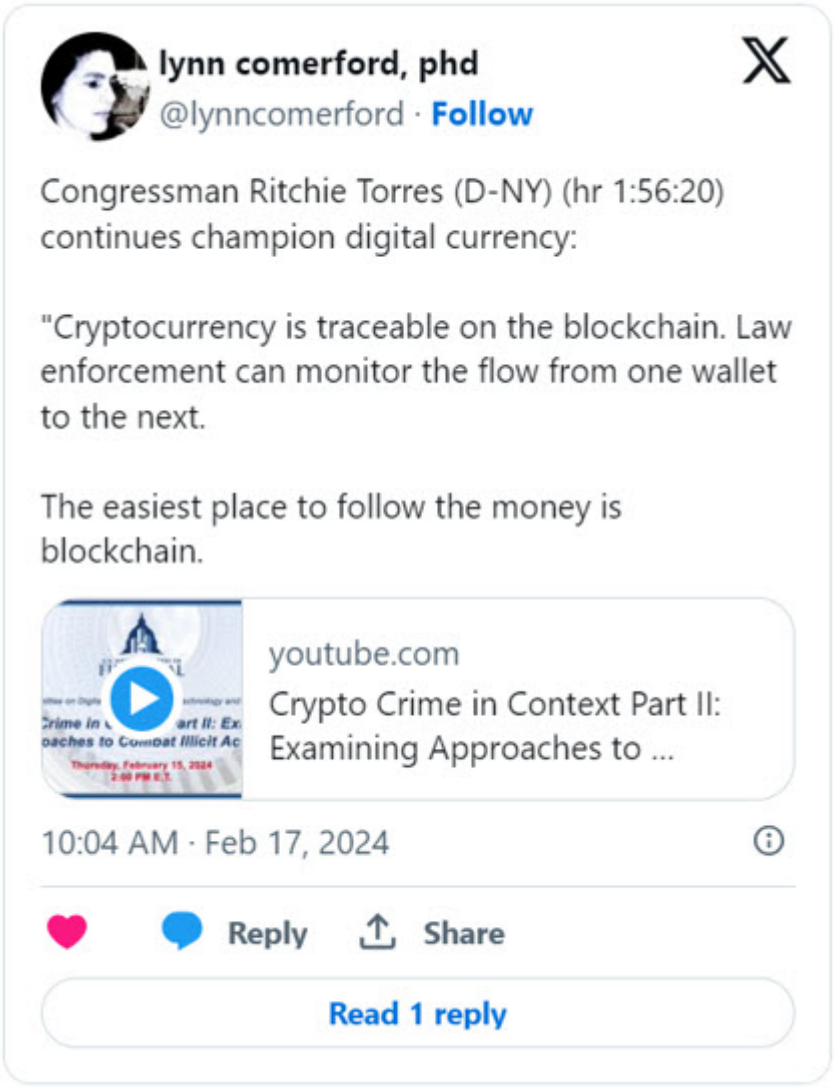
A recent session of the House Financial Services Committee delved into the role of cryptocurrency in illicit finance, seeking a balanced understanding of its implications for illicit finance and the broader financial landscape.

Chairman French Hill's opening remarks encapsulated the need to address the potential misuse of cryptocurrencies by

terrorist organisations and criminals alike. However, his comments also underscored the importance of debunking exaggerated claims about its prevalence in the grand scheme of global money laundering and terrorism financing:

> Just yesterday, here in this room, Under Secretary Nelson testified that terrorists still prefer to use traditional finance rather than digital assets.

Users on X were quick to support this comment, noting the inherent traceability of blockchain-based systems:



Leading industry players such as TRM Labs, Coinbase, and Circle provided their insights into complexities surrounding crypto transactions and blockchain-related crime. The discussion notably emphasised the importance of contextualising crypto-related crime, acknowledging blockchains' unique characteristics compared to traditional financial systems.

One significant aspect highlighted during the hearing was the debate around the accountability of various actors within the crypto ecosystem. While some argued for stricter oversight, others, like Michael Mosier from Arktouros and a former acting head of FINCEN, cautioned against subjecting miners and validators to regulatory frameworks designed for traditional financial institutions. Mosier likened their role to that of internet service providers, advocating for a nuanced approach to their regulation.

A consensus appeared to emerge among lawmakers regarding the need for enhanced scrutiny of tools like mixers (such as Tornado Cash), often associated with illicit activities. However, there was a notable recognition that the majority of illicit finance still occurs through centralised exchanges and traditional finance, rather than decentralised crypto networks.

Some experts pointed to deficiencies in the US Anti-Money Laundering/Know-Your-Customer (AML/KYC) framework for digital currencies and the potential of digital identity systems as a solution.

Carole House, a senior fellow at the Atlantic Council, underscored the unique risk factors inherent in crypto due to its quick, borderless nature and lack of intermediaries. These very features that attract legitimate users also make it susceptible to exploitation by illicit actors.

