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Blockchain Bites: US regulatory pivot continues as CFTC offers settlements, A bit more coin in a US strategic crypto reserve? Bitcoin ATMs in the UK face a regulatory Dalek… with no Doctor in sight

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.

The art of the deal: US regulatory pivot continues as CFTC offers settlements

The US Commodity Futures Trading Commission (CFTC) has introduced a new initiative aimed at expediting the resolution of investigations concerning minor compliance violations that have not resulted in customer harm. This move is designed to reallocate the agency's resources towards more significant issues such as market abuse and fraud and reduce accusations of regulation by enforcement in novel areas like blockchain.

Acting Chairman Caroline D. Pham announced that the CFTC's Division of Enforcement will invite market participants who have self-reported minor compliance violations—specifically those not involving customer harm, market abuse, transparency concerns, or fraudulent conduct—to:

- Provide Updates: Detail the remediation efforts and improvement plans implemented since the self-reporting.
- Submit Settlement Offers: Within two weeks, present reasonable settlement proposals for consideration.

The Division will evaluate these submissions and, based on civil monetary penalties imposed for similar conduct over the past decade, propose expedited settlements with appropriate penalties tailored to the specific circumstances of each case.

The proposal follows Ms Pham's previous announcement that the CFTC will move away from regulation by enforcement:

The CFTC is strengthening its enforcement program to focus on victims of fraud, as well as remaining vigilant for other violations of law. This simplified structure will stop regulation by enforcement and is more efficient.

This initiative aligns with a broader and dramatic shift in the US regulatory landscape towards innovation and crypto. The Securities and Exchange Commission (SEC) has recently dismissed several high-profile investigations and enforcement actions against major crypto companies, including Coinbase, OpenSea, Robinhood, Uniswap, and Gemini, signaling a shift towards a more balanced regulatory approach that emphasizes transparency and fraud prevention over a focus on defending the existing regulatory perimeter.

The CFTC's effort to quickly resolve minor compliance issues reflects a broader strategy to try and boost regulatory efficiency and focus on severe violations that pose real risks to market integrity. While the regulator previously sought enforcement action against Binance, its stance against crypto for no-loss regulatory non-compliance (particularly where the law is impossible to comply with) has progressively softened, recently settling charges with Uniswap and even calling on Congress for crypto regulation.

This development marks a further shift from regulation by enforcement to a more collaborative approach focused on regulatory reform and fraud, which seeks to foster innovation while maintaining market integrity.

A bit more coin in a US strategic crypto reserve?

Fulfilling a campaign promise, US President Trump issued an Executive Order establishing a US strategic reserve of bitcoin as well as a digital asset stockpile. The reserve was originally touted as including non-bitcoin cryptocurrencies, but in the final order, the initial reserve is to be made up only of previously seized or forfeited bitcoin held by the Federal Government with a second stockpile to hold non-bitcoin cryptocurrency held by the government from seizures or forfeitures.

The bitcoin reserve is not to be sold and the Secretaries of Treasury and Commerce have been authorized to

develop budget-neutral strategies for acquiring additional bitcoin, provided that those strategies impose no incremental costs on American taxpayers.

The digital asset stockpile is not subject to a similar direction, and is only to grow from seizure of digital assets. David Sacks, the Trump Crypto Czar said that US government sales of seized digital assets to date has yielded $366M, but had those assets not been sold, they would have been worth $17B on current prices (or slightly less as the price of bitcoin fell after the announcement, potentially due to hopes the US government would engage in ongoing purchases of bitcoin for the reserve). In January, prior to the changeover in administration, the Department of Justice had been cleared to sell US$6.5B in bitcoin but that will now form part of the strategic reserve.

The Executive Order also covers off an accounting of all cryptocurrency held by the US government with a view to bringing these assets into one place. The further development of crypto-expertise in the US government and the formal establishment of a reserve are further crypto-positive signs from the present administration.

