KOBRE & KIM | DISPUTES AND INVESTIGATIONS

Insights

Could NFTs Trigger AML Regulation? Benjamin Sauter, Melisa Ortes Gonzalez and Lara Levinson Examine in Forkast News

May 24, 2021

Publication: ***Forkast News***

Non-fungible tokens (NFTs) are the latest digital technology trend, but they may not be beyond regulatory oversight. Kobre & Kim's Benjamin Sauter, Melisa Ortes Gonzalez and Lara Levinson unpack the potential traps in an article for *Forkast News*.

The newness of NFTs means how it will be regulated is an open question. One possibility is that it will be regulated as antiquities or artworks – under the recent U.S. National Defense Authorization Act (NDAA), anti-money laundering (AML) laws have expanded reporting and recordkeeping obligations to apply to antiquities and artistic works, but what counts as antiquities is never defined, and final regulations over the art trade are still pending. New beneficial ownership reporting requirements and a more aggressive Financial Crimes Enforcement Network adds to the uncertainty.

Another possibility is that NFTs will be regulated like digital currencies. Again, the NDAA expanded reporting requirements to entities engaged in the exchange of virtual currencies, which could include NFTs. Global regulations may be more of a concern – the Financial Action Task Force (FATF), which establishes global AML policies, have defined virtual assets in even broader terms. In light of such uncertainty, NFT market participants would be wise to consider proactive measures in the event their activity is called into question.

Click here to read the full article.