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Blockchain Bites: Binance Australia loses PayID and fiat withdrawal, World Bank releases guidance for real world asset tokenisation, CBDC pilot clears first eAUD transaction, The clawbacks are coming: FTX advisors pursue millions, Whole Bitcoin Wallets cross the important 1M number

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

Binance Australia loses PayID and fiat withdrawal

Users of Binance Australia are facing disruptions with AUD deposits and withdrawals as Binance was been forced by their 'third party payment service provider' (believed to be Cuscal) to terminate PayID services for their Australian account holders. This "de-banking" situation also impacted Binance Australia's fiat withdrawals service. Customers have been advised to wait for an undetermined length of time while Binance Australia:

> *work[s] hard to find an alternative provider to continue offering AUD deposits and withdrawals*

Despite the disruptions, customers are still able to send funds to purchase cryptocurrency via credit or debit cards and through Binance's P2P marketplace. Amidst the uncertainty, Binance Australia has assured users that customer funds are kept safe via their Secure Asset Fund for Users (**SAFU**), which is a type of insurance fund, designed to protect customers in 'extreme situations'.

The move came on the same day that major Australian bank Westpac blocked their customers from transacting with Binance, with Westpac saying:

> *Digital exchanges have a legitimate role to play, but we have blocked access to some overseas exchanges that are used more frequently than others for scams.*

The de-banking move against Binance Australia follows a temporary halt by Binance on bitcoin withdrawals due to a technological issue in fees, which failed to adjust for increases in bitcoin gas (transaction) fees. Just last month, Binance Australia was forced to hand back their derivatives Australian Financial Services License (**AFSL**) after pressure from the Australian Securities and Investments Commission (**ASIC**), resulting in users being exited from their derivative positions.

De-banking has been a growing concern for fintech startups and crypto companies for some time, with banks and the US government accused of conducting a campaign to de-bank the whole crypto industry.

However, de-banking of legitimate companies is a major issue that can disrupt business operations and force innocent businesses into insolvency, particularly given how central electronic payments are to businesses.

This was acknowledged as a global issue by the Australian Senate Committee in their issues paper, by AUSTRAC and by Blockchain Association in the USA, no changes, such as a "right to banking" have been implemented in any jurisdictions to address the issue. Compounding the challenge is anti-tipping off provisions which prevent a bank from disclosing the reasons for de-banking if those reasons relate to money laundering or terrorism financing concerns.

Against a backdrop of a huge amount spent on AML/CTF compliance annually (estimated at AUD$300B) for relatively little return (estimated at $3B), one industry veteran has called AML/CTF compliance a "joke", and we suggest further data should be obtained to identify the economic benefits of de-banking based on AML/CTF risk versus the benefits lost to consumers by such de-banking and understanding what alternatives exist from investigation and prosecution of bad actors and criminals who use a highly trackable system like blockchain to transfer value.

World Bank releases guidance for real world asset tokenisation

Blockchain technology holds immense potential for revolutionising infrastructure financing by enabling asset tokenisation. Earlier this year, the World Bank released a report on the tokenisation of real world assets, an important step in setting international standards and approaches to this process.

Tokenisation involves representing real-world assets as digital tokens on a blockchain, seeking to unlock advantages such as increased efficiency, transparency, and liquidity for many traditionally illiquid assets. The World Bank believes that tokenising infrastructure projects through blockchain technology could significantly enhance project management, investment environments, and overall infrastructure management.

One key application of blockchain technology in infrastructure projects detailed in the report is the use of smart contracts. These programmable and automated agreements smooth processes by removing intermediaries, including administratively heavy work such as invoice verification, and linking documents to master data sources, which can eliminate fraud, ensure accuracy and increase transparency. By leveraging smart contracts, infrastructure stakeholders can mitigate the risks associated with contractors overstating subcontract amounts, reduce manual effort in verifying and rectifying discrepancies, and improve compliance with contractual details. Although unlikely to replace the need for lawyers, smart contracts will increasingly be used for legal processes that are conducive to automation. The decentralised and immutable nature of smart contracts ensure transparency, accountability, and real-time resolution of changes to orders and claims.

