



## U.S. Copyright Office: Need for Federal Protections Against AI-Generated Digital Replicas

On 15 July 2024, the U.S. Copyright Office released a Report titled “[Copyright and Artificial Intelligence, Part 1: Digital Replicas](#).” The Report explores the complex relationship between copyright law and the rapidly advancing capabilities of artificial intelligence (AI). Specifically, the report focuses on digital replicas, which are realistic digital reproductions of an individual’s voice, appearance, or other personal attributes created using AI technologies. These replicas can be so lifelike that they are often indistinguishable from authentic content. While AI offers exciting opportunities for creative expression, the emergence of digital replicas has raised significant legal and ethical concerns, particularly regarding unauthorised use and the protection of personal identity.

The report identifies several critical lacunas in the existing legal frameworks that fail to adequately address the challenges posed by digital replicas. Firstly, current copyright laws are fundamentally grounded in the concept of human authorship, making them ill-equipped to deal with content generated by AI. Since AI systems can create highly realistic replicas without direct human input, it is unclear who, if anyone, owns the copyright to these creations. This ambiguity creates a legal vacuum where AI-generated digital replicas may not be eligible for traditional copyright protection, leaving the individuals depicted in these replicas vulnerable to unauthorised exploitation.

According to the Report, the existing state-level rights of publicity and privacy are inconsistent and often insufficient to protect against the misuse of digital replicas. These laws vary significantly from state to state, with some offering robust protections and others providing little to no recourse for individuals whose likenesses are digitally replicated without their consent. The report highlights that these discrepancies create uneven protection across the country, allowing bad actors to exploit legal loopholes in jurisdictions with weaker laws.

Another significant gap identified is the lack of federal legislation specifically targeting digital replicas. While some federal laws, such as the [Lanham Act](#) or the [Federal Trade Commission Act](#), offer limited protection against deceptive practices or false endorsements, they do not directly address the unique issues raised by AI-generated digital replicas. The report argues that without a comprehensive federal law, there is no uniform standard to prevent or remedy the unauthorised use of an individual’s likeness through digital replicas, leading to potential harm, including loss of income, reputational damage, and emotional distress.

The U.S. Copyright Office recommends several steps for the federal government to effectively address the challenges posed by AI-generated digital replicas. First and foremost, the introduction of federal legislation specifically targeting unauthorised digital replicas coupled with uniform legal framework by creating consistent standards nationwide, the government can prevent the current patchwork of state laws from leaving gaps in protection, thus safeguarding individuals from the unauthorised use of their digital replicas.

Liability mechanisms are also necessary to hold online platforms accountable for distributing unauthorized digital replicas. The legislation should include provisions for secondary liability, with safe harbor incentives for platforms that promptly remove infringing content upon notification.

In addition to liability, the law should provide remedies for those affected by unauthorized digital replicas. These remedies should include injunctive relief and monetary damages, ensuring that individuals can seek justice regardless of their financial resources.

Balancing US First Amendment rights is another important consideration. The legislation should incorporate a framework that protects free speech while preventing the harmful misuse of digital replicas, ensuring that the law does not infringe on fundamental rights.

The U.S. Copyright Office also suggests extending protections beyond an individual's lifetime. By considering postmortem rights, the government can prevent the exploitation of deceased persons' likenesses, particularly in the entertainment industry. The government should further strengthen enforcement mechanisms and consider criminal penalties for severe cases of misuse of AI generated digital replicas.

According to the Report, the unchecked proliferation of AI-generated digital replicas poses a serious threat to the foundations of trust, individual rights, and societal stability. Without stringent regulations and legal protections, the line between reality and digital fabrication could blur irreparably, leading to widespread misinformation, exploitation, and harm. The potential for these replicas to be used in malicious ways, such as in deepfake scandals, fraudulent schemes, or to manipulate political outcomes, requires urgent need for action. Economically, the creative industries face the risk of devaluation, while culturally, the very concept of personal identity may become commodified and exploited. To safeguard the integrity of our digital and social systems, it is imperative that governments and policymakers implement comprehensive legal frameworks to address these emerging challenges and ensure that AI technologies are harnessed responsibly. The Report expresses the concern that the current patchwork of state and federal laws in the US is inadequate to protect individuals from the potential harms associated with these technologies.

(Source: <https://www.copyright.gov/ai/Copyright-and-Artificial-Intelligence-Part-1-Digital-Replicas-Report.pdf>)

## Commonwealth Secretariat Launches AI-Driven Policy Tool, StrategusAI, to Enhance Governance Across Member States

On 16 August 2024, the **Commonwealth Secretariat** and Intel Corporation, in collaboration, launched **Strategus-AI**, an innovative Artificial Intelligence (AI) toolkit designed to transform the way member governments develop and implement policies. This tool aims to help governments across the Commonwealth by addressing challenges and leveraging the opportunities that AI presents. StrategusAI represents a significant advancement in policy development, enabling governments to create data-driven, informed strategies that integrate global best practices while addressing local needs.

