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Gibson Dunn Digital Assets Recent Updates – November 2023

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We are pleased to provide you with the next edition of Gibson Dunn's digital assets regular update. This update covers recent legal news regarding all types of digital assets, including cryptocurrencies, stablecoins, CBDCs, and NFTs, as well as other blockchain and Web3 technologies. Thank you for your interest.

Enforcement Actions

United States

1. ***Sam Bankman-Fried Convicted On All Charges After Weeks-Long Criminal Fraud Trial***

On November 2, a New York jury convicted FTX founder Sam Bankman-Fried of stealing billions of dollars' worth of FTX customer deposits, culminating one of the highest-profile criminal fraud trials in recent history. The prosecution's case took up the bulk of the four-week trial and was highlighted by the testimony of a half-dozen former FTX and Alameda Research employees and close friends of Bankman-Fried. The defense's only witness was Bankman-Fried himself, whose testimony spanned two and a half days. After just over four hours of deliberation, the jury returned a conviction on all seven counts, including fraud, money laundering, and conspiracy. Sentencing is scheduled for March, with Bankman-Fried facing up to a life sentence. Bankman-Fried also faces additional charges, including bribery and bank fraud, which were charged after Bankman-Fried was extradited from the Bahamas. These charges could be separately tried next year. WSJ 1; New York Times; WSJ 2; CoinDesk; CoinTelegraph.

2. ***Federal Judge Denies SEC's Bid To Appeal Ripple Labs' Partial Win; SEC Drops Claims Against Two Executives***

On October 3, U.S. District Judge Analisa Torres denied the SEC's request to certify an interlocutory appeal of the judge's partial ruling in July, holding that her prior order did not involve a controlling question of law and that there was not a "substantial ground for difference of opinion." The SEC sought to appeal the judge's holding that Ripple's programmatic offers of XRP to consumers via crypto trading platforms did not constitute a sale or offer of a security under *SEC v. Howey Co.*, 328 U.S. 293 (1946). The SEC argued in its request for certification that the *Howey* test was improperly applied. The SEC may appeal the July decision once the district court enters a final judgment resolving all claims.

On October 19, the SEC voluntarily dismissed its claims against Ripple Labs' Executives Bradley Garlinghouse and Christian Larsen. The SEC previously alleged that the two aided and abetted Ripple's Securities Act violations and a trial was set to begin in April 2024. **Law360 1**; **Reuters**; Law360 2.

Related People

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3. ***US Targets Hamas, Warns Against Crypto Funding Following Israel Attack***

On October 27, U.S. Treasury Deputy Secretary Wally Adeyemo warned that the U.S. would undertake enforcement against cryptocurrency firms that fail to stop terrorist groups from moving funds. Adeyemo's statements followed a letter earlier in the month by Senator Elizabeth Warren and dozens of members of Congress that called on the Biden administration to crack down on the use of cryptocurrency by terrorists, citing a disputed report that Hamas and Palestinian Islamic Jihad were able to raise over $130 million in funds using cryptocurrency.

Elliptic, the firm behind some of the data cited in the report, responded in a blog post that there was "no evidence to suggest that crypto fundraising has raised anything close to" the figure cited, although some money included in the total number might have gone to small crypto brokers sometimes designated as terrorist organizations for their role in financing. Other crypto analysts, who did not provide data for the report, noted that some estimates have inaccurately assumed that all funds routed through these smaller service providers are associated with terrorism. Adeyemo's remarks follow the Treasury's October 18th imposition of sanctions on key Hamas members managing assets in a secret investment portfolio, as the Biden administration faced growing pressure to disrupt Hamas's financing. **Financial Times**; **WSJ**; **U.S. Department of the Treasury**; **Bloomberg**; **Washington Post**; **Elliptic 1**; **Elliptic 2**; **Reuters**; **CoinDesk**; **Seattle Times**.

4. ***The New York Attorney Sues General Gemini, Genesis, And DCG***

On October 19, the New York Attorney General Letitia James sued Genesis Global, its parent company Digital Currency Group (DCG), and Gemini Trust, claiming that the companies defrauded investors. The defendants have denied all of the claims. **NY AG Press Release**; **CNN**.

