

Insights



Andrew Stafford KC, Calvin Koo, Timothy de Swardt Examine Crypto Recovery in the UK, BVI, Hong Kong and U.S.

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The proliferation of blockchain technology and cryptocurrency has seemed like the emergence of a new Wild West – but has the sheriff finally ridden into town? Kobre & Kim’s Andrew Stafford KC, Calvin Koo and Timothy de Swardt look at how the United Kingdom, the British Virgin Islands, Hong Kong and the U.S. – all sophisticated and important global financial centers with mature and highly competitive legal markets – have responded to the disruptive effects of blockchain and cryptocurrency in a chapter of *Commercial Dispute Resolution’s* “Fraud, Asset Tracing & Recovery 2023.”

Each of these jurisdictions is common-law based, meaning courts adapt caselaw to address new features and challenges from the technology without waiting for the legislature. These jurisdictions also have a highly developed equitable jurisprudence, allowing courts to fashion effective proprietary remedies that facilitate tracing the fruits of fraud. With the exception of the U.S., these are also cost-shifting jurisdictions, meaning victims of smaller-scale fraud often have less of an economic barrier to pursue a legal claim. In addition, criminal forfeiture – especially given the “long-arm” jurisdiction of U.S. criminal agencies – provide a further way to recover assets.

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