The launch of StrategusAI solidifies the Commonwealth's commitment to closing the digital divide and fostering economic resilience among its member states. By equipping policymakers of member states with this cutting-edge technology, the Commonwealth Secretariat and Intel Corporation are ensuring that governments can effectively harness the power of AI to drive progress and innovation, making this an important milestone in the digital transformation of the Commonwealth. StrategusAI is a significant development for Commonwealth AI Consortium's Policy Development Working Group, spearheaded by the Government of Rwanda. The launch follows an extensive period of development, testing, and refinement so that the tool can effectively bridge the digital divide and strengthen economic resilience across the Commonwealth's diverse nations.

The tool allows policymakers to draw on global best practices while tailoring strategies to meet local needs. StrategusAI will first be piloted in Fiji and Brunei Darussalam before being made available to all 56 Commonwealth countries, offering a unique opportunity for these nations to develop AI-informed policies that are both globally informed and locally relevant.

The introduction of StrategusAI is set to empower public sector leaders significantly. The cost of developing a single government policy or strategy can range from US\$250,000 to US\$1.5 million in consulting fees, with development timelines stretching from six months to a year, not including implementation phases. StrategusAI promises to make this investment more cost-effective and efficient by harnessing AI's vast potential to process and analyze immense amounts of data far beyond human capacity.

Intel, already a partner with the Secretariat on a digital learning program designed to demystify AI for senior officials across the Commonwealth, sees StrategusAI as a further step in empowering public sector leaders.

The launch event featured prominent speakers, including HE Vikram Doraiswami, High Commissioner of India to the UK; HE Jovilisi Suveinakama, High Commissioner of Fiji to the UK; Dr. Norfarizal Othman, Director-General, Public Service Department, Prime Minister's Office, Brunei Darussalam; and Intel's Shweta Khurana, Director APJ – Government Partnerships and Initiatives. From the Commonwealth Secretariat, Deputy Secretary-General Dr. Arjoon Suddhoo, Assistant Secretary-General Prof. Luis Franceschi, and Senior Director of Trade, Oceans, and Natural Resources Suresh Yadav, whose team developed the toolkit, all provided insights on its relevance and importance for the Commonwealth.

Paula Ingabire, Rwanda's Minister of ICT and Innovation, emphasized the need for countries to develop strategies that harness the potential of AI while managing its risks. The Commonwealth Secretary-General, the Rt Hon Patricia Scotland KC, highlighted that AI should support and enhance human work, especially in areas like creativity, emotional intelligence, and problem-solving. She also pointed out the transformative potential of AI in delivering personalized services, such as healthcare and education, to remote communities. Sarah Kemp, Vice President of International Government Affairs at Intel, highlighted AI's capacity to process and analyze vast amounts of data, enabling the creation of tailored and informed policy outcomes through the StrategusAI toolkit.

To advance this goal, the Commonwealth Artificial Intelligence Consortium (**CAIC**) was formed in 2023, including representatives from global tech firms, world-leading research institutions, and non-profit organizations. Ten Commonwealth member countries, including Rwanda, are part of the CAIC and will champion AI innovation within their nations and throughout the union.

The toolkit also benefited from guidance from Oxford Insights, Sustainable Living Lab, and policymakers from several other Commonwealth countries, who contributed to the design and development of the tool. StrategusAI will first be piloted in Fiji and Brunei Darussalam before being made available to all 56 Commonwealth countries, offering a unique opportunity for these nations to develop AI-informed policies that are both globally informed and locally relevant.

(Source: <https://thecommonwealth.org/news/commonwealth-secretariat-and-intel-launches-strategus-ai-ai-driven-policy-toolkit-commonwealth>)

## **SFC Warns Public Against Fraudulent “ICE Global Professional Station” Platform Impersonating Intercontinental Exchange**

On 21 August 2024, the Securities and Futures Commission (**SFC**) issued warning to the public regarding a fraudulent digital platform known as “ICE Global Professional Station,” which has been linked to various virtual asset-related scams and illicit activities.

“ICE Global Professional Station” deceptively presents itself as a legitimate digital asset trading platform by impersonating Intercontinental Exchange, Inc. (ICE), a globally recognized and reputable financial services corporation. The fraudulent platform utilizes similar branding and nomenclature to mislead investors into believing they are engaging with a credible and authorized entity.

