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Blockchain Bites: Singapore considers retail crypto and stablecoin regulations, Visa potential crypto wallet offering, Debate over digital assets industry standards

Michael Bacina, Steven Pettigrove, Luke Misthos, Jake Huang and Lola Hickey of the Piper Alderman Blockchain Group bring you the latest legal, regulatory and project updates in Blockchain and Digital Law.

Singapore consults on retail crypto and stablecoin regulations

The Monetary Authority of Singapore (MAS) has proposed new measures regulating cryptocurrency exchanges and retail crypto offerings as well as addressing the risks associated with fiat-backed stablecoins.

On 26 October, the MAS – the central bank and financial regulatory authority of Singapore – issued two consultation papers. The first paper outlines proposed new measures to protect consumers and which the MAS says are intended to curb cryptocurrency speculation. These include:

- requiring retail investors to undertake a risk awareness assessment before trading cryptocurrencies;
- restrictions on offering incentives to retail investors to trade cryptocurrencies;
- restricting retail investors from using credit or leverage to trade cryptocurrencies (including credit cards to purchase cryptocurrency);
- requiring exchanges to segregate customer assets from their own assets (and, potentially, appoint an independent custodian);
- prohibitions on lending or borrowing retail user's crypto-assets, effectively banning consumers from so-called "earn-type" or staking products (following a number of high profile insolvencies involving businesses which offered these products);
- requiring crypto exchanges to identify and mitigate conflicts of interest; and
- requiring exchanges take steps to address market misconduct by implementing systems and procedures to encourage a fair, orderly and transparent market.

MAS explained its rationale for ramping up consumer protections:

> Trading in cryptocurrencies…is highly risky and not suitable for the general public. However, cryptocurrencies play a supporting role in the broader digital asset ecosystem and it would not be feasible to ban them. Therefore, to reduce the risk to consumers from speculative trading in cryptocurrencies, MAS will require…proper business conduct and adequate risk disclosure

The second paper proposes a new regime to regulate and support the development of credible and reliable stablecoins that facilitate digital transactions. Proposed regulations would target stablecoins whose value in circulation exceeds SG$5 million (about US$3.54million). The proposed measures would create a class of MAS licensed single currency stablecoins (or SCS). Key measures include:

- stablecoin issuers must hold reserve assets (e.g. cash) at least 1:1 of value in circulation and provide timely redemption to customers;

- regulated stablecoins must be pegged to a single currency;
- stablecoin issuers will be required to publish a white paper; and
- stablecoins issuers must meet a base capital requirement.

In addition, banks in Singapore would be allowed to issue stablecoins with no additional reserve backing and prudential requirements in light of existing banking regulations.

The MAS is also seeking views on whether it should reserve the power to designate a systemic stablecoin arrangement as a designated payment system.

In a statement, MAS expressed its continued support for stablecoin development:

> Stablecoins have the potential to be a medium of exchange to facilitate transactions in the digital asset ecosystem, provided they are well-regulated and securely backed. The current regulatory framework…will be expanded to ensure that regulated stablecoins have a high degree of value stability.

Consultations on both papers are open until 21 December 2022. MAS intends to implement the new measures as part of the Payment Services Act, which introduced Singapore's licensing regime for cryptocurrency exchanges.

The consultation papers follow recent comments by the MAS which indicated the city-state's intention to support tokenisation and the growth of the digital assets industry, while addressing potential consumer harms.

Some critics have voiced concerns that the proposed consumer protections may be overly prescriptive, and that the prohibition on purchasing tokens using credit or leverage could inadvertently encourage retail investors to trade in crypto derivatives. The proposed prohibition on offering earn or staking products would ban even regulated entities from offering these products while encouraging retail users to seek out unregulated DeFi or foreign offerings. Meanwhile, Singapore is likely to encounter the same limitations faced by other jurisdictions in monitoring and controlling trading by its citizens on overseas platforms.

