

LAWS6091: SPECIAL
INTEREST TOPIC

CRYPTOCURRENCY SCAMS AND PROTECTING THE VULNERABLE CONSUMER

PORTFOLIO



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PART 1

RESEARCH FILE NOTE

RESEARCH FILE NOTE

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1. Overview:

1.1. What are cryptocurrencies?

1.1.1. Definition:

A cryptocurrency 'is a digital asset designed to work as a medium of exchange using cryptography to secure transactions, to control the creation of additional value units, and to verify the transfer of assets.'¹ As a currency without intrinsic value, cryptocurrencies can only function where there is sufficient market acceptance and a belief that they are actually worth something.² Unlike a conventional fiat system, where money has value because of the trust placed on central banks, cryptocurrencies use a decentralised control system where its supply and authentication are carried out by cryptographic algorithms.³

1.1.2. Key feature:

The key feature of cryptocurrencies is the use of distributed, rather than centralised, ledger technology to enable secure transactions in a peer-to-peer network.⁴ This distributed ledger technology is known as blockchain, which involves each participant receiving a copy of the database of all previous transactions, known as "blocks." A "chain" is formed as a result of cryptographic hashing, whereby an algorithm is used to accept or reject a new block being added to the chain. A block will only be accepted and connected where it matches the previous transaction history.

1.1.3. Types:

Generally, cryptocurrencies can be grouped into seven broad classes which have been summarised in the table below:⁵

Type	Example
Transaction mechanisms	Bitcoin, Litecoin
Distributed computation tokens	Ethereum, Tezos, DFINITY
Utility tokens	Golem, Sia, FileCoin
Security tokens	Represent stocks, derivatives and other financial assets

¹ Wolfgang Karl Härdle et al, 'Understanding Cryptocurrencies' (2020) 18(2) *Journal of Financial Econometrics* 181, 182.

² Wolfgang Karl Härdle et al, 'Understanding Cryptocurrencies' (2020) 18(2) *Journal of Financial Econometrics* 181, 185.

³ Yaser Sobhanifard and Seyedjavad Sadatfarizani, 'Consumer-based modeling and ranking of the consumption factors of cryptocurrencies' (2019) 528 *Physica A: Statistical Mechanics and its Applications* 1, 2.

⁴ See Hao Hua Sun Yin et al, 'Regulating Cryptocurrencies: A Supervised Machine Learning Approach to De-Anonymizing the Bitcoin Blockchain' (2019) 36(1) *Journal of Management Information Systems* 37, 48-9.

⁵ See Wolfgang Karl Härdle et al, 'Understanding Cryptocurrencies' (2020) 18(2) *Journal of Financial Econometrics* 181, 187-8.

Fungible tokens	ERC-20
Non-fungible tokens	Cryptokitties, Decentraland
Stablecoins (collateralised with fiat currencies, real assets, cryptocurrencies or uncollateralised)	CADCoin, Digix Gold, MakerDao, Basis
Other	Overlay, Libra

1.2. Consumer perceptions of cryptocurrencies:

1.2.1. How are cryptocurrencies being used by consumers?

When Blockchain technology, and subsequently cryptocurrencies, were first introduced to the world by Satoshi Nakamoto in 2008, it was intended that these assets were to be used as a medium of exchange (i.e. money), rather than as a profitable investment opportunity.⁶ Some studies have continued to investigate the relationship between cryptocurrencies and their adoption by consumers as a form of payment.⁷ In a study by Yaser Sobhanifard and Seyedjavad Sadatfarizani, it was found that cryptocurrency uptake by consumers was most heavily influenced by whether the consumer had any understanding of cryptocurrencies (perceived or otherwise), the low cost of international transactions, the secure nature of blockchain technology, the extent of control over transactions, the high-speed of transactions and privacy.⁸ However, the fact remains that where consumers cannot “operate” cryptocurrencies in their every-day transactions, they will simply not use them.⁹ In light of this fact, studies have increasingly focused on the growing phenomenon of cryptocurrencies being used as a form of alternative asset for investment,¹⁰ similarly to the way in which precious metals or fine art have been used as a form of investment in the wake of the Global Financial Crisis in 2008. In a nationally representative survey of 1027 Australians by global researcher YouGov, it was found that 1 in 5 Australians invested in cryptocurrency at one point, with 85% indicating that they intend to increase their investments.¹¹ One in five respondents also viewed cryptocurrency investing as an “easier” way to save than deploying cash to a bank savings account.¹²

⁶ See Satoshi Nakamoto, *Bitcoin Peer-to-Peer Electronic Cash System E-cash Paper* (2008) <https://www.mail-archive.com/cryptography@metzdowd.com/msg09959.html>.

⁷ See Denni Arli et al, ‘Do consumers really trust cryptocurrencies?’ (2021) 39(1) *Marketing Intelligence & Planning* 74.

⁸ Yaser Sobhanifard and Seyedjavad Sadatfarizani, ‘Consumer-based modeling and ranking of the consumption factors of cryptocurrencies’ (2019) 528 *Physica A: Statistical Mechanics and its Applications* 1, 7.

⁹ See Mario Arias-Oliva, Jorge Pelegrín-Borondo and Gustavo Matías-Clavero, ‘Variables Influencing Cryptocurrency Use: A Technology Acceptance Model in Spain’ (2019) 10 *Frontiers in Psychology* 1, 8-11.

¹⁰ See Christian Hafner, ‘Alternative Assets and Cryptocurrencies’ (2020) 13 *Journal of Risk and Financial Management* 7.

¹¹ Aleks Vickovich, *Four million Aussies set to buy into crypto* (8 June 2021) Australian Financial Review <https://www.afr.com/companies/financial-services/four-million-aussies-set-to-buy-into-crypto-20210608-p57z2g>.

¹² Aleks Vickovich, *Four million Aussies set to buy into crypto* (8 June 2021) Australian Financial Review <https://www.afr.com/companies/financial-services/four-million-aussies-set-to-buy-into-crypto-20210608-p57z2g>.

1.2.2. Why are consumers trusting cryptocurrencies as a form of investment?

One study proposed the Greater Fool Theory as the basis for consumer investment, which states investors buy cryptocurrencies on the belief that “some bigger fool will buy from [them] at a higher price in the future.”¹³ In this regard, investment in cryptocurrency is based on speculation that prices will continue to increase because that is what has happened in the past. Conversely, another study has indicated that the basis for consumer investment in cryptocurrency could be a result of a herd mentality, whereby uncertain consumers copy the behaviour of others for fear of missing out.¹⁴ However, in a study investigating the utility gains for different types of investors when they consider cryptocurrencies, it was found that cryptocurrencies outperform traditional asset classes in terms of average daily realised returns,¹⁵ particularly by investors whose objectives were orientated on diversification rather than returns.¹⁶ Thus, this seems to suggest that the factors influencing consumer trust in cryptocurrency investment can be considered as wider than what the aforementioned studies have indicated.

1.2.3. Which consumers are using cryptocurrencies in Australia?

In a study conducted by Roy Morgan, the majority of cryptocurrency investors were aged under 35 years, with 59% of survey participants.¹⁷ While investors aged 50+ were least likely to invest in cryptocurrency in a study conducted by Roy Morgan, they were found to have the largest average cryptocurrency investment at an average value of around \$56,200.¹⁸ This means that the value of all cryptocurrency holdings for people aged 50+ is higher than any other age group and accounts for over 35% of the total market.¹⁹ Finally, it is also important to note that males were far more likely to invest in cryptocurrencies than their female counterparts, with 7/10 people investing in cryptocurrency being male.²⁰

¹³ Frode Kjærland et al, ‘An Analysis of Bitcoin’s Price Dynamics’ (2018) 11 *Journal of Risk and Financial Management* 63, 67.

¹⁴ Elie Bouri et al, ‘Herding behaviour in cryptocurrencies’ (2018) 29 *Finance Research Letters* 216, 217-221.

¹⁵ Alla Petukhina et al, ‘Investing with Cryptocurrencies – evaluating their potential for portfolio allocation Strategies’ (2021) 1 *Quantitative Finance* 1, 26.

¹⁶ Alla Petukhina et al, ‘Investing with Cryptocurrencies – evaluating their potential for portfolio allocation Strategies’ (2021) 1 *Quantitative Finance* 1, 42.

¹⁷ Roy Morgan, *Over 1 million Australians now own Cryptocurrencies such as Bitcoin, Ethereum, Ripple, Cardano, Dogecoin and Shiba Inu* (12 April 2022) <https://www.roymorgan.com/findings/8929-cryptocurrency-february-2022-202204120119>.

¹⁸ Roy Morgan, *Over 1 million Australians now own Cryptocurrencies such as Bitcoin, Ethereum, Ripple, Cardano, Dogecoin and Shiba Inu* (12 April 2022) <https://www.roymorgan.com/findings/8929-cryptocurrency-february-2022-202204120119>.

¹⁹ Roy Morgan, *Over 1 million Australians now own Cryptocurrencies such as Bitcoin, Ethereum, Ripple, Cardano, Dogecoin and Shiba Inu* (12 April 2022) <https://www.roymorgan.com/findings/8929-cryptocurrency-february-2022-202204120119>.

²⁰ Roy Morgan, *Over 1 million Australians now own Cryptocurrencies such as Bitcoin, Ethereum, Ripple, Cardano, Dogecoin and Shiba Inu* (12 April 2022) <https://www.roymorgan.com/findings/8929-cryptocurrency-february-2022-202204120119>.

2. Growth of cryptocurrencies and scams:

2.1. A brief history of cryptocurrencies and their growth:

On 31 October 2008, Satoshi Nakamoto uploaded a PDF document titled: 'Bitcoin: a peer- to-peer electronic cash system' to the mailing list website, metzdowd.com.²¹ This document described a 'a purely peer-to-peer version of electronic cash would allow online payments to be sent directly from one party to another without going through a financial institution.'²²

On 3 January 2009, Nakamoto created the world's first cryptocurrency Bitcoin, as well as the associated technology, blockchain.²³ In the wake of the global financial crisis, and the rise of a collective distrust against banks, monetary authorities and regulators, Bitcoin gained the attention of the general public.²⁴

On 22 May 2010, Bitcoin was used for the first as a form of digital currency, whereby a Florida man paid 10,000 Bitcoins for two pizzas.²⁵ In February 2011, Bitcoin reached USD parity.²⁶

The growth of Bitcoin and its price appreciation ultimately led to the emergence of a large number of other cryptocurrencies. Of the most well-known, Litecoin was launched in October 2011, followed by Ripple at the beginning of 2013, and eventually Ethereum in 2015.²⁷ Cryptocurrencies have since found interest among corporations and countries, with Facebook attempting to first launch Libra in June 2019 and then later Diem,²⁸ and the Bahamas launching the Sand Dollar in October 2020.²⁹ According to CoinMarketCap, there are over 20,000 cryptocurrencies currently in circulation.³⁰

²¹ Vincenzo D'Andrea, *History and Evolution of the Main Cryptocurrencies* (Thesis, Libera Università Internazionale degli Studi Sociali, 2018).