The SFC's warning comes after numerous reports from investors who have suffered significant financial losses due to the platform's deceitful practices. Victims have reported severe difficulties in withdrawing funds after making deposits for cryptocurrency and other digital asset investments through the platform. These manipulative tactics underscore the platform's intent to defraud unsuspecting investors seeking legitimate investment opportunities in the rapidly growing digital asset market.

In response to these alarming reports, the SFC added "ICE Global Professional Station" to its Suspicious Virtual Asset Trading Platforms Alert List on 21 August 2024. This action serves as an official notice to the public to exercise extreme caution and avoid any dealings with this fraudulent platform.

The SFC's warning highlights the broader risks associated with unauthorized and unregulated digital trading platforms. Such platforms often employ sophisticated schemes, including impersonation of established financial institutions, to lure investors into fraudulent transactions. Investors engaging with these unverified platforms are exposed to substantial risks, including loss of funds, theft of personal and financial information, and lack of legal recourse in the event of fraud.

Unauthorized platforms may also lack proper security measures, making them vulnerable to cyber-attacks and further compromising investors' assets and data. The absence of regulatory oversight means these platforms operate without adherence to financial standards and consumer protection laws, increasing the potential for fraudulent activities and financial misconduct.

The SFC strongly advises investors to remain vigilant and conduct thorough due diligence before engaging with any digital asset trading platforms. Investors should verify the legitimacy of platforms by consulting official regulatory bodies' listings and avoiding platforms that exhibit warning signs such as unrealistic returns, pressure to invest quickly, and unprofessional communication channels.

Utilizing platforms that are licensed and regulated by recognized financial authorities ensures a higher level of protection and recourse in the event of disputes or fraudulent activities. Investors should also be cautious of unsolicited investment offers and thoroughly research any platform's background, reviews, and regulatory status before committing funds.

This latest warning underscores the SFC's ongoing commitment to protecting investors and maintaining integrity within the financial markets. The Commission continues to monitor and take action against fraudulent entities attempting to exploit the burgeoning interest in digital assets. By promptly identifying and publicizing such scams, the SFC aims to prevent financial losses and uphold confidence in the financial system.

Investors who suspect they have been targeted or victimized by fraudulent investment schemes are encouraged to report the incidents to the SFC and seek appropriate legal assistance. Through collective vigilance and adherence to regulatory guidance, the investing public can better safeguard their assets and contribute to a more secure and transparent financial environment.

(Source: <https://apps.sfc.hk/edistributionWeb/gateway/EN/news-and-announcements/news/doc?ref-No=24PR136>)

## ASIC's Corporate Plan 2024-25 Embraces Blockchain, Virtual Assets, and CBDCs in Financial Landscape

On 22 August 2024, the Australian Securities and Investments Commission (**ASIC**) unveiled its much-anticipated Corporate Plan for 2024-25, setting the stage for a transformative approach to regulating the nation's financial markets in the digital age. As digital currencies, blockchain technologies, and virtual assets continue to gain prominence, ASIC's plan emphasizes the critical importance of both innovation and consumer protection in this rapidly evolving landscape.

The plan, which outlines ASIC's strategic priorities over the next year, is deeply rooted in the realities of today's financial environment. The rise of cryptocurrencies and the increasing use of blockchain technology have fundamentally altered the way financial transactions are conducted, presenting both opportunities and challenges for regulators. ASIC acknowledges these shifts and has positioned itself as a forward-looking regulator, committed to adapting its strategies to manage these new dynamics effectively.



One of the key highlights of the Corporate Plan is ASIC's focus on enhancing digital and data resilience across the financial sector. This initiative is particularly pertinent given the growing risks associated with technology-enabled financial services, including the potential for cybersecurity breaches and the misuse of artificial intelligence (AI) in financial decision-making. ASIC's plan outlines a robust framework for monitoring these risks, particularly in the context of digital assets and decentralized finance (DeFi), which are becoming increasingly integrated into the global financial system.

In a move that underscores its commitment to maintaining market integrity, ASIC has announced the creation of a central coordination function to oversee the regulation of digital assets, tokenization, and DeFi. This function will serve as a hub for monitoring developments in these areas, ensuring that the regulatory response is both timely and effective. By doing so, ASIC aims to protect consumers and investors from the potential risks associated with these emerging technologies while also fostering an environment where innovation can thrive.

ASIC's Corporate Plan also addresses the growing threat of technology-enabled scams, particularly those related to cryptocurrencies. The rise in crypto-related fraud has highlighted the need for a more proactive regulatory stance, and ASIC has responded by committing to ongoing surveillance and enforcement actions. These efforts are designed to disrupt fraudulent activities before they can cause significant harm to consumers, reflecting ASIC's broader mandate to safeguard Australia's financial system from exploitation.

