

Legal regulation of cryptocurrency and NFTs

Singapore



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Introduction

There is an increasing number of charities across the world that have started accepting cryptocurrency as donations, including **UNICEF** and the **Salvation Army**. New platforms like **The Giving Block** are helping nonprofits to raise funds with cryptocurrency and non-fungible tokens ("NFTs").

To help charities better understand the opportunities and risks involved in working in this new context, PILnet with its partners launched a project about legal regulation of cryptocurrency and NFTs in different jurisdictions around the world.

The report below aims to consider:

- (a) The legality of cryptocurrency
- (b) Accepting cryptocurrency
- (c) Accepting NFTs and its proceeds
- (d) Issuing NFTs to raise funds

Disclaimer

PILnet, and partners participating in this research, are not liable toward third parties for the accuracy of the information contained in the research about Cryptocurrency and NFTs. The information contained herein is intended as a general overview and discussion of the subjects dealt with and only responds to the regulatory framework in effect during a specific research period in 2022-24. It is not intended to be, and should not be used as, legal advice or a substitute for taking legal advice in any specific situation.

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1. Is engaging in blockchain technology legal in Singapore?



There is no general legal restriction on using or deploying blockchain technology in Singapore. For example, integrating blockchain technology into your organisation's business or interacting with blockchain assets such as cryptocurrencies and NFTs is not generally prohibited in Singapore.

While blockchain technology is not regulated in Singapore, a licence may be required to conduct certain activities relating to cryptocurrencies. Depending on the context (e.g., whether the activity is carried out as part of a business), type of activity and whether the cryptocurrency concerned qualifies as a digital payment token ("**DPT**") or capital markets product under the Payment Services Act 2019 ("**PS Act**") and/or the Securities and Futures Act 2001 ("**SFA**") respectively, a licensing requirement under either or both of the aforementioned acts may be triggered. That said, the mere receipt, use and sale of cryptocurrencies on one's own behalf generally does not require a licence. As such, a charity that receives and uses cryptocurrencies on its own behalf as the beneficial owner generally should not fall within the purview of the PS Act or SFA.

2. Is accepting cryptocurrency permitted for charities? If so, what legislation/regulation governs it?

There are no laws in Singapore which specifically prohibit charities from accepting donations in the form of cryptocurrencies (including NFTs), setting up and managing their own digital asset wallet to receive cryptocurrencies or using cryptocurrency as a means of payment for goods and services. That said, it may be prudent for a charity to accept only mainstream cryptocurrencies (e.g., Bitcoin, Ether, USDC, USDT, etc.), as such cryptocurrencies are unlikely to have features that affect their legal characterisation (e.g., as a capital markets product under the SFA) and are easier to convert into fiat currency.

Charities are not prohibited from converting cryptocurrency donations received by them into fiat currency via third party cryptocurrency exchanges. While there are no laws in Singapore which require charities to transact only with certain cryptocurrency exchanges, it may be prudent for a charity to transact only with cryptocurrency exchanges that are licensed by the Monetary Authority of Singapore ("**MAS**").



Anti-money Laundering Considerations

In accepting cryptocurrency donations, charities in Singapore should ensure that they comply with the primary laws addressing money laundering and terrorist financing in Singapore, namely the Corruption Drug Trafficking and other Serious Crimes (Confiscation of Benefits) Act 1992 ("**CDSA**") and Terrorism (Suppression of Financing) Act 2002 ("**TSFA**").

Broadly, the CDSA criminalises laundering of proceeds derived from drug trafficking and other serious offences and makes it mandatory for any person to lodge a suspicious transaction report if

the person knows or has reason to suspect that any property may be connected to a criminal activity, while the TSFA criminalises terrorist financing and imposes a duty on all persons to inform the police should they have information pertaining to terrorist financing.