²² Satoshi Nakamoto, *Bitcoin Peer-to-Peer Electronic Cash System E-cash Paper* (2008) <https://www.mail-archive.com/cryptography@metzdowd.com/msg09959.html>.

²³ Helder Sebastião, Paulo Rupino da Cunha and Pedro Godinho, 'Cryptocurrencies and blockchain. Over and future perspectives' (2021) 21(3) *International Journal of Economics and Business Research* 1, 3.

²⁴ See Helder Sebastião, Paulo Rupino da Cunha and Pedro Godinho, 'Cryptocurrencies and blockchain. Over and future perspectives' (2021) 21(3) *International Journal of Economics and Business Research* 1, 3.

²⁵ Helder Sebastião, Paulo Rupino da Cunha and Pedro Godinho, 'Cryptocurrencies and blockchain. Over and future perspectives' (2021) 21(3) *International Journal of Economics and Business Research* 1, 4.

²⁶ Helder Sebastião, Paulo Rupino da Cunha and Pedro Godinho, 'Cryptocurrencies and blockchain. Over and future perspectives' (2021) 21(3) *International Journal of Economics and Business Research* 1, 4.

²⁷ Helder Sebastião, Paulo Rupino da Cunha and Pedro Godinho, 'Cryptocurrencies and blockchain. Over and future perspectives' (2021) 21(3) *International Journal of Economics and Business Research* 1, 7.

²⁸ Tom Wilson and Pete Schroeder, 'Facebook-backed crypto project Diem to launch U.S. stablecoin in major shift', *Reuters* (online), 13 May 2021 <https://www.reuters.com/technology/facebook-backed-crypto-project-diem-launch-us-stablecoin-major-shift-2021-05-12/>.

²⁹ Ian Smith, 'Central Bank Digital Currencies: Which countries are using, launching or piloting CBDCs?', *Euronews.next* (online), 9 March 2022 <https://www.euronews.com/next/2022/03/09/cbdcs-these-are-the-countries-are-using-launching-or-piloting-their-own-digital-currencies>.

³⁰ CoinMarketCap, *All Cryptocurrencies* <https://coinmarketcap.com/all/views/all/>.

Alongside the growth of cryptocurrencies, there has also been a growth in the number of online cryptocurrency exchanges. The first online exchange, Mt.Gox, was launched in 2010.³¹ Since then, CoinMarketCap has indicated there are nearly 600 online cryptocurrency exchanges where users can buy and sell cryptocurrencies.³²

2.2. Australia and cryptocurrencies:

2.2.1. Popularity of cryptocurrencies in Australia:

In a study undertaken by Finder in July 2022, in which 2,510 internet users in Australia were surveyed, it was found that the Australian cryptocurrency ownership rate was 17%, which was higher than the global average of 15% and ranked Australia ninth out of 26 countries.³³ Of those who owned cryptocurrency, 51% owned Bitcoin, 40% owned Ethereum, while 24% owned Dogecoin and 20% owned Cardano.³⁴

2.2.2. What influences Australians to buy certain cryptocurrencies?

In a study undertaken by Stastica, it was found that 52% of Australians investing in cryptocurrencies were most influenced to buy a certain type of cryptocurrency where they had done their own research; that is, through whitepapers and the community.³⁵ Only a minority of cryptocurrency investors were influenced by other means, such as through past performance (12%), social media (10%), and family and friends (8%).³⁶

2.2.3. How are Australians obtaining cryptocurrencies?

Cryptocurrencies can be obtained through a broker or cryptocurrency exchange. Well-known cryptocurrency exchanges include Coinbase, Gemini and Bianance, however, there also exist a host of AUD-based exchanges, including CoinSpot, and Swyftx. In comparing the two methods, it is generally considered that purchasing cryptocurrency through a broker is easiest as they reduce the complexity associated with standard trading platforms by acting on the consumers' behalf.³⁷

³¹ Helder Sebastião, Paulo Rupino da Cunha and Pedro Godinho, 'Cryptocurrencies and blockchain. Over and future perspectives' (2021) 21(3) *International Journal of Economics and Business Research* 1, 8.

³² CoinMarketCap, *Top Cryptocurrency Spot Exchanges* <https://coinmarketcap.com/rankings/exchanges/>.

³³ Richard Laycock, *Finder Cryptocurrency Adoption Index* (30 June 2022) Finder <https://www.finder.com.au/finder-cryptocurrency-adoption-index>.

³⁴ Richard Laycock, *Finder Cryptocurrency Adoption Index* (30 June 2022) Finder <https://www.finder.com.au/finder-cryptocurrency-adoption-index>.

³⁵ Statista Research Department, *Cryptocurrency in Australia - statistics & facts* (26 April 2022) Statista <https://www.statista.com/topics/8519/cryptocurrency-in-australia/#dossierKeyfigures>.

³⁶ Statista Research Department, *Cryptocurrency in Australia - statistics & facts* (26 April 2022) Statista <https://www.statista.com/topics/8519/cryptocurrency-in-australia/#dossierKeyfigures>.

³⁷ See Kat Tretina and Johanna Leggatt, 'How to buy cryptocurrency in Australia', *Forbes* (online), 18 July 2022 <https://www.forbes.com/advisor/au/investing/cryptocurrency/how-to-buy->

However, many exchanges are now offering more user-friendly platforms, which appear to be proving popular.³⁸

2.3. Growth of cryptocurrency scams in Australia:

2.3.1. What is the scale of cryptocurrency scams in Australia, and are they increasing?

During the COVID-19 pandemic in early 2020, the Australian Securities and Investment Commission ('ASIC') revealed an increase in reports from consumers losing money in cryptocurrency scams.³⁹ From March to May, the reported cases of misconduct had increased by over 20% when compared to the same period in the previous year.⁴⁰

In August 2021, the Australian Competition and Consumer Commission ('ACCC') revealed that more than half of the \$70 million in investment losses that were reported to Scamwatch for the first half of 2021 were related to cryptocurrency.⁴¹ Furthermore, of the 4,763 reports made, 2,240 of the reports were made in relation to cryptocurrency scams.⁴² This is almost the total of all investment losses reported to Scamwatch for 2020.⁴³

In June 2022, the ACCC reported that the majority of the \$205 million worth of investment losses reported by consumers to Scamwatch involved cryptocurrency,⁴⁴ with \$113 million worth of losses reported so far this year.⁴⁵ However, the ACCC notes that the true losses to scams are likely to be much higher, as only approximately 13% of all people experiencing investment losses

[cryptocurrency/#:~:text=A%20host%20of%20Australian%2Dbased,research%20the%20Australian%2Dbased%20exchange.](#)

³⁸ See generally James Edwards and Andrew Munro, *Best crypto exchanges in Australia for 2022* (4 July 2022) Finder <https://www.finder.com.au/cryptocurrency/exchanges>.

³⁹ See Australian Securities and Investment Commission, *Scam alert: ASIC sees a rise in crypto scams* <https://asic.gov.au/about-asic/news-centre/news-items/scam-alert-asic-sees-a-rise-in-crypto-scams/>.

⁴⁰ Australian Securities and Investment Commission, *Scam alert: ASIC sees a rise in crypto scams* <https://asic.gov.au/about-asic/news-centre/news-items/scam-alert-asic-sees-a-rise-in-crypto-scams/>.

⁴¹ Australian Competition and Consumer Commission, 'Australians lose over \$70 million to bogus investment opportunities' (Media Release, 133/21, 24 August 2021) <https://www.accc.gov.au/media-release/australians-lose-over-70-million-to-bogus-investment-opportunities>.

⁴² Australian Competition and Consumer Commission, 'Australians lose over \$70 million to bogus investment opportunities' (Media Release, 133/21, 24 August 2021) <https://www.accc.gov.au/media-release/australians-lose-over-70-million-to-bogus-investment-opportunities>.

⁴³ Australian Competition and Consumer Commission, 'Australians lose over \$70 million to bogus investment opportunities' (Media Release, 133/21, 24 August 2021) <https://www.accc.gov.au/media-release/australians-lose-over-70-million-to-bogus-investment-opportunities>.

⁴⁴ Australian Competition and Consumer Commission, 'Australians are losing more money to investment scams' (Media release, 69/22, 6 June 2022) <https://www.accc.gov.au/media-release/australians-are-losing-more-money-to-investment-scams>.

⁴⁵ Australian Competition and Consumer Commission, *Australians are losing more money to investment scams* (6 June 2022) <https://www.accc.gov.au/media-release/australians-are-losing-more-money-to-investment-scams>.

actually report such losses to Scamwatch.⁴⁶ Similarly, the Government of Western Australia's Department of Mines, Industry Regulation and Safety released that half of the \$4.1 million scammed from 71 investors in the first half of 2022 were attributed to cryptocurrency scams.⁴⁷ This was found to be an increase of 32% on the same period last year.⁴⁸

When the data from the past three years alone is compared, it is clear that there has been a noticeable increase in the number of investment losses to cryptocurrency scams reported by consumers. Further, the ACCC projects that this will only continue to increase into next year.

2.3.2. What types of scams are most common?

According to Moneysmart, the two main types of cryptocurrency scams are: 1) fake opportunities to buy cryptocurrencies, and 2) using your own cryptocurrency to invest or pay for something.⁴⁹ However, from the two, it appears that the former is the most common type of cryptocurrency scam if we consider the research conducted by the ACCC.⁵⁰ In particular, the ACCC noted that the majority of these types of scams involved "romance baiting",⁵¹ where people meet online and form a romantic connection, and then the scammer directs the person to an investment opportunity in cryptocurrency. Furthermore, the ACCC also noted an increase in the use of text messages rather than phone calls to entice potential victims,⁵² whereby an unexpected text message is received from the scammer, detailing an opportunity to invest in cryptocurrencies and directing them accordingly.

⁴⁶ Australian Competition and Consumer Commission, 'Australians are losing more money to investment scams' (Media release, 69/22, 6 June 2022) <https://www.accc.gov.au/media-release/australians-are-losing-more-money-to-investment-scams>.

⁴⁷ Department of Mines, Industry Regulation and Safety, Government of Western Australia, 'Surge in investment in crypto scams driving losses towards record levels' (Media release, 18 July 2022) <https://www.commerce.wa.gov.au/announcements/surge-investment-crypto-scams-driving-losses-towards-record-levels>.

