Article Information

Authors: Michael Bacina, Petros Xenos, Tom Skevington
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Blockchain Bites: The Australian Parliament expand ASIC's regulatory sandbox, US Federal Reserve ruminates CBDC, SEC Commissioner proposes safe harbor for ICOs, Telegram releases whitepaper

A Bill expanding ASIC's regulatory sandbox for FinTech has been passed by the Australian Parliament, US Federal Reserve Governor said that the U.S. central bank is 'advancing its understanding' of central bank digital currencies, Commissioner of the U.S. Securities and Exchange Commission has formally proposed a safe harbor for start-up token projects and Telegram have revealed more details about its TON blockchain in a recently released whitepaper. Michael Bacina, Tom Skevington and Petros Xenos of the Piper Alderman Blockchain Group bring you the latest legal, regulatory and project updates in Blockchain and crypto.

U.S. Federal Reserve considering central bank digital currency

United States Federal Reserve Governor Lael Bainard recently said that the U.S. central bank is currently 'advancing its understanding' of central bank digital currencies (CBDCs). Lael Brainard is a member of the U.S. Federal Reserve's Board of Governors, and serves as Chair of the Committees on Payments, Clearing and Settlements, Consumer and Community Affairs, Financial Stability, and Federal Reserve Bank Affairs.

Speaking at a payments conference at the Stanford Graduate School of Business in California, Brainard said, "we are collaborating with other central banks as we advance our understanding of central bank digital currencies." Brainard's speech showcased an entirely different attitude compared to that of May 2018, where Brainard said that she saw "no compelling demonstrated need for a Fed-issued digital currency". Now, she says, "given the dollar's important role, it is essential that we remain on the frontier of research and policy development regarding CBDC."

Brainard elaborates that this tonal shift towards embracing and exploring a potential CBDC centres around the existing popularity of electronic payments in the country, as plenty of U.S. consumers and businesses are already making electronic payments with credit and debit cards, payment apps, and through the automated clearing house networks.

In Australia, the Reserve Bank of Australia's recent submissions to the Senate Select Committee on Fintech and Regtech confirmed that the RBA is actively experimenting with wholesale alternatives on a private Ethereum network.

Expanding the edges of the FinTech sandbox: new bill passed Parliament

More than two years after it was announced in the 2017–18 Budget, a bill has been passed laying the groundwork for an expansion of ASIC's regulatory sandbox. The Treasury Laws Amendment (2018 Measures No. 2) Bill 2019 amends the Corporations Act 2001 (**Corporations Act**) and National Consumer Credit Protection Act 2009 (**NCCP Act**) to facilitate further exemptions for entities to test financial and credit products and services under certain conditions, without having to obtain a licence first.

The key changes in this bill involve amending section 926B of the Corporations Act to insert new subsections providing that:

- ASIC may apply conditions to an AFSL exemption provided to a person or class of persons to enable testing of particular financial services
- a person who receives an AFSL exemption subject to conditions must comply with those conditions.
- ASIC is empowered to determine how an AFSL exemption to enable testing of particular financial services starts or ceases to apply to a person or class of person.

Other changes include amending section 110 of the NCCP Act to make corresponding amendments to the above in relation to Australian credit licences. This is a welcome development which has been long awaited given that the scope of eligible products for the existing FinTech sandbox was considered to be overly narrow.

China conscripts blockchain to combat novel coronavirus

Insurance firms in China have begun to utilise blockchain technology to manage coronavirus-related claims amid the ongoing outbreak. It has been recently reported that Chinese online mutual aid platform Xiang Hu Bao added the coronavirus to the illnesses eligible for the maximum one-time payout of around AUD$21,333 (100,000 yuan).

Xiang Hu Bao is a blockchain-based collective claim-sharing platform that deploys blockchain technology in order to minimise risks of fraud and allow for faster and more seamless claim processing by insurers. Xiang Hu Bao is owned by Chinese finance giant Ant Financial and uses mobile payment processing service AliPay. Alipay funds the payouts for coronavirus victims with its own capital.

Blue Cross Insurance, owned by the Bank of East Asia, has also been reportedly helping to decrease the bureaucratic impact of the coronavirus outbreak with a medical claims app. The insurance service's managing director Patrick Wan said, "our blockchain-backed claims service has played a key role during the outbreak of the coronavirus by totally eliminating the paper process and the need for back-and-forth documents delivery to clinics. This really helps to mitigate the risk of infection from face-to-face contact."

This is not the only deployment of blockchain towards combating the coronavirus in China. Alipay has also launched a blockchain-based information protocol service to assist in tracking supplies that are needed to combat the outbreak. According to CN Stock, Alipay released the platform in China earlier in the year with the Zhejiang Province Medical Materials Security Group utilising the technology to track materials such as masks, gloves, protective gear, and caps on-chain.

SEC Commissioner proposes 3-Year safe harbor period for crypto token sales

Hester M. Peirce, two-year official at the U.S. Securities and Exchange Commission, also known as "CryptoMom", has formally proposed a safe harbor for token projects. This would provide start-up projects with breathing room in order to develop their networks and communities prior to having to adhere to the US regulatory regime.

Peirce's proposal was unveiled during a speech at the International Blockchain Congress in Chicago, where she proposed that crypto start-ups should have a three-year grace period from their first token sale to achieve a level of decentralisation that is sufficient to pass through the agency's securities evaluations. This would include the *Howey Test*, the famous U.S. Supreme Court assessment standard of what constitutes an "investment contract" and hence attracts regulatory compliance obligations.