Given the immense potential of asset tokenisation, the World Bank has outlined several risks and challenges that require careful consideration, particularly in the legal and regulatory landscapes. Tokenising different things, such as ownership of an infrastructure asset, equity interests, debt positions, or revenue streams, is subject to varying regulations across jurisdictions, much of which was not designed with data objects that can move globally at speed.

Harmonizing financial services regulations for tokenised assets is crucial to ensure widespread democratisation of the space as an asset class, rather than limiting access to traditional private equity or wholesale debt investors only. The idea of a globalised set of standards of digital assets is gaining more and more traction, especially with the recent adoption of MiCA in the EU.

The current lack of global standards and codes of conduct for managing digital assets poses governance risks and hinders legal clarity and creates difficulties for those wanting to take advantage of the technology. Establishing widely accepted standards is essential for addressing key provisions related to ownership rights, anti-money laundering (**AML**) and know-your-customer (**KYC**) requirements, administrative rights, and integration with secondary markets. The World Bank recognises in their report that the rapid evolution of technology compared to stagnant regulatory frameworks creates challenges in fully realising this technology's potential, and this view stands in start contrast to the approach by the US SEC in asserting their existing laws do no need to evolve to meet technological change.

Another significant challenge outlined by the World Bank in its report lies in defining the legal status of digital tokens and smart contracts. Tokenised securities must comply with existing securities regulations, but recognition of tokens as digital assets varies across jurisdictions. While tokenization enables the creation of holding vehicles for purchasing loans and other assets, most jurisdictions do not recognize infrastructure tokens as independent investments, which raises questions about their legal status. Overcoming these challenges is crucial for establishing secondary market liquidity for tokenised assets and enabling broader investor participation. The utilisation of smart contracts also introduces cybersecurity concerns. Automation and immutability, while beneficial, increase vulnerability to cyber hacks and fraudulent activities. Compliance with AML and KYC regulations, coupled with collaboration with security token exchanges for tracking token ownership, is crucial to ensure cyber resilience and accountability.

Considering the potential benefits of tokenization, the World Bank believes traditional "big money" corporates should explore this innovative approach to infrastructure financing. By tokenising one of its own infrastructure projects, the World Bank aims to demonstrate leadership in leveraging blockchain technology and fostering change in financial regulation to accommodate the use of security tokens.

The tokenisation of real world assets is certainly a hot topic in the digital assets world in 2023, with institutions like the World Bank, Citi, Mastercard, and even countries like Germany and the UAE paving the way with bespoke legislative reform. By actively exploring real world tokenisation, these significant players can contribute to global regulatory advancements and foster transparency, efficiency, and will help support the wider adoption and proliferation of the benefits of blockchain technology.

CBDC pilot clears first eAUD transaction

Australia saw the successful completion of its first foreign exchange transaction using a central bank digital currency (**CBDC**) , the eAUD, this week. The crypto fund managers, DigitalX and TAF Capital, exchanged eAUD for a USD stablecoin, USDC, on Canvas' Ethereum layer 2 blockchain.

The transaction was completed on Canvas Connect which is a privacy focused layer 2 blockchain. That layer 2 leverages StarkWare's zero-knowledge roll-up technology allowing near instant settlement without compromising important factors such as privacy, compliance with regulation and scalability. The tokenized FX settlement was part of Australia's CBDC pilot between the Reserve Bank of Australia and the Digital Finance Cooperative Research Centre (**DFCRC**).

Canvas sells the great potential of layer 2 solutions to eliminate "market inefficiencies, errors, and settlement risks", compared to existing foreign exchange and remittance networks which were traditionally "slow, expensive and prone to errors".

The CEO of Canvas, David Lavecky praised the successful transaction as 'historic' and further said:

> *The eAUD, as a CBDC, holds the potential to address crucial challenges in both FX and International Remittance Markets such as improving transaction times, reducing fees, and providing more open access…We believe that CBDCs…will radically transform finance and markets.*

In addition to testing CBDC use cases, the pilot has provided a platform for a variety of real world use cases for blockchain and digital assets. Canvas' FX settlement project is only one of Australia's 15 selected use cases in the RBA's CBDC pilot. Other use cases to be tested include carbon trading, tokenised invoicing, tax automation and applications in 'trusted Web3 commerce'. An assessment report on the pilot use cases is expected to be released by the end of next month.