5. ***PayPal Receives SEC Subpoena Regarding Stablecoin***

On November 1, PayPal revealed in a quarterly earnings report that it received a subpoena from the SEC's Enforcement Division regarding its USD stablecoin, PayPal USD (PYUSD), which was launched in August. PayPal did not disclose additional details about the subpoena. The SEC has taken the position in enforcement actions that certain stablecoins qualify as securities. **CoinDesk**; **WSJ**.

6. ***FTC Settles With Voyager; Both The FTC And CFTC Proceed With Parallel Charges Against Former CEO***

On October 12, the Federal Trade Commission (FTC) announced a settlement with crypto lending firm Voyager for allegedly deceptive marketing but has yet to settle with Stephen Ehrlich, a former Voyager executive, for charges arising from the same events. In their federal complaint, the FTC alleged that Voyager violated the FTC Act and the Gramm-Leach-Bliley Act (GLBA) by falsely claiming that customer deposits of cash and cryptocurrency would be insured by the Federal Deposit Insurance Corporation (FDIC). The complaint further alleges that both the company and Ehrlich were aware that their claims could mislead customers. In the proposed settlement, Voyager and its affiliated companies agreed to a judgment of $1.65 billion, which will be suspended in order for Voyager to distribute its remaining assets to consumers in bankruptcy proceedings. The settlement will also permanently ban the companies from offering, marketing, or promoting any product or service related to depositing, exchanging, investing, or withdrawing consumers' assets. A parallel claim filed against Ehrlich by the Commodity Futures Trading Commission (CFTC) has not been settled. **FTC Announcement**; **Blockworks**; **JDSupra**.

7. ***CFPB Investigating Crypto Platform Hacks***

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The Director of the Consumer Financial Protection Bureau (CFPB), Rohit Chopra, announced recommendations for regulators' future approach to payments policy, including CFPB having direct authority to address crypto platforms. "[T]o reduce the harms of errors, hacks and unauthorized transfers, the CFPB is exploring providing additional guidance to market participants to answer their questions regarding the applicability of the Electronic Fund Transfer Act (EFTA) with respect to private digital dollars and other virtual currencies," said Chopra during the Brookings Institution event. The CFPB is investigating how to apply EFTA, which protects consumers from payments fraud, to crypto accounts. **Financial Times**; **Forbes India**.

8. ***SafeMoon Executives Arrested And Charged By DOJ And SEC***

On November 1, SafeMoon CEO John Karony and Chief Technology Officer Thomas Smith were arrested in connection with criminal charges relating to their operation of the SafeMoon crypto project. Prosecutors allege that Karony, Smith, and founder Kyle Nagy (who also was charged) told investors that their funds were "locked" safely in liquidity pools, when instead the defendants allegedly used the funds to purchase luxury cars and real estate. The SEC contemporaneously filed related civil charges against the defendants based on allegations that the company's SafeMoon token was an unregistered security. **CoinDesk**; **FortuneCrypto**; **The Block**; **CoinTelegraph**.

International

9. ***Three Arrows Capital Co-Founder Arrested In Singapore For Failing To Cooperate With Investigations***

Local police arrested Su Zhu, co-founder of the defunct crypto hedge fund Three Arrows Capital Ltd., at Singapore's Changi Airport on September 29. Su Zhu was attempting to flee the country after a Singapore court issued a "committal order" authorizing the arrest of Zhu and his co-founder Kyle Davies and sentencing them to four months in prison for failing to cooperate with investigations. According to liquidators of the bankrupt hedge fund, co-founders Su Zhu and Kyle Davies failed to produce requested documents and were unhelpful in locating assets needed to repay the company's creditors. Three Arrows Capital collapsed in June 2022 after allegedly defaulting on $660 million in debt. At this time, the location of co-founder Kyle Davies remains unknown. **Law360**; **CoinDesk**.

10. ***Israel Orders Freeze Of Crypto Assets In Bid To Block Funding For Hamas***

A week after the October 7 attack on Israel, Israeli authorities closed more than 100 cryptocurrency accounts and requested information on up to 200 additional accounts, in coordination between the country's defense ministry and intelligence agencies. This follows Israel's reported seizure of funds linked to Palestinian Islamic Jihad on July 4, including crypto exchange wallets in Tether (USDT), USD Coin (USDC), and Tron (TRX). **Financial Times**; **Elliptic 1**; **WSJ**; **Elliptic 2**; **Reuters**; **CoinDesk**.

