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Blockchain Bites: SBF Sentenced in FTX Fallout, Singapore rolls out new crypto rules, Coinbase to seek SEC discovery, Craig Wright's assets frozen by UK judge, Binance executive sues Nigeria

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.

SBF Sentenced in FTX Failure Fraud Fallout

Today Sam Bankman-Fried (commonly known as **SBF**), former CEO and founder of the collapsed cryptocurrency exchange FTX, was sentenced to 25 years in prison in the US following his conviction last year on 7 counts of fraud and conspiracy.

Judge Kaplan said during sentencing the:

> He knew it was wrong. He knew it was criminal.

SBF gave an apology saying:

> A lot of people feel really let down, and they were very let down … I'm sorry about that. I'm sorry about what happened at every stage

The 31-year-old former billionaire was convicted last year on two counts of fraud and five counts of conspiracy related to the failure of FTX in November 2022, after an USD$8 billion hole was uncovered in its balance sheet. With his lieutenants, Caroline Ellison, Gary Want, and Nishad Singh, who were all his friends (and in Ms Ellison's case a sometimes romantic partner) testifying against him, and the evidence drawing damning instances of falsehoods presented to customers, the outcome of his conviction was not at all unexpected.

The sentence of 25 years in prison is at the lower end of betting platform Polymarket which showed popular opinion of convicted 20 to 40 years.

This sentence arrives about 17 months after FTX filed for bankruptcy, leading to a rapid corporate collapse that shocked financial markets and erased Bankman-Fried's estimated USD$26 billion personal fortune.

The collapse and subsequent fraud case has been swift:

- FTX collapsed in November 2022, after a leak suggested a hole in customer funds and a challenge to the exchange token by a competitor;
- SBF was arrested in the Bahamas in December 2022 after criminal charges were filed against him in the Southern District of New York;

- SBF was extradited to the US and put on bail. He also faced additional charges brought by the US Department of Justice;
- In March 2023, FTX's bankruptcy team led by veteran John Ray revealed that SBF has received USD$2.2billion from FTX before it went under;
- SBF's lawyers filed to dismiss charges in May 2023 but were unsuccessful;
- SBF's bail was revoked in August 2023 due to concerns of witness tampering;
- The trial of SBF began in October 2023;
- In November 2023, SBF was found guilty of 7 charges.

Before the sentencing verdict was delivered, a presentence probation officer complied a report recommending a 100-year sentence. The Department of Justice urged a 40 to 50 year sentence, and SBF's lawyers suggested 63 to 78 months. SBF's legal team argued there was a lack of actual losses by the victims based on FTX's bankruptcy estate estimation that creditors will likely be made whole and repaid as much as 120-140 per cent of what their assets were worth on the day of FTX's bankruptcy.

John Ray strongly criticised the argument by SBF's legal team last week, saying that despite the exchange returning "substantial value to creditors" SBF:

> continues to live a life of delusion.

Michael Lewis' book about FTX, *Going Infinite*, however criticised Mr Ray's actions after being appointed, which he claimed increased fees dramatically.

A dozen of creditors submitted letters saying they suffered hardships because they couldn't access their funds for the last year and a half.

Once considered a prominent figure in the crypto world, SBF's fall from grace now places him among the ranks of individuals convicted of major U.S. financial crimes, including Bernie Madoff, Jordan Belfort, and Ivan Boesky. An appeal over the verdict and the sentencing is planned.

Written by Jake Huang and Michael Bacina

Singapore rolls out new crypto rules

Singapore has finalised amendments to the Payment Services Act (**PSA**) and its subsidiary legislation this week, expanding the scope of regulated activities and introducing more stringent obligations on digital payment token (**DPT**) service providers.

The changes take effect in stages from today, 4 April 2024, and will bring the following activities within the scope of the PSA:

- (i) Provision of custodial services for DPTs;
- (ii) Facilitation of the transmission of DPTs between accounts and facilitation of the exchange of DPTs, even where the service provider does not come into possession of the moneys or DPTs; and
- (iii) Facilitation of cross-border money transfer between different countries, even where moneys are not accepted or received in Singapore.

Further, under the amended Act, the Monetary Authority of Singapore (**MAS**) is empowered to impose obligations concerning anti-money laundering and counter terrorism financing (**AML/CTF**), user protection and financial stability on DPT service providers. The provisions on safeguarding consumer assets are expected to take effect six months after 4 April 2024.

