

Episode 122: Summary

Episode name: The Future of Finance: The Australian Treasury's Proposal for Regulating Digital Asset Platforms

Guest(s): Steven Pettigrove

What area(s) of law does this episode consider?

The Treasury's proposal paper on regulating digital asset platforms.

Why is this topic relevant?

In recent years, the rise of digital assets has presented both opportunities and challenges for regulators worldwide. Australia is no exception, with the Treasury recently proposing a possible approach to addressing the unique regulatory considerations posed by digital assets. By introducing a regulatory framework tailored to the digital asset space, the proposal aims to protect consumers from potential risks while fostering an environment conducive to innovation and growth in the sector. This move underscores Australia's commitment to maintaining a competitive edge in the global fintech landscape.

What legislation is considered in this episode?

Corporations Act 2001 (Cth)

Anti-Money Laundering and Counter-Terrorism Financing Act 2006 (Cth)

What are the main points?

- The proposal aims to address the lack of regulation around cryptocurrency exchanges in Australia, particularly in light of past failures like the FTX collapse in 2020. It seeks to establish a licensing framework for digital asset platforms, encompassing custody, trading, fundraising with digital tokens, tokenisation of assets, and staking.
- The proposed regulation by ASIC and the Treasury aims to regulate digital tokens and cryptocurrencies by focusing on the custody aspect, which will impact intermediaries in the cryptocurrency space while leaving peer-to-peer and DeFi transactions in a grey area.
- Stablecoins are digital assets that aim to maintain a stable value by being pegged to a reference asset like a fiat currency. Regulatory proposals are being discussed to treat stablecoins as stored value facilities, with a focus on maintaining reserves to prevent depegging or fraud events, especially after incidents like the collapse of algorithmic stablecoins like Terra (LUNA).
- Australia has been active in digital asset investments, and there is a hope for a flourishing market beyond just tokens for payments, with potential applications in various sectors like Web3 gaming and governance.
- Web3 is a concept focused on decentralisation and reducing control by large tech companies, aiming to reshape the internet infrastructure.

What are the practical takeaways?

- Regulation is seen as necessary to provide certainty for entrepreneurs and investors while exploring new applications for blockchain technology, such as asset tokenisation for real estate and other investments.
- Scams are a multifaceted issue with various challenges needing to be tackled, including the use of cryptocurrency for illicit activities. Financial institutions and cryptocurrency platforms are enhancing compliance measures to address the risks associated with the movement of funds. Consumers should look for platforms with an AFSL badge for added confidence, but it is crucial to remain vigilant and verify information independently to combat scams in both traditional and online markets.
- Exploring areas of interest, such as AI, and seeking resources like podcasts and blogs can help individuals understand the legal and policy implications of emerging technologies, while gaining practical experience through positions like paralegal or clerk can further enhance knowledge and skills in the field.

Show notes

Australian Government Treasury, *Regulating Digital Asset Platforms: Proposal paper*, October 2023 ([link](#))

Piper Alderman, *Australian Treasury Digital Asset Platforms Consultation* ([link](#))