11. ***Kenya Calls For Shutdown In Operations Of Worldcoin Due To Privacy Concerns***

In late September, a Kenyan parliamentary panel issued a report recommending that the country's information technology regulator, the Communications Authority of Kenya, shut down the operations of cryptocurrency project Worldcoin. The panel proposes to suspend Worldcoin's "physical presence in Kenya until there is a legal framework for regulation of virtual assets and virtual service providers." In August, Kenyan officials ordered a halt to WorldCoin's operations and announced that an investigation revealed privacy concerns, including that Worldcoin may have scanned the eyes of minors, as the project lacks an age-verification mechanism. **Reuters**; **Business Insider**; **Parliamentary Report**; **Digital Assets Recent Update**.

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12. ***Hong Kong Authorities Opened Investigation Into Japan Exchange (JPEX) For Fraud Allegations***

Hong Kong opened an investigation into alleged fraud by Japan Exchange, or JPEX, as the city's regulator, the Securities and Futures Commission, has accused the company of misleading investors. Up to 26 suspects have been arrested. The city's authorities have received more than 2,300 complaints about the platform, with claims of losses totaling as much as $192 million USD. Allegations also include that JPEX misled investors by disclosing that they had applied for a crypto trading license and charged users exorbitant fees to withdraw funds. **Financial Times**; **Bloomberg**; **South China Morning Post**; **The Standard**.

13. ***London Metropolitan Police Establishes Specialized Unit For Crypto Investigations***

The London Metropolitan Police has established a specialized 40-member team dedicated to investigating crypto-related offenses, including organized crime. Crypto fraud cases in the UK surged by 41% over the past year, causing losses of more than 306 million euros. The team has investigated 74 intelligence referrals to date and have 19 current active criminal investigations. Criminal networks use digital assets because of its capability to conceal assets and seamlessly facilitate cross-border transactions. The operations runs alongside the government's ambition to make London a hub for crypto assets and the city's new standards for the promotion of crypto products, which are among the toughest in the world. **Financial Times**; **TronWeekly**; **AP News**.

14. ***UK Financial Conduct Authority Imposes Restrictions On Rebuildingsociety.com Ltd***

On October 10, the UK Financial Conduct Authority (FCA) restricted peer-to-peer lending platform rebuildingsociety.com Ltd from approving cryptoasset financial promotions. The FCA has targeted 146 unregistered crypto firms as promotional rules take effect. **FCA Release**; **Blockchain**; **Blockworks 1**; **Blockworks 2**.

Regulation and Legislation

United States

15. ***Government Accountability Office Reports SEC's Cryptocurrency Accounting Guidance Is Subject To Congressional Oversight***

On October 31, the Government Accountability Office reported that cryptocurrency accounting guidance that the Securities and Exchange Commission issued in 2022, SEC's Staff Accounting Bulletin 121, is an agency "rule" as defined in the Administrative Procedures Act and therefore is subject to congressional oversight under the Congressional Review Act (CRA). The CRA requires regulators to submit reports on new rules to Congress and the comptroller general for review, yet the SEC did not comply with those procedures for Staff Accounting Bulletin 121. The determination has prompted some crypto advocates to call on the SEC to take steps to either withdraw the guidance or formalize it via rulemaking. **Bloomberg**; **Law360**; **CoinTelegraph**.

16. ***IRS Extends Broker Reporting Crypto Tax Rule Comment Period***

On October 24, the U.S. Department of the Treasury and the IRS extended by two weeks the deadline for submitting comments on the agencies' proposed rule that would impose tax-reporting obligations on a wide range of digital asset firms deemed to be "brokers."

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The agencies extended the deadline to November 13 in response to “strong public interest”; thousands of comments already have been submitted. The agencies propose to define digital asset “brokers” to include centralized and decentralized trading platforms, digital asset payment processors, and digital wallet providers, among others. The proposed rule would exempt individual miners and validators from the “broker” classification. Senators Elizabeth Warren, Bernie Sanders, Sherrod Brown, and four other senators recently urged the Treasury and IRS to expedite issuance of a final rule. **Federal Register**; **BlockWorks**; **CoinTelegraph**.

