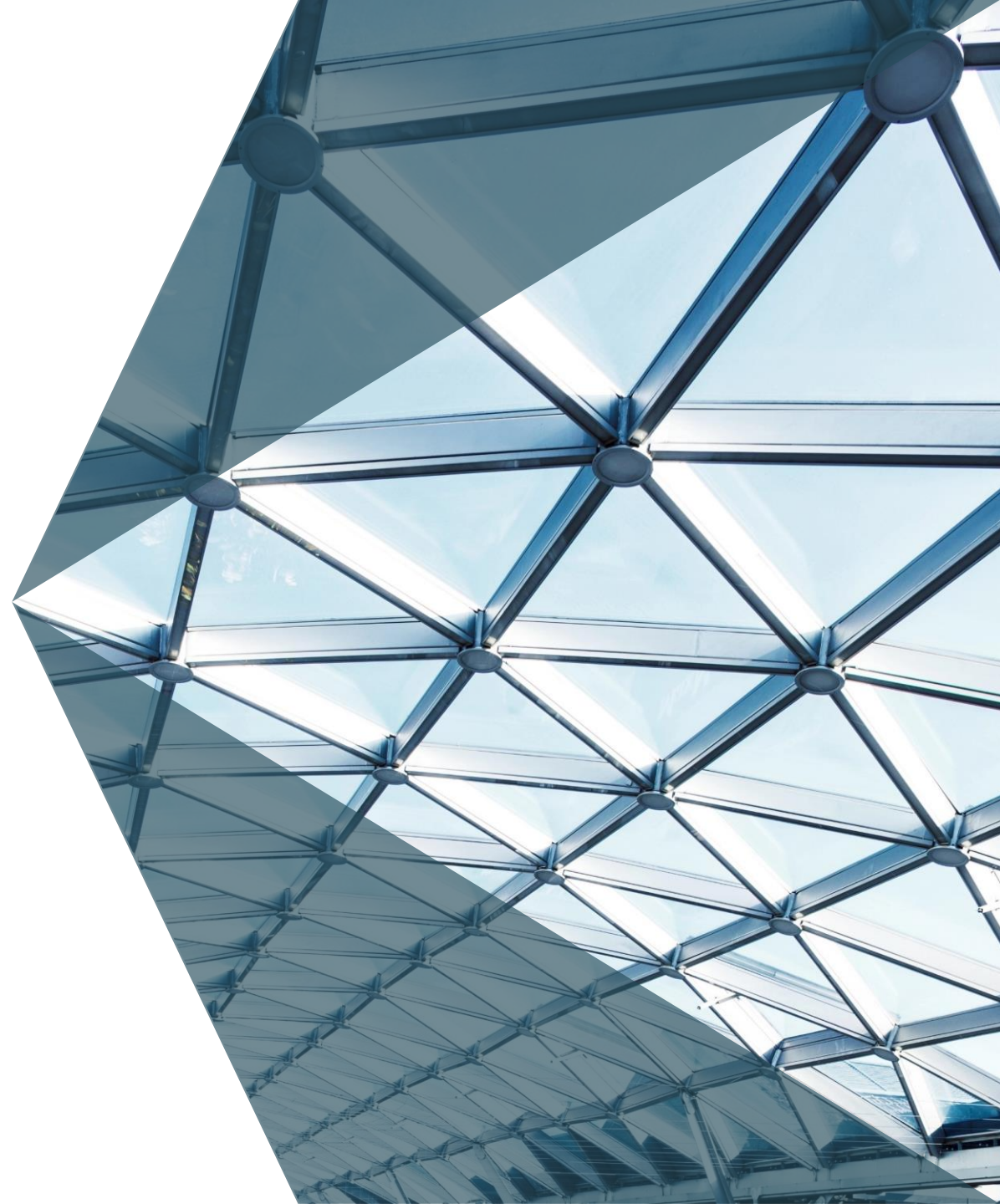


Navigating the Future of Insolvency in the Crypto Era

Exploring Blockchain's Impact and Emerging Challenges

Cork Gully



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Introduction to Cork Gully

**We are a trusted advisory firm
specialising in business turnaround,
restructuring and special situations.**

Based in London and working throughout the world, we are renowned for leading on tough, complex assignments with our experts understanding and resolving challenging issues.