Yaya Fanusie, from the Crypto Council for Innovation, highlighted the dilemma of balancing regulatory measures to curb illicit activities while preserving the innovative potential of crypto technologies. He emphasised the importance of a nuanced approach to regulation that recognizes both the risks and benefits associated with cryptocurrencies.

Overall, the hearing underscored the need for a multifaceted understanding of crypto-related crime, acknowledging its complexities and advocating for a balanced regulatory approach that also harnesses the benefits of the technology in mitigating illicit activities.

Written by Luke Higgins and Steven Pettigrove

Citi pilots tokenisation of private assets

Citi, in collaboration with Wellington Management and WisdomTree, has announced the successful completion of a proof of concept for tokenising private funds aimed at increasing efficiency in the $10 trillion private asset market.

The private asset market, according to Citi's press release, is complex and manual, with a lack of standardisation and transparency which causes inefficient distributions and operations.

Recently, the tokenisation of private assets has gained significant attention. Hong Kong's Securities and Futures Commission has issued guidance on tokenising traditional financial instruments, while the UK has proposed a sandbox to test modified regulatory settings for tokenisation. Thailand's Securities and Exchange Commission announced plans to enable tokenisation to facilitate development in key sectors.

Citi's proof of concept, which was completed on the Avalanche Spruce institutional test Subnet, tokenised a private equity fund issued by Wellington Management allowing units to be represented as tokens on a blockchain. The fund's distributions were programmed using smart contracts and transferred to WisdomTree clients using simulated identity credentials.

Market efficiency through deeper liquidity and streamlined compliance processes appear to be the leading motivation for the proof of concept. According to Citi Digital Asset's Emerging Solutions Lead, Nisha Surendran.

> Smart contracts and blockchain technology can enable enhanced rule-enforcement at an infrastructure-level, allowing data and workflows to travel with the asset. We believe that by testing the tokenization of private assets, we are exploring the feasibility to open-up new operating models and create efficiencies for the broader market.

The Head of Business Development, Digital Assets at WisdomTree, Maredith Hannon Sapp stated:

> We believe blockchain-enabled finance is the future of the industry, and This Proof-of-Concept showcases the ability to explore the transferability of tokenized funds and related compliance in different markets. This will inform future in-production use cases of how blockchain technology and smart contracts can be used in on-chain transactions.

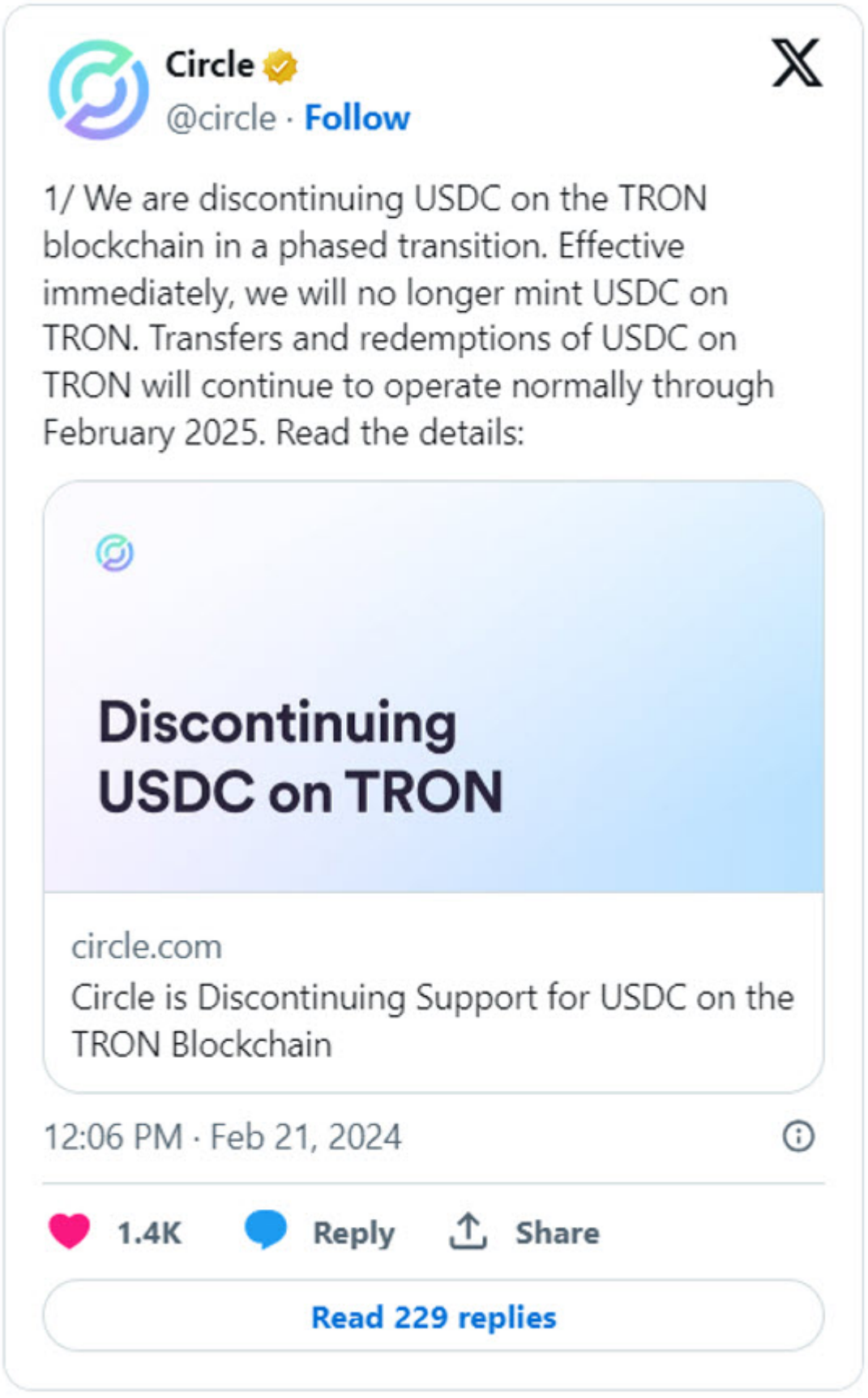
While tokenisation of traditional financial assets has been a topic of considerable interest in Australia, the Government has been slow in following peer jurisdictions in exploring the benefits of tokenisation for traditional markets.