17. ***Expectations Mount That SEC Will Soon Approve Bitcoin ETFs***

Several asset managers have amended their applications seeking SEC approval of an exchange-traded fund, sparking optimism that the SEC is on the verge of approving a spot Bitcoin ETF. The SEC has previously approved only Bitcoin futures ETFs, yet it must decide at least two pending spot Bitcoin ETF applications by January 10, 2024 and others by March and April of 2024. The renewed optimism follows the D.C. Circuit’s ruling vacating the SEC’s denial of Grayscale’s application for a Bitcoin ETF. The SEC has declined to seek en banc or Supreme Court review of the decision. **Yahoo Finance**; **Reuters**; **CoinDesk 1**; **CoinDesk 2**; Financial Times; **Business Insider**.

18. ***FinCEN Proposes New Regulation For Transparency In Crypto Mixers And To Combat Terrorist Financing***

On October 19, the U.S. Department of the Treasury’s Financial Crimes Enforcement Network (FinCEN) issued a proposed rule that would identify international Convertible Virtual Currency Mixing (CVC Mixing) as “a class of transactions of primary money laundering concern.” FinCEN grounded the proposal in part on “the risk posed by the extensive use of CVC mixing services by a variety of illicit actors.” Comments on the proposed rule must be submitted by January 22, 2024. **FinCen Press Release**; **Notice of Proposed Rulemaking**; **CoinTelegraph**.

19. ***California Governor Signs Crypto Licensing Bill***

On October 13, California Governor Gavin Newsom signed Assembly Bill 39, which establishes the Digital Financial Assets Law, a comprehensive regulatory scheme akin to New York’s BitLicense. The Digital Financial Assets Law will require individuals and firms to obtain a Department of Financial Protection and Innovation (DFPI) license to engage in “digital financial asset business activity,” subject to certain exemptions. The law broadly defines “digital financial asset” to mean a “digital representation of value that is used as a medium of exchange, unit of account, or store of value, and that is not legal tender.” The law, which is set to go into effect on July 1, 2025, gives the DFPI authority to adopt a more detailed regulatory framework implementing the law’s requirements. **CA Legislative**; **CoinDesk**.

20. ***CFPB Director Suggests Applying The Electronic Fund Transfer Act To Digital Assets***

At the Brookings Institution’s payments conference on October 6, Rohit Chopra, director of the Consumer Financial Protection Bureau, suggested potentially applying the Electronic Fund Transfer Act (EFTA) to “private digital dollars and other virtual currencies” to “reduce the harms of errors, hacks and unauthorized transfers.” The EFTA was enacted to protect consumers from electronic payments fraud and requires financial institutions to notify consumers of if or when they are liable for unauthorized electronic funds transfers. Chopra recommended the Treasury’s Financial Stability Oversight Council to classify some crypto activities as “systemically important payment clearing or settlement activity” to “ensure that a stablecoin is actually stable.” He further stated that the CFPB will issue orders to “certain large technology firms” to gain information on their practices on personal data and issuing private currency. **Financial Times**;

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CoinTelegraph.

21. ***NYDFS Announces Proposed Updates To Guidance On Listing Of Virtual Currencies***

On September 18, the New York Department of Financial Services (NYDFS) issued proposed updates to its guidance on the listing and delisting of cryptocurrencies. NYDFS has proposed (i) heightened risk assessment standards for coin-listing policies and tailored, enhanced requirements for retail consumer-facing products or service offerings, and (ii) new requirements associated with coin-delisting policies. Comments on the proposed guidance were due by October 20, 2023. NYDFS plans to issue its final guidance following the closure of the comment period. **NYDFS**; **Axios**.

International

22. ***UK Publishes Report Clarifying Regulatory Approach For Crypto Ecosystem***

On October 30, the UK government published a policy update further clarifying its approach for regulating the crypto industry. Consistent with its prior guidance, the government intends to seek legislation in two phases. First, in early 2024, the government intends to bring forward legislation allowing the Financial Conduct Authority to regulate fiat-backed stablecoins. Second, at a later time, the government plans to seek legislation to regulate activities relating to wider types of stablecoins and other digital assets, including algorithmic and crypto-backed stablecoins. This aligns with UK Prime Minister Rishi Sunak's policy to make the UK a digital-asset hub. **Report**; **CoinDesk 1**; **CoinTelegraph**.