DPT service providers and crypto firms providing any of the regulated activities are required under transitional arrangements to:

- (i) notify the MAS within 30 days;
- (ii) submit a licence application within 6 months from 4 April 2024; and
- (iii) submit an attestation report of the entity's business activities and AML/CTF compliance, within 9 months from 4 April 2024

The regulator warned:

> Entities that do not fulfil the requirements above are required to cease the activities

In addition, the MAS recently published guidelines on consumer protection requirements for firms engaged in DPT services, with a view to promoting 'sound and robust practices' for DPT service providers. The guidelines will take effect on 4 October 2024 and address items including segregation of customer assets, risk management controls, disclosure requirements to customers among other consumer protection measures.

Angela Ang, a former MAS regulator and policy advisor at TRM Labs, stated:

> This expansion has been in the works since 2021 and brings much anticipated regulatory clarity to crypto custody players in Singapore.

The latest changes to the Payment Services Act are the culmination of several years of work to expand the scope of Singapore's regulatory regime with respect to crypto related services, and incorporate greater consumer protections in relation to custody and marketing of those services. The legislation itself will no doubt be the subject of careful scrutiny as providers who offer services in Singapore will need to carefully assess the scope of the regulation to determine if they will require licensing in order to continue carrying on business in the city state.

The latest changes to the PSA position Singapore alongside Hong Kong and Japan in APAC in seeking to establish comprehensive and fit for purpose regulatory regimes for crypto-assets.

Written by Steven Pettigrove and Kelly Kim

Coinbase to seek SEC discovery

In the latest development in the *US Securities and Exchange Commission (**SEC**) v Coinbase*, a US federal judge has allowed the SEC's enforcement action against Coinbase (COIN.O) to move forward, but dismissed allegations by the US regulator relating to Coinbase's self custodial wallet product, Coinbase Wallet.

The SEC sued Coinbase in June 2023, alleging Coinbase breached US securities laws in

> operating its crypto asset trading platform as an unregistered national securities exchange, broker, and clearing agency.

Coinbase filed a motion to dismiss the lawsuit in August 2023, on the basis that none of the 12 tokens cited in the SEC's complaint are unregistered securities. Coinbase asserted during oral arguments in January that the four Coinbase services cited in the SEC's complaint—general token sales, Coinbase Prime for institutional customers, the Coinbase Wallet, and the exchange's staking service—were all outside the SEC's purview.

In determining dueling summary judgment applications, US District Judge Katherine Polk Failla sided with Coinbase's arguments in relation to its wallet services, while permitting the SEC allegations in respect of the remaining products to move forward.

Coinbase Chief Legal Officer Paul Grewal commented on X that the result was not unexpected, as

> Early motions like ours against a government agency are almost always denied

Coinbase intends to use the court's discovery process to gain insight into the SEC's evolving regulatory approach on crypto:

Grewal also encouraged Congress to build on momentum from last year to advance comprehensive digital assets legislation, which he said is critical for innovation to remain in the US.

Coinbase has long been seeking regulatory clarity from the SEC, even before this dispute. Coinbase's efforts include filing a petition requesting the SEC to exercise its rule making powers to establish a clear regulatory regime for crypto-assets, and later suing the SEC for failure to respond to the petition, which led to the SEC being ordered by court to explain its failure to respond. That dispute looks set to return to the Courts with Coinbase challenging the SEC's failure to exercise its rule making powers in respect of cryptocurrencies as "arbitrary and capricious".

While the SEC appears to have scored an early victory in its litigation against Coinbase, the proceedings remain at a preliminary stage and, as we have seen in the Ripple litigation, there are likely to be several more twists and turns as Coinbase battles the SEC's claims on its own behalf and, in many ways, on behalf of the industry as a whole.

Written by Jake Huang, Steven Pettigrove and Michael Bacina

Bitcoin blunder: Craig Wright's assets frozen by UK judge

The crypto caper for Craig Wright continues as UK judge Justice Mellor recently ordered a worldwide freeze over Wright's assets. The order was made following an application by the Crypto Open Patent Alliance (**COPA**), after their recent victory over Wright where Justice Mellor ruled that Wright was **not** the pseudonomous creater of Bitcoin, Satoshi Nakamoto.

Central to the Justice Mellor's concerns was Wright's endeavor to transfer assets, amounting to £6 million, to offshore entities through his RCJBR Holding company shortly after the judgment in the high-profile case was handed down on 14 March 2024. Justice Mellor found that this manoeuvre was a potential strategy to circumvent the financial repercussions of Wright's legal defeat.