The clawbacks are coming: FTX advisors pursue millions

Alameda Research, now being run by restructuring advisor John Ray III and represented by law firm Sullivan & Cromwell under a joint Chapter 11 bankruptcy proceeding with over a hundred FTX affiliate companies, is seeking to recoup millions of US dollars spent on acquiring start-up Embed Financial.

According to a court filing on 17 May, Alameda Research alleged that FTX founder Sam Bankman-Fried (**SBF**) and other insiders misappropriated around USD$250 million of FTX's funds to pay for the acquisition of Embed Financial, a start-up dealer-broker that had been touted as a gateway for the cryptocurrency group to expand its offering to traditional securities products. As part of this transaction, FTX executives SBF, Nishad Singh and Gary Wang allegedly received benefits in the form of equity in one of FTX's affiliate.

In another law suit filed on the same day, Alameda sought to reclaim the money which Embedded Financials' former shareholders received. Alameda also seeks to recoup funds from former Embed Financial employees who received USD$75 million in "retention bonus" from the deal.

Alameda, through its lawyers, claimed that the funds were misappropriated from the FTX group just weeks before the Chapter 11 bankruptcy commenced, when the group was already insolvent. Under US bankruptcy laws, transactions can be voided on the basis they are "fraudulent transfers" intended to take assets out of the pool otherwise available to creditors, and return those funds to the bankrupt estate.

A number of well-known Silicon Valley venture capital firms were on the list of defendants who profited from the transaction. They include Y Combinator, Bain Capital Ventures and 9Yards.

The complaints also detailed a series of transactions involving multiple accounts at now-defunct Signature Bank which Alameda's lawyers said were intended to create a false impression that the money used to acquire Embed Financial came from the personal accounts of SBF and other FTX executives instead of the company.

Embed Financial only had approximately USD$37 million in total assets and US$25,000 in net revenue at the time of acquisition. Alameda's lawyer said, *the purchase price … for Embed was astronomical, particularly in view of Embed's minuscule customer base and the serious bugs plaguing its software platform at the time of the acquisition*

The filing also cited the words of an employee who revealed how faulty Embed Financials' technology was,

can't really take ANY accounts . . . has to basically lie to get the deals he gets, but there's fallout, and we aren't managing it[.]

Another employee gave his opinion on FTX's team based on their prior dealing with one of FTX's affiliate which,

didn't do a ton of [due diligence]

Following the US Department of Treasury and Internal Revenue Service's whopping USD$44B tax bill sent to the FTX group last week, these law suits could potentially add back amounts to the pool available for FTX creditors, which was previously reported to be at USD$7.3 billion with likely claims of USD$10B (excluding the IRS claim).

These proceedings will also add to SBF's woes, who is now facing 13 charges by the Department of Justice, though he denied all wrongdoing. It was also alleged that SBF received USD$2.2B from FTX just before the insolvency. More recovery actions against SBF and other former FTX executives personally may still be to come.

Whole Bitcoin Wallets cross the important 1M number

The number of individual digital wallets that hold at least one bitcoin has reached the milestone number of one million this week. Data released from the on-chain analytics tool, Glassnode shows that wallets holding bitcoin have risen 20% since February 2022, crossing the one million mark.

The data indicates that trust in the cryptocurrency remains intact even as the broader markets experience turbulence. The data shows an increase of almost 80,000 holders following the FTX crash in November 2022 where the price of bitcoin suffered a significant decrease. This is also consistent with a move away from holding bitcoin through wallets held by centralised exchanges.

The bitcoin holding uptick is noteworthy, particularly because of recent setbacks in consumer trust resulting from market disturbance following the SVB collapse. Glassnode's co-founder took to Twitter to express a simple sentiment when it comes to purchasing bitcoin:

Buy when there is Blood in the streets.

Despite the grim nature of this tweet, 'Negentropic' is alluding to the fact that a significant proportion of bitcoin uptake is seen during sustained bear markets or broader institutional disruption.

There are several reasons for this, one being that when a major bank collapse happens such as with SVB, investors look to bitcoin to protect their capital as it is a trustless decentralised asset. Another theory is that investors are loading up on bitcoin while the price is (relatively) low and seeking to hold until the market recovers in the future.

In any case, the latest data indicates that so-called bitcoin "hodlers" trust in bitcoin has not waivered, even in the face of undeniable market disruption and a downturn in prices.