23. ***UK Lawmakers Pass Bill To Aid Seizure Of Illicit Cryptocurrency***

On October 26, the UK government passed the Economic Crime and Corporate Transparency Bill, allowing UK law enforcement agencies to seize, freeze, and recover crypto assets to combat crime and terrorism. UK authorities can assess and verify identities of company directors, remove invalid registered office addresses, and share information with criminal investigation agencies. **GOV.UK**; **GOV.UK Bill Stage**; **Parliament**; **CoinDesk 1**; **CoinDesk 2**.

24. ***UK Financial Conduct Authority (FCA) Warns Crypto Promoting Firms***

On October 25, UK's Financial Conduct Authority (FCA) added 221 companies to its alert list for non-compliant firms after a new marketing regime took effect on October 8, 2023. The statement identifies common issues regarding safety or security claims, inadequately visible risk warnings, and inadequate information on the risks provided to customers. The new rules require crypto asset service providers to register with the FCA or seek an authorized firm to approve communication to local clients. **FCA Statement**; **CoinTelegraph**; **CoinDesk**.

25. ***European Securities And Market Authority (ESMA) Publishes Statement Clarifying Implementation of MiCA***

On October 17, the European Securities and Markets Authority (ESMA) published a statement clarifying the timeline for the implementation of Markets in Crypto-Assets Regulation (MiCA). During the implementation stage until December 2024, ESMA, the National Competent Authorities (NCAs) of the Member States and other European Supervisory Authorities (ESAs) will prepare technical standards and guidelines specifying the application of rules on issuers, offerors, and digital asset service providers. ESMA specified that full MiCA rights and protections will not apply in the implementation stage until December 2024. Further, even after MiCA becomes applicable, the Member States may allow existing crypto-asset service providers to operate without a MiCA license up to an additional 18-month transitional period. **ESMA Statement**; **JDSupra**.

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26. *Australian Treasury Proposes To Regulate Crypto Exchanges*

On October 16, the Australian Treasury proposed to require any crypto exchange that holds more than AUD 1,500 of any one client or more than AUD 5 million in total assets to obtain an Australian Financial Services license, granted by the Australian Securities and Investments commission. **Australian Treasury**; **CoinDesk**.

Civil Litigation

United States

27. *SEC Declines To Appeal Grayscale Ruling*

Earlier this month, the SEC chose not to appeal the ruling of the D.C. Circuit Court of Appeals that vacated the SEC's denial of Grayscale Investment's application to convert their Grayscale Bitcoin Trust (GBTC) into an exchange traded fund (ETF). With $14 billion in assets, GBTC is the largest traded closed-end fund tracking the price of Bitcoin (BTC). The SEC denied Grayscale's application in June 2022 and Grayscale appealed the following day in the D.C. Circuit Court of Appeals. In August 2023, the court ruled that the SEC's denial of the application was "arbitrary and capricious." The SEC did not seek en banc rehearing by the October 13 deadline. On October 23, the D.C. Court of Appeals issued its formal mandate effectuating its decision. With this victory, Grayscale has re-entered the pool of nearly a dozen pending spot Bitcoin ETF applications. SEC chair Gary Gensler commented that the review is before staff and that he would "let that play out" before commenting on the matter. Grayscale's win has strengthened market confidence that one or many spot bitcoin ETFs will be approved in the next year, although that result is not guaranteed. The SEC could still reject the applications on grounds different from those used in the now-overturned Grayscale denial. **CoinDesk 1**; **CoinDesk 2**; **Cryptonews**; **Axios**.

28. *Judge in FTX Bankruptcy Case Rules To Keep Customer Names List Under Seal*

Despite objections from media companies, Delaware Bankruptcy Judge John T. Dorsey allowed the names and addresses of companies on FTX's creditor list to be shielded for another three months, after being shielded for 90 days in June. FTX argued that the creditor list should remain confidential because its customer list remains a valuable asset. On the other hand, the U.S. Trustee's Office argued that the right of public access to court records must be taken into account. FTX's Chapter 11 case began late last year, involving approximately 9 million individual and institutional customers who are creditors in the case. In over-the-counter markets where investors trade bankruptcy claims, the level of expected payouts for FTX creditors has more than tripled this year. **Law360**; **CoinDesk**.