Meanwhile, pro-crypto Senator Cynthia Lummis has not given hope that the US government will look to scale its Bitcoin reserves in future after she re-introduced her Bitcoin Act into the Senate which the sponsors say will codify the Trump plan. The Act would see the US Government divert remittances to the Federal Reserve to purchase up to 1 million Bitcoin over five years. A number of US states are also exploring creating their own reserves.

The United States is not the only country which holds significant investments or a stockpile of crypto-assets. Governments globally are increasingly interacting with crypto-assets as an investment or strategic asset or due to law enforcement seizures. A range of policy approaches are evident to date, however, Australia seems unlikely to follow the Trump administration's move any time soon.

Written by Steven Pettigrove with Michael Bacina

Bitcoin ATMs in the UK face a regulatory Dalek… with no Doctor in sight.

The UK Financial Conduct Authority (**FCA**), which is responsible for anti-money laundering and counter terrorism financing and financial services licensing in the UK, has secured a lengthy custodial sentence for an individual who operated an unregistered bitcoin ATM operation, as part of a campaign to rid the British Isles of any such machines.

The FCA has been seeking to outlaw bitcoin ATMs since 2022. As part of the announcement concerning the sentencing in this matter, and the initial prosecution, the FCA stated that there are now no bitcoin ATMs operating in the UK and talked of 'disrupting' illegal bitcoin ATM operations. But with no one seemingly able to obtain a licence to operate bitcoin ATMs in the UK, is this a shadow ban via regulation by enforcement?

The Case

The accused in this case had sought registration with the FCA to operate his 28 machine ATM network. After being refused, likely due to the FCA's ban on bitcoin ATMs, the accused transferred ownership of the ATMs and continued operating 12 of them under a false name, and created fake bank statements to pass KYC checks with a crypto exchange as well as false identity documents to incorporate a company. This is of course very illegal and not something that should have been done.

The FCA charged the accused with failing to carry out required KYC checks for users of his ATMs (it is not clear if those checks were even feasible to comply with), and stated that he had made between 30 – 60% markups on the crypto sold using the ATMs, with over USD$2M in transactions having passed through the machines.

The FCA charged the accused in September 2024, noting "There are no legal crypto ATM operators in the UK". The accused pled guilty and was recently sentenced to four years prison. His Honour Judge Perrins said as part of sentencing:

Your decision to continue to operate illegally was an act of deliberate and calculated defiance to the regulator… You knew full well that you were acting unlawfully… You went to great lengths to create a false identity to conceal your involvement… Your actions were deliberate and carefully planned… It cannot be said that it is a mere regulatory breach.

This case is an example both of the importance of meeting licensing requirements and following AML compliance strictly, but in the context of the FCA proudly stating that there are no bitcoin ATMs in the UK, might also be an indicator that the application of traditional licensing laws to this new technology has led to a shadow-ban on bitcoin ATMs.

The USA is home to over 29,000 bitcoin ATMs, Canada over 3,000, and Australia more than 1,500. This is a stark contrast to none in the UK, and it does seem curious that so many thousands of machines operate everyday in the USA without there being widespread problems and harm of the kind the FCA says they are protecting UK residents from being exposed to in stamping out unlicensed bitcoin ATMs there.

There are indications of a similar crackdown underway in Australia with AUSTRAC increasingly talking tough on Bitcoin ATMS, digital currency and remittance services generally. Last month, the regulator announced the results of "a campaign" targeting remitters and DCEs. While AUSTRAC has been increasing its engagement with DCEs, including in relation to transaction monitoring and on and off-chain activity, there appears to be less to the announcement than meets the eye. In fact, ASIC records show that only two DCE registrations were cancelled or suspended last year, both involving entities which had been insolvent for nearly two years.

As more jurisdictions regulate crypto with fit for purpose regulation, and move away from licensing requirements which are practically impossible to comply with, perhaps bitcoin ATMs will once more grace fair England's shores. For the time being, it appears that the cryptocurrency industry will continue to face targeted scrutiny and often unfair headlines which deepens operational challenges like de-banking for those seeking to comply with the law and feeds false narratives undermining the innovative potential of blockchain technologies to fight financial crime in new ways.

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