

[English Translation]

Interim Proposal on web3 Policy

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Liberal Democratic Party of Japan

Headquarters for the Promotion of Digital Society

web3 Project Team

1. Introduction

(1) “The strong weed endures the strong wind”

The era of what could be described as the “web3” craze reached a tipping point in mid-2022. With crypto asset prices and NFT transaction values falling in the wake of the U.S. interest rate hike, the crash of dollar-pegged algorithmic stablecoins, and the collapse of major global crypto exchanges, the crypto asset industry is entering a global winter period known as “Crypto Winter.”

It is undeniable that the various problems currently occurring could slow the development of blockchain based web3 businesses. The declining value of crypto assets and the prospect of future depreciation may reduce the capacity and willingness of some investors to invest and could cause web3 projects to be called off or slow down. In addition, governance issues at some of the industry's leading firms could discourage the public from entering the web3 space. The debate over tighter regulation in many countries may gain momentum.

However, this harsh winter gale is also an opportunity to reexamine the true value of web3 and nurture the new seeds of innovation. As the saying goes, “the strong weed endures the strong wind.”

In the past, the process of socially adopting new technologies has often encountered many difficulties, including market turbulence and unfairness due to underdeveloped markets and rules. Entrepreneurs who have endured and overcome the public backlash arising from such scandals have led to create many innovative next-generation businesses. As the crypto industry is facing headwinds, we must reexamine the essence of this technology, refine our assessment for business investment, and accelerate the development of the business environment to create a safe and secure web3 ecosystem.

As a result of repeated large-scale hacking incidents in the past, Japan was early in establishing regulations that focused on protecting consumers and investors. We have been ahead of other countries in establishing a registration system for cryptocurrency exchanges and a system for safeguarding customer assets (e.g., 95% cold wallet regulation). We have successfully limited the impact of recent global crypto exchange collapse incidents on the domestic market.

While many other countries are standing still and shrugging their shoulders in the face of the cold wind, Japan is positioned to play a unique role in the crypto industry because it has seen the industry suffer in the

past. This is an opportunity for Japan to vigorously promote the development of an internationally competitive web3 business environment as a part of its national strategy, and to demonstrate leadership in international regulatory discussions, such as at the G7 summit in 2023. Now is the time for the public and private sectors to gather their knowledge and expertise to make Japan the global hub of “responsible innovation.”

(2) Impact of web3 on economic and social innovations

Blockchain, the core technology of the web3 era, is rapidly expanding its use cases beyond traditional crypto asset exchanges, accelerating the launch of innovative businesses and projects that leverage its characteristics.

The development of blockchain technology enables digital assets and rights to be converted into units in the form of “tokens” that can be held and traded by individuals in a format independent of any specific platform or software. The quantitative and qualitative development of these digital asset transactions, freed from geographical constraints, is also a technology that paves the way for further cross-border and faster business transactions. The transparent nature of the blockchain, in which all transactions are recorded and made public, has characteristics that make it suitable for building more open and decentralized governance. The flexibility of tokens, which can be customized through smart contracts, is expected to lead to new collaborative mechanisms that incentivize non-economic activities such as volunteerism and lower the barriers between management and workers.

For example, through the widespread use of stablecoin payments, international remittances may become faster and cheaper, and sending money to children studying abroad may become as easy as sending money domestically. The blockchain's tamper-resistance could make it possible to manage supply chains across multiple countries and regions more transparently and efficiently. In trading carbon credits, the blockchain may enable projects to more clearly link individual credits to CO2 reduction projects. People who sympathize with rural community development projects would be invited to contribute their skills and passions to such projects remotely, and efficiently receive non-monetary rewards for their efforts.

It is impossible to predict exactly how the blockchain technology will be used in ten or twenty years, just as it was difficult when the early Internet, known as Web 1.0, appeared in the 1990s. In the short term, many projects may turn out to be more efficient using traditional technologies than using blockchains, and many projects may take years before becoming profitable. However, as the new digital economy expands rapidly, there is no doubt that

if we miss the wave of change brought by blockchain technology, it will become a significant risk factor for Japan's economic growth.

In this year's "Basic Policy on Economic and Fiscal Management and Reform," the government clearly announced its intention to "develop the necessary environment for the realization of a decentralized digital society" and to promote web3 policy as a national strategy. We must urgently resolve the legal, tax, accounting, and other issues that have long been pointed out as limiting factors for web3 innovation in Japan and improve our international competitiveness in the growing new digital economy. We must not miss this opportunity.