In successfully completing its proof of concept, Citi joins a number of market leaders like BlackRock and State Street in exploring the use of blockchain for tokenising private assets. Citi has estimated that asset tokenisation in private markets could be a $4 trillion market by the end of the decade. The race is on to establish fit for purpose regulatory frameworks, standards and processes to facilitate this future.

Written by Michael Bacina, Steven Pettigrove and Luke Misthos

Circle dumps Tron network as IPO approaches

Circle, the issuer of the US dollar-pegged stablecoin USD Coin (USDC), is set to end support for USDC on the TRON blockchain. Circle announced its decision via X:



Circle stated that the decision is part of a strategic effort aimed at ensuring the continued trustworthiness and

transparency of USDC. In its extended blog post, Circle announced the immediate cessation of USDC minting on the TRON network.

This move comes amidst Circle's filing to go public in the US, highlighting the significance of its USDC stablecoin and its role in mainstreaming cryptocurrency. As of this week, USDC boasted a market capitalisation of USD $28 billion (approximately AUD $43 billion) according to CoinMarketCap, which, as a stablecoin, is second only to Tether (USDT).

While no explicit rationale was provided by Circle for withdrawing its support of TRON, Circle emphasised its ongoing evaluation of blockchain network suitability within its risk management framework. Circle reassured that its commitment to growing USDC "remains steadfast" and that it aims to continue expanding USDC's reach to additional blockchain networks.

Founder of TRON, Justin Sun, and several of his companies, were sued by the SEC in March 2023 for alleged fraud and other securities law violations. Several high-profile celebrities were also caught up in the scandal for alleged "illegal touting" of the native TRX token, including Lindsay Lohan, Akon, Soulja Boy, and Jake Paul.

Following allegations linking Circle to TRON founder Justin Sun, Circle clarified late last year that it had severed its ties with Sun's group in February 2023, prior to the SEC action. The open letter followed claims from the "Campaign for Accountability" ethics group, that Circle's relationship with TRON compromised the integrity of USDC. The Campaign for Accountability referenced TRON's alleged involvement in international regulatory enforcement actions, concerning significant financial sums and transactions by alleged organised crime groups and internationally sanctioned entities.

Since Circle's recent announcement, Justin Sun has taken to X to post his thoughts:

