Article Information

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Blockchain Bites: Australian appeals court endorses third category of property for crypto; Nine EU banks to launch stablecoin; CARF tax reporting roll-out looms as UAE signs-on; A trip worth minting: Amex launches digital stamps; Autonomous paywall access planned with launch of 402 Foundation

Steven Pettigrove, Luke Higgins, Tahlia Kelly and Emma Assaf of the Piper Alderman Blockchain Group bring you the latest legal, regulatory and project updates in Blockchain and Digital Law.

Australian appeals court endorses third category of property for crypto

The Full Court of the Supreme Court of Tasmania has handed down a potentially influential judgment endorsing the view that Bitcoin is property and can be subject to the torts of conversion and detinue. In *Poulton v Conrad* [2025] TASFC 7, the Full Court endorsed the view (albeit obiter) that control over private keys is sufficient to establish that intangible property like Bitcoin can be 'possessed', and a third category of property for digital assets beyond choses in possession and choses in action.

Background

The dispute began with an action in the Magistrates Court arising out of an arrangement where the respondent, Conrad, paid the appellant, Poulton, A$10,000 to invest in Bitcoin on his behalf. The parties agreed that Conrad would pay a fee to Poulton but no agreement was reached as to the amount of that fee.

Conrad pleaded several causes of action (because although Poulton acquired the Bitcoin, he kept some of it as a fee for his service), including detinue, conversion or trespass to goods, restitution, contract and negligence.

Reasoning

The Full Court first considered whether Poulton could raise a new argument (that Bitcoin was incapable of possession) that he had abandoned in the earlier appeal before Brett J. The Court said he could not. Shanahan CJ explained that allowing Poulton to change his position would be unfair to Conrad who had relied on the case as it was previously argued, stating that '[t]here is no way back through the waters of the Lethe' (at [49]). Jago J agreed and the appeal was dismissed on that basis.

Estcourt J dissented but would have dismissed the appeal on the grounds that Bitcoin is susceptible to an action in tort for conversion or detinue which requires that the property be capable of possession. The judge's colleagues went on to endorse (albeit obiter) the view that the law of property must adapt to 21st century circumstances and that Bitcoin although an intangible asset is capable of possession via control of private keys.

Digital assets as a third category of property

The Full Court referred to the Magistrate's reasoning that Bitcoin software restricts control of a holding to the person in possession of the relevant private key or PIN, and that these rights are definable, identifiable by third parties, capable of assumption by third parties and have some degree of permanence. This was found to satisfy the definition of property set

out in *National Provincial Bank v Ainsworth* [1965] 1 AC 1175 (at [28]).

The Full Court discussed overseas authorities such as *AA v Persons Unknown* [2019] EWHC 3556, which held that cryptocurrencies are a form of property capable of being the subject of a proprietary injunction, and *Henderson v Walker* [2019] NZHC 2184, where the New Zealand High Court extended the tort of conversion to purely personal digital information including emails.

Estcourt J also cited the Victorian Supreme Court decision of *Re Blockchain Tech Pty Ltd* [2024] VSC 690 which dealt with the question of whether an interest in Bitcoin can be subject of a bailment. Attiwill J found that a person's interest in Bitcoin is property but *not* a chose in possession (as intangible property is incapable of being physically possessed) and therefore cannot be the subject of a bailment.

Estcourt J disagreed with Attiwill J, stating that his Honour's conclusion (at [92]):

does not go far enough to meet the exigencies of the digital age and should not be followed as to the way in which Bitcoin should be characterised.

Instead, Estcourt J agreed with Moore-Bick LJ in *Your Response Ltd v Datateam Business Media Ltd* (2015) 1 QB 41, stating that (at [93]):

[T]here is a powerful case for ***reconsidering the dichotomy between choses in possession and choses in action****, and for recognising a* ***third category*** *of intangible property. Such a category in my view, would comprise property that is capable of assumption by third parties, that is rivalrous, that is capable of exclusive control, and that is susceptible of possession. As such it should be amenable to at least, the torts involved in the present case, namely, conversion and detinue.* ***Bitcoin falls into such a category****, and it should, in my view, be so regarded by this Court.* (emphasis added)

In doing so, his Honour declined to follow the House of Lords' decision in *OBG Ltd v Allan* [2008] AC 1 which had held that only choses in possession were capable of being possessed.

Jago J agreed with the reasoning of Estcourt J. Shanahan CJ agreed that Bitcoin was capable of being property and separately discussed whether Bitcoin was capable of possession, focusing on the idea that the central premise of possession is control (at [55]):

in the case of crypto currency that is represented by the relevant key or PIN. Those exclusive signifiers, whilst data, are contemporary avatars of the various means by which the common law recognises and secures proprietary rights, whether that be by occupation or other devices by which dominion is claimed over entitlements to wealth.

Conclusion

The case is yet another to confirm that Bitcoin is capable of being characterised as property. However, the Full Court diverged from the reasoning in *Re Blockchain* arguing that Bitcoin does not fit into either choses in possession or choses in action, instead seeking to recognise a third category of intangible property for digital assets (an idea also proposed by the UK Law Commission in their Digital Assets final report). The UK Parliament is reviewing legislation which would codify provision for a third category of property which could extend personal property rights to digital assets.

