

## Article Information

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Service: Blockchain, FinTech

Sector: Financial Services, IT & Telecommunications

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## Blockchain Bites: Brazilian CBDC, Uncle Sam seizes a Billion in Bitcoin, Big trouble for Bigatton, Swift Swiss Blockchain laws

**Michael Bacina, Tudor Filaret, and Jade McGlynn of the Piper Alderman Blockchain Group bring you the latest legal, regulatory and project updates in Blockchain and Digital Law.**

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### Big trouble for Bigatton with Bogus BitConnect scam prosecuted by ASIC

The Australian Securities and Investment Commission (ASIC) working with the US Federal Bureau of Investigation and the Crown Prosecutors office have charged Mr John Bigatton, the Australian promoter of the notorious \$2.6 billion BitConnect offering, with offences relating to breaches of securities law.

On 17 November, ASIC announced charges against Mr Bigatton as follows:

- one count of operating an unregistered managed investment scheme, which carries a maximum penalty of 5 years imprisonment and/or a fine of \$42,000;
- one count of providing unlicensed financial services on behalf of another person, which carries a maximum penalty of 2 years of imprisonment and/or a fine of \$42,000;
- four counts of making a false or misleading statement affecting market participation, with a maximum penalty for each charge of 10 years of imprisonment and/or a fine of \$945,000

In addition, ASIC has alleged that further misleading or false statements were made during BitConnect seminars Mr Bigatton conducted. The matter was listed today and has been adjourned for a mention on 2 February 2021 in Downing Centre Local Court, Sydney.

### The Real becomes digital or digital becomes real? The Brazilian CBDC

The ranks of countries looking to issue their own central bank digital currency (CBDC) continues to grow with Brazilian Minister of Economic Affairs, Paulo Guedes, confirming earlier this year Brasil will be pursuing a CBDC.

Minister Guedes made the statement on [5 November](#) during a ceremony celebrating the 100 millionth digital savings account opened at Caixa Economica Federal:

Now that the central bank is autonomous again, it's also amazing in the digital dimension: Pix, OpenBank, fintechs and digital currency. Brazil will have its own digital currency. Brazil is ahead of many countries.

This follows Guedes comments on [7 October 2020](#) concerning an initial public offering of the newly created digital bank of Caixa Economica Federal which is expected to occur by April 2021.

### *The Digital becomes real?*

On [21 August 2020](#), the Banco Central of Brasil announced that it had set up a study for the possible issuance of a digital Brazilian Real. The study's general objective is to look into improving commercial transactions between private and public entities, nationally and internationally, and to explore a potential model for a CBDC.

Roberto Campos Neto, the President of the Central Bank of Brazil, has also been pushing Brazil to revolutionise its currency through the introduction of Pix, a federal digital payment system. Roberto Neto remarked:

Pix is very important because from now on we see the union of an instant, open and interoperable payment method with an open data system. Somewhere in the future they will find a coin that has yet to be perfected.

Although the Central Bank has not revealed how the digital version of the Brazilian Real will work, Campos Neto has said it will enter into circulation from 2022.

According to statements from the Banco Central, the digital real would be used mainly in foreign exchange transactions, both nationally and internationally.

### **Demand for digital currencies offered by PayPal to be significantly bolstered**

During its [Q3 earnings call](#) on 2 November 2020, [PayPal](#) reinforced the rising importance of digital currencies, inevitability of CBDCs and the permanent shift towards a digital economy.

[Dan Schulman](#), President and CEO of PayPal said:

My conversations with central banks, with the regulators, with a number of folks in the crypto field, there's no question that digital currencies are going to be rising in importance, having increasing functionality and increasing prominence. CBDCs, from my perspective and all my conversations, are a matter of when and how they're done, not if.

This comes after the recent [announcement](#) by PayPal that it will be allowing US account holders to buy, sell and hold cryptocurrencies and the expansion into international markets by its [Venmo](#) Platform.

