

## Blockchain and Digital Assets

Our multidisciplinary legal team has a wealth of experience which we use to guide our clients through complex legal issues related to blockchain technologies, cryptocurrencies, and other digital assets. These clients include institutional and individual investors, exchange platforms, financial institutions and money services businesses, as well as established technology companies and start-ups.

The Blockchain and Digital Assets Practice Group is ranked in Band 1 of the "Crypto-Asset Disputes – Canada" category by **Chambers FinTech Guide**. The team is described as having "a well-earned reputation for handling complex and novel crypto-asset disputes. The market-leading team acts for private individuals, crypto companies and other industry players in matters spanning fraud, shareholder disputes, cyberattacks and asset tracing and recovery."

We are at the forefront of new developments and legal precedents in the digital asset and decentralized market in Canada and have obtained first-of-their-kind rulings on digital assets in our courts. Our views and thought leadership are frequently sought by leading media publications and industry groups worldwide.

The WeirFoulds Blockchain and Digital Assets Group builds on the firm's longstanding reputation as a regional leader in the Canadian legal market, and draws upon its members' unique and diverse set of experiences. Our members include:

- Former group leaders at national and international law firms;
- Former board members of international legal networks spanning the globe;
- Entrepreneurs and business executives outside law;
- Former in-house legal counsel for multi-national and national companies;
- Faculty for business and blockchain courses at leading law schools; and
- Consultants, risk managers and project leaders for cross-border client teams with our legal and non-legal partners.

We are uniquely positioned to deliver strategic advice tailored to business and industry realities facing our clients, with a full appreciation of how legal and risk issues inform business decision-making. We have a sophisticated understanding of emerging technologies in an increasingly decentralized and borderless marketplace, and the evolving regulatory pressures and legal uncertainty within which they operate. This allows us to offer practical advice to help our clients navigate these fast changing landscapes to find meaningful business solutions in a digital world.

**Lawyers and professionals in this area**



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## Areas of Expertise

- Data Privacy
- Cybersecurity
- Investigations and Risk Advisory
- Commercial Litigation and Emergency Relief
- Access to Capital Markets and Funding
- Advertising and Marketing
- Tax
- Technology Transactions and Commercial Contract Negotiations

## Representative Experience

### Data Privacy

- prepare and revise privacy policies, security policies and data related policies tailored to the organization;
- provide strategic advice regarding privacy compliance, including applicable federal and provincial privacy laws and the impact of changes to privacy laws;
- conduct privacy impact assessments to assess whether personal information is being handled in a manner that complies with privacy laws;
- draft and negotiate contractual agreements, including data transfer agreements with privacy and security requirements;
- advise on data subject rights, including responding to privacy and access to information requests;
- advise on handling privacy investigations and complaints.

### Cybersecurity

- assist and respond to clients who think that they have had a cyber-breach and go through various protocols to determine if an actual breach took place;
- coach clients through tabletop exercises to prepare for potential breaches;
- manage inter-disciplinary teams including cybersecurity negotiators and forensic experts to respond to a breach;
- advise on breach reporting obligations and prepare notices to affected parties and applicable privacy regulator(s).

### Investigations and Risk Advisory

- manage and advise on internal investigations at digital asset exchanges, monetary services businesses, virtual asset service providers and financial institutions, including those arising from losses due to frauds and thefts;
- advise and respond to government, regulator and privacy commissioner inquiries, investigations and prosecutions arising from data and cybersecurity breaches, failures in AML and other policies/procedures, asset thefts and frauds (including negotiation of the scope of responses and settlements for clients subject to investigation, and terms for witnesses);
- advise on class action, employment and litigation risks and exposure (and risk remediation) pre and post inquiries and investigations arising from data and cybersecurity breaches, asset thefts and frauds, and seek urgent orders and defend proceedings after the commencement of proceedings.

### Commercial Litigation and Emergency Relief

- advise on and litigate claims relating to data and cybersecurity breaches, including those resulting in digital asset fraud or

theft, including on behalf of individual loss holders and investors, exchange platforms, financial institutions and money services businesses;

- commence and defend possessory, freezing (Mareva injunctions) and seizure (Anton Piller) injunctions and claims relating to common and more exotic forms of cryptocurrency and digital assets, including obtaining first-of-their-kind interim Orders in Canada;
- manage broader inter-disciplinary teams on cross-border digital asset investigations, tracing and seizure proceedings (including forensic teams and chain analysis experts) and obtain local (and assisting in obtaining foreign) orders arising from these investigations, with regard to cold/hot storage wallets and assets held on exchanges;
- engage with law enforcement nationally and internationally to support client goals in digital asset tracing, seizure and recovery and in obtaining criminal charges and prosecution, including with regard to private prosecutions of criminal charges;
- advise on, negotiate and compel disclosure from third parties (Norwich Pharmacal) with regard to digital asset losses and investigations;
- advise on and manage court-ordered interim custody of digital assets including issues of secure custody and insurance.

#### Access to Capital Markets and Funding

- advise on domestic and multi-jurisdictional start-up and growth-based debt and equity funding transaction structures and draft and negotiate all related loan, guarantee and security and investment documentation, particularly involving Web3, software developers and other tech companies;
- advise on domestic and multi-jurisdictional growth-based share and asset acquisition transaction structures and draft and negotiate all related documentation and advise on implementation strategies and plans within the tech industry and digital asset community;
- conduct and coordinate domestic and multi-jurisdictional diligence investigations, including contractual, regulatory, corporate, personal property, real property, execution and all other related public-based searches and inquiries and obtain all necessary third party approvals, consents and licences and complete all related filings and registrations;
- draft and negotiate all applicable confidentiality/non-disclosure agreements, and all advisable non-competition and non-solicitation agreements including for Web3, digital asset and tech companies;
- advise on regulatory requirements and draft and negotiate all related compliance materials and complete all related filings and registrations.

#### Advertising and Marketing

- advise on a wide range of compliance matters relating to advertising and disclosure laws, consumer protection laws, email marketing and anti-spam laws;
- draft and negotiate sponsorship, promotional, co-branding, and influencer marketing agreements, and terms and conditions relating to loyalty and rewards programs, user generated content, contests, marketing offers and promotions;
- prepare and revise company policies and templates relating to social media use, ecommerce terms of use, anti-spam compliance, media consents and releases.

#### Tax

- advise on all tax considerations applicable to acquiring, holding and disposing of digital assets and cryptocurrencies, including the tax considerations with respect to receiving digital assets and cryptocurrencies in exchange for goods and services, buying and selling digital assets and cryptocurrencies, holding digital assets and cryptocurrencies offshore and mining cryptocurrencies;
- make voluntary disclosures and other submissions to taxing authorities to reduce exposure for past non-compliance;
- represent taxpayers with tax audits, objections and appeals that have digital asset and cryptocurrency components.

- negotiate and implement smart contracts, licensing agreements, third-party development and outsourcing, and other IT and IP services for blockchain and technology companies, and digital asset and money service businesses, as well as other consumers of technology engaging with these services;
- partner with our clients to develop strategies for the commercialization and deployment of intellectual property and other proprietary assets;
- advise on procurement strategies, policies and processes and conducting procurements including negotiated request for proposal processes and vendor record processes to assist with efficient procurement of technology goods and services;
- advise on all areas of risk management involving decentralized autonomous organizations and other decentralized finance, as well as regulatory compliance for investment funds, securities and money services business.

**WeirFoulds**<sup>LLP</sup>

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