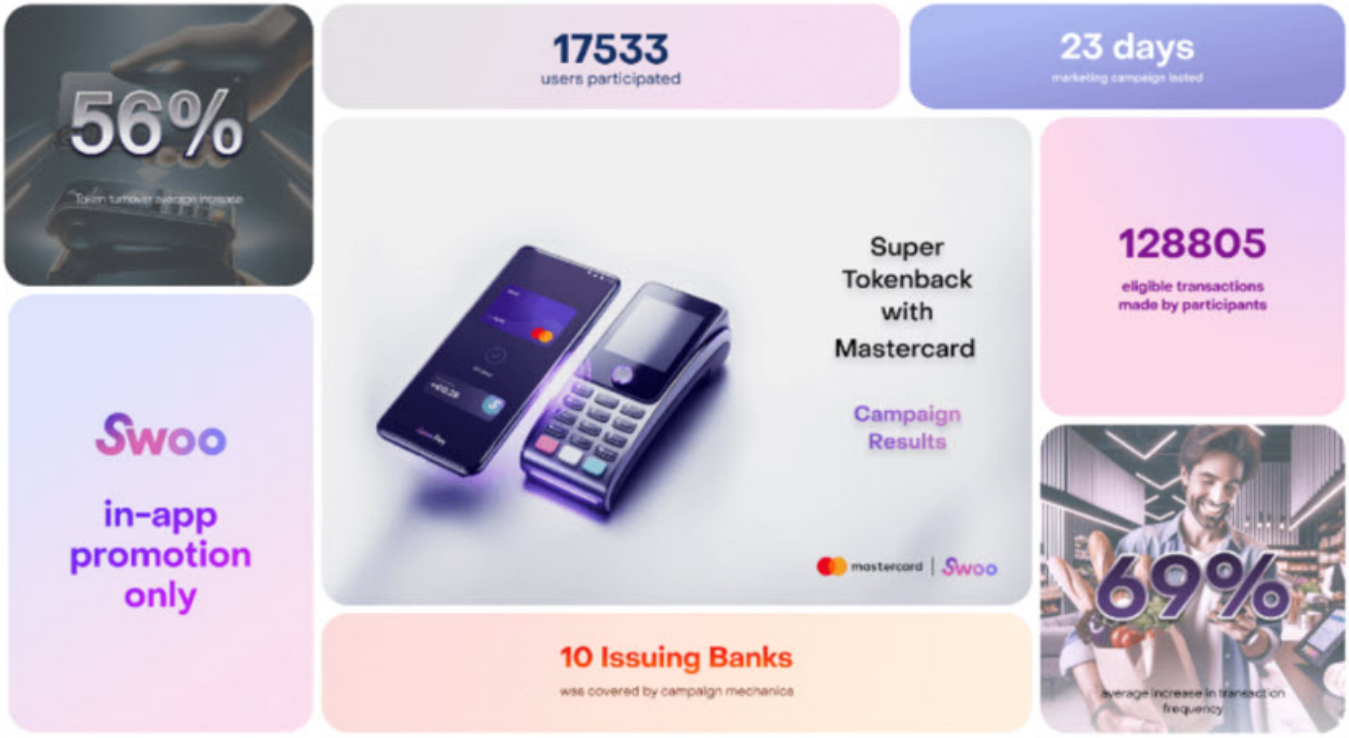
Circle's decision to discontinue USDC support on TRON reflects the heightened pressure on the crypto industry over AML/CTF compliance, as its enter tighter integration with traditional markets. Meanwhile, Circle's preparations for its debut in public securities markets would be appear to be continuing apace.

Written by Luke Higgins and Steven Pettigrove

Swoo and Mastercard swoon customers with token-based loyalty program

Mastercard has recently teamed up with Swoo to offer a cashback scheme to consumers in the form of 'Swoo Loyalty Tokens' on everyday transactions. Swoo is an all-in-one mobile wallet service that streamlines digital payments by allowing loyalty cards, crypto and traditional bank cards to be stored in one place. The company has 14 million monthly active users in the Middle East, Africa and South East Asia.

A successful pilot was completed in January, which saw over 17,000 participants increase card spend by 56% and avail themselves of the 5% 'Tokenback' program.



Swoo's co-founder, Filipp Shubin, announced that the Mastercard partnership will target:

> Emerging countries like Nigeria, Kenya, Philippines and Indonesia, [where] there are billions of users who have MasterCard and Visa cards, but don't have access to Google Pay

And

> Countries with big market share of Huawei smartphones, since due sanctions from the US government, there are no Google services on top of these phones.

Through the program, consumers will gain loyalty points in cryptocurrency (Swoo Loyalty Tokens) for every contactless purchase made via the app with Mastercards. The rewards can be instantly exchanged to other cryptocurrencies, like Bitcoin or USDT, on the Swoo app or exchanged for fiat through partner services.

Mastercard has embraced the potential of Web3, with previous projects like the Music Pass NFTs in partnership with Polygon to support Web3 musicians and 'Mastercard Crypto Credential' to enhance trust for consumers and businesses transacting using blockchain technology. Managing director, Denis Filippov, affirmed that the partnership with Swoo is a further example of Mastercard's commitment to:

> expanding the possibilities of using digital payment instruments in order to make the process of payments as

convenient, technologically advanced and safe as possible.

The Swoo partnership is the latest example of increasing integration of blockchain technology and traditional payment services. With global payments giants Visa and Mastercard advancing various Web3 strategies, this gap is likely to continue to narrow in the coming years. The partnership is also another example of innovative loyalty schemes using blockchain based solutions to drive customer loyalty and engagement.

Written by Kelly Kim and Steven Pettigrove