⁴⁸ Department of Mines, Industry Regulation and Safety, Government of Western Australia, 'Surge in investment in crypto scams driving losses towards record levels' (Media release, 18 July 2022) <https://www.commerce.wa.gov.au/announcements/surge-investment-crypto-scams-driving-losses-towards-record-levels>.

⁴⁹ Moneysmart, Australian Securities and Investment Commission, *Cryptocurrencies* <https://moneysmart.gov.au/investment-warnings/cryptocurrencies>.

⁵⁰ Australian Competition and Consumer Commission, 'Australians are losing more money to investment scams' (Media release, 69/22, 6 June 2022) <https://www.accc.gov.au/media-release/australians-are-losing-more-money-to-investment-scams>.

⁵¹ Australian Competition and Consumer Commission, 'Australians lose over \$70 million to bogus investment opportunities' (Media Release, 133/21, 24 August 2021) <https://www.accc.gov.au/media-release/australians-lose-over-70-million-to-bogus-investment-opportunities>.

⁵² Australian Competition and Consumer Commission, 'Australians are losing more money to investment scams' (Media release, 69/22, 6 June 2022) <https://www.accc.gov.au/media-release/australians-are-losing-more-money-to-investment-scams>.

2.3.3. Which consumers tend to fall victim to scams?

While all demographics are vulnerable to scams, the ACCC noted that people aged 55 to 64 reported the highest total losses of investment losses, which included \$32 million between 1 January and 1 May 2022.⁵³ Furthermore, over 80% of losses reported by this age group was lost to investment scams specifically, or a value totalling \$26 million.⁵⁴ Therefore, it seems likely that older Australians tend to be the most vulnerable demographic group to fall victim to scams. Interestingly, however, it is also important to note that some commentators, such as Professor Talis Putnins of the University of Technology Sydney Business School, believe that the newer the cryptocurrency investor, the more vulnerable they are to scams.⁵⁵ Seemingly, these conclusions seem to be corroborated by the Australian Transactions and Reports Analysis Centre in their Financial Crime Guide.⁵⁶

⁵³ Australian Competition and Consumer Commission, 'Australians are losing more money to investment scams' (Media release, 69/22, 6 June 2022) <https://www.accc.gov.au/media-release/australians-are-losing-more-money-to-investment-scams>.

⁵⁴ Australian Competition and Consumer Commission, 'Australians are losing more money to investment scams' (Media release, 69/22, 6 June 2022) <https://www.accc.gov.au/media-release/australians-are-losing-more-money-to-investment-scams>.

⁵⁵ Andy Kollmorgan, 'Cryptocurrency scams cost Australians \$129m', *CHOICE* (online), 4 March 2022 <https://www.choice.com.au/money/financial-planning-and-investing/stock-market-investing/articles/cryptocurrency-scams>.

⁵⁶ Australian Government, Australian Transactions and Reports Analysis Centre, *Preventing the Criminal Abuse of Digital Currencies* (April 2022) https://www.austrac.gov.au/sites/default/files/2022-04/AUSTRAC_FCG_PreventingCriminalAbuseOfDigitalCurrencies_FINAL.pdf.

3. Regulation of cryptocurrencies in Australia:

3.1. Existing regulation:

Regulation of cryptocurrencies in Australia has predominantly focused on managing the transactional relationships and activities involved in trading cryptocurrencies rather than protecting consumers. For example, in 2018, new laws for digital currency exchange providers ('DCE') operating in Australia were implemented by the Australian Transaction Reports and Analysis Centre ('AUSTRAC').⁵⁷ Under these laws, DCEs with a business location inside of Australia are required to register with AUSTRAC and comply with reporting obligations.⁵⁸ Aside from legislative schemes, some government departments and organisations, such as the Australian Taxation Office ('ATO') and ASIC, have provided guidance on the regulation of cryptocurrencies under current Australian laws. For example, the ATO stipulates that if you sell, gift or trade in cryptocurrencies, the profits of such transactions may be taxed in accordance with capital gains or, if the transactions are part of business activities, then the gains will be qualified as ordinary income and taxed accordingly.⁵⁹ As another example, ASIC currently regulates crypto-assets and related products and services to the extent that fall within the meaning of "financial product or service".⁶⁰ Notably, ASIC has specified that operators of any managed investment schemes which hold cryptocurrency assets will generally need to hold an Australian Financial Services Licence unless exempt.⁶¹ In addition, ASIC has specified that any cryptocurrency asset which qualifies as a managed investment plan or derivative falls under the scope of the *Corporations Act 2001* (Cth), meaning the issuing or selling of such assets must not be misleading or deceptive. Where these assets do not fall under the scope of the aforementioned Act, they will instead fall under the *Competition and Consumer Act 2010* (Cth).⁶² ASIC has also claimed that it has taken action in response to crypto-related scams, such as publishing scam warnings.⁶³ Interestingly, some organisations have raised concerns regarding their inability to respond to consumer complaints regarding cryptocurrency. For example, the Australian Financial Complaints Authority ('AFCA') has noted that it has 'limited scope to

⁵⁷ See Australian Transaction Reports and Analysis Centre, 'New Australian laws to regulate cryptocurrency providers' (Media release, 11 April 2018) <https://www.austrac.gov.au/new-australian-laws-regulate-cryptocurrency-providers>.

⁵⁸ Australian Transaction Reports and Analysis Centre, 'New Australian laws to regulate cryptocurrency providers' (Media release, 11 April 2018) <https://www.austrac.gov.au/new-australian-laws-regulate-cryptocurrency-providers> ' see also *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (Cth) pt 6A.

⁵⁹ Australian Government, Australian Taxation Office, *Crypto Asset Investment* (29 June 2022) <https://www.ato.gov.au/Individuals/Investments-and-assets/Crypto-asset-investments/>.

⁶⁰ Senate Select Committee on Australia as a Technology and Financial Centre, Parliament of Australia, *Final Report* (2021) 10; see generally s 763A *Corporations Act 2001* (Cth).

⁶¹ Australian Securities and Investment Commission, *Crypto-assets* (October 2021) <https://asic.gov.au/regulatory-resources/digital-transformation/crypto-assets/>.

⁶² Australian Securities and Investment Commission, *Crypto-assets* (October 2021) <https://asic.gov.au/regulatory-resources/digital-transformation/crypto-assets/>.

⁶³ Senate Select Committee on Australia as a Technology and Financial Centre, Parliament of Australia, *Final Report* (2021) 14.

resolve consumer complaints arising from cryptocurrency dealings because [it] is only able to consider complaints against financial firms that are members of the AFCA.⁶⁴ In light of what has been discussed above, it is important to note that this is seemingly the extent to which cryptocurrencies are currently being regulated within the Australian context.⁶⁵ As such, it is reasonable to conclude that cryptocurrencies remain largely unregulated in Australia at the present time, or at least remain *prescriptively* unregulated.

3.2. Proposed regulation:

Initially, proposed regulation in the area of cryptocurrency focused entirely on managing blockchain technology, rather than the products which actually arise on the basis of this technology (i.e. cryptocurrencies). Notably, the Australian Government's Department of Industry, Science and Resources published a National Blockchain Roadmap in February 2020, outlining 'a regulatory environment which is conducive to innovation and growth.'⁶⁶ As part of the roadmap, the Government intended to begin installing measures to address issues of identity, privacy, security, data provenance, integrity and governance with respect to blockchain technologies.⁶⁷ Ultimately, the Senate Select Committee on Australia as a Technology and Financial Centre was formed on 18 March 2021 to identify 'opportunities and risks in the digital asset and cryptocurrency sector.'⁶⁸ The Committee provided their final report on 30 October 2021.

3.2.1. Senate Select Committee on Australia as a Technology and Financial Centre Final Report:

Chapter 2 of this report provides a useful summary of the current regulatory framework surrounding digital assets, including cryptocurrencies, while Chapter 3 to 5 provides context to various digital asset phenomena and options for regulation and reform. However, it is in Chapter 6 of this report where the conclusions and recommendations of the Senate Committee can be found, which will prove most useful in understanding the proposed trajectory of cryptocurrency regulation in Australia.

⁶⁴ Senate Select Committee on Australia as a Technology and Financial Centre, Parliament of Australia, *Final Report* (2021) 15.

⁶⁵ See Bart Custers and Lara Overwater, 'Regulating Initial Coin Offerings and Cryptocurrencies: A Comparison of Different Approaches in Nine Jurisdictions Worldwide' (2019) 10(3) *European Journal of Law and Technology* 1, 6-7; see also Louise Talbot et al, 'The National Blockchain Roadmap: Progressing towards a blockchain-empowered future' (Report, Department of Industry, Science and Resources, February 2020) 17 <https://www.industry.gov.au/data-and-publications/national-blockchain-roadmap>.

⁶⁶ Louise Talbot et al, 'The National Blockchain Roadmap: Progressing towards a blockchain-empowered future' (Report, Department of Industry, Science and Resources, February 2020) 15 <https://www.industry.gov.au/data-and-publications/national-blockchain-roadmap>.

⁶⁷ Louise Talbot et al, 'The National Blockchain Roadmap: Progressing towards a blockchain-empowered future' (Report, Department of Industry, Science and Resources, February 2020) 15 – 16 <https://www.industry.gov.au/data-and-publications/national-blockchain-roadmap>.

⁶⁸ Parliament of Australia, *Select Committee on Australia as a Technology and Financial Centre* https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Financial_Technology_and_Regulatory_Technology.

In Chapter 6, the Senate Committee makes 12 Recommendations, in which the first 8 Recommendations directly relate to issues concerning the regulation of cryptocurrencies and digital assets. While almost all of the 8 Recommendations do not address issues of consumer protection in the area of cryptocurrencies, Recommendations 1 and 3 appears to make some headway for regulation in this area.

Under Recommendation 1, the committee advised that the Australian Government should establish ‘a market licensing regime for Digital Currency Exchanges, including capital adequacy, auditing and responsible person tests under the Treasury portfolio.’⁶⁹ The committee notes that the creation of a new category of market licences will enable Digital Currency Exchanges, who provide digital assets like cryptocurrencies, to demonstrate that comprehensive consumer protections are in place.⁷⁰ Subsequently, this increased regulation will instil greater confidence in consumers participating in cryptocurrency transactions by increasing awareness of legitimate operators and weeding out unscrupulous ones.⁷¹

Under Recommendation 3, the committee advised that the Australian Government should undertake ‘a token mapping exercise to determine the best way to characterise the various types of digital asset tokens in Australia.’⁷² Ultimately, the implementation of this recommendation ensures that the regulatory classifications of digital assets, like cryptocurrencies, are fit-for-purpose, and can achieve what they have set out to achieve. As an example, regulatory classifications in relation to cryptocurrencies could be made with regard to common consumer uses. On this basis, further protections could be installed.