(3) The purpose of this Interim Proposal

In January 2022, the LDP's Headquarters for the Promotion of a Digital Society established the NFT Policy Study Project Team (PT), which released the "NFT White Paper" in April of the same year. Since then, the Japanese government's web3 policy has been formally positioned in the government's economic policy, as outlined in the white paper. Web3-related teams and policy projects have been launched one after another in related ministries and agencies, greatly accelerating the pace of the Japanese government's web3 policy discussions.

The white paper focused on NFTs and positioned them as the "catalyst of the Web 3.0 era," and summarized the issues centered on NFTs. However, since NFTs are only a part of the web3 ecosystem, there were calls within the party for a comprehensive examination of the entire web3 policy picture as a growth strategy. Thus, the NFT Policy Review PT was reorganized in October this year, and the "web3 Project Team" (PT) was established under the Digital Society Promotion Council.

In this interim proposal, we have summarized the current direction of discussions as interim proposals on particularly important themes, focusing on the themes of the 10 PT meetings held since October (see Attachment 1). A working group (Attachment 2) consisting of outside attorneys and others with a high level of expertise in the web3 business provided significant assistance in the preparation of this document and writing of the document.

We will continue to study each of the points mentioned in this interim proposal, as well as many other points that could not be included in this document while listening to the opinions of related parties in Japan and abroad. We plan to compile our recommendations in the form of a white paper by the spring of 2023.

2. Outline of Proposals on Key Themes

(1) Tax reform for a token financing friendly environment

A. Issue

- In the NFT White Paper, the following tax reforms appropriate for the blockchain economy were proposed: (1) Tokens continuously held by the issuing corporation should be exempted from the year-end mark-to-market taxation for corporate income tax purposes. In addition, the LDP's "Urgent Proposal on web3-related Taxation," dated November 10, 2022, proposed, in addition to (1), that (2) tokens issued by other companies and held by third parties that are not for short-term trading purposes be excluded from year-end mark-to-market assessment.
- As a result of these proposals, the LDP and Komeito's Outline of the Tax Reform for FY2023 made some progress by proposing that (1) tokens continuously held by the issuing corporation be excluded from the year-end mark-to-market taxation for corporate tax purposes in the FY2023 tax reform.
- On the other hand, measure (2) to exempt tokens issued by other parties, not for short-term trading purposes from year-end mark-to-market taxation, was not included in the above outline and was excluded from the FY2023 tax reform.
- To promote the start-up of blockchain-related businesses in Japan, it is necessary to create an environment that facilitates investment in tokens. However, suppose a corporation holds "crypto assets for which an active market exists" issued by another party. In that case, such crypto assets will continue to be subject to year-end mark-to-market taxation, and the corporation will incur a corporate tax burden on the unrealized gains at the end of the fiscal year. As a result, domestic investors in web3 businesses will be placed at a significant competitive disadvantage compared to foreign investors who are subject to book value assessment. This could be an obstacle to developing the web3 ecosystem in Japan.

B. Proposal

- From the perspective of supporting the development of the web3 business ecosystem, including support of startups and R&D of blockchain, when holding tokens issued by other parties, such tokens that are not for short-term trading purposes should be excluded from the year-end mark-to-market taxation, and, measures should be taken to value such tokens at their acquisition cost. This tax reform, together with the measure to exclude tokens continuously held by the issuing corporation from year-end mark-to-market taxation, which was

proposed in the Outline of the Tax Reform Proposal for FY2023, is essential for developing the web3 ecosystem in Japan and should be implemented promptly.

- In terms of accounting, crypto assets issued by other parties are currently subject to mark-to-market valuation if "an active market exists for the assets," regardless of the purpose for which the assets are held. Accordingly, if the above measure is taken, the rules between tax law and accounting will not be consistent. However, the inconsistency between tax law and accounting rules can be seen in other situations as well. Even if the tax law and accounting rules are inconsistent with respect to the year-end mark-to-market taxation of crypto assets, no major practical problems are expected to arise. In addition, the purpose for holding tokens have become more diverse compared to when the accounting rules for the year-end mark-to-market assessment of crypto assets were introduced. For example, tokens are often held primarily for governance purposes. In consideration of these new purposes, it is the accounting rules that should be revised, which subject crypto assets for which an active market exists to the mark-to-market assessment regardless of the purpose for which the assets are held.

