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Dear Friends,

The theme credit for this month must go to cryptocurrencies. This digital asset has had a noteworthy journey from its 2008 online posting of a pseudonymous white paper, which provided a vision of a new way to transfer value over the internet, to being today's frontline news.

Elon Musk helped add fire to an already volatile issue. Stability, cash reserves backing tokens, and other doubts plagued the common man, while industrial czars and governments played ping pong with the controversy. This led to the price of bitcoins soaring, tumbling, and then stabilizing at the end of the month. Coinbase experienced outages, leaving investors unsure and wary. May 2021 may have disclosed a decade-long disruptive technology trend: euphoria, despair, bull market runs, humbling pullbacks, anxiety, the excitement of the unknown, and countless emotions in between.

The banking industry had already welcomed crypto assets earlier this year. Morgan Stanley actively offered its portfolio customers bitcoin funds. Goldman Sachs followed with derivatives trading. And now one reads of how Citigroup, BNY Mellon, State Street, and JPMorgan Chase are joining the bandwagon in one way or another. This followed recognition, by various US regulators, of digital currencies as commodities. Let us wait and see what banks do next.

Today, it is hard to imagine that crypto assets did not exist more than ten years ago. As lawyers, we probably still don't have clarity on how to define them. The challenge is triggered by the fact that one crypto asset may fulfil the purpose of several categories, such as platforms and payment transactions, at the same time. And there's no stopping the innovation of crypto assets: to say that these assets are moving from innovation to a revolution may be an apt description. This means the definition cannot be static – rather, it is a continuum.

Now comes the quality of information on which the definition is to be based. This is undoubtedly poor. The next challenge is who is writing the definition – stock market, lawyers, business, or accountants. Based on whatever information may be available, and the author, a crypto asset may be defined as just a technology, or an alternative currency, or a lucrative venture capital investment, or a suspicious bubble! I think the only part of the word where the meaning is crystal clear is 'crypto': It's obvious that 'hidden' or 'secret' reflects the nature of the technology that has been used to record the owner of the asset, and transactions.

For accounting purposes, crypto assets stand on the asset side of the balance sheet - in asset categories similar to bonds, stocks, intellectual property, trade secrets, proprietary material, and licenses. In this context, an asset is a tangible or intangible resource owned by the assesse.

However, when the words 'crypto' and 'asset' are combined they are, in fact, unlike anything else one is familiar with, and especially unlike cash. With limited, or non-existent regulation, crypto assets exist electronically and use a peer-to-peer (P2P) system. Providing more power, and significant risks, to the user. The market today has innumerable types of crypto assets: Bitcoin, Ripple, Litecoin, and Ethereum, among others; and they continue to grow in number and value. Whether Elon Musk supports the crypto market or not, one thing is clear: crypto assets are not going away.

As we mull over various aspects of crypto assets, I do hope you will remain safe and we will be able to meet in person sometime soon.

Warm regards,
Sajai Singh
Chair, IBA Technology Law Committee