Article Information

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Blockchain Bites: Employee convicted in first NFT insider trading case, Mastercard reveals crypto payments solution, Coinbase launch international exchange following clampdown, Sports Illustrated launches NFT ticketing platform

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

Sunk: Ex-OpenSea employee convicted in first NFT insider trading case

A former Head of Product at OpenSea, a well known non-fungible token (**NFT**) marketplace, was found guilty on Wednesday in what US prosecutors described as the "first ever digital asset insider trading" case. He is now facing a maximum sentence of up to 40 years in prison.

A jury in New York convicted 32-year-old Nate Chastain of wire fraud and money laundering for using nonpublic information from his employer to trade on NFTs in 2021. Chastain purchased the NFTs ahead of OpenSea featuring them on its home page, knowing the NFTs would sharply increase in price.

The Manhattan US attorney's office claimed that Chastain had bought 45 NFTs in around 5 months and sold them for up to 5 times the price he paid, pocketing tens of thousands of dollars in profit. Chastain's trading activities were first revealed by on-chain sleuths.

US prosecutors told the jury:

> *"He cheated, he stole, and he lied…He saw a way to make some extra money, to capture some upside".*

and,

> *"He had information that would give him a leg up on every other NFT trader".*

While US prosecutors used the words "insider trading" to describe Chastain's alleged crimes, they did not bring traditional insider-trading charges, which involve securities or commodities violations. Instead, they charged him with wire fraud and money laundering. Because of this, whether the NFTs in question are securities or commodities was not necessary to determine in this case.

Prior to the trial, Chastain's lawyers had fought to bar any mention of "insider trading" from the case, arguing that the prosecutors hadn't formally identified NFTs as either a security or a commodity, and were taking liberties with the term. Instead of insider trading, the lawyers said Chastain's actions were akin to an employee of an art gallery promoting their own painting and fetching a higher sum for it as a result. These arguments were rejected by the court.

The court also agreed that confidential information about which NFTs will be featured by OpenSea can be considered

property, which was a key element to the prosecutors' wire fraud case. Prosecutors said that OpenSea, which was founded in 2017, treated the information as confidential and that Chastain signed a confidentiality agreement when he started working for the company, which included a "protection of information" provision.

However, lawyers for Chastain argued that the information wasn't treated as confidential or property by OpenSea, arguing the relevant company rules weren't clear. They also said OpenSea lacked a formal insider trading policy:

> *Not only were there no OpenSea policies, trainings, or compliance programs to inform employees of any restriction on trading featured NFTs, the government would have the jury believe that a generic confidentiality agreement, signed by newly hired employees, covered the conduct.*

A policy that would have expressly prohibited the defendant from buying the NFTs in question was only put in place by OpenSea after Chastain's transactions came to public knowledge.

Following last year's high profile Coinbase insider trading case in which one defendant has pled guilty, the OpenSea case establishes a significant precedent by utilizing traditional fraud charges to prosecute trading in digital assets based on inside information, sidestepping the complex securities law issues required to bring insider dealing charges. The highly contentious issue of whether fungible digital tokens or NFTs are securities or commodities will remain a heated ground for future debate.

The OpenSea and Coinbase cases are also an important reminder for Web3 companies to implement well considered token dealing policies to curb trading on inside information by employees and contractors and to prevent the reputational fallout caused by insider dealing in cryptoassets including NFTs. In considering whether to implement a token dealing policy, it is important to instruct competent lawyers who are deeply familiar with both digital assets, corporate and financial services laws and the unique issues which arise involving digital assets.

Building trust in Web3: Mastercard reveals crypto payments solution

Mastercard, the global payments giant, has launched a new customer verification solution for Web3 that is intended to enhance trust for consumers and businesses transacting using blockchain technology. The solution, known as "Mastercard Crypto Credential," was announced earlier this week and taps into Mastercard's CipherTrace blockchain analytics tools to help verify trusted addresses and support AML/CTF compliance.

As part of the solution, users will receive a unique identifier called the "Mastercard Crypto Credential," which will allow them to verify instantly whether an address they wish to send funds to has been vetted by Mastercard and is operating according to the company's compliance standards. Furthermore, the solution is designed to exchange basic transaction information to facilitate AML/CTF compliance and reduce the risk of loss of funds or fraudulent activities. If a bad actor obtains a unique identifier, Mastercard will have the ability to revoke their verification.

Mastercard Crypto Credential is initially available to developers on the Aptos, Avalanche, Polygon, and Solana blockchains. Mastercard is also partnering with wallet providers, including Bit2Me, Lirium, Mercado Bitcoin, and Uphold to facilitate cross-border transfers between the US, Latin America and the Carribean,

Mastercard's latest move deepens its increasing involvement in digital assets over the last few years. Recently, the company launched a nonfungible token (NFT) gated musician accelerator program in partnership with Polygon, which offers free access to materials, unique AI tools, and other experiences to holders of Mastercard's Music Pass NFT.