In addition to these regulatory initiatives, ASIC's plan also focuses on the role of blockchain technology in promoting transparency and trust within carbon credit markets. As part of its broader environmental, social, and governance (ESG) agenda, ASIC is keen to ensure that financial products linked to sustainability, such as carbon credits, are subject to rigorous standards of disclosure and accountability. The use of blockchain in these markets offers a promising avenue for enhancing the credibility and efficiency of carbon trading, aligning with global efforts to combat climate change.

Throughout the Corporate Plan, ASIC reiterates its dual commitment to innovation and protection. The regulator's Innovation Hub and regulatory sandbox continue to play crucial roles in supporting fintech and regtech startups, providing them with the necessary tools and guidance to navigate the regulatory landscape. This approach not only fosters innovation but also ensures that new financial technologies are developed in a way that is consistent with the protection of consumers and the integrity of the market.

In his message accompanying the Corporate Plan, ASIC Chair Joseph Longo emphasized the necessity of a modern, adaptive regulatory approach in the face of rapid technological change. "We are operating in a world where technology is reshaping every aspect of finance," Longo stated. "Our role is to ensure that while we embrace these innovations, we also remain vigilant in protecting the interests of consumers and maintaining the stability of our financial system."

ASIC Chair Joe Longo announced that the agency's latest Corporate Plan includes a new strategic priority focused on enhancing integrity across Australia's public and private markets. He stated that maintaining market integrity is crucial for building trust in the financial system, which in turn boosts investor confidence and promotes economic growth. Longo pointed out that while private markets are smaller than listed equity markets, their lack of transparency presents a notable risk, especially as more investors become exposed to these markets. He also mentioned that recent structural changes within ASIC have improved the agency's ability to anticipate and respond to emerging threats and opportunities. Over the past year, ASIC initiated around 170 new investigations—an increase of about 25%—and filed 33 new civil proceedings in the Federal Court, marking a 27% rise in civil cases compared to the previous year. These efforts have resulted in 18 criminal convictions and charges against 23 individuals by the Commonwealth Director of Public Prosecutions for criminal offenses.

ASIC's strategic focus on digital resilience, consumer protection, and the responsible regulation of emerging technologies, ASIC is poised to navigate the complexities of the modern financial landscape, ensuring that the benefits of innovation are realized without compromising the safety and stability of the financial system.

(Source: <https://asic.gov.au/about-asic/news-centre/find-a-media-release/2024-releases/24-184mr-asic-expands-strategic-priorities-for-coming-12-months/?altTemplate=betanewsroom>, <https://download.asic.gov.au/media/1t4gbqvs/asic-corporate-plan-2024-25-published-22-august-2024.pdf>)

## Australian Federal Court Delivers Landmark Judgment Penalising Kraken Crypto Exchange

On 23 August 2024, the Federal Court of Australia delivered a landmark judgment against Bit Trade Pty Ltd, the operator of the Kraken cryptocurrency exchange in Australia. In the judgment, the apex court found that Bit Trade had failed to comply with critical design and distribution obligations (**DDO**) under the Corporations Act 2001 when offering its margin trading product, known as the “margin extension,” to Australian customers. This judgment marks a significant victory for the Australian Securities and Investments Commission (**ASIC**) in its ongoing efforts to regulate the cryptocurrency sector and protect consumers.

Bit Trade Pty Ltd, a subsidiary of the U.S.-based Payward Inc., operates the Kraken digital currency exchange in Australia. Since its acquisition by Payward in 2020, Bit Trade has provided Australian customers access to the Kraken Exchange, allowing them to trade digital assets such as Bitcoin and other cryptocurrencies. Central to the case was Bit Trade’s “margin extension” product, introduced on 5 October 2021, which enabled customers to receive margin extensions in the form of digital assets or legal tender, which could be used to facilitate spot trading on the Kraken platform.

The Terms of Service (**TOS**) governing the margin extension product outlined several key provisions. Customers were required to maintain a specified level of collateral in their Kraken accounts while a margin extension was active. If the collateral fell below the required level, Bit Trade was authorized to liquidate assets in the customer’s account to restore the necessary collateral or to terminate the margin extension. Importantly, the margin extension could be repaid in either digital assets, such as Bitcoin, or national currencies, such as U.S. dollars.

ASIC’s case against Bit Trade centered on whether the margin extension product qualified as a financial product under the Corporations Act, specifically under Part 7.8A, which imposes design and distribution obligations on issuers of financial products. ASIC argued that before offering such a product to retail customers, Bit Trade was legally required to make a target market determination, a mandatory public document that sets out the class of consumers for whom the product is likely appropriate and outlines the conditions for its distribution and review.