Peirce has previously floated the idea of a safe harbor in the past, but this attempt to raise funds through a token sale, including requiring personal disclosure at a proposal seems to be her first formal attempt to make this a reality. If adopted by the majority of the SEC's other commissioners, it would create a strict set of requirements for crypto projects tos, code disclosures, public notices and a number of other factors.

Telegram transmits technical whitepaper, trials with the SEC continue…

Currently facing a legal battle with the U.S. Securities and Exchange Commission over its $1.7 billion token sale, Telegram have revealed more details about the technical specifications underpinning its TON blockchain in a recently released whitepaper.

The whitepaper details the block validation process for its blockchain, describing it as a Byzantine Fault Tolerant protocol custom-built for proof-of-stake networks. TON Labs' Mitja Goroshevsky said, "the new consensus protocol white paper provides a formalised understanding of what they've [TON developers] been testing."

The release of the whitepaper is well timed, and will be read in response to the claims made by the SEC that Telegram has not created a viable blockchain, as it promised to do, and "presented no concrete evidence that it has achieved that goal" providing merely a "vague, conclusory statement" the blockchain is "fully functional and ready to be launched."

Researchers ruminate that most "utility" tokens are probably securities under EU law

A group of academic researchers have published research considering the legal distinction between "utility" tokens and other forms of digital assets. Ultimately, their research suggests the majority of utility tokens constitute "tradable securities" under existing European Union (EU) law.

The paper considers the use of digital assets to raise capital, particularly through Initial Coin Offerings (ICO) and Initial Exchange Offerings (IEO), and touched on the growing popularity of IEOs in certain regulatory jurisdictions, such as Malaysia. They also contrast these jurisdictions with United States where, the Securities and Exchange Commission (SEC) has issued a formal warning of IEOs constituting securities offerings.

Regardless of the offering used to initially sell utility tokens, the research identified that trading activity of tokens tends to be at its highest during the first six months after an initial sale. The researchers concluded that it is exceedingly difficult to justify an investor's sole intention of purchasing a utility token for use in one specific ecosystem. Instead, such activity "offers a clear indication" that tokens traded on exchanges are viewed by their purchasers as investment instruments.

Telegram v SEC: Not even dollars for donuts

The Securities and Exchange Commission (SEC) has made some bold assertions in its case against Telegram, saying its Gram token is worth less than donuts. In a recent memo, the SEC submitted to the Southern District Court of New York, "Telegram offered and sold Grams as securities when it promised to deliver them in exchange for funds pursuant to the Purchase Agreements. That reality will not have changed if the Court permits Telegram to deliver Grams to the Initial Purchasers as part of a broad public distribution, which is in violation of Section 5, and which the Court should enjoin."

The SEC also claimed Telegram performed a "a two-step around the registration provisions" and a "sleight of hand" by fabricating the difference between a purchaser's investment in Grams and their delivery of the Grams. This, according to the SEC, would have allowed them to withhold information that should be documented in regulatory statements.

The document contends that Telegram's argument that the Grams were not part of the securities the purchasers bought because they did not "exist", is a strawman approach, as the Grams will never be tangible.

The SEC vs Telegram saga ultimately serves as both a reminder that a sensible and clear legislative framework is crucial for ensuring a compliant path forward for cryptocurrencies.

Paris Saint-Germain teams up with cryptocurrency exchange platform CoinCasso

Paris Saint-Germain and cryptocurrency exchange platform CoinCasso have joined forces in a multi-year international partnership. The virtual currency giant is set to become an Official Partner of the Parisian club in all markets outside of France.

CoinCasso calls itself a "multi-functional and democratic" crypto exchange and is now poised to capitalise on Paris Saint-Germain's popularity throughout Europe. Luke Ozimski, Founder and CEO of CoinCasso said, "we are delighted to be one of the first … team up with one of the most popular football clubs in the world. Paris Saint-Germain is an innovator, having been one of the first to engage with blockchain players back in 2018."

The cross-overs in sport and digital assets only continue, with the recent token issuance by NBA player Spencer Dinwiddie of the Brooklyn Nets and the Sacramento Kings working with ConsenSys to launch a blockchain-based auction platform to sell retired player's jerseys on the Ethereum network.

Investor self-custody tracking closer with Token Soft

TokenSoft, a U.S.-regulated and leading security token issuance and asset servicing platform, has announced it is launching a solution for investor self-managed wallets. Platforms have long been vying for market share with increasingly sophisticated platforms for issuers and investors alike and better and better user experience (UX).

TokenSoft's service is promising a less technical and more secure way to hold and control security token investments, and competes with other digital wallets offered by Bakkt, AlphaPoint and others. The product offers automated dividend distributions and built-in reporting for token issuers with multi-signature security.

TokenSoft are approaching dividends from an interesting perspective, as a token issuer with a thousand investors, for example, would usually need to convert dividend payments from fiat currency into a stablecoin, and transfer those stablecoins to investors' wallets. This process could generate a significant multiplicity of smart contract transactions at once. As the Ethereum network is only capable of processing 15-20 transactions per second, a dividend issuance could cause a bottleneck, causing transaction fees to spike on the network or to slow the network speed.