3.3. Implementation of proposed regulation:

On 8 December 2021, the Morrison Government released its response to the Senate Select Committee on Australia as a Technology and Financial Centre Final Report. The Government endorsed or noted 11 out of the 12 Recommendations of the Report.⁷³ Most relevantly, however, the Government agreed in principle to both Recommendation 1 and Recommendation 3.⁷⁴ In relation to

⁶⁹ Senate Select Committee on Australia as a Technology and Financial Centre, Parliament of Australia, *Final Report* (2021) 135.

⁷⁰ See Senate Select Committee on Australia as a Technology and Financial Centre, Parliament of Australia, *Final Report* (2021) 135.

⁷¹ See Senate Select Committee on Australia as a Technology and Financial Centre, Parliament of Australia, *Final Report* (2021) 134.

⁷² Senate Select Committee on Australia as a Technology and Financial Centre, Parliament of Australia, *Final Report* (2021) 137.

⁷³ See Department of Treasury, Australian Government, *Transforming Australia’s Payment System* (8 December 2021) https://treasury.gov.au/sites/default/files/2021-12/p2021-231824_1.pdf.

⁷⁴ See Treasury, Australian Government, *Transforming Australia’s Payment System* (8 December 2021) https://treasury.gov.au/sites/default/files/2021-12/p2021-231824_1.pdf.

Recommendation 1, the Government stipulated that the Treasury will be consulted in relation to the functions of Digital Currency Exchanges which should be licensed and what obligations licensing should entail.⁷⁵ In relation to Recommendation 3, the Government stipulated that the Treasury would conduct the token mapping and identify the relevant characteristics of digital assets.⁷⁶ Further, the process is slated to commence in early 2022, with advice to be provided to the Government by the end of 2022.⁷⁷

In March 2022, the Morrison Government released a consultation paper that fulfilled the above commitments under Recommendation 1 from 21 March 2022 to 27 May 2022, the Government sought feedback on the proposals and options outlined in the consultation paper 'to support minimum standards of conduct by crypto asset secondary service providers and safeguards for consumers.'⁷⁸ The proposals included:

1. Terminology changes and further definitions:

This proposal is relatively simple and suggests the name: Digital Currency Exchanges should be changed to the more precise term: Crypto Asset Secondary Service Provider ('CASSP').⁷⁹ Additionally, such terminology would be defined, as well as the term: crypto asset.⁸⁰

2. Principles, scope and policy objective of new regime:

Simply, the two foundational principles for the regulation of crypto assets will be made: (1) in accordance with potential risks or lack thereof, and (2) with technological neutrality.⁸¹

⁷⁵ See Department of Treasury, Australian Government, *Transforming Australia's Payment System* (8 December 2021) https://treasury.gov.au/sites/default/files/2021-12/p2021-231824_1.pdf.

⁷⁶ See Department of Treasury, Australian Government, *Transforming Australia's Payment System* (8 December 2021) https://treasury.gov.au/sites/default/files/2021-12/p2021-231824_1.pdf.

⁷⁷ See Department of Treasury, Australian Government, *Transforming Australia's Payment System* (8 December 2021) https://treasury.gov.au/sites/default/files/2021-12/p2021-231824_1.pdf.

⁷⁸ Department of Treasury, Australian Government, *Crypto asset secondary service providers: Licensing and custody requirements* <https://treasury.gov.au/consultation/c2022-259046>.

⁷⁹ Department of Treasury, 'Crypto asset secondary service providers: Licensing and custody requirements' (Consultation Paper, Australian Government, 21 March 2022) 10 <https://treasury.gov.au/sites/default/files/2022-03/c2022-259046.pdf>.

⁸⁰ Department of Treasury, 'Crypto asset secondary service providers: Licensing and custody requirements' (Consultation Paper, Australian Government, 21 March 2022) 10 <https://treasury.gov.au/sites/default/files/2022-03/c2022-259046.pdf>.

⁸¹ Department of Treasury, 'Crypto asset secondary service providers: Licensing and custody requirements' (Consultation Paper, Australian Government, 21 March 2022) 12 <https://treasury.gov.au/sites/default/files/2022-03/c2022-259046.pdf>.

3. Obligations on crypto asset secondary service providers:

This proposal suggests that only one type of licence would exist for CASSPs who provide services for the buying and selling of crypto assets.⁸² Further, the type of obligations associated with the licence would be graduated depending on the number and types of services that are offered by a specific CASSP, including maintaining a certain amount liquidity in their assets.⁸³

4. Custody obligations to safeguard private keys:

Essentially, this proposal outlines that CASSPs with direct relationships with consumers would be responsible for safekeeping all crypto asset private keys in their care.⁸⁴ As part of this responsibility, CASSPs will have a number of mandatory obligations, including, but not limited to, holding assets on trusts for the consumers, ensuring consumer assets are appropriately segregated, and generating and storing private keys in a way that minimises the risk of loss or unauthorised access.⁸⁵

On 22 August 2022, the new Albanese Government announced a shift in the approach to managing cryptocurrency and other crypto assets in Australia, stating that the first step in the reform agenda would be conducting a token mapping exercise rather than consulting on licensing schemes and other regulatory measures.⁸⁶ This appears to suggest that the new Government will re-design the regulatory framework from scratch. However, in reconsidering Recommendation 3 of Senate Select Committee on Australia as a Technology and Financial Centre Final Report, we can see that this new approach will continue to respond to the recommendations made by the previous Government, even if it is simply in a different order. In addition to the aforementioned announcement, the new Government also stated a public consultation would be released,⁸⁷ however, as of writing on 30 September 2022, no such consultation paper has yet been released.

⁸² Department of Treasury, 'Crypto asset secondary service providers: Licensing and custody requirements' (Consultation Paper, Australian Government, 21 March 2022) 16 <https://treasury.gov.au/sites/default/files/2022-03/c2022-259046.pdf>.

⁸³ Department of Treasury, 'Crypto asset secondary service providers: Licensing and custody requirements' (Consultation Paper, Australian Government, 21 March 2022) 16 <https://treasury.gov.au/sites/default/files/2022-03/c2022-259046.pdf>.

⁸⁴ Department of Treasury, 'Crypto asset secondary service providers: Licensing and custody requirements' (Consultation Paper, Australian Government, 21 March 2022) 20 <https://treasury.gov.au/sites/default/files/2022-03/c2022-259046.pdf>.

⁸⁵ Department of Treasury, 'Crypto asset secondary service providers: Licensing and custody requirements' (Consultation Paper, Australian Government, 21 March 2022) 20 <https://treasury.gov.au/sites/default/files/2022-03/c2022-259046.pdf>.

⁸⁶ Jim Chalmers and Andrew Leigh, 'Work underway on crypto asset reforms' (Media release, 22 August 2022) <https://ministers.treasury.gov.au/ministers/stephen-jones-2022/media-releases/work-underway-crypto-asset-reforms>.

⁸⁷ Jim Chalmers and Andrew Leigh, 'Work underway on crypto asset reforms' (Media release, 22 August 2022) <https://ministers.treasury.gov.au/ministers/stephen-jones-2022/media-releases/work-underway-crypto-asset-reforms>.

Contrary to the above, on 19 September 2022, Liberal Senator Andrew Bragg, who formerly chaired the Senate Select Committee on Australia as a Technology and Financial Centre, introduced a private member's bill entitled *Digital Assets (Market Regulation) Bill 2022*.⁸⁸ Under this Bill, Bragg outlines a licensing regime for crypto assets.⁸⁹ The regime is divided into three licence categories, including digital asset exchange, digital asset custodian, and stablecoin issuer.⁹⁰ Bragg has stated that the rationale behind the regime is to provide 'a standards-based regime [to] give confidence to the consumer that risk exposure is managed', and to provide regulatory certainty.⁹¹ Among other things, the Bill ensures this by imposing civil penalty provisions for breaches of the obligations under each licence.⁹² Currently, the Bill is under consultation, with submission deadlines to end on 31 October 2022.

⁸⁸ Andrew Bagg, 'The Race to Regulate' (Blockchain Association Forum Summit, 19 September 2022) <https://www.andrewbragg.com/post/blockchain-association-forum-summit-the-race-to-regulate>.

⁸⁹ See *Digital Assets (Market regulation) Bill 2022* (Cth) pt 2.

⁹⁰ See *Digital Assets (Market regulation) Bill 2022* (Cth) divs 2 – 4.

⁹¹ Andrew Bagg, 'The Race to Regulate' (Blockchain Association Forum Summit, 19 September 2022) <https://www.andrewbragg.com/post/blockchain-association-forum-summit-the-race-to-regulate>.

⁹² See *Digital Assets (Market regulation) Bill 2022* (Cth) s 38.

4. Protecting consumers from cryptocurrency scams

Despite the rapid uptake of cryptocurrencies as investments by Australian consumers, developments in cryptocurrency regulation in Australia has been almost non-existence. Even when we consider the progress that has been made to date, it is clear that it has been slow and often misaligned. Until a clear, prescriptive regulatory framework is implemented in Australia, more and more consumers will be subject to cryptocurrency-based scams. Thus, in the interim, there are several measures that could be taken to protect consumers from cryptocurrency scams in Australia. The measures that may be taken are listed and discussed below.

4.1. Education

First, there should be a greater focus on educating Australian consumers about cryptocurrencies, particularly in relation to scams if they intend to invest in, or have already invested in, this asset. This part of the research note will summarise the current advice and guidelines in relation to recognising and avoiding investment scams, like in relation to cryptocurrencies.

4.1.1. Recognising scams

While not all scams operate in the same way, Moneysmart⁹³ and Scamwatch⁹⁴ have noted there are several key features of investment scams that all consumers should look for when attempting to determine whether an investment is based on a scam. Most notably, the investment offer may be a scam if the person:

1. Does not have an Australian Financial Services Licence. The ASIC Connect Professionals Registers can identify whether a licence exists or not.⁹⁵ However, this may not be helpful where a person only provides investments in relation to cryptocurrencies, and no other financial asset. As it stands, no licence is required to do this.
2. Constantly contacts you via social media, phone, email or text and pressures you to make a quick decision. This is especially true if the person who is contacting you from overseas or is a contact you do not recognise or know. This includes people met online through dating or romance applications.
3. Uses the name of a reputable organisation or government agency to gain credibility. This person may also use celebrity endorsement or images to gain credibility.

⁹³ See Moneysmart, Australian Securities and Investment Commission, *Investment scams* <https://moneysmart.gov.au/investment-warnings/investment-scams>.

⁹⁴ See Scamwatch, Australian Competition and Consumer Commission, *Investment scams* <https://www.scamwatch.gov.au/types-of-scams/investments/investment-scams>.

⁹⁵ See Australian Securities and Investment Commission, *Professional register* <https://asic.gov.au/online-services/search-asic-s-registers/professional-registers/>.