Each time Bit Trade made the margin extension product available to a customer without such a determination, ASIC alleged, it contravened section 994B(2) of the Corporations Act. Bit Trade, on the other hand, contended that the product was exempt from this requirement under regulation 7.8A.20 of the Corporations Regulations, which exempts certain credit facilities from the DDO requirements. The company argued that the obligations under the margin extension did not constitute a “debt” as defined in the relevant regulations, particularly because repayment could be made in digital assets, which Bit Trade asserted did not amount to a monetary obligation.

Justice Nicholas, who presided over the case, meticulously examined the statutory framework, the specific terms of the margin extension product, and the arguments presented by both parties. The Court determined that the margin extension product did indeed fall within the definition of a financial product under the Corporations Act. He found that the product’s provision of financial accommodation, especially when denominated in national currencies like Australian or U.S. dollars, created a deferred debt obligation for customers. This finding meant that Bit Trade was required by law to issue a target market determination before offering the product.

The court rejected Bit Trade’s argument for exemption under regulation 7.8A.20. Justice Nicholas clarified that the obligation to repay margin extensions in a national currency constituted a “deferred debt,” which is recognized as a financial product under the relevant legislation. His Honour also addressed the nature of the repayment obligations under the TOS, noting that while an obligation to repay in digital assets did not constitute a monetary obligation, the obligation to repay in national currencies did.

In his judgment, Justice Nicholas made a crucial distinction between obligations to repay in digital assets versus national currencies. While he agreed with ASIC that a margin extension in a national currency created a deferred debt and thus fell under the purview of the financial product regulations, he found that an obligation to repay in digital assets, such as Bitcoin, did not constitute an obligation to repay money and therefore was not a deferred debt.

The Federal Court did not immediately determine the specific penalties to be imposed on Bit Trade. The judgment primarily established that Bit Trade had contravened the Corporations Act by failing to comply with design and distribution obligations.

ASIC has indicated that it will seek financial penalties against Bit Trade, with the penalty hearing scheduled for a future date. The court has ordered ASIC and Bit Trade to agree on the appropriate form of declarations and injunctions within seven days.

ASIC Deputy Chair Sarah Court said, 'This is a significant outcome for ASIC involving a major global crypto firm. We initiated proceedings to send a message to the crypto industry that we will continue to scrutinise products to ensure they comply with regulatory obligations in order to protect consumers.' He further added 'Today's outcome sends a salient reminder to the crypto industry about the importance of compliance with the design and distribution obligations. It is a legal requirement for financial products to be distributed to consumers appropriately. Consumers should receive the full protection of the law when dealing in crypto-asset products and we will continue to take action to ensure this happens.'

This judgment has direct implications for the cryptocurrency industry, particularly for entities offering financial products in Australia. It establishes the need for firms to ensure that their products are designed and distributed in compliance with the DDO framework, which is designed to protect consumers. Entities involved in providing crypto-related products should take heed of the court's findings and ensure that they are fully compliant with their obligations under the Corporations Act and other such applicable act as per the nature and scope of their virtual asset. The ruling also highlights the complexities surrounding the regulation of digital assets and the importance of understanding the legal characterization of various financial obligations within this space.

(Source: <https://download.asic.gov.au/media/ikmfvobk/24-186mr-asic-v-bit-trade-pty-ltd-judgment-23-august-2024.pdf>, <https://asic.gov.au/about-asic/news-centre/find-a-media-release/2024-releases/24-186mr-asic-wins-case-against-kraken-crypto-exchange-operator-for-design-and-distribution-failure/?altTemplate=betanewsroom>)

## ASIC Against Greenwashing: Strict Sustainability Reporting Reforms

On 23 August 2024, the Australian Securities and Investments Commission (**ASIC**) announced a series of regulatory interventions aimed at curbing greenwashing misconduct in the sustainable finance sector. Over a 15-month period leading up to 30 June 2024, ASIC undertook 47 actions, including the initiation of two Federal Court proceedings and the issuance of over \$123,000 in infringement notice payments. These efforts are detailed in [Report 791: ASIC's Interventions on Greenwashing Misconduct: 2023–2024 \(REP 791\)](#), which outlines the regulator's ongoing commitment to addressing misleading and deceptive conduct related to sustainability claims. Over this period, ASIC made significant interventions in its fight against greenwashing. These actions includes the commencement of two civil penalty proceedings, the finalization of one civil penalty case resulting in \$11.3 million in penalties, the issuance of eight infringement notices, and the achievement of 37 corrective disclosure outcomes, reflecting ASIC's robust approach to ensure transparency and accountability within the sustainable finance sector.