Judge Mellor's judgment highlights Wright's past tendencies of financial non-compliance, emphasising the gravity of COPA's claim for legal costs which stands at a substantial £6.7 million. This history, coupled with the recent asset transfer, raised red flags regarding the likelihood of dissipation, prompting the imposition of a global freezing order. In their submissions, COPA raised several arguments that were persuasive, including to Wright's "dishonesty" in light of the overall history and narrative of the case:

> At the general level, COPA submit that Dr Wright has shown himself prepared to lie and double-down on his

lies, on such a grand scale that his "commercial morality" can only be assessed as being unacceptably low.

COPA also referred to another of Wright's legal losses in the 2021 Kleiman litigation where he was ordered to pay US $142m, and noted that Wright was held to be in contempt of court in Florida just two days after his loss in the COPA case:

> There [has been] a recent ruling against Dr Wright in the ongoing Kleiman litigation in Florida. As recently as 15 March 2024, Dr Wright was held to be in contempt of court in Florida, by reason of his failure to provide asset disclosure previously ordered by the Florida court.

Justice Mellor ultimately found COPA's arguments convincing and ordered a worldwide indefinite freeze over Wright's assets, making the following orders:

> First, COPA has a very powerful claim to be awarded a very substantial sum in costs.
>
> Second, I consider there is a very real risk of dissipation.
>
> Third, it is just in all the circumstances to grant a freezing order [over Wright's assets].
>
> In the particular circumstances, it is also plain that the order must extend worldwide.

Many in the blockchain space are keen to see the spectacle of Dr Wright's lawsuits come to an end, and the decisions for contempt and asset freezing may well be the start of the end of this sorry story.

Written by Jake Huang and Michael Bacina

Binance executive sues Nigeria over illegal detention

Tigran Gambaryan, the Head of Financial Crime Compliance for Binance and a respected former US Government official, has commenced legal proceedings against the Nigerian government after he was detained on a business trip to the country to meet with local authorities. Mr Gambaryan has lodged a motion with the Federal High Court in Abuja, alleging a violation of his fundamental human rights and that the government's confiscation of his passport runs counter to Nigeria's constitutional protections.

Binance, along with other cryptocurrency exchanges, have come under intense scrutiny in Nigeria over allegations of currency manipulation and tax evasion. Mr Gambaryan was detained by the Nigerian authorities on a trip to the country to meet with the Office of the National Security Advisor (**ONSA**) and the Economic Financial Crimes Commission (**EFCC**). It was understood that Mr Gambaryan's trip and subsequent detention arose initially from the Nigerian government's requests for information from Binance, rather than any alleged personal wrongdoing on his part.

Mr Gambaryan and his colleague Nadeem Anjarwalla, Binance's regional manager for Africa, were first detained by Nigerian authorities in February. It has been reported that Mr Anjarwalla managed to escape custody earlier this week, utilising his Kenyan passport to depart the country after surrendering his British travel document. He has reportedly followed Mr Gambaryan's lead in filing a similar lawsuit against the Nigerian government for wrongful detention.

Binance announced it would discontinue all services in Nigeria on 8 March 2024. It also released a statement in mid-March noting that it had complied with over 600 information requests from Nigerian law enforcement agencies. The country's Federal Inland Revenue Service (**FIRS**) has since levied tax evasion charges against Binance and the senior executives, in an apparent attempt to justify their ongoing detention.

Mr Gambaryan is a well-known figure in the blockchain industry, and one of the key protagonists in Andy Greenberg's book, *Tracers in the Dark*. As a senior IRS official, Mr Gambaryan was involved in probes into Silk Road, Russian crypto exchange BTC-e and the infamous Mt. Gox hack, among many others. Mr Gambaryan's detention has gained significant media and public attention in the United States. A change.org petition has been created by his wife, petitioning for his release from custody.

Mr Gambaryan's detention is a stark reminder of the uncertain and shifting legal landscape for cryptocurrency in many countries, and the importance of ensuring the safety and security of personnel when they travel and represent businesses. In this case, cryptocurrency's success in serving the needs of Nigerians battling a volatile currency seems to have attracted scrutiny and political risk for exchanges like Binance, with unfortunate consequences for its own staff. The authors hope that the efforts of the blockchain industry and others will see the swift release of Mr Gambaryan.

You can join the change.org petition and add your voice here if you would like to support Mr Gambaryan.

Written by Luke Higgins, Steven Pettigrove and Michael Bacina