4. False promises of very high returns with low risks. Any guarantee of returns is a strong warning sign.

4.1.2. Avoiding scams

There are a number of accepted ways in which consumers may protect themselves from investment scams, like in relation to cryptocurrency. The most notable, as highlighted by Moneysmart⁹⁶ and Scamwatch,⁹⁷ include:

1. Getting professional advice before deciding to invest into an opportunity, including in relation to cryptocurrency.

Although there are currently no obligations surrounding the provision of advice in relation to cryptocurrency investments, financial advice should nevertheless be sought from someone who is registered with ASIC, and who holds an Australian Financial Services Licence. This information can be verified on the ASIC Connect Professionals Registers.⁹⁸

2. Asking questions and requesting information in relation to investment opportunity.

Moneysmart has suggested asking the following questions in order to determine the legitimacy of the opportunity: (1) what is your name and what company do you represent? (2) who owns your company? (3) does your company have an Australian Financial licence and what is the licence requirement (although not required for cryptocurrency investments) (4) and what is your address?

3. Researching the company or person offering you an investment opportunity.

Information given by the company or person offering the investment opportunity should never be taken on face-value, and should be verified by using available, independent sources. For example, information may be verified by checking publicly listed phone directories to see if address and contact details are correct, checking that the company is not named in ASIC's list of companies that you should not deal with,⁹⁹ checking that the company is not named in the International Organisation of Securities Commission's

⁹⁶ See Moneysmart, Australian Securities and Investment Commission, *Investment scams* <https://moneysmart.gov.au/investment-warnings/investment-scams>.

⁹⁷ See Scamwatch, Australian Competition and Consumer Commission, *Investment scams* <https://www.scamwatch.gov.au/types-of-scams/investments/investment-scams>.

⁹⁸ See Australian Securities and Investment Commission, *Professional register* <https://asic.gov.au/online-services/search-asic-s-registers/professional-registers/>.

⁹⁹ See Moneysmart, Australian Securities and investment Commission, *Companies you should not deal with* <https://moneysmart.gov.au/companies-you-should-not-deal-with>.

investor alerts,¹⁰⁰ seeing if the investment offer mentions one of the fake regulators or exchanges listed by ASIC,¹⁰¹ and checking to see whether the offer mentions a digital currency exchange provider who maintains registration with AUSTRAC.¹⁰² Importantly, however, many of these checks may not apply in relation to cryptocurrency, as there are no obligations in providing advice and investment opportunities in relation to these assets. It is, however, a good starting point.

4. Checking if the scam has already been posted to consumer protection websites like Scamwatch.¹⁰³

4.1.3. What to do after being scammed

By its very nature, cryptocurrency can be utilised in a way that provides anonymity to its user.¹⁰⁴ Thus, the availability of options or recourse once a person has been scammed is limited. However, where a person believes they have been scammed, the following action may be taken according to Moneysmart:¹⁰⁵

1. Stop sending money to the company and/or person who initially offered the investment opportunity, including any further offers to recover money lost;
2. Report the transaction, and the details of the company and/or person, to your bank or financial institution; and
3. Report the scam, including any information, to ASIC, ACCC or your local police. While this may not result in the recovery of money, it will assist these organisations to warn people about current scams, monitor trends and disrupt scams where possible.

4.2. Role of banks

In addition to the above, and during the interim in which no prescriptive regulation on cryptocurrency in Australia exists, banks should be taking a more proactive role in protecting consumers from cryptocurrency scams. There has been general acceptance of this proposition, largely stemming from the fact that banks and

¹⁰⁰ See International Organisation of Securities Commission, *Investor Alerts Portal* https://www.iosco.org/investor_protection/?subsection=investor_alerts_portal.

¹⁰¹ See Moneysmart, Australian Securities and Investment Commission, *Fake regulators and exchanges* <https://moneysmart.gov.au/fake-regulators-and-exchanges>.

¹⁰² See Australian Transaction Reports and Analysis Centre, Australian Government, *Digital currency exchange provider registration actions* <https://www.austrac.gov.au/digital-currency-exchange-provider-registration-actions>.

¹⁰³ See Scamwatch, Australian Consumer and Investment Commission, *Recent scam activity* <https://www.scamwatch.gov.au/types-of-scams/recent-scam-activity>.

¹⁰⁴ See Xiaofan Li and Andrew B Whinston, 'Analysing Cryptocurrencies' (2020) 22 *Information Systems Frontiers* 17, 19.

¹⁰⁵ See Moneysmart, Australian Securities and Investment Commission, *Investment scams* <https://moneysmart.gov.au/investment-warnings/investment-scams>.

other financial institutions play a key role during the lifecycle of a scam, whereby they approve the first transfer of money to a cryptocurrency exchange or other person or platform.¹⁰⁶ Furthermore, banks and other financial institutions have a lifetime of data on their customers' usual spending habits and thus, have constructive knowledge on whether or not a consumer would (a) be investing into cryptocurrency to begin with and (b) whether they would be transacting the amount of money in question.¹⁰⁷ In these situations, a bank should have the responsibility to either block the transaction or verify with the customer whether the transaction should be approved, based on historic spending. In looking at the table below, of the banks which make up the big four, not a single one has implemented policies or procedures that directly target cryptocurrency scams. However, all of the major banks, with the exception of the CBA, have developed policies and procedures in relation to investments scams. However, it is unclear how effective these policies are given the continued news reports of individuals being subject to cryptocurrency scams, including Mr Barraclough, a 67-year-old gentleman who was scammed out of more than \$400,000.¹⁰⁸

<i>Bank</i>	<i>Cryptocurrency Scam Policy</i>	<i>Investment Scam Policy</i>
Australian National Bank ('NAB')	No	Yes ¹⁰⁹
Australia and New Zealand Banking Group ('ANZ')	No	Yes ¹¹⁰
Commonwealth Bank of Australia ('CBA')	No	No
Westpac	No	Yes ¹¹¹

4.3. Role of cryptocurrency exchanges

Finally, it has also been argued that cryptocurrency exchanges should be taking a more proactive approach in protecting consumers from cryptocurrency scams, particularly in light of the fact that they play the last, crucial role during the

¹⁰⁶ See Gina Cass-Gottlieb, 'Making Australia a harder target for scammers' (Paper presented at Law Council of Australia's 2022 Consumer Rights Forum, 19 July 2022) <https://www.accc.gov.au/speech/making-australia-a-harder-target-for-scammers>.

¹⁰⁷ See Gina Cass-Gottlieb, 'Making Australia a harder target for scammers' (Paper presented at Law Council of Australia's 2022 Consumer Rights Forum, 19 July 2022) <https://www.accc.gov.au/speech/making-australia-a-harder-target-for-scammers>.

¹⁰⁸ Nick McLaren, 'Bitcoin scam sees man lose nearly half a million dollars, calling banks and exchanges to account', ABC (online), 6 April 2021 <https://www.abc.net.au/news/2021-04-06/bitcoin-scam-brother-says-westpac-has-explaining-to-do/100041316>.

¹⁰⁹ See National Australia Bank, *How to protect yourself from investment scams* <https://www.nab.com.au/about-us/security/online-safety-tips/investment-scams>.

¹¹⁰ See Australia and New Zealand Banking Group, *Types of scams* <https://www.anz.com.au/security/fraud-detection/types-of-scams/>.

¹¹¹ See Westpac, *Investment scams* <https://www.westpac.com.au/security/types-of-scams/investment-scams/>.

lifecycle of a scam.¹¹² That is, they are responsible for transferring the cryptocurrency to the individual or company once payment has been made. Contrary to banks and financial institutions, it has been noted that industry leaders have been implementing best practice models to prevent cryptocurrency scams.¹¹³ For example, there has been implementation of customer checks, which involves live-videos whereby the person has to verify their identity as the person who is actually making the transaction.¹¹⁴ Additionally, mandatory phone calls from company representatives to older Australians opening accounts on cryptocurrency exchanges have also be implemented.¹¹⁵ This is to ensure that older Australians are not being coached or scammed into transferring money to the exchange. While these processes appear to be effective, it is unclear how many scams actually operate through designated cryptocurrency exchange platforms. Therefore, banks and financial institutions remain in a better position to protect consumers from cryptocurrency transactions.

¹¹² See Gina Cass-Gottlieb, 'Making Australia a harder target for scammers' (Paper presented at Law Council of Australia's 2022 Consumer Rights Forum, 19 July 2022) <https://www.accc.gov.au/speech/making-australia-a-harder-target-for-scammers>.

¹¹³ See Gina Cass-Gottlieb, 'Making Australia a harder target for scammers' (Paper presented at Law Council of Australia's 2022 Consumer Rights Forum, 19 July 2022) <https://www.accc.gov.au/speech/making-australia-a-harder-target-for-scammers>.

¹¹⁴ Gina Cass-Gottlieb, 'Making Australia a harder target for scammers' (Paper presented at Law Council of Australia's 2022 Consumer Rights Forum, 19 July 2022) <https://www.accc.gov.au/speech/making-australia-a-harder-target-for-scammers>.

¹¹⁵ Gina Cass-Gottlieb, 'Making Australia a harder target for scammers' (Paper presented at Law Council of Australia's 2022 Consumer Rights Forum, 19 July 2022) <https://www.accc.gov.au/speech/making-australia-a-harder-target-for-scammers>.

PART 2

UNIVERSITY OF NEWCASTLE LEGAL CENTRE
RESOURCES

INVESTING IN CRYPTOCURRENCY



KEY INFORMATION FOR CONSUMERS



LAW & REGULATION IN AUSTRALIA

Regulation of cryptocurrencies in Australia is limited. While some regulation does exist, it predominantly relates to managing the transactional relationships involved in trading cryptocurrencies, rather than protecting you - the consumer. This means that if something goes wrong when investing in cryptocurrency, the law will not protect you.



FINANCIAL SERVICE OR PRODUCT?

Under current Australian laws, ASIC regulates crypto-assets and related products and services to the extent that they fall within the meaning of "financial product or service."

This means that consumers will be protected by the Corporations Act 2001 (Cth) in situations where these products or services are misleading or deceptive. In other words, you are protected from scams.

An example of where a crypto-asset can be considered as a financial service or product is a managed investment plan or derivative that holds cryptocurrency as part of the pool of investments.



MORE REGULATION IS ON ITS WAY!

In March 2022, the Morrison Government released a consultation paper in relation to the licensing of cryptocurrency exchange providers. On 19 September 2022, a Bill outlining a licensing regime for crypto assets was introduced to Parliament. If adopted, cryptocurrency providers will be required to meet certain obligations to trade in cryptocurrencies. These obligations could include further consumer protections.

On 22 August 2022, the new Albanese Government announced a token mapping exercise would be undertaken to identify the characteristics of crypto-assets in Australia.

