

# Blockchain and Digital Currency

## Overview

Carlton Fields is at the forefront of identifying the numerous complex legal issues faced by today's innovators.

Digital currencies, smart contracts, and blockchain/distributed ledger technologies have ushered in a new era of innovation that we believe has the potential to disrupt the way we interact with one another, our governments, and private industry. As innovation continues, the technology's potential to transform how business is conducted presents new challenges and opportunities across nearly every conceivable industrial sector.

As the law in this area develops, Carlton Fields has taken a forward-looking approach to working with clients on blockchain-related issues, including those arising from the use of cryptocurrencies and smart contracts. The members of our interdisciplinary blockchain practice are committed to embracing and maximizing the transformative potential of this technology.

### Digital Currency and Blockchain Technology Solutions

Our attorneys provide counsel for a wide range of industries, including insurance, financial services, health care, digital media, entertainment, interactive gaming, and technology. We handle legal issues related to blockchain technology, including distributed ledger technology, initial coin offerings, smart contracts, and Internet of Things (IoT) and machine-to-machine payment systems.

### Statutory and Regulatory Compliance Advice

- FinCEN compliance and enforcement proceedings
- Internal Revenue Service and tax advice/planning
- Securities and Exchange Commission compliance and enforcement proceedings
- Commodity Futures Trading Commission compliance and enforcement proceedings
- State money transmitter licensing and money services business compliance
- Anti-money laundering and "know your customer" compliance
- Congressional/legislative hearings

### General Corporate and Business Transactions Assistance

- Mergers and acquisitions
- Venture capital and private investments
- Capital markets and securities
- Data privacy and cybersecurity
- Intellectual property protection

## **Litigation Support**

- Regulatory/enforcement actions
- Privacy and cybersecurity
- Asset seizure and forfeitures
- Smart contract issues

## **Experience**

- Represented cryptocurrency exchange in connection with corporate formation and regulatory advice, including issues relating to SEC and CFTC licensure.
- Counseled developers and entrepreneurs on the legal issues pertaining to the development and maintenance of permissionless and permissioned blockchain protocols, including regulatory and corporate advice.
- Represented digital currency exchanges and money transmitters in conducting 50-state analysis of application of state money transmitter rules to cryptocurrency-focused business models.
- Represented cryptocurrency companies before various state regulators in order to obtain or receive clarity on application of state money transmission license.
- Advised numerous digital currency payment processors on issues pertaining to capital formation and early stage financing, as well as corporate formation issues such as registration in foreign jurisdictions including Gibraltar, Malta, Singapore, Mexico, Bermuda, Puerto Rico, and Cayman Islands.
- Advised high-frequency/algorithmic trading funds dealing in various digital currencies on issues related to fund formation and regulatory compliance.

- Counsel to several digital currency payment processors on anti-money laundering and "know your customer" compliance.
- Counseled numerous companies in conducting technical analysis, building "minimum viable ecosystems" and token design.
- Pre-litigation and settlement counseling regarding liability associated with attempts to hard fork the Bitcoin blockchain.
- Analysis of securities and other regulatory issues related to token sales, including analysis of regulatory implications of security token offerings, initial coin offerings, token curated registries, air drops, and applications utilizing the Lightning Network.
- Provided numerous instances of litigation and regulatory mitigation strategies for completed token sales.
- Provided analysis and privacy counseling regarding application of the GDPR and other privacy regulations to data stored on decentralized networks.

## Insights

09.08.2022

SEC Clobbers Crypto Lending Platform but Allows Some Retooling

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06.29.2022

NFT Perspectives: A Discussion With Artist and Filmmaker Haik Kocharian

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06.24.2022

New Crypto Bill Seeks to Regulate Digital Assets and Their Markets

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05.11.2022

401(k) Climate Change and Crypto Considerations: DOL Nurtures the Former but Clips Crypto at the Roots

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10.14.2021

New DOJ Enforcement Team Suggests DOJ May Take Additional Efforts to Recover Cyberattack Ransoms

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04.09.2021

State Regulations on Virtual Currency and Blockchain Technologies (Updated March 2021)

*Thomson Reuters*

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08.25.2020

Exponential Growth: What Research Into Blockchain and Cryptocurrencies Tells Us About Law Practice Disruption

*LegalTech News*

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07.31.2020

Digital Assets and Blockchain Technology: U.S. Law and Regulation

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07.27.2020

New York's Relaxed BitLicense Could Still Take Lessons From Wyoming's Permissive Approach

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07.23.2020

Bank Regulator Clarifies Crypto Custody Rules

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07.14.2020

State Regulations on Virtual Currency and Blockchain Technologies (Updated July 2020)

*Thomson Reuters*

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07.06.2020

Is Cryptocurrency Use an Automatic Badge of Fraud?

