

Annex

Questions to be addressed in the Legal Statement on Digital Assets and Insolvency

Each of the following questions is posed as a matter of English law:

- 1** Are digital assets “property” forming part of the estate of the insolvent company or individual for the purposes of the English insolvency legislation?
- 2** For international allocation of insolvency jurisdiction based upon location of centre of main interests (COMI), what rules apply to determine where digital assets are located and/or administered?
- 3** Is a claim to digital assets held by a company or bankrupt capable of being a claim to recover property? If so, what factors determine whether it is to be so characterised.
- 4** If a claim to digital assets held by a company or bankrupt is a monetary claim, is it a claim for a liquidated sum so as to be capable of founding a statutory demand/winding up petition? Is it a claim in a “foreign currency” such that it should be converted to the currency of the insolvency on day one?
- 5** Are office-holders subject, generally, to any obligations in relation to holding/realisation of volatile digital assets in an English insolvency?
- 6** Can you perceive any difficulties in the application of the English insolvency legislation relating to avoidance of prior transactions to pre-insolvency dealings with digital assets? If so, what are they?
- 7** If a claim to digital assets held by a custodian company can be a proprietary claim, what mechanisms are available to deal with mixing of the property of various clients and/or a shortfall in an insolvency of an exchange or custodian?
- 8** What interlocutory, investigatory or enforcement procedures are available to insolvency office-holders under English law, in order to get in digital assets or their monetary equivalent for the benefit of the insolvent estate?