When receiving donations in the form of cryptocurrencies, charities must ensure that they comply with the CDSA and TSFA. This may require the recipient charity to conduct due diligence checks on the donor (e.g., by screening the donor against the United Nations designated individuals list) to ascertain the legitimacy of the source of funds or donations received where appropriate. In this regard, the Commissioner of Charities Singapore has identified the following red flags, the presence of which may warrant conducting or enhancing due diligence checks:

- Donors who provide insufficient or suspicious information about themselves (e.g., the donor is a trust or shell company and is unwilling to provide additional information about their beneficial owners);
- A substantial donation amount is received from an unknown or unfamiliar donor;
- Donation amounts that appear to be more than the usual amount that a person of the donor's profile would typically make;
- A large amount of fund transfers ordered in small amounts in an apparent effort to avoid triggering identification or reporting requirements;
- Donations made through third parties rather than the donor themselves;
- Corporate donations made through a personal account;
- Unusual requests for refund of donations;
- Unusual requests from donors to redirect part of the donation to unknown third parties; and
- Donations involving virtual assets, especially where the ownership of the virtual assets cannot be easily traced to the donor.

While charities are not prohibited or discouraged from accepting cryptocurrency donations, donations involving cryptocurrencies, especially where the ownership of the cryptocurrencies cannot be easily traced to the donor, are a red flag that warrants enhanced scrutiny by the charity.

To mitigate money laundering and terrorist financing risk arising from receiving cryptocurrency donations, charities may wish to:

- As far as possible, require all donors who wish to donate in cryptocurrency to identify themselves and prove their ownership of the digital wallet from which the cryptocurrency is to be sent from via, for example, a Satoshi test (i.e., the sending of cryptocurrency from a wallet as proof of control over that wallet) or blockchain message signing process.
- Where the donor is unwilling to disclose their identity, a charity should decline to accept the donation unless the cryptocurrencies are sent from a digital wallet hosted by a cryptocurrency exchange licensed by the MAS or another reputable regulator and the charity is satisfied that the risks of the donation are low and the donor is not associated with money laundering or terrorist financing.

3. Is issuing NFTs to raise funds permitted for charities? If so, what legislation/regulation (if any) governs it?

There are no laws in Singapore which specifically prohibit charities which are registered with the Commissioner of Charities Singapore and permitted to conduct public fundraising from issuing or collaborating with third party partners to issue NFTs for the purpose of fundraising.



NFTs generally do not fall within the regulatory scope of the PS Act, as most NFTs are not intended to be used as a medium of exchange. However, as NFTs typically represent an underlying asset such as digital art, collectibles or even the right to acquire physical goods or services, NFTs could potentially have the characteristics of a capital markets product under the SFA. The MAS has reiterated that it takes a technology-neutral stance and looks through to the underlying characteristics of the NFT to determine if it is a regulated product. Accordingly, charities looking to raise funds by selling NFTs should, as a matter of prudence, ensure that any NFTs sold are “plain” NFTs that do not have unusual characteristics which may affect their legal characterisation.

There are also no laws in Singapore which prohibit charities from receiving royalties from subsequent sales of NFTs previously issued by the charity.

4. Are there tax implications for donations of cryptocurrency or NFTs? Are there obligations to pay tax for charities who sell NFTs for fundraising purposes?



According to the Inland Revenue Authority of Singapore, only outright cash donations are tax-deductible. As donations of cryptocurrencies and NFTs are not regarded as cash donations, tax deductions are not available for donors who make such donations.

Further guidance on tax deductible donations is available on the Ministry of Community Culture and Youth website.¹

In addition, Singapore does not have capital gains tax. Charities registered with Commissioner of Charities Singapore also enjoy automatic income tax exemption under the Income Tax Act 1947.

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<https://www.mccy.gov.sg/-/media/CMF/Guidance-on-Tax-Deductible-Donations--CMF-Engagement-202320230405v10.pdf>.

5. What is the best practice or guidance?

Neither the Commissioner of Charities Singapore nor the Ministry of Community Culture and Youth have issued any guidance relating to the acceptance and issuance of cryptocurrencies and NFTs by charities in Singapore.

However, the Commissioner of Charities Singapore has published various resources on anti-money laundering and countering the financing of terrorism on its website that may be useful for charities looking to understand the money-laundering and terrorism financing risks arising from the acceptance of cryptocurrency donations.²



² https://www.charities.gov.sg/Pages/News-and-Notices/Newsroom/News/AML_CFT.aspx.

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