Prepared by the Newcastle Law School

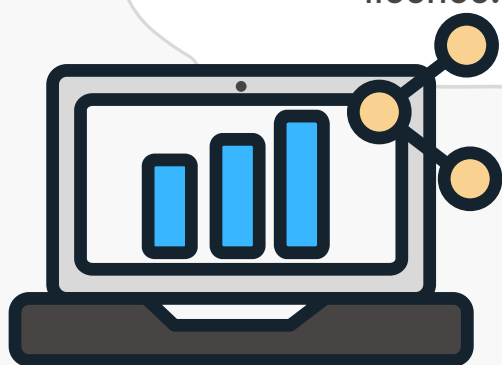


THE UNIVERSITY OF
NEWCASTLE
AUSTRALIA

HOW TO: RECOGNISE CRYPTOCURRENCY SCAMS

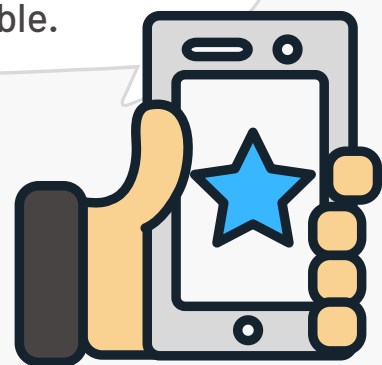
NO QUALIFICATIONS

A reputable person or company should hold an Australian Financial Services. This can be checked on the the ASIC Connect Professionals Registers .
NB: a person who only provides investment in relation to cryptocurrencies does not require a licence.



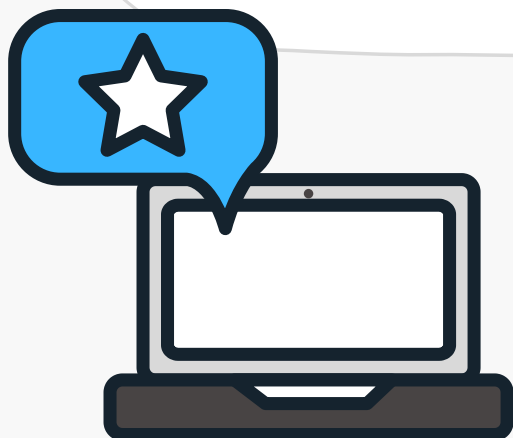
CONSTANT CONTACT

A reputable person or company should not be contacting you via social media, phone, email or text and be pressuring you to make a quick decision. If the person is from overseas or you do not know them, they are not reputable.



CREDIBILITY

The person or company should not be using the name of or images from a reputable organisation, government agency, or celebrity to gain credibility.



FALSE PROMISES

Any guarantee of high returns and low risk is a warning sign. All investments, including in cryptocurrency, have risks and no guarantee of returns.



Prepared by the Newcastle Law
School

How to AVOID CRYPTOCURRENCY SCAMS



CHECK CONSUMER WATCHDOG WEBSITES

Consumer watchdogs, such as the ACCC, maintain websites that regularly update with the latest scams to look out for, including in relation to cryptocurrency.

GET PROFESSIONAL ADVICE

Only seek investment advice or opportunities from persons who hold an Australian Financial Services Licence. A licensee can be verified on ASIC's Connect Professionals Register.



RESEARCH THE COMPANY OR PERSON

Use independent sources to verify that the company or person offering an investment opportunity is legitimate.

1. Check publicly listed phone directories to see if the address and contact details provided are correct.
2. Check the company is not named on ASIC's list of companies that you should not deal with.
3. Check the company is not named in the IOSC's alerts.
4. Check the offer does not mention one of the fake regulators or exchanges listed by ASIC.
5. Check to see whether digital currency provider named in the offer maintains registration with AUSTRAC.



ASK QUESTIONS AND REQUEST INFORMATION ABOUT THE OFFER

This information will arm you with the information necessary to check whether the offer is legitimate. Furthermore, it will put you in a better position to seek relief if you are scammed.

Start by asking:

1. What is your name and what company do you represent?
2. Who owns your company?
3. Does your company have an Australian Financial Services Licence and what is the licence requirement? (NB: no obligations are required for crypto-only investments)
4. What is your address?



HELPFUL WEBSITES

ACCC's Scamwatch:

<https://www.scamwatch.gov.au/types-of-scams/recent-scam-activity>

ASIC's Connect Professionals Register:

<https://asic.gov.au/online-services/search-asic-s-registers/professional-registers/>

ASIC's list of companies that you should not deal with:

<https://moneysmart.gov.au/companies-you-should-not-deal-with>

IOSC's alerts:

https://www.iosco.org/investor_protection/?subsection=investor_alerts_portal

ASIC's fake regulator/exchange list:

<https://moneysmart.gov.au/fake-regulators-and-exchanges>

AUSTRAC's exchange provider list:

<https://www.austrac.gov.au/digital-currency-exchange-provider-registration-actions>

Prepared by the Newcastle Law School



Cryptocurrency can be utilised in a way that provides anonymity to its user, so the availability of options to remedy the situation are often limited, particularly without regulation.

WHAT TO DO AFTER BEING SCAMMED

STOP

Stop sending money to the person or company. This includes in relation to any offer for the money to be recovered on your behalf.

1

2

REPORT

Report the transaction, and the details of the person or company, to your bank or financial institution.

ALERT

Alert consumer watchdogs, like ASIC and the ACCC, and your local police about the scam. This will enable them to warn others and prevent further loss.

3

4

WRITE

If you have the details of the person or company who scammed you, you can write a letter of demand to try and recover your money.

Prepared by students at the Newcastle Law School

[your name]
[unit number, building number, street name]
[suburb, state, postcode]

[date]

[addressee]
[unit number, level, building number, street name]
[suburb, state, postcode]

By email: [email address]

Dear Sir / Madam,

[subject – e.g. cryptocurrency investment]

1. I am writing to you about a cryptocurrency investment I made with your company on [date].
2. Pursuant to the [e.g. agreement, terms and conditions], you were to provide a total of [value, name of cryptocurrency] in exchange for [value, name of fiat currency].
3. On [date], I supplied [value, name of fiat currency] to you company via [method of payment] in exchange for [value, name of cryptocurrency]. To date, I have not received any tokens via [name exchange platform].
4. As you have not provided the tokens, you are not entitled to keep the [value, name of fiat currency] that was provided on [date].
5. I want your company to return the value of my investment, being [value, name of fiat currency], to me by [date]. The money can be returned via bank transfer to the following account:

[Account name]
[BSB]
[Account number]

6. If the money is not returned by [date], I reserve the right to commence legal action against your company without further notice and I will seek judgement for the return on my investment.

Yours faithfully,

[your name]

PART 3

REFLECTION

LAWS6091: REFLECTION

LEVI GRONDIN

At the beginning of the final two years of my law degree, I had a firm idea on what directed courses I hoped to complete, with LAWS6091 being placed at the lower end of my interests. However, after discussing options for directed course with my peers, and talking to people who had already undertaken LAWS6091, I became incredibly entranced with the idea of leading my own project, as well as playing a more active and autonomous role in my learning. Despite this, however, the various projects that were offered each semester did not really entice me. It was not until my final year, in my very final semester of university, that a project sparked my interest. Ultimately, this project was one offered by Dr Mirella Atherton, in which a student was to explore cryptocurrencies in the context of increasing legal literacy and making law more accessible for vulnerable populations.

The predominant reason as to why I undertook this particular project was due to a matter which I had the privilege to be involved with during my summer placement at the Older Persons Clinic. In this matter, an older gentleman had been scammed of several thousands of dollars by a group of individuals who promised to provide him with Bitcoin tokens. Ultimately, upon further investigation, it was realised that the group of individuals was known to the bank, who nevertheless allowed the transaction to proceed – a reimbursement was then later secured. While this matter was a highlight of my placement experience, it also left me wanting to create a more permanent and long-lasting solution to the greater issue – the lack of protections in place for vulnerable consumers involved in cryptocurrency scams. This later became the focus of my project.

With the above in mind, I had big ideas for what I wanted to achieve with this project. I wanted to create a database of legitimate cryptocurrency providers, I wanted to create consumer resources for the University of Newcastle Legal Centre ('UNLC'), and I wanted to aid Mirella in writing a scholarly article about consumers and cryptocurrency scams. However, I soon realised that I needed to balance my passion and ambition with the reality of the task. I had one semester, not one year. As such, I pared back my ideas to creating a research note that could help Mirella in creating a scholarly article and using this information to create meaningful infographics and precedents that could be used by the UNLC for consumers. In order to ensure that I would deliver these project goals, I developed and drew upon skills in time management

and organisation, creating and maintaining a progress file note to holding myself accountable. It was also by updating Mirella via email that I was also able to stay on track with the tasks, and ensure I was covering all areas which were important to the project.

As already alluded to, one of the major aspects of this project that I thoroughly enjoyed was the amount of independence I was given. While I never had any prior experience with managing and organising major projects such as this one, I was surprised to find myself thriving in this particular environment. I loved being able to take responsibility for my own learning and relished seeing myself meet the project goals I had laid out at the beginning of the semester. It has also been incredibly satisfying to know that my efforts in this project were not only contributing to something tangible that could be used by the community, but also contributing to my own learning and development. My understanding of cryptocurrencies and the law greatly increased, whereby I was able to determine that cryptocurrencies remained proscriptively unregulated in Australia. Without this knowledge, I would not have been able to help my own friends and family understand the current risks involved in investing in cryptocurrencies as first-time consumers. It is also largely through this project that I have been able to demonstrate my ability to project manage and research, something which I have been able to highlight to prospective employers.

Another aspect which I really enjoyed about this project was the ability to work with, and learn from, an expert in the field. While I found the process of working with different solicitors in completing my Diploma of Legal Practice a hugely beneficial experience, working with an academic in my Bachelor of Laws was not an opportunity that I ever had. Ultimately, without undertaking LAWS6091, I would certainly never of had the opportunity or privilege to work with such an outstanding academic like Mirella. It was through her supervision that I have ultimately been inspired to pursue a banking and finance rotation during my clerkship in the summer period.

While I feel as though I gained a lot of invaluable knowledge, experience and skills from this project that I know I will remain with me throughout the course of my career in law, I recognise there still exists a few areas in which I could improve. Most notably, at times I felt overwhelmed with the size of the project and wondered if I would even complete it. In this regard, I needed to have more self-confidence and potentially a greater trust in the timeline I had set at the start of the semester. Furthermore, I needed to be okay with not finishing!

Something I did not factor into my project was the possibility for another student to continue to build off my work and finish the project at a time in the future. I think in this regard, I needed to be more open to collaboration with others and build a plan for other future contributions to the project. In a tangential thought, it would be incredibly valuable to be able to undertake this course again but in another project area. I think there is a lot to learn and experience from undertaking a variety of different projects, and I would like to see the Law School implementing this option in future, if possible.

