

## Australian Cryptocurrency Reforms

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On Thursday, August 17, 2017, the Australian government proposed a set of reforms aimed at regulating the purchase and sale of digital currencies on online exchanges, in an attempt to deter individuals from using these currencies for illicit purposes such as money laundering and the financing of terror-related activities.

The Australian government believes that bringing digital currencies under the same laws as other fiat currencies is a necessary step in preventing financial crimes, with Justice Minister Michal Keenan noting: "The threat of serious financial crime is constantly evolving, as new technologies emerge and criminals seek to nefariously exploit them. These measures ensure there is nowhere for criminals to hide."

In Canada, pursuant to the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*, certain reporting entities are required to register with and make reports to the Financial Transactions and Reports Analysis Centre of Canada ("FINTRAC"). FINTRAC's mandate is to facilitate the detection, prevention and deterrence of money laundering and the financing of terrorist activities, while ensuring the protection of personal information under its control. Among those parties required to report to FINTRAC are entities known as money services businesses ("MSBs"). An individual or entity is an MSB if it is in business in Canada to offer any of the following services to the public:

- Foreign exchange dealing (conducting transactions where one can exchange one type of currency for another currency);
- Remitting or transmitting funds by any means or through any person, entity or electronic funds transfer network; or
- Issuing or redeeming money orders, traveller's cheques or other similar negotiable instruments (except for cheques payable to a named person or entity).

The Government of Canada has made statutory changes to what services make an individual or an entity an MSB in Canada to include virtual currency services. These changes, however, are not yet in force as regulations are being developed to define what a virtual currency service is. The scope of such regulations, and how cryptocurrency exchanges will be impacted, remains to be seen, but at the very least it will mean that anonymity will likely be eliminated for covered exchanges and other covered entities.

Given the recent decision of the Securities Exchange Commission and the **first order** from a Canadian securities regulator with respect to an initial coin offering, as well as the actions of the Australian government, Canadian regulators can be expected to accelerate their work to understand cryptocurrencies

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and their relationship and resemblance to both fiat currencies and securities, and to regulate where appropriate.

## **We Can Help**

For more information about how Cassels can assist with your business, please contact Greg Hogan or another member of our firm's cross-disciplinary Emerging Companies Group or Securities Group.

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