While the Full Court's views do not form part of its binding ruling, as the first appeals court in Australia to consider the question of whether cryptocurrency is property and, if so, what type of property, the decision in this case may prove influential particularly given the unanimous view seemingly shared by the Full Court. For the time being, the law on the question of whether cryptocurrency is a chose in action or in possession will remain unsettled. As new circumstances come before the Courts, they will need to grapple with these questions and the practical need to provide a remedy where a person is deprived of a valuable digital asset like Bitcoin.

Written by Steven Pettigrove and Emma Assaf

Nine EU banks to launch stablecoin

Nine major European banks have formed a consortium to launch the EU's first major bank-backed euro stablecoin under the Markets in Crypto-Assets (**MiCA**) regulation, marking a significant step toward European monetary sovereignty in the digital asset space.

The Banking Powerhouse

The consortium brings together financial heavyweights including ING, Banca Sella, KBC, Danske Bank, DekaBank, UniCredit, SEB, CaixaBank, and Raiffeisen Bank International. If successful, this coordinated effort by established financial institutions to create a “trusted European payment standard” could seek to provide an alternative to US dominated stablecoins.

The initiative establishes a new Dutch company that will seek licensing from the Dutch Central Bank as an e-money institution, with the stablecoin expected to launch in the second half of 2026. The consortium remains open to additional banking partners, suggesting this could grow into an even larger European financial alliance.

Strategic Timing and Market Context

This announcement comes at a critical juncture for European digital finance. While US stablecoins like USDT and USDC have dominated global markets, MiCA’s implementation has created both challenges and opportunities. Major exchanges have been delisting non-compliant tokens, with Coinbase removing USDT for EU customers in December 2024 and Crypto.com following suit by March 2025.

The banking consortium’s approach differs markedly from existing stablecoin models. Rather than relying on a single issuer, this distributed approach leverages the combined infrastructure and regulatory standing of multiple major banks across different EU jurisdictions. Each participating bank can offer value-added services like custody and wallet solutions while maintaining compliance with MiCA’s strict reserve requirements.

Technical and Regulatory Innovation

The stablecoin will enable 24/7 cross-border payments, programmable transactions, and enhanced supply chain management—features that traditional banking infrastructure struggles to provide efficiently. By building on blockchain technology while maintaining full regulatory compliance, the consortium aims to bridge the gap between traditional finance and digital innovation.

MiCA’s requirements for full reserve backing, regular audits, and transparent reporting create a framework that could strengthen rather than hinder this banking-led approach. Unlike crypto-native issuers who must build compliance infrastructure from scratch, these banks already possess the regulatory expertise and capital reserves necessary for MiCA compliance.

Competitive Implications

As Floris Lugt from ING noted, the initiative requires “an industry-wide approach” with banks adopting common standards. This coordinated response suggests European financial institutions recognize that digital currency infrastructure is too important to be left entirely to non-European players.

The timing also coincides with broader regulatory developments, including the recent passage of the US GENIUS Act, which creates similar frameworks for stablecoin regulation in the United States. However, the European approach emphasizes multi-bank collaboration rather than single-issuer dominance, potentially creating more resilient and distributed digital payment infrastructure.

For businesses and developers, this bank-backed stablecoin could offer the regulatory certainty and institutional backing that many have been waiting for to build serious financial applications on blockchain infrastructure. The combination of established banking relationships, regulatory compliance, and modern payment rails could accelerate adoption of programmable money in European markets.

The success of this consortium will likely influence how other regions approach central bank digital currencies and private stablecoin regulation, making it a development worth watching closely as digital finance continues to evolve.

Written by Steven Pettigrove

CARF tax reporting roll-out looms as UAE signs-on

The United Arab Emirates (**UAE**) has officially signed the Multilateral Competent Authority Agreement on the Automatic Exchange of Information under the Crypto-Asset Reporting Framework (**CARF**). Developed by the Organisation for Economic Co-operation and Development (**OECD**), CARF is a global standard designed to combat tax evasion and improve transparency by enabling countries to automatically share information about crypto asset transactions.

Under the new framework, crypto companies operating in the UAE will need to comply with reporting requirements by

2027 with the first exchanges of information expected to begin in 2028.

In the 20 September announcement, the UAE Ministry of Finance stated that:

[t]he framework establishes a mechanism for the automatic exchange of tax-related information on crypto-asset activities, ensuring that the UAE provides certainty and clarity to the crypto-asset sector while upholding the principles of global tax transparency.

To support the rollout, the UAE has launched a public consultation on CARF implementation inviting stakeholders to submit feedback or seek clarification. The consultation is open until 8 November 2025 and aims to 'develop clear and effective regulatory rules informed by the insights of experts and stakeholders, and aligned with market needs'.

This move follows the UAE's earlier announcement in November 2024 of its intention to adopt CARF as part of broader financial reforms. Industry experts have welcomed the development, noting that it brings clarity for compliant investors and aligns the UAE with international tax standards.