The report provides a comprehensive overview of ASIC's surveillance activities and highlights findings, recommendations, and examples of good practices within the industry. ASIC Commissioner Kate O'Rourke underscored the importance of combating greenwashing to maintain trust in sustainable finance products and services. She emphasized that investors and consumers are entitled to accurate and reliable information to make informed decisions.

The interventions included obtaining 37 corrective disclosures from various entities, issuing eight infringement notices, and pursuing civil penalty proceedings against LGSS Pty Limited (Active Super) and Vanguard Investments Australia. Additionally, ASIC progressed its case against Mercer Superannuation (Australia) Limited, resulting in an \$11.3 million penalty.

These regulatory actions focused on several key areas, such as insufficient disclosure regarding Environmental, Social and Governance (**ESG**) investment screens, inconsistencies between disclosed ESG policies and underlying investments, and sustainability claims made without reasonable grounds. ASIC's surveillance covered a broad spectrum of sectors, including listed companies, managed funds, superannuation funds, and the wholesale green bond market.

ASIC's proactive stance sends a clear message about the importance of accuracy in sustainability-related information. By holding companies accountable for their ESG claims, ASIC is working to build a more transparent and responsible investment landscape, which is crucial for genuine sustainable development.

Since the publication of Report 763, ASIC's Recent Greenwashing Interventions (REP 763) significant developments have taken place in the field of sustainability and climate-related financial reporting. The International Sustainability Standards Board (**ISSB**) has released its inaugural sustainability disclosure standards, setting a global benchmark for transparency in sustainability reporting. Additionally, the Australian Government has proposed the introduction of a mandatory climate-related financial reporting regime, signaling a strong commitment to enhancing the quality of sustainability disclosures across the nation.

In alignment with these global and national initiatives, the Australian Government, under its [Sustainable Finance Roadmap](#), is advancing a series of measures aimed at curbing greenwashing in the market. These measures include a partnership with the Australian Sustainable Finance Institute to develop an Australian sustainable finance taxonomy, as well as the proposed introduction of a sustainable investment product labelling regime.

ASIC's role will be pivotal in supporting the Government's implementation of the Sustainable Finance Roadmap, particularly through its participation in the Council of Financial Regulators' Climate Working Group. Once the mandatory climate reporting regime is implemented, ASIC will be responsible for the administration and enforcement of these new requirements. The commission will work closely with industry stakeholders to ensure that large Australian businesses and financial institutions produce high-quality climate reports, contributing to a more transparent and accountable market.

Moreover, these actions serve as a guiding light to the broader financial sector, including the cryptocurrency industry. As digital assets and blockchain technologies increasingly intersect with sustainable finance, it is essential that crypto platforms and issuers adhere to the same standards of transparency and integrity. ASIC's enforcement activities underscore the necessity of rigorous governance in all financial markets to maintain investor trust.

The upcoming introduction of mandatory climate-related financial disclosure requirements for large businesses and financial institutions further highlights the need for robust regulatory oversight. ASIC's continued vigilance against greenwashing not only protects consumers and investors but also reinforces the integrity of the sustainable finance sector. These actions are essential in promoting transparency and accountability, which are foundational to building a sustainable future.

(Source: <https://download.asic.gov.au/media/lbygvdn/rep791-published-23-august-2024.pdf>, <https://treasury.gov.au/sites/default/files/2024-06/p2024-536290.pdf>, <https://asic.gov.au/about-asic/news-centre/find-a-media-release/2024-releases/24-185mr-asic-continues-action-on-misleading-claims-to-deter-greenwashing-misconduct/?altTemplate=betanewsroom>)

## FINMA Tightens Oversight on VASPs: Elevates IT and Cybersecurity Standards in Latest Audit Forms

On 27 August 2024, the Swiss Financial Market Supervisory Authority (**FINMA**) published two new set of audit forms i.e. **GB-A Regulatory audit report investment companies with variable capital (SICAV) 2024** & **GB-A Regulatory audit report fund management companies 2024** to enhance oversight of Virtual Asset Service Providers (**VASPs**). Applicable to financial years beginning on or after 1 January 2024, these forms introduce rigorous reporting and compliance requirements for financial institutions engaged in virtual asset activities. This move is seen as a critical step in ensuring the security and transparency of Switzerland's financial sector in the rapidly evolving digital asset landscape.

The newly issued audit forms for fund management companies and investment companies with variable capital (**SICAV**) are designed to include comprehensive evaluations of the involvement of VASPs. These forms mandate detailed disclosures and assessments related to anti-money laundering (**AML**) measures, the secure management of virtual asset transactions, and the integrity of internal control systems. By mandating such rigorous evaluations, FINMA aims to ensure that financial institutions are not only compliant with existing regulations but are also equipped to handle the unique risks associated with virtual assets. The focus on robust internal controls, particularly in IT and risk management processes, highlights FINMA's commitment to preventing cyber risks and ensuring the secure handling of data related to virtual assets.