Mastercard's rival, Visa, is also stepping up its involvement in digital assets announcing a new stablecoin payments-focused project on 24 April 2023 through a new job listing. Visa's Head of Crypto, Cuy Sheffield, said in a tweet:

> *We have an ambitious crypto product roadmap @Visa and just opened a few reqs for senior software engineers to help us drive mainstream adoption of public blockchain networks and stablecoin payments.*

Visa and Mastercard, as well as other traditional 'big money' corporates like Venmo and NAB, are increasingly pushing ahead with their Web3 plans. Despite crypto winter, financial services companies are continuing to look to blockchain technology as a source of innovation and, unlike in years past, increasingly building crypto solutions for public rather private blockchains.

Coinbase launch international exchange following US crypto clampdown

Coinbase Global Inc. plans to expand its business by launching a derivatives exchange catering to institutional crypto traders based outside the US. The newly launched platform, named Coinbase International Exchange, will list perpetual futures for Bitcoin and Ether from this week after obtaining a license from the Bermuda Monetary Authority.

The move will allow Coinbase to compete with offshore players like Binance, who have already established a strong foothold in the crypto derivatives market. For now, the international exchange will only be available in Bermuda and for non-US institutional clients upon application.

Coinbase is doubling down on international expansion at a time when the blockchain industry faces increased regulatory challenges in the US. Coinbase received a Wells Notice from the SEC earlier this year alleging possible securities violations despite its consistent efforts to engage with US regulators and seek regulatory clarity for the cryptocurrency industry. These efforts culminated last week in Coinbase initiating administrative proceedings against the SEC seeking a response to a Petition which it lodged last year calling on the SEC to exercise its rulemaking powers to establish a tailored regime for digital asset securities.

According to Coinbase, perpetual futures make up 75% of global crypto trading volumes. Perpetual futures offer a way for investors to gain exposure to cryptocurrency without needing to own the underlying asset. Crypto traders often use perpetual futures to hedge against losses or speculate on the underlying tokens' prices using leverage. These contracts do not have an expiration date and can be held for as long as the investor wishes.

On the Coinbase International Exchange, eligible investors will be able to access perpetual futures contracts with up to five times leverage. All trades will be settled using USD Coin ($USDC), the stablecoin issued by Circle Internet Financial Ltd., in partnership with Coinbase.

In a recent blog post, Coinbase reaffirmed its commitment to the US market but criticized the country's regulatory approach, calling it a "disappointing trend." The company generated 84% of its revenue from the US market last year, where it is most recognized. With rumors that a number of other US based exchanges have received Wells Notices, it appears likely that major exchanges will continue to pursue growth internationally as other jurisdictions, such as the EU, UK, Hong Kong and Australia, move forward with fit for purpose regulatory regimes for crypto-assets.

Sports Illustrated launches Box Office NFT ticketing platform

American sports magazine, Sports Illustrated, has announced the launch of its own NFT-based ticketing platform on the Polygon Network. The platform, called "Box Office" will allow fans to purchase and own digital collectibles that represent event tickets. Following in the steps of Ticketmaster, the move aims to revolutionise the way sports fans purchase tickets and interact with live events.

Released by "SI Tickets", a subsidiary of Sports Illustrated, Box Office will allow event owners, organisers and hosts to create, manage and promote scalable NFT tickets. SI Tickets CEO, David Lane, expressed his bullish view on the digitisation of ticketing:

> *Blockchain is the future of ticketing, and now owners, promoters, hosts and attendees have access to an advanced ticketing experience that transforms the antiquated barcode into engaging and collectible content.*

SI Tickets has also announced a partnership with blockchain software company ConsenSys to create a "Super Ticket" which allows attendees to scan their NFT tickets for benefits such as expedited entry passes, drink coupons, music downloads and receive post-event video content and rewards thereafter.

ConsenSys Global Co-Head, Johnna Powell said:

> *We believe the partnership with SI Tickets will make it easier for owners, promoters, and facilitators to create a fan experience that reaches previously unseen levels of engagement*

By leveraging Polygon's fast and low cost blockchain infrastructure, Box Office aims to offer a seamless ticketing experience for sports fans, while also reducing the risk of fraud and counterfeiting.

The launch of Box Office represents a significant step forward for the adoption of blockchain technology in the sports industry. By using NFTs to represent event tickets, Sports Illustrated and its partners are creating a more secure and transparent ticketing system that benefits both fans and event organizers alike.