Ultimately, I would say my experience in undertaking this course was incredibly enjoyable and fulfilling. It is a course where I was able to develop vital knowledge, skills and experience that I would not have otherwise been able to develop at university. Without a doubt I would undertake another, similar opportunity like this one if it became available in future. Finally, I am very grateful to my supervisor, Dr Mirella Atherton, who ultimately made the project and my experience what it was.

PART 4

PROGRESS FILE NOTE AND EMAIL
CORRESPONDENCE

PROGRESS FILE NOTE

Wednesday 20 July 2022:

Today, I called Mirella to discuss this project. She first informed that this project would potentially be the pre-cursor to an academic article. The focus of the phone call, however, was to discuss my ideas surrounding the project. I think I would like to specifically focus the research on older Australians as the vulnerable group.

My structure for the article would include:

1. What are cryptocurrencies?
 - How / why are they used?
2. Growth in cryptocurrencies (and scams)
 - History + proliferation and growth, statistics (how many, most popular in Australia etc)
 - Compare to scams, statistics on consumer complaints over years? Why do scams happen (knowledge / hard to use)?
 - How are cryptocurrencies being obtained? What is the most common form, is it the internet? Are they easy to use?
3. Existing regulation/law or proposed regulation/law in Australia
 - Other territories?
4. How consumers can protect themselves, particularly older Australians. See current guides

Resources for the older persons legal clinic:

1. Guide on how to recognise and avoid scams, and what to do if you've been scammed (contacting your bank etc).
2. Template for letter of demand.
3. Database of legitimate cryptocurrency providers.

Monday 1 August 2022:

Today, I began my preliminary research into this topic. My focus on today was to understand:

1. What are cryptocurrencies? (Key features and types)
2. Understanding why consumers use cryptocurrencies/consumer perceptions of cryptocurrencies
 - How/why are they being used by consumers? Are they being used as a form of digital currency or as investments or as something else?
 - Why do/are consumers trusting cryptocurrencies (as either a form of digital currency or as an investment or otherwise)? Is it herd mentality, actual proof for high returns or something else?
 - Demographic makeup of cryptocurrency users.

Today, I also had a call with Kevin and Mirella and other supervisors and peers undertaking the court. Kevin informed us of the nature of the project, including that it was based off project-management. He also informed us that the course is flexibly structured, that way we can be encouraged to take risk and think outside the box in order to achieve what we want to on our topics. In relation to my project with Mirella, we are focusing on creating a community resource that can be used for the final project, as well as information that can assist in creating an academic article that Mirella will continue working on.

Tuesday 2 August 2022:

Today, I began writing a research file note to address each of the questions I developed yesterday based on the research I conducted.

Thursday 4 August 2022:

Today, I completed the research file note that I had begun on Tuesday in relation to the overview questions of the project. I also emailed Mirella with my general structure for the project, including resources, and attached my research file note for her review and recommendations.

Friday 5 August 2022:

Mirella replied to my email yesterday, I have made the amendments that she recommended. We also believe that the project might be larger to carry out than what I initially anticipated. Therefore, I am going to focus on creating a very detailed research note, and then applying that research into community resources for the Older Persons Clinic before I begin writing the research article (if I have time).

Monday 8 August 2022:

Today, I began further research into this topic. My focus on today was to understand:

1. The history and growth of cryptocurrencies generally
2. Australia and cryptocurrencies
 - Are cryptocurrencies popular in Australia? If so, which types?
 - What influences Australians to buy a certain cryptocurrency
 - How are Australians obtaining cryptocurrency?

Once I was satisfied with my research, I began updating my research file note with my findings.

Saturday 27 August 2022:

Today, I continued further research into this topic. My focus was to research and update my research file note in relation to the following:

1. The growth of cryptocurrency scams in Australia

- Statistics on consumer complaints – how many being scammed?
- What types of scams are most common?
- Why are consumers falling for scams?

I was satisfied with my progress today, and, in preparation for next time I update my research file note, I continued my research into my next area of focus: the existing regulation/law or proposed regulation/law in Australia in relation to cryptocurrencies. Subsequently, I note the following:

1. Regulation has been slow – there has been some push since 2019 and some guidance has been set up by some government departments like ASIC and ATO but nothing in relation to consumer protection.
2. Final report has been handed down by a government committee in relation to cryptocurrencies, including in relation to consumer protections. However, there has now been a change in government, where there has been no indication on what they propose to do.
3. Recent stocktake of cryptocurrency was announced by current treasurer.

Monday 29 August 2022:

Today, I continued my research on the focus area that I was researching on Saturday and learnt more about Australia's current regulation of cryptocurrencies generally, and whether any protections exist for consumers. Once I was satisfied with the breadth and depth of my research, I type up my findings in the research file note I have been updating throughout this process.

Monday 26 September 2022:

While I have been researching and reading up on my project throughout the past month, I have not made any substantial developments in the project due to a plethora of other assessments and assignments. However, today, I began typing up my research concerning the proposed regulation of cryptocurrencies in Australia, and any further developments that have been made since the proposal were made.

Tuesday 27 September 2022:

I continued typing up my research concerning the proposed regulation of cryptocurrencies in Australia into my file note.

Friday 30 September 2022:

Again, I continued typing up my research concerning the proposed regulation of cryptocurrencies in Australia into my file note. I also did some research into a Bill that was recently introduced into Federal Parliament concerning the regulation of crypto assets –

interestingly, this is not endorsed by the current government, and was introduced as a private members Bill.

Sunday 2 October 2022:

I typed up my research concerning the private members Bill, and the areas it seeks to regulate. I also began researching the final part of my file note, which is how consumers can protect themselves from scams (given the current lack of regulation). I intend to research the current approaches endorsed by agencies like ASIC and ACCC and summarising the approaches. Once summarised, I can start creating guidelines to be used at the UNLC.

Monday 3 October 2022:

Today, I continued research into how consumers can recognise and avoid cryptocurrency scams. This section of the research will focus on:

1. Recognising scams / warning signs / red flags
2. Avoid scams – things to do to protect yourself
3. What to do if you've been scammed

Tuesday 4 October 2022:

I typed up a lot of my research that I did yesterday – although I did not complete it. I also did some further research outside of educating consumers, including further roles banks and play and even crypto-currency providers.

Saturday 8 October 2022:

I finished typing up my research in relation to recognising and avoiding cryptocurrencies. I note that the information online is not very accessible, so I hope that my resources for the UNLC will be more helpful. I also completed typing up my notes in relation to the role of banks and cryptocurrency exchanges. I will proof-read tomorrow before sending to Mirella for her final thoughts, and whether anything further needs to be researched.

Monday 10 October 2022:

I proof-read by research file note and sent to Mirella for her review. Further, I requested any additional feedback in relation to any areas that I may have missed in my file note, or any areas that needed further clarification. I received a response from Mirella the following day, with no further corrections, and approval to start working on the resources for the UNLC.

Friday 14 October 2022:

Now that I have completed my research, I can now more accurately gauge the type of recourses that will be appropriate for the UNLC. Given I want to avoid potentially giving

financial advice, and given the fact the I have one-semester to complete my project, I have restricted the resources the following:

1. An information sheet about cryptocurrency regulation in Australia
2. Guides on how to recognise, how to avoid scams, and what to do if you've been scammed
3. A letter of demand precedent

I completed the guide on how to avoid scams.

Saturday 15 October 2022:

I completed the guide on how to recognise scams, and the guide on what to do once you've been scammed. This means I only have two more resources to create, namely:

1. An information sheet about cryptocurrency regulation in Australia.
2. A letter of demand precedent.

I know these resources will require a bit more forethought before creating them.

Sunday 16 October 2022:

Today, I spent my time completing the information sheet about cryptocurrency regulation in Australia. I also ensured that all guides were harmonious and flowed appropriately from one to the other. The idea is that they can all be produced separately or as a collective and be handed out to prospective clients at the UNLC. I now must complete a letter of demand – I will ensure this is sent to Mirella.

Tuesday 18 October 2022:

I researched examples letters of demand and precedent that were available via Westlaw and LexisNexis.

Sunday 23 October 2022:

Continued researching and began drafting a letter of demand precedent. At first, I was drafting as a lawyer, but realised this was incorrect and need to be drafted from the perspective of the consumer who had been scammed.

Monday 24 October 2022:

I completed the template for the letter of demand. I will send to Mirella for her thoughts and review.

Re: LAWS6091 Project

Mirella Atherton <mirella.atherton@newcastle.edu.au>

Mon 24/10/2022 1:41 PM

To: Levi Grondin <Levi.Grondin@uon.edu.au>

Dear Levi,
Great Work!

You've done everything you need to for me - now check the LAWS6091 Canvas site to make sure you have everything done.

Well done Levi.

Mirella.

From: Levi Grondin <Levi.Grondin@uon.edu.au>

Sent: Monday, October 24, 2022 11:25 AM

To: Mirella Atherton <mirella.atherton@newcastle.edu.au>

Subject: Re: LAWS6091 Project

Hi again Mirella!

Nearly at the end of sem now!

I've completed the resources, which I am quite happy with them - I've attached for your review.

I've also created a letter of demand precedent from the perspective of the scammed consumer. I'd really love your thoughts and opinion on this as I think it may be a bit out of my depth.

If you're happy with all the resources and letter, I will continue on to writing my reflection, compile all my work together in a portfolio and submit to finalise this course. In relation to submitting, should this be done via canvas or sent to you directly?

Again, thank you for all your assistance!

Levi

From: Mirella Atherton <mirella.atherton@newcastle.edu.au>

Sent: Monday, 10 October 2022 3:10 PM

To: Levi Grondin <Levi.Grondin@uon.edu.au>

Subject: Re: LAWS6091 Project

Dear Levi,
This is really good. Well written and straight to the point.
Yes, please continue on with the resources.
All the best,
Mirella.

From: Levi Grondin <Levi.Grondin@uon.edu.au>

Sent: Monday, October 10, 2022 11:32 AM

To: Mirella Atherton <mirella.atherton@newcastle.edu.au>

Subject: Re: LAWS6091 Project

Hi Mirella,

I've been working on my project over the holidays, and I would say my research note is complete at this point, so I have attached it for your review. Please let me know if you think

there are any gaps in my research not or any other areas I should delve into that I have not yet covered.

At this point in the project, I am now going to be moving on to creating resources for the UNLC!

Thanks again for all your support!

Levi

From: Mirella Atherton <mirella.atherton@newcastle.edu.au>
Sent: Wednesday, 21 September 2022 6:48 PM
To: Levi Grondin <Levi.Grondin@uon.edu.au>
Subject: Re: LAWS6091 Project

Thanks Levi!