Speaker's Corner

United States

29. *SEC Commissioner Hester Peirce Issues Statement Of Dissent On LBRY*

On October 23, LBRY Inc., a crypto-based media project, dropped its challenge to a New Hampshire federal court ruling that it sold unregistered securities. LBRY announced that it

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had settled with the SEC and would shut down, its assets to be placed in receivership and used to satisfy debts. On October 27, SEC Commissioner Hester Peirce issued a dissent describing the case against LBRY as unsettling and manifesting "the arbitrariness and real-life consequences of the Commission's misguided enforcement-driven approach to crypto." Peirce argued that the SEC's case against LBRY conflicted with the SEC's mission "to ensure that people buying securities receive accurate and reliable information." Peirce further criticized the Commission as having taken "an extremely hardline approach," seeking remedies "entirely out of proportion to any harm." Peirce also observed that LBRY's disclosures did not cause investors any harm since the disclosures were not proven to be inadequate or misleading. Instead of pursuing this case, Peirce argued, the Commission should have "devoted [the time and resources] to building a workable regulatory framework that companies like LBRY could have followed." **Peirce Dissent**; **Law360**; **Odysee**; **Policy at Paradigm**.

30. ***U.S. Senators Gillibrand And Lummis Press For Stablecoin And Illicit Finance Legislation***

On October 24, U.S. Senators Kirsten Gillibrand (D-N.Y.) and Cynthia Lummis (R-Wyo.) spoke at the State of Crypto Policy & Regulation Conference, echoing the potential to pass a bipartisan stablecoin bill. Named after the two senators, the Lummis-Gillibrand bill, which cleared the House Financial Services Committee in 2022, proposes that the Commodity Futures Trading Commission ("CFTC") regulate crypto exchanges and require regulated depository institutions to oversee all stablecoin users. The bill also pushes to more clearly define decentralized finance platforms in order to help entities determine whether they are centralized businesses, which would need to register with the CFTC under the bill. **CoinDesk**.

International

31. ***Brazil's Central Bank President Strikes Balance Between Open Networks And Privacy In Digital Brazilian Real, A Form Of CBDC***

Brazil Central Bank President Roberto Campos Neto aims to accelerate international transactions through the issuance of Digital Brazilian Real (DREX), a form of a central bank digital currency (CBDC). Neto stated, "if every country has a digital currency, and we are able to connect those currencies digitally, in a fast and secure way, you actually have achieved the goal of having a common currency without actually having to sacrifice your monetary policy." DREX operates alongside PIX, the instant payment system that has digitized Brazil's economy. PIX has resulted in more than 170 million transactions in one day. **The Block**; **Banco Central Do Brasil**.

32. ***Mexican Senator And Presidential Candidate Indira Kempis Pushes For Bitcoin As Legal Tender In Mexico***

Mexican Senator and Presidential Candidate Indira Kempis reported that the digital peso should arrive sometime in 2024 and stated that she has been "looking for clear positions" from her fellow legislators on her 2022 proposal to make Bitcoin legal tender in the country. As of October 25, Mexican legislators have reacted both positively and negatively towards the bill, upon the installation of a Bitcoin ATM in the Mexican Senate. **Decrypt; Forbes**; **Bitcoin.com**.

Other Notable News

33. ***Argentina's Pro-Bitcoin Javier Milei Heads To Run-Off Election Against Pro-CBDC Finance Minister Sergio Massa***

On October 2, during an Argentinian presidential debate, Finance Minister and presidential

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candidate Sergio Massa announced the imminent launch of an Argentinean digital currency project to address the country's inflation crisis. He wants to launch a CBDC to also address the corruption within the country, including instances of money laundering. Considered an ambitious idea, local specialists are skeptical of Massa's plan. Rodolfo Andragnes, the President of ONG Bitcoin Argentina, expressed that Massa's announcement intended to attract attention to his campaign, rather than proposed a defined action plan. The other frontrunner of the presidential election, Javier Milei, supports bitcoin, the "dollarization" of Argentina's economy, and the elimination of the Central Bank of Argentina. The run-off election will take place on November 19, 2023. **CoinDesk**; **El Cronista**; **La Nacion**; **Forbes**.