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06.24.2020

The Coming Storm: DeFi and Bankruptcy Courts

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02.24.2020

Foreign Token Sales May Be Subject to U.S. Securities Laws

*Los Angeles Lawyer*

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11.22.2019

Bitcoin is Speech: Notes Toward Developing the Conceptual Contours of Its Protection Under the First Amendment

*University of Miami Law Review*

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10.24.2019

Set It and Regret It?: Smart Contracts, Injunctions, and Fraudulent Transfers, Part I

*Medium*

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10.04.2019

Carlton Fields Rolls Out Blockchain, Crypto, and Virtual Currency State Legislation Tracker

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08.29.2019

State Regulations on Virtual Currency and Blockchain Technologies

*Thomson Reuters*

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08.06.2019

Regulating Privacy on the Blockchain Starts With Understanding the Meaning of “Personal Data”

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07.24.2019

2019 State Blockchain, Crypto, and Virtual Currency Legislation Tracker

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07.11.2019

SEC Adds to Guidance on Digital Assets

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07.11.2019

Cryptocurrency Regulatory Complexities Multiply

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07.03.2019

Impact of New State Remote Sales and Use Tax Laws on Gaming

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07.03.2019

How State Remote Sales and Use Tax Statutes May Impact Crypto Assets

*Bloomberg Law*

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07.03.2019

Impact of New State Sales and Use Tax Laws on Remote Commerce

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07.03.2019

What to Do If the SEC Comes Knocking on Your Door

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05.24.2019

Discovering Cryptoassets: A Journey into the Unknown

*Pretrial Practice & Discovery*

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05.01.2019

Throw Away The Private Key, or The Private Key Holder?

*Northwestern Journal of Technology and Intellectual Property*

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10.01.2018

SEC: Ether and Bitcoin Are Not Securities

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08.29.2018

Is Cryptocurrency Money? Depends on Your State

*LongHash*

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05.15.2018

Future of Cryptocurrency Insurance is Tough to Predict

*Daily Journal*

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03.31.2018

SEC Sidelines Funds Focused on Cryptocurrencies

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12.29.2017

Regulators Continue to Scrutinize Initial Coin Offerings

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11.16.2017

SEC Warns About ICO Promotion

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10.06.2017

SEC Files First ICO Enforcement Action

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09.27.2017

When High-Tech Cryptocurrencies Meet Low-Tech Scammers

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09.26.2017

SEC Cautions on Use of Distributed Ledger/Blockchain Technology to Raise Capital

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12.22.2016

Should Your Company Purchase Bitcoin to Pay a Cyber Ransom?

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02.19.2016

Hashfast's \$1 Million Question: Is Bitcoin a Currency or Commodity?

*CoinDesk*

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02.18.2016

Bitcoin in Bankruptcy: Is It Commodity or Currency?

*Law360*

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12.23.2015

Bitcoin: Currency, Property, and Now, Commodity

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10.09.2015

Virtual Currencies & the Current State of the Law

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06.29.2015

What Bankruptcy Trustees Need to Know About Bitcoin

*Law360*

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07.13.2014

Regulatory and Commercial Law Concerns Relating to Bitcoin and Internet Payment Systems

*The Cramdown*

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04.22.2014

Deal carefully with bitcoins until legislation catches up

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## Our Team

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## Related Capabilities

### Practices

- Banking, Commercial, and Consumer Finance
- Health Care
- Real Estate
- Corporate Law and Governance
- Crypto Insolvency and Fiduciary Practice
- Cybersecurity and Privacy
- Financial Services Regulatory
- Government Law & Consulting

### Industries

- Banking, Commercial, and Consumer Finance
- Health Care
- Real Estate
- Securities & Investment Companies
- Technology

- Intellectual Property
- International
- Media, Entertainment, Music & Sports
- Private Equity and Venture Capital
- Securities Transactions and Compliance
- Tax
- Technology
- White Collar Crime & Government Investigations
- AdTech