

Article Information

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Blockchain Bites: Aussie token mapping journey, Oh Canada? Ontario imposes annual limit on crypto transactions, ASIC Corporate Plan Casts Crypto Spotlight

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

Australian token mapping journey to set off

The Australian Government has announced a start to work on a token-mapping exercise for crypto-assets to help educate policy-makers and regulators, support the industry and provide protections for consumers. [A press release](#) from the Office of the Treasury has announced the Federal Government plans to commence token-mapping work this year.

Regulation is struggling to keep up with the fast-changing, which over one million taxpayers have interacted with some kind of crypto-asset since 2018, according to the Australian Taxation Office.

The token mapping was [one of the recommendations](#) of the [Senate Report into crypto-assets](#), and is seen as an important first step to set definitions so that regulation is able to be made in a flexible manner.

Per the Assistant Treasurer:

As it stands, the crypto sector is largely unregulated, and we need to do some work to get the balance right so we can embrace new and innovative technologies while safeguarding consumers

Designed to be a “serious approach” by the Federal Government, the announcement goes further than the Senate Recommendation, noting that token-mapping exercise will help identify how crypto-assets and related services should be regulated. It will sensibly involve industry participants and stakeholders and should take on the Senate Inquiry’s recommendation to look overseas as there is a wealth of work being done which can help move Australia forward.

Consumer protection is at the forefront of the exercise due to the accessibility and increasing proliferation of crypto assets:

The aim will be to identify notable gaps in the regulatory framework, progress work on a licensing framework, review innovative organisational structures, look at custody obligations for third party custodians of crypto assets and provide additional consumer safeguards.

With a public consultation paper to be released soon, Australia will be one of the first country to conducting this kind of exercise. In a press conference today, the Assistant Treasurer said:

With the increasingly widespread proliferation of crypto assets – to the extent that crypto advertisements can be seen plastered all over big sporting events – we need to make sure customers engaging with crypto are adequately informed and protected.

The previous government dabbled in crypto asset regulation but prematurely jumped straight to options without first understanding what was being regulated. The Albanese Government is taking a more serious approach to work out what is in the ecosystem and what risks need to be looked at first.

The second comment is a bit strange given the recent Senate Inquiry was entirely bipartisan and drew in submissions from a very broad range of industry participants, leading to the recommendation which is now being delivered on by the current government. Sensible engagement and learning will be needed to ensure the historical and misguided narrative around crypto-asset usage and risk doesn't overshadow the strides being taken around the world in crypto products and the retooling of business back offices using blockchain systems.

Oh Canada? Ontario exchanges impose CAD\$30,000 annual limit on certain crypto purchases

Two exchanges in the province of Ontario, Canada, have entered into undertakings with the powerful Ontario Securities Commission to limit the annual purchases of their customer's crypto to CAD\$30,000, outside of a short list of "core" crypto-assets.

Users of [Bitbuy](#) and Newton will be able to buy as much Bitcoin, Bitcoin Cash, Ether or Litecoin as they please, but can only buy CAD\$30,000 of anything else listed. When something is sold that is not on the whitelist, then the limit is increased. In addition a "trading questionnaire" permits Eligible Investors to have a CAD\$100,000 limit and Accredited Investors have no limit.

Also, certain provinces aren't taking part in this limit, so residents of British Columbia, Alberta and Quebec don't have any issues with using those exchanges at higher limits.

The move appears to be one of building in "protection" from retail speculators losing more than CAD\$30,000 in a year. The math works out that if a user buys CAD\$10,000 of a token, for example, they would have a CAD\$20,000 limit remaining. If they sell those tokens for a gain, then the sell would push the limit back to CAD\$30,000. However, if they sell those tokens for a loss, say a 50% loss (for CAD\$5,000), the amount of that loss effectively comes off the limit (in our example CAD\$20,000 plus CAD\$5,000 = CAD\$25,000 limit remaining).

As such, those most impacted will be retail speculators who might have volume trading on alt-coins outside of the major pairs. Of course, this limit is relatively easily circumvented since crypto-assets are so easily moved. A user could buy as much ETH as they want, withdraw it and use a DEX or offshore exchange to trade without limitations.

The flip side is that not many retail purchasers of crypto are likely to ever come up against this limitation if they are simply acquiring some crypto to buy and hold, so it is not likely to have a significant impact.

ASIC Corporate Plan Casts Crypto Spotlight

ASIC handed down its current [Corporate Plan](#) today – a 4 year strategic plan which includes crypto-assets as one of ASIC's "core focus" areas.

A large part of ASIC's role is to monitor, promote and preserve the integrity of Australia's financial system. As a means of satisfying its statutory objectives and requirements under the ASIC Act, the Plan sets out the regulator's priorities and actions over the next four years.

This year's report details ASIC's 8 core strategic projects including scams, sustainable finance practice, design and distribution obligations, breach reporting, cyber and operational resilience, financial accountability regime (FAR), digital technology and data and crypto-assets.

In the explanatory summary of the crypto asset project ASIC says:

Crypto-assets and decentralised finance (DeFi) are global phenomena that reach beyond geographic jurisdictions and the remit of any single Australian regulator. ASIC will take action to protect investors from harms posed by crypto-assets that fall within our remit. We are committed to using the full range of our powers to preserve the integrity of the Australian financial markets

This announcement follows swiftly after the Office of Treasury announced the [Federal Government's plans](#) to commence token-mapping work with a view to identify and sensibly regulate the varying categories of crypto assets that exist, signaling the government's serious approach to moving forward with the improvement of regulation within the industry, albeit using language that will be of concern to the tech industry (focusing on "risk" and talking about "full range of ...

powers” with little mention of supporting innovation and helping the huge jobs and economic growth distributed ledgers and crypto-assets bring stay in Australia).

ASIC is intending to:-

1. Support the development of an effective regulatory framework focused on consumer protection and market integrity following the recent consultation by Treasury – which appears to be a reference to the CASSPr regime consultation for centralised digital currency exchanges to become licensed;
2. Take enforcement action to protect consumers from harms associated with crypto-assets, including those that mimic traditional products but seek to circumvent regulation – this is a very interesting comment given the guidance to date from ASIC on crypto-assets has been limited to “signposting” risks without providing any bright line guidance and could be a hint of “regulation by enforcement” similar to what has been seen in the USA by their SEC;
3. Supervise and assess Product Disclosure Statements and target market determinations of major crypto offerings within ASIC’s jurisdiction – as crypto platforms have acquired financial services licenses in order to offer leveraged trading and derivatives, so ASIC is now saying they will be specifically targeting “major crypto offerings”, but its unclear what that is.
4. Implement and monitor the regulatory model for exchange traded products with underlying crypto investments – this appears a follow on from the new crypto-asset authorisation introduced for crypto ETFs seeking to list a spot ETF.
5. Raise public awareness of the risks inherent in crypto-assets and DeFi – so expect more press releases about dangers and scams; and
6. Work with domestic and international peers to monitor risks, develop coordinated responses to issues and develop international policy regarding crypto-assets and DeFi – a continuation of the work ASIC does as part of IOSCO and connecting with other regulators overseas.

One item which many in the industry would wish to see would be industry consultation and development of a regulatory framework which permits revolutionary new forms of blockchain powered financial tools to operate in a compliant way so as to bring the rules designed for a centralised world into a decentralised one.