(2) Revision of income taxation on crypto assets held by individuals

A. Issue

- The taxation of crypto asset transactions by individuals in Japan is more severe than in many other countries, with income from crypto asset transactions being taxed as miscellaneous income at a maximum rate of 55% (income tax and inhabitant tax combined). As a result, there has been an increase in the outflow of taxpayers overseas.
- In addition, under the current tax system, income tax is imposed on gains or losses related to the transfer of crypto assets not only when crypto assets held are exchanged for legal tender such as yen or dollars but also when they are exchanged for other crypto assets as if the crypto assets were sold. However, since no legal tender is acquired when crypto assets are exchanged for each other, this has impeded tax reporting by taxpayers.
- In the NFT White Paper, we proposed that the taxation of crypto assets should be examined in terms of income taxation on users, including (1) making gains and losses arising from transactions of crypto assets conducted by individuals subject to separate taxation for tax reporting at a 20% tax rate. Furthermore, the LDP's Headquarters for the Promotion of Digital Society, in its "Urgent Proposal on web3-related Taxation" dated November 10, 2022, proposed that, in addition to (1), (2) gains and losses from the exchange of crypto assets should be

exempt from taxation.

- Neither of the above amendments was included in the LDP and Komeito's Outline of the Tax Reform for FY2023, which means that they are excluded from the FY2023 tax reform.

B. Proposal

- With regards to the taxation of crypto assets held by individuals, consideration should be given to (1) subjecting gains and losses arising from transactions in crypto assets to separate taxation for tax reporting at a rate of 20%, (2) allowing losses on crypto assets to be carried forward (for three years from the following year), and (3) making crypto asset derivatives transactions subject to the same taxation (i.e., separate taxation for tax reporting).
- In addition, it should be considered that gains or losses on crypto asset transactions should not be taxed when crypto assets are exchanged but should be taxed collectively when crypto assets are converted to legal tender.
- In considering the above, it is necessary to compare the tax treatment of crypto asset transactions by individuals in other countries. It is also necessary to consider how the above treatment would affect taxpayers' tax reporting and the tax revenues of the state.

(3) Ensuring crypto businesses access to receive accounting audits

A. Issue

- In response to the many cases where crypto related businesses have been unable to obtain accounting audits, the NFT White Paper proposed that accounting standards should be clarified and that certified public accountants and auditing firms should be encouraged to conduct accounting audits.
- Although some major audit firms have recently started to conduct web3 business audits, there is still a noticeable delay in the development of accounting and auditing standards for web3-related companies that issue or hold crypto assets, and businesses are still concerned about the lack of access to accounting audits by certified public accountants and audit firms. This is a severe obstacle to the sound development of crypto assets and NFT-related businesses in Japan, and by extension, to the proper development of web3 in Japan.

B. Proposal

- First, regarding accounting treatment and accounting standards, the Accounting Standards Board of Japan (ASBJ) released the "Tentative Treatment of Accounting for Crypto Currencies under the Payment

Service Act" in March 2018. Still, there are delays compared to other countries. For example, self-issued tokens are not covered, and the committee needs to catch up with other countries in the development of the system. In March 2022, the Committee published the "Discussion Paper on the Accounting for the Issuance and Holding of ICO Tokens that Fall under the category of Crypto-assets under the Payment Services Act or the category of Electronically Recorded Transferable Rights under the Financial Instruments and Exchange Act" and it is necessary to urgently develop accounting treatment, accounting standards and guidelines based on this discussion paper.

- Next, in terms of audit practice, although there are some cases where auditing services have been commissioned, in other cases they are still many refusals reported for crypto asset businesses, and there is a delay in the development of the audit practice system compared to other countries. It is said that the reason for the lack of progress in commissioning audits lies in the need for more communication between audit firms and web3-related companies. In other words, audit firms believe that the web3-related companies still need to develop their internal controls and governance systems, which are the preconditions for commissioning an audit, while web3-related companies are concerned about the lack of experience of the audit firms. Therefore, it is necessary to promptly implement measures to promote candid communication through a public-private partnership among related ministries and agencies, The Japanese Institute of Certified Public Accountants (JICPA), and private industry organizations.
- We expect that the JICPA, with the participation of relevant ministries and agencies as observers, will establish a study group to share information and hold discussions among web3-related companies and crypto asset-related industry associations, and will advance its efforts such as the formulation of necessary guidelines.