The new audit forms introduce stringent Enhanced IT and Cybersecurity Requirements to ensure that financial institutions handling virtual assets have sufficient and secure IT infrastructures in place. As per the requirement in the forms, auditors are now required to assess the adequacy of the IT structures, including the infrastructure (hardware and software), IT strategy, and IT organization. The forms emphasize the importance of IT security and Business Continuity Management (**BCM**), particularly in the context of virtual asset transactions.

Moreover, the audit forms specifically mandate evaluations of the processes and measures in place to detect, minimize, and report cyber risks and cyber attacks. This includes a thorough review of how institutions manage the security of their IT systems to protect sensitive client data and ensure the integrity of virtual asset operations.

By tightening oversight, FINMA is taking proactive steps to protect investors and maintain the integrity of the financial system. The detailed reporting obligations introduced in the new audit forms are viewed as essential for promoting transparency and accountability among financial institutions. It is reasonable to believe that these measures will strengthen Switzerland's reputation as a secure and well-regulated financial center, particularly in the field of digital assets. The emphasis on compliance with legal frameworks and the proper execution of transactions is expected to instill greater confidence among investors and other stakeholders.

However, the introduction of these stringent requirements has also imposed significant operational and financial burdens on smaller financial institutions and VASPs. The detailed reporting obligations, while promoting transparency, may require substantial investments in compliance infrastructure and personnel. Raising concerns that these costs could be prohibitive for smaller firms, potentially stifling innovation and competition in the virtual asset space. Additionally, there are fears that the heightened scrutiny and regulatory demands could slow down the adoption of virtual assets in Switzerland, as institutions may become more cautious in their approach to this emerging sector. The balance between ensuring security and fostering innovation is a delicate one, and some critics believe that FINMA's new audit forms may tip the scales too far towards caution. FINMA's new audit forms is a decisive step towards strengthening the oversight of virtual assets in Switzerland

(Source: [https://www.finma.ch/en/~media/finma/dokumente/dokumentencenter/myfinma/2ueberwachung/pruefwesen-kag/musterbericht-zur-aufsichtsrechtlichen-pruefung-fuer-fondsleitungen.pdf?sc\\_lang=en&hash=321DB0C4FFE6E3774725554F5D427ED8](https://www.finma.ch/en/~media/finma/dokumente/dokumentencenter/myfinma/2ueberwachung/pruefwesen-kag/musterbericht-zur-aufsichtsrechtlichen-pruefung-fuer-fondsleitungen.pdf?sc_lang=en&hash=321DB0C4FFE6E3774725554F5D427ED8), [https://www.finma.ch/en/~media/finma/dokumente/dokumentencenter/myfinma/2ueberwachung/pruefwesen-kag/musterbericht-zur-aufsichtsrechtlichen-pruefung-fuer-sicav.pdf?sc\\_lang=en&hash=4F358FBB327107D7B45455D935FA7353](https://www.finma.ch/en/~media/finma/dokumente/dokumentencenter/myfinma/2ueberwachung/pruefwesen-kag/musterbericht-zur-aufsichtsrechtlichen-pruefung-fuer-sicav.pdf?sc_lang=en&hash=4F358FBB327107D7B45455D935FA7353))

## US SEC Enhances Reporting Requirements for Investment Companies and Issues Guidance on Liquidity Risk Management

On 28 August, 2024, the **U.S. Securities and Exchange Commission (US SEC)** announced new amendments to reporting requirements for certain registered investment companies, aimed at improving transparency and regulatory oversight. These changes, which affect Form N-PORT filings, are designed to provide both the SEC and investors with more timely and detailed information about the portfolio holdings of these funds.

The US SEC's amendments to **Form N-PORT** will require registered open-end funds, registered closed-end funds, and exchange-traded funds organised as unit investment trusts to file monthly reports instead of the current quarterly filings. These reports will need to be submitted within 30 days after the end of each month. Previously, funds had a 60-day window after the end of each quarter to submit these reports. These monthly reports will be made publicly available 60 days after the end of each month, rather than only at the end of each quarter. This change is expected to significantly increase the amount of data available to investors, enhancing their ability to monitor fund portfolios throughout the year.

In addition to the Form N-PORT amendments, the US SEC has also made changes to **Form N-CEN** reporting requirements. These amendments will require open-end funds to report specific information about the service providers they use to meet liquidity risk management program requirements. This update aims to allow the US SEC to better track and monitor liquidity risk management practices within the industry. The Commission also issued new guidance to address questions related to liquidity risk management for open-end funds, based on insights gained from industry outreach and monitoring activities.