Dan Schulman said:

... [It will] allow customers to use cryptocurrencies as a funding instrument to shop across all 28 million of our merchants. This solution will not involve any additional integrations, volatility risk or incremental transaction fees for, either consumers or merchants and will fundamentally bolster the utility of cryptocurrencies. This is just the beginning of the opportunities we see as we work hand in hand with regulators to accept new forms of digital currencies.

Given their huge network of merchants of commerce, the new digital infrastructure and the range of currencies available, PayPal will drastically increasing the utility of digital currencies internationally, even without permitting withdrawal of the tokens from their wallets.

### **Uncle Sam seizes a Billion in Bitcoin**

Interest rippled through the bitcoin community recently when a digital wallet containing roughly \$1 billion in stolen bitcoin — thought to be proceeds from the notorious dark web drug marketplace Silk Road — was emptied by an anonymous individual. But, in an encouraging turn of events, the Department of Justice (DOJ) has revealed the money has been seized by the US government as part of a civil forfeiture.

*What's to come?*

Despite [the mistaken belief that bitcoin is untraceable](#), this seizure of 10-figure funds demonstrates the potential of law enforcement to track down the owners of illicit cryptocurrency stashes. According to Elliptic co-founder Tom Robinson:

We've already seen an uptick in law enforcement agencies purchasing blockchain analytic tools.

The US Federal Government generally sells property obtained via civil forfeiture, and with bitcoin increasing in value, a tidy sum should flow into the DOJ's coffers. This kind of seizure and the continued investment by law enforcement in blockchain monitoring (including the [recent bounty offered for tracking privacy coin Monero](#)) is only likely to increase as criminals learn that an immutable record of transactions creates an immutable trail of evidence.

### **Punishing a ponzi scheme that used bitcoin as bait**

In an action brought by the Commodity Futures Trading Commission (**CFTC**), the US District Court for the District of Colorado has entered a [judgment](#) against defendants Venture Capital Investments LLC (VCI) and its principal for fraudulently soliciting and misappropriating funds from clients in a digital asset scheme. There were no digital assets at all purchased, in a reminder that all that glitters may not be bitcoin.

The defendants found pool participants through social media, email, webinars, and face-to-face meetings, ultimately soliciting \$535,829 from participants, and misappropriating \$450,302 of that for personal use. In a classic ponzi move, payments were made to existing pool members from the original pool of funds so it appeared as though the scheme/scam was profitable.

The [judgment](#) requires that the defendants pay \$450,302 back to investors, being money received of \$534,829 less the purported profits returned of \$84,527. The Court also ordered a civil monetary penalty of \$450,302. Costs were naturally ordered against the defendants.

The CFTC was assisted by the Financial Supervision Commission of Bulgaria, the St. Vincent and the Grenadines Financial Services Authority, the Financial Services Authority of Seychelles, the United Kingdom Financial Conduct Authority, and the Financial Markets Authority of New Zealand, showing how international cooperation can take down even a (relatively) modest ponzi scheme if regulators move early and swiftly.

### **Swift Swiss laws bring blockchain benefits and regulatory certainty**

A new set of Swiss laws on blockchain and distributed ledger technology was recently announced (**DLT Laws**) and approved by the Swiss Parliament.

The main topics of the new DLT Laws are:

- Establishing the possibility of an electronic registration of rights (stored on a blockchain), with features of negotiable securities (a particular kind of security defined under Swiss law);
- Specific regulation of the segregation of crypto-based assets in the event of bankruptcy; and
- The creation of a new authorisation category for "DLT trading facilities" (i.e. digital currency exchanges).

Rather than introduce a new specific piece of blockchain legislation, the DLT Laws amend ten other legal statutes to address the above topics - ranging from company bankruptcy to securities trading, and beyond.

The aims of the amendments are straightforward: to increase legal certainty and reduce barriers to the application of blockchain technology and reduce risks of misuse of the technology.

For more information on the specific amendments being introduced [click here](#). We are hopeful that Australia might learn from this Swiss approach, and consider how our country can be made more blockchain friendly to keep jobs on shore and encourage innovation Down Under.