Working in smaller teams has gained us a reputation for agile thinking and insightful decision-making at critical moments to determine a precise course of action for clients.



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Introduction to Hadley Chilton



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Hadley specialises in providing governance and leadership in complex engagements, including fraud and asset recovery, shareholder activism and disputes, bondholder enforcement, succession management and sale mandates.

He has substantial regulated financial services experience, with a particular focus on hedge funds, private equity, sovereign wealth funds and family offices, with full-lifecycle experience including launch, fundraising, growth, M&A, succession, exit and orderly wind-downs.

A Chartered Accountant and TCFD certified, he is a Cayman registered director, has been a BVI regulated insolvency practitioner for over 12 years, and on a case-by-case basis, the UK FCA Approved Person.

How has Blockchain impacted the practice of insolvency practitioners?

Blockchain technology offers enhanced transparency, immutability, and traceability of transactions, enabling practitioners to track asset transfers and uncover hidden assets more efficiently.



Enforcement is key. While on-chain analysis and disclosure from exchanges are useful, enforcement does remain a complex topic and innovation continues.



What are the advantages of this evolution?

Asset tracing on-chain

On-chain asset tracing involves analysing blockchain data to follow the movement of crypto assets. This method is invaluable in identifying the flow of funds and locating assets that may have been transferred to obfuscate their trail.

Asset tracing converted to RWA

Converting traced crypto assets to real-world assets involves liquidating digital currencies into fiat currency or other tangible assets. Where exchanges have been used, IPs may be able to procure transaction information.



Speed of resolution

Blockchain's real-time data access significantly speeds up the resolution process. Transactions can be quickly verified and traced, enabling faster recovery of assets and reducing the time taken to settle insolvency cases.



Evolution of legal service of documents

The legal service of documents has evolved to include digital means, leveraging blockchain for secure and verifiable delivery. This ensures faster and more reliable communication during insolvency proceedings.



What are the challenges presented by crypto insolvencies?



Asset custody:

- ▶ Ensuring the secure custody of crypto assets is critical. This involves managing private keys, using secure cold wallets, and employing multi-signature wallets to prevent unauthorised access.



Seizing assets:

- ▶ Seizing crypto assets requires obtaining the private keys and transferring the assets to wallets controlled by insolvency practitioners. Court orders and technical expertise are often necessary to compel cooperation from individuals or entities holding the keys.



Mixers to obfuscate:

- ▶ Mixers are services that combine multiple transactions to obscure the trail of crypto assets. These can be used to hide the origin and destination of funds, making asset tracing more challenging.



Sanctioned & government entities:

- ▶ Navigating legal landscapes and ensuring compliance with international regulations complicates asset recovery. Sanctioned entities use crypto for its advantages but face challenges due to evolving KYC and AML approaches by exchanges and participants.

How does crypto affect the costs in a liquidation?



The costs can be significant due to the need for specialised expertise, advanced forensic tools, and potential legal battles across multiple jurisdictions.



The asset value and geographic dispersal of crypto platform insolvencies is considerable which can increase complexity, even down to issues such as data hosting. However, efficient use of technology can help mitigate time costs.



A recurring fact pattern is several individually small crypto customers of an organisation that is subject to fraud and/or insolvency where no individuals have the means or desire to pay the winding up of the entities and the appointment of liquidators.

What sort of novel issues have crypto insolvencies brought about?

Technology: Novel issues include determining the ownership of crypto assets, dealing with decentralised platforms, and managing proprietary claims.

While blockchain transactions are inherently transparent, it can be difficult to identify the identity and location of assets and those who control them.

01

Proprietary claims: In platform insolvencies involve disputes over the ownership of crypto assets held on trading platforms; whether the assets are the property of the insolvent company or remain held on trust for the individual customers.

Cases like Global Trader highlight the complexities in this field, and crypto platform cases have since moved common law forward.