The US SEC's amendments to Forms N-PORT and N-CEN will take effect on 17 November, 2025. Investment funds will be expected to comply with these new requirements for reports filed on or after this date. However, fund groups with net assets of less than US\$1 billion have been granted an extended compliance period and will not need to adhere to the Form N-PORT amendments until 18 May, 2026.

Cryptocurrency investment companies that fall under this scope should pay close attention to these new reporting requirements. The enhanced transparency and more frequent reporting obligations are particularly relevant for funds dealing with volatile and rapidly changing assets like cryptocurrencies. These firms must ensure they have systems in place to meet the more stringent reporting timelines, as failure to comply could result in regulatory scrutiny or penalties. Additionally, the amendments' emphasis on liquidity risk management is particularly significant for crypto funds, given the unique liquidity challenges posed by the digital asset market.

These changes may present challenges, particularly for smaller funds and crypto entities. The increased reporting frequency and the need to track liquidity risk management practices more closely will require additional resources and may strain smaller firms with limited compliance infrastructures. While these amendments are aimed at strengthening the overall market, compliance with the new rules may require investment in the necessary systems and processes to meet these requirements effectively.

(Source: <https://www.sec.gov/rules-regulations/2024/08/open-end-fund-liquidity-risk-management-programs-swing-pricing-form-n-port-reporting>, <https://www.sec.gov/newsroom/press-releases/2024-110>, <https://www.sec.gov/files/ic-35308-fact-sheet.pdf>, <https://www.sec.gov/files/rules/final/2024/ic-35308.pdf>)

## HKMA Launches Project Ensemble Sandbox to Advance Tokenisation in Financial Sector

On 28 August, 2024, the Hong Kong Monetary Authority (**HKMA**) officially launched the Project Ensemble Sandbox today, for the practical adoption of tokenisation within the financial industry. The launch ceremony introduced four key themes for the initial round of experimentation, focusing on the tokenisation of both traditional financial assets and real-world assets.

The Sandbox has been specifically designed to facilitate interbank settlement using experimental tokenised money, with a focus on transactions involving tokenised assets. Participating banks from the Project Ensemble Architecture Community have connected their tokenised deposit platforms to the Sandbox, enabling them to conduct experiments in payment-versus-payment and delivery-versus-payment settlement processes.

The first round of experimentation within the Sandbox will cover four main theme areas: fixed income and investment funds, liquidity management, green and sustainable finance, and trade and supply chain finance. According to the HKMA, these areas were selected based on industry interest, market trends, and the potential for innovative impact.

The HKMA is working with the Hong Kong's Securities and Futures Commission (HK **SFC**), which is a member of the Project Ensemble Architecture Community and is co-leading efforts to establish regulatory guidelines relating to tokenisation within the asset management industry.

The HKMA plans to collaborate with the BIS Innovation Hub Hong Kong Centre on one or more of the Sandbox themes. The HKMA will also engage with the CBDC Expert Group in relation to the Sandbox and the development of tokenisation technologies.

Mr Eddie Yue, Chief Executive of the HKMA, **stated at the launch ceremony on 28 August 2024**, "The introduction of the Project Ensemble Sandbox to test tokenisation use cases marks a significant step forward for the HKMA and the industry to explore the application of tokenisation in real-life business scenarios. Since the launch of Project Ensemble in March, we have been encouraged by the strong interest from the industry in pioneering innovative solutions to redefine the digital finance landscape. The HKMA looks forward to collaborating with the SFC, other central banking institutions, academia, and all relevant industry participants to further drive innovation and progress in the Hong Kong tokenisation market."

Ms Julia Leung, Chief Executive Officer of the SFC, in her [speech at the launch on 28 August 2024](#) made a statement supporting the efforts “The Sandbox launch today is a clear example of how innovation and regulation can go hand in hand to blaze a new path for our financial markets. As two major architects of Hong Kong’s financial markets, the SFC and the HKMA share the same vision and dedication to future-proofing the city’s financial system through innovative market infrastructure.”

Project Ensemble aims to explore innovative financial market infrastructure (**FMI**) to enable seamless interbank settlement using wholesale central bank digital currency (**wCBDC**). The HKMA, through the Sandbox, intends to assess the technical interoperability of tokenised assets, tokenised deposits, and wCBDC. This initiative is aimed at providing industry participants with the opportunity to conduct end-to-end testing of tokenised asset transactions in real-world business scenarios.

(Source: <https://www.hkma.gov.hk/eng/news-and-media/press-releases/2024/08/20240828-3/>, <https://apps.sfc.hk/edistributionWeb/gateway/EN/news-and-announcements/news/doc?refNo=24PR140>)

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