34. *Bitcoin Gains Recognition In Shanghai As A United Digital Currency*

On September 25, the Shanghai Second Intermediate People's Court in China published a report analyzing the legal attributes of digital currencies, the difficulties faced by judicial disposition of digital currencies, and adopting this perspective as an entry point to demonstrate the legal attributes of virtual currencies. The report highlighted the uniqueness and non-replicability of Bitcoin. The court focused on Bitcoin's scarcity, inherent value of holders, ease of circulation and storage, and emphasized that Bitcoin can be obtained through mining, inheritance, or selling and buying. The People's Republic of China has issued a blanket ban on cryptocurrencies. **Shanghai Judicial Committee Member Report**; **ODaily**; **Yahoo Finance**; **CryptoNews**; **Forbes India**.

The following Gibson Dunn lawyers prepared this client alert: Ashlie Beringer, Stephanie Brooker, Jason Cabral, M. Kendall Day, Jeffrey Steiner, Sara Weed, Ella Capone, Grace Chong, Chris Jones, Jay Minga, Nick Harper, Raquel Sghiatti, Peter Moon, Emma Li*, Elizabeth Walsh*, Vannalee Cayabyab and Yoo Jung Hah*

**Emma Li, Elizabeth Walsh, and Yoo Jung Hah are associates practicing in the firm's New York, Denver, and Los Angeles offices, respectively, who are not yet admitted to practice law.*

Gibson Dunn's lawyers are available to assist in addressing any questions you may have regarding the issues discussed in this update. Please contact the Gibson Dunn lawyer with whom you usually work, any member of the firm's FinTech and Digital Assets practice group, or the following: **FinTech and Digital Assets Group: Ashlie Beringer,** Palo Alto (650.849.5327, aberinger@gibsondunn.com) **Michael D. Bopp,** Washington, D.C. (202.955.8256, mbopp@gibsondunn.com **Stephanie L. Brooker,** Washington, D.C. (202.887.3502, sbrooker@gibsondunn.com) **Jason J. Cabral,** New York (212.351.6267, jcabral@gibsondunn.com) **Ella Alves Capone,** Washington, D.C. (202.887.3511, ecapone@gibsondunn.com) **M. Kendall Day,** Washington, D.C. (202.955.8220, kday@gibsondunn.com) **Michael J. Desmond,** Los Angeles/Washington, D.C. (213.229.7531, mdesmond@gibsondunn.com) **Sébastien Evrard,** Hong Kong (+852 2214 3798, sevrard@gibsondunn.com) **William R. Hallatt,** Hong Kong (+852 2214 3836, whallatt@gibsondunn.com) **Martin A. Hewett,** Washington, D.C. (202.955.8207, mhewett@gibsondunn.com) **Michelle M. Kirschner,** London (+44 (0)20 7071.4212, mkirschner@gibsondunn.com) **Stewart McDowell,** San Francisco (415.393.8322, smcdowell@gibsondunn.com) **Mark K. Schonfeld,** New York (212.351.2433, mschonfeld@gibsondunn.com) **Orin Snyder,** New York (212.351.2400, osnyder@gibsondunn.com) **Jeffrey L. Steiner,** Washington, D.C. (202.887.3632, jsteiner@gibsondunn.com) **Eric D. Vandevelde,** Los Angeles (213.229.7186, evandevelde@gibsondunn.com) **Benjamin Wagner,** Palo Alto (650.849.5395, bwagner@gibsondunn.com) **Sara K. Weed,** Washington, D.C. (202.955.8507, sweed@gibsondunn.com) © 2023 Gibson, Dunn & Crutcher LLP. All rights reserved. For contact and other information, please visit us at www.gibsondunn.com. Attorney Advertising: These materials were prepared for general informational purposes only based on information available at the time of publication and are not intended as, do not constitute, and should not be relied upon as, legal advice or a legal opinion on any specific

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