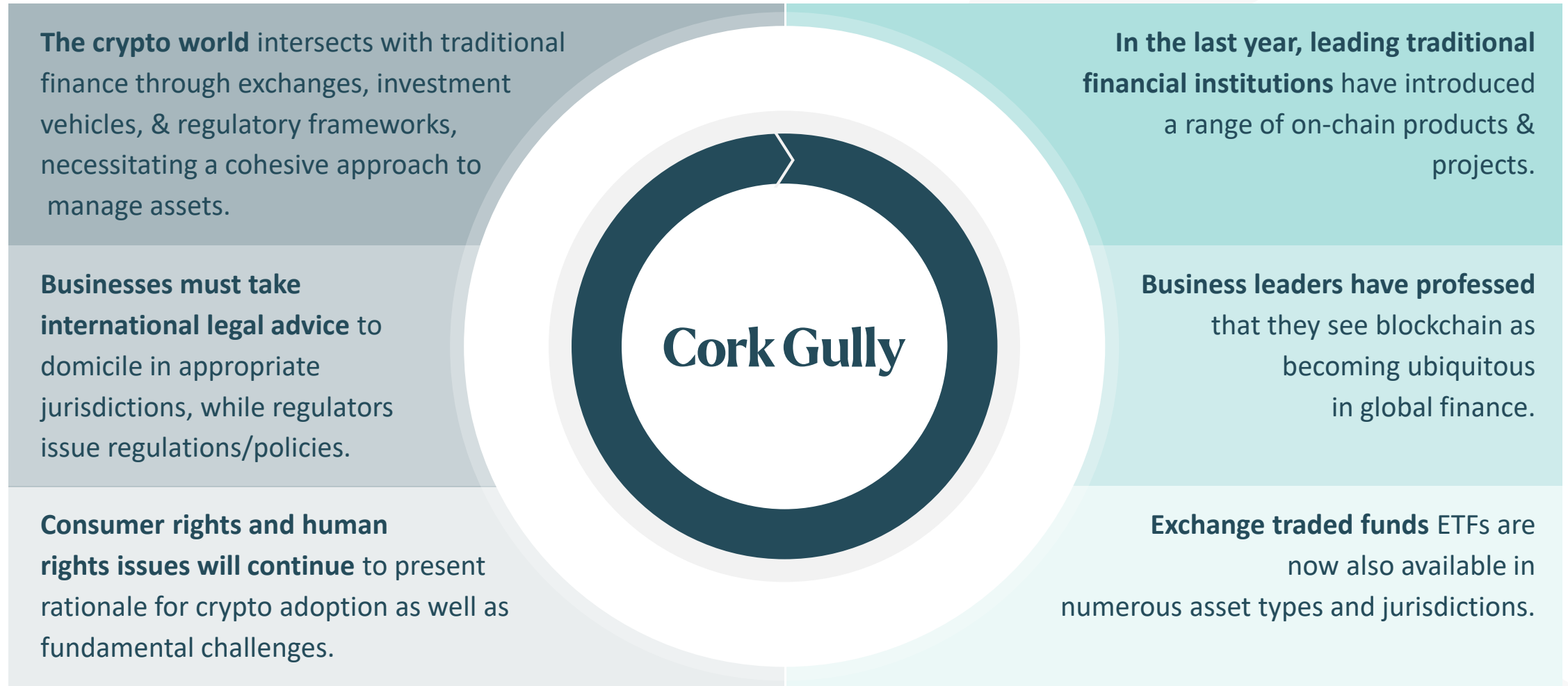
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Asset mix in Liquidator's custody: Liquidators manage a diverse range of assets, including crypto assets and tokens, requiring knowledge of each asset's characteristics and market dynamics.

They typically sell assets for the asset type or fiat currency of the company in liquidation.

03

How does the crypto world interplay with traditional finance?



Where do you see the future of insolvency in the crypto space?



The future will likely see more defined regulatory frameworks, improved asset tracing technologies, and greater collaboration between legal, financial, and technological experts. As the crypto space matures, insolvency practices will continue to evolve to address new challenges and leverage emerging opportunities.

01



IPs and other stakeholders will continue to innovate in order return value to creditors more quickly and potentially with higher returns.

02



DAOs and other baked in automatic dispute resolution functionality in smart contracts may seek to streamline business disputes. These may include the use of expert arbitrators. Insolvency laws, courts and practitioners will have to adapt.

03

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