From: Levi Grondin <Levi.Grondin@uon.edu.au>
Sent: Wednesday, September 21, 2022 6:29 PM
To: Mirella Atherton <mirella.atherton@newcastle.edu.au>
Subject: Re: LAWS6091 Project

Hi Mirella,

Apologies for the delay, I was at work. Please see attached my progress file note and my research file note. I'm a bit behind at the moment with what I wanted to achieve, but I am planning to catch up over the break.

I hope you enjoy the break too (if you get one)!!

Levi

From: Mirella Atherton <mirella.atherton@newcastle.edu.au>
Sent: Wednesday, 21 September 2022 10:18 AM
To: Levi Grondin <Levi.Grondin@uon.edu.au>
Subject: LAWS6091 Project

Dear Levi,
Give me an update of how you are going when you get a chance.
I hope you enjoy your break at the end of the week.
Mirella.

Dr Mirella Atherton
University of Newcastle Law School
College of Human and Social Futures

*I acknowledge the Traditional Custodians of the land in which the University resides and pay my respect to Elders past, present and emerging.
I extend this acknowledgement to the Worimi and Awabakal people of the land in which the Newcastle City campus resides and which I work.*

CRICOS Provider 00109J

Re: EOI: LAWS6091 Community Legal Development Course

Levi Grondin <Levi.Grondin@uon.edu.au>

Fri 12/08/2022 7:29 PM

To: Mirella Atherton <mirella.atherton@newcastle.edu.au>

 1 attachments (3 MB)

DSC00892.jpeg;

Hi Mirella,

Not a problem!

Bio:

I am a final year student at the University of Newcastle, studying a Bachelor of Laws (Honours) / Diploma of Legal Practice. Currently, I am undertaking LAWS6091 at the University of Newcastle Law School, which is a course that is designed to help students develop project management skills by completing one or more projects that engage with and benefit the community. Having undertaken my PLT placement hours at the Older Persons Clinic with the University of Newcastle Legal Centre and assisting in a matter involving cryptocurrency and scamming, my particular project will focus on understanding Bitcoin and cryptocurrency and how to avoid and redress scams that arise in these transactions.

I've also attached a photo for you - thanks again Mirella!

Levi

From: Mirella Atherton <mirella.atherton@newcastle.edu.au>
Sent: Thursday, 11 August 2022 1:31 PM
To: Levi Grondin <Levi.Grondin@uon.edu.au>
Subject: Re: EOI: LAWS6091 Community Legal Development Course

Dear Levi,
Can you please send me a photo of yourself and a bio about you and LAWS6091 when you get a chance. I will champion you and the project on linkedin, twitter and insta.
All the best,
Mirella.

From: Levi Grondin <Levi.Grondin@uon.edu.au>
Sent: Friday, August 5, 2022 11:49 AM
To: Mirella Atherton <mirella.atherton@newcastle.edu.au>
Subject: Re: EOI: LAWS6091 Community Legal Development Course

Hi Mirella,

Thanks for getting back so quick! Your feedback is invaluable, I will make the amendments today.

I also think you're definitely right about the time and breadth of the project, so I think I will focus on the research file note and getting all the information I want together, and then focusing on the community resources before looking at writing the beginning of an article. I think one goal I definitely have for this project are those community resources for the older persons clinic.

Thanks again!

Levi

From: Mirella Atherton <mirella.atherton@newcastle.edu.au>
Sent: Thursday, August 4, 2022 4:09:27 PM
To: Levi Grondin <Levi.Grondin@uon.edu.au>
Subject: Re: EOI: LAWS6091 Community Legal Development Course

Dear Levi,

Great idea and good to hear from you.

Your structure for the project looks great so far and yes you are right that you may need to adjust as you go.

For the research file note, it is a great start and could be used to start your article or to shape into your community resource.

A few tips to remember as your documents get longer:

- use the full AGLC4 ref or Ibid with a pin point (try not to use "n 33" because it will make it difficult for me to copy and paste to produce a final publishable article with you as the co-author
- In the word doc I need you to select "Home" and "Styles" so that your headings will come up in the "View" "Navigation Pane" - let me know if this doesn't make sense, it is an easier/quicker way for you to navigate a large doc and move sections if you need to.

Well done you are off to a great start!

Mirella.

From: Levi Grondin <Levi.Grondin@uon.edu.au>
Sent: Thursday, August 4, 2022 11:38 AM
To: Mirella Atherton <mirella.atherton@newcastle.edu.au>
Subject: Re: EOI: LAWS6091 Community Legal Development Course

Hi Mirella,

I thought I would just continue to use this email chain so I can include it at the end of semester for my portfolio.

The basis of this email is just to get some feedback and your thoughts about the structure of the project that I intend to follow throughout the semester. in light of that, this is my rough outline of the project:

1. What are cryptocurrencies?
 - How / why are they used?
2. Growth in cryptocurrencies (and scams)
 - History + proliferation and growth, statistics (how many etc)
 - Compare to scams, statistics on consumer complaints over years? Why do scams happen (knowledge / hard to use)?
 - How are cryptocurrencies being obtained? What is the most common form, is it the internet? Are they easy to use?
3. Existing regulation/law or proposed regulation/law in Australia
 - Other territories?

4. How consumers can protect themselves, particularly older Australians. See current guides

Resources for the older persons legal clinic:

1. Guide on how to recognise and avoid scams, and what to do if you've been scammed (contacting your bank etc).
2. Template for letter of demand.
3. Database of legitimate cryptocurrency providers.

This structure is definite subject to change as I might not have the time/resources to carry-out everything that I want to do but we will see!

The only other thing I want to mention is the timeline of the project, which I think will run more heavily towards the second half of the semester as I have quite a big workload at the moment. Despite this workload, I have actually started the project and I have attached my research file note for your review, which just gives an overview of the nature of cryptocurrencies and consumers. Let me know if I'm headed in the right direction!

Hope you have a lovely rest of the week Mirella!

Levi

From: Mirella Atherton <mirella.atherton@newcastle.edu.au>
Sent: Wednesday, 20 July 2022 11:17 AM
To: Levi Grondin <Levi.Grondin@uon.edu.au>; Kevin Sobel-Read <kevin.sobel-read@newcastle.edu.au>
Subject: Re: EOI: LAWS6091 Community Legal Development Course

Dear Levi,
Not a problem - looking forward to it.
Mirella.

From: Levi Grondin <Levi.Grondin@uon.edu.au>
Sent: Tuesday, July 19, 2022 8:41 PM
To: Mirella Atherton <mirella.atherton@newcastle.edu.au>; Kevin Sobel-Read <kevin.sobel-read@newcastle.edu.au>
Subject: Re: EOI: LAWS6091 Community Legal Development Course

Hi Mirella,

Thanks for getting back to me so quickly! And thank you for getting us in contact kevin!

I'll give you a call at 1PM tomorrow if that's okay Mirella? I will be at work, so I may be 5 minutes late but my number is 0401990770 just in case.

Talk tomorrow,

Levi

From: Mirella Atherton <mirella.atherton@newcastle.edu.au>
Sent: Tuesday, July 19, 2022 6:13:55 PM
To: Kevin Sobel-Read <kevin.sobel-read@newcastle.edu.au>; Levi Grondin

<Levi.Grondin@uon.edu.au>

Subject: Re: EOI: LAWS6091 Community Legal Development Course

Dear Kevin and Levi,

Thanks again for getting back to me Kevin. I have had a busy time while returning from leave last week too.

I think the best thing would be for Levi and myself to have a zoom/phone meeting to discuss the project. This could be before or after you meet with Kevin, Levi. I usually then keep a spot free in the week for us to catch up if you would like to ask questions or get some feedback. This time is Wednesday 1-1.30pm during S2.

Feel free to call anytime if you would like to get started.

All the best,

Mirella 0416160921.

From: Kevin Sobel-Read <kevin.sobel-read@newcastle.edu.au>

Sent: Tuesday, July 19, 2022 5:27 PM

To: Levi Grondin <levi.grondin@uon.edu.au>; Mirella Atherton <mirella.atherton@newcastle.edu.au>

Subject: RE: EOI: LAWS6091 Community Legal Development Course

Hi Levi and Mirella,

I just wanted to make sure that you two had connected?

Please let me know if there's anything I can help with!

All best,

Kevin

From: Kevin Sobel-Read

Sent: Thursday, 14 July 2022 11:11 AM

To: Levi Grondin <Levi.Grondin@uon.edu.au>

Subject: RE: EOI: LAWS6091 Community Legal Development Course

Hi Levi,

My apologies for the delay, I've been overseas and have had a harder time getting to wifi than I anticipated.

Mirella would be delighted to supervise you for the below project, it'd be great to have you in the course – hopefully you're still interested?

I'm happy to explain all the details next week when I return, but do let me know if you have any specific questions.

Take care,

Kevin

From: Levi Grondin <Levi.Grondin@uon.edu.au>

Sent: Thursday, 7 July 2022 11:22 AM

To: Kevin Sobel-Read <kevin.sobel-read@newcastle.edu.au>

Subject: EOI: LAWS6091 Community Legal Development Course

Hi Kevin,

This email is serving as an expression of interest for LAWS6091. My details are as follows:

Name: Levi Grondin

Year: 5th

Program: LLB (Honours)/Diploma of Legal Practice

Project: Legal literacy / making law accessible for vulnerable populations project with Mirella Atherton.

Why I'm interested:

During my internal placement hours in the summer of 2021, I was involved in a matter where an older gentleman had been scammed in relation to a Bitcoin transaction by a group of individuals who was known to the bank, and yet allowed the transaction to go through. Ultimately, the matter involved getting the bank to accept liability for the lost money and reimburse the individual, and alternatively, contacting the group of individuals for reimbursement. This matter was a highlight of my placement and I would love the opportunity to continue investigating how individuals / groups are using Bitcoin and other cryptocurrencies to scam vulnerable individuals like older Australians.

What you hope to learn:

I hope that I can more deeply understand why older Australians are being scammed by Bitcoin and cryptocurrency transactions. Additionally, I hope that I can expand my own knowledge of Bitcoin and cryptocurrencies in general and understand why these investments have garnered so much attraction and whether regulation is on the table in the future.

What you hope to contribute:

Having undertaken my internal placement hours within the Older Persons Clinic within the University of Newcastle Legal Clinic, I understand how vulnerable individuals can be taken advantage of in situations where they may not have a full understanding of the nature of the transactions they're making, such as older Australians in relation to Bitcoin and cryptocurrencies. In undertaking this project, I hope to focus on the vulnerability of older Australians to Bitcoin and cryptocurrency scams and put together a guide on how to identify and avoid scams, and what to do if you have been scammed. This guide will also include general information about cryptocurrencies in general.

Please let me know if there's anything further to do.

Kind regards,

Levi