These proposals nevertheless demonstrate Singapore's determination to cement its status as an international hub for cryptocurrency development and fintech innovation. With the EU's MiCA regime on the horizon, Singapore will likely join the EU at the forefront of cryptocurrency regulation and attract attention from legislators around the world as they craft their own regulatory regimes.

Visa walking towards crypto wallet offering

In October payments giant Visa International Service Association (**Visa**), a subsidiary of Visa Inc., filed two trademark applications with the United States Patent and Trademark Office (**USPTO**) covering a wide range of crypto products and services. The trademark applications related to digital wallets, non-fungible tokens and the metaverse.

Visa has been active within the crypto space and have partnered with over 65 crypto firms including wallet service provides and exchanges to enable crypto payments using their cards. In December 2021, Visa launched its crypto advisory services and in May 2020 Visa filed a patent application for a fiat-linked crypto system using a private permission DLT platform.

Visa's recent trademark applications cover:

> Online non-downloadable software for management of digital transactions; non-downloadable virtual goods; non-downloadable virtual goods, namely, a collectible series of non-fungible tokens; online non-downloadable software for use as a digital currency wallet and storage services software; online non-downloadable software for use as a cryptocurrency wallet.

This development by Visa follows other companies who have filed crypto related trademark applications with the USPTO over the past year, including American Express, the New York Stock Exchange, Meta and Mastercard, PayPal and Western Union.

Patent and Trademark filings in the US are often aggressively pursued by businesses in relation to potential projects, and not all filings become final offerings. Time will tell if Visa is truly bringing more crypto-enabled products to their huge customer base globally.

Debate heats up over digital assets industry standards

CEO and co-founder of FTX, Sam Bankman-Fried, has released a draft set of possible digital asset industry standards that could be enacted to encourage clarity and consumer protection pending a full federal US regulatory regime (the **Proposal**). Despite positive progress in recent months, the proposed standards are an attempt to offer suggestions and open a dialogue about regulation and establish a consensus around industry norms.

The Proposal covers hacks and accountability, asset listings, tokenised equities, consumer protection, sanctions compliance, DeFi, and stablecoins. It begins by considering ways to nullify the impact of hacks which have been a prominent issue in recent months. The Proposal suggests a '5-5 Standard' as a consensus negotiation standard between an aggrieved protocol and hacker where a hack occurs. The standard would require the hacker to return as much money as is required to ensure the protocol's reserves are enough to make customers whole, while keeping 5% or $5million (whichever is lower) as a bug bounty.

Next, and perhaps unsurprisingly, the Proposal discusses what digital assets can and cannot be listed on exchanges. According to the Proposal, FTX's legal team will do an analysis of assets using the *Howey Test* and other relevant case law and guidance. If the asset is deemed to be a security it will be treated as such. If the asset is not found to be a security, FTX will generally treat it as a non-security commodity, unless alternate direction is received from the SEC or a competent Court. Mr Bankman-Fried hopes that eventually registering digital asset securities can be done in a way that protects consumers and allows for innovation.

The Proposal also focuses on consumer protection and encourages a crack down on assets that misrepresent or make misleading claims to consumers. Mr Bankman-Fried also proposes that, as a default, systems should not meaningfully run on credit, especially for retail. This is because retail investors should not be able to lose more than they have deposited to a platform, and as such, any credit given by platforms should be scrutinized if it could result in socialising losses among other innocent investors on the platform.

The Proposal's suggestions on sanctions compliance and DeFi, which include a proposal that DeFi front-ends may be licensed and incorporate sanctions screening, elicited controversy among some DeFi supporters.

The Proposal is a useful contribution to the regulatory debate over digital assets and has served in provoking discussion about regulatory standards for the industry. A number of prominent crypto personalities have weighed in with their views on the proposals including ShapeShift founder, Erik Voorhees, who agreed to a live online debate with Mr Bankman-Fried over the merits of the proposed standards. We anticipate that this debate will continue to rage for some time to come.