What's next?

For offshore investors, such as those based in Australia, the framework means they must ensure their crypto holdings are properly reported in the country where they are tax resident. Tax authorities will be able to use CARF data to cross-check whether individuals are accurately reporting their crypto gains. For crypto businesses in the UAE, they will need to begin reviewing their systems, databases and the customer information they collect to prepare for their new reporting obligations.

This announcement complements the UAE's crypto-friendly initiatives such as the exemption of digital asset transactions from value-added tax. While the transition may involve short term compliance burdens, it ultimately strengthens the UAE's reputation as a trusted jurisdiction for legitimate crypto business and activities.

Australia carried out its own consultation on CARF implementation in late 2024. The details of Australia's framework remain to be confirmed although reporting requirements are also expected to commence in 2026 with information exchange commencing in 2027 once those detailed have been finalised.

Written by Steven Pettigrove and Emma Assaf

A trip worth minting: Amex launches digital stamps

American Express has introduced Amex Passport, which allows US cardholders to collect digital "travel stamps" each time they make an international transaction using their American Express Consumer card.

These stamps are designed to help users commemorate past trips and inspire future ones. Each stamp is a unique digital token that visually represents the country or region where the transaction took place. The stamps are stored in the user's Amex Passport and recorded on Coinbase's base blockchain. Cardholders can enroll in Amex Passport through their account.

Technically, each stamp is an ERC-721 token (a non-fungible token) and is stored on Base, a Layer 2 blockchain built on Ethereum. The stamps do not contain any personal information. Instead, they include the name of the country or region, a short description and the date the stamp was earned. These stamps have no monetary value, cannot be transferred and do not incur any fees. They are purely commemorative and are intended to serve as digital keepsakes, leading to at least one headline saying "Amex … Built a blockchain passport – don't worry you probably won't notice."

According to a recent survey by American Express, there is strong interest in this kind of digital memorabilia. 73% of respondents said they wanted more ways to digitally remember their past travels and 56% missed receiving a passport stamp.

Luke Gebb, Executive Vice President at Amex Digital Labs, stated:

Part of the magic of travel is reminiscing about past getaways, and commemorative keepsakes are a powerful way for travelers to relive their favorite trips. As physical passport stamps continue to disappear, Amex Passport creates an opportunity for Card Members to celebrate their travels.

Amex Passport is a creative example of how blockchain is being used to improve various experiences, going beyond payments and identity verification. Bhutan's national crypto tourism payment system, for example, lets visitors pay for

flights and local goods using cryptocurrency. As more companies and countries explore these technologies, blockchain is proving to be a powerful tool for making travel more personal, secure and connected.

You can view the Amex Passport smart contract here.

Written by Steven Pettigrove and Emma Assaf

Autonomous paywall access planned with launch of 402 Foundation

Most internet users recognize the familiar 404 error when entering an incorrect website URL, but a different response code may soon become commonplace for businesses. Coinbase has announced, with Cloudflare, plans to launch the x402 Foundation, enabling AI-accessible paywalls for internet content enabling stablecoin-based micropayments by AI agents—a long-elusive target for content monetization.

Understanding the Current System

Currently, when a user (person or machine) enters a URL, a "200" response indicates successful connection to the server displaying the website. If nothing resolves, the familiar 404 error appears. However, servers can return a 402 Payment Required code. While humans can use credit cards to engage and pass that paywall and access content, AI agents and autonomous code cannot overcome this barrier, limiting their access to scientific articles and subscription-based content.

The x402 Foundation Solution

Coinbase and Cloudflare have announced the x402 Foundation to develop coding standards enabling machines to access and interact with content paywalls. Coinbase suggests several key use cases:

- **Pay-per-use AI and research:**Per-request access to models and premium content without subscriptions
- **On-demand data and signals:**Pay-as-you-go access to scraping, news feeds, and real-time analytics
- **Creator micropayments and identity:**Tipping and pay-per-content systems, with optional identity attestations
- **Storage and media:**Pay-as-you-go patterns for storage, compute, and content delivery through active pilots
- **Agentic commerce:** Agent-to-agent payments using x402, compatible with MCP-style workflows

Technical Implementation and Benefits

The x402 Foundation will issue grants and improve how the 402 code enables online micropayments. These transactions will likely use stablecoins, while the protocol itself remains fee-free and blockchain agnostic. Fast-settling stablecoins like USDC on Base offer clear advantages under adoption of this standard.

Successful implementation could create new business opportunities and data access for AI agents and API connections, accelerating data movement and enabling innovative AI agent applications. This approach bypasses traditional payment providers and credit card fees, creating genuine peer-to-peer transaction opportunities.

Publishers and content creators gain broader micropayment collection opportunities as alternatives to advertising or subscriptions, both currently carrying substantial overhead costs.

What's NXT?

As stablecoins achieve wider adoption, this payment standard represents significant progress for both AI and blockchain applications, moving closer to an "iPhone moment" for the industry.

Written by Steven Pettigrove