(4) Reinforcement of the token screening process at JVCEA

A. Issue

- Before a crypto asset exchange can add a token to its listing portfolio, it must undergo a prior review by the Japan Virtual and Crypto assets Exchange Association (JVCEA), of which all crypto asset exchange service providers are members¹. The NFT White Paper proposed streamlining the JVCEA's pre-screening process, based on the recognition that the lengthy time required for such a process is an

¹ Although the legal requirement is prior notification (Article 63-6, Paragraph 1 of the Payment Service Act), the JVCEA's self-regulatory rules require prior examination of each new crypto asset at the JVCEA.

obstacle to the development of the web3 business in Japan. Since then, the JVCEA has implemented certain improvement measures, including the introduction of the "Green List System,"² and the time required for examination, especially for tokens already traded in Japan, has tended to decrease significantly.

- On the other hand, the listing of new tokens issued outside of Japan remains slow. In addition, IEOs (Initial Exchange Offerings) involving new offerings of tokens that have never been circulated before still take a long time for review, and there are currently only a limited number of examples of successful IEOs in Japan. Furthermore, in light of the recent bankruptcies of token issuers, there is room for further consideration regarding the sufficiency of disclosure in the "summary explanation" document of tokens, even for tokens that are already listed.
- Efficient and appropriate screening of tokens is an infrastructure that will enhance the credibility of crypto asset transactions in Japan and serve as the basis for the promotion of the web3 business, so the JVCEA's screening system must be strengthened in terms of its procedures and organization.

B. Proposal

- Proposal 1: Increased transparency of JVCEA's screening processes
 - To improve the efficiency of screening under the JVCEA, it is essential to make the screening procedures more specific and transparent. For token issuers and crypto asset exchange service providers to efficiently present the information necessary for JVCEA's examination and for crypto asset exchange service providers themselves to proactively cooperate in the examination, the JVCEA should specify the examination items for the token examination and make them public, or at least make them available to crypto asset exchange service providers. The examination items should be specified in a manner appropriate to the context of the token, such as in the case of IEOs or tokens circulating only outside Japan.
 - The FSA has already set forth criteria for judging the appropriateness of crypto assets to be handled in its guidelines, but these criteria remain qualitative. Therefore, the authorities should provide the JVCEA with information on the thinking behind the guidelines and

² Crypto assets that meet the conditions that at least six months have passed since a crypto asset exchange service provider first started handling them and that three or more crypto asset exchange service providers are already handling them are designated as "Green List" issues. The Green List is a system that allows crypto asset exchange service providers to begin handling crypto assets without prior screening by the JVCEA, as long as they conduct appropriate screening on their own.

opportunities for consultation as appropriate and cooperate with the JVCEA in making the examination items more specific, thereby allowing more efficient examinations.

➤ Proposal 2: Strengthening JVCEA's organization and capabilities

- To promote further efficiency of token examinations at the JVCEA, the necessary examination resources should be strengthened by steadily increasing the examination staff with sufficient capabilities and knowledge.
- At the same time, the JVCEA is expected to continue and advance efforts to improve the transparency of its organizational management and strengthen its governance system in line with the importance of the roles and responsibilities expected of the JVCEA. Specifically, the JVCEA should consider taking steps to strengthen its system, such as the specific establishment of a mechanism to ensure the neutrality and objectivity of the token examination process, clarification of information management rules regarding the examination, and improvement of transparency, including disclosure rules regarding the results of the examination.
- Based on its supervisory authority over the JVCEA, the FSA should provide guidance and advice, etc., to promote these efforts.

(5) Introducing legislation for LLC-type DAOs

A. Issue

- The NFT White Paper recommended that the legal status of DAOs (Decentralized Autonomous Organizations) operated autonomously by token holders based on codes, etc. recorded in distributed ledgers such as blockchains, etc., under Japanese law, the content of legal rights and obligations of members, taxation, etc., be promptly clarified, and that the creation of a system that allows DAOs to be incorporated should be considered as soon as possible.
- In recent years, there has been an increase in the number of examples of DAOs being used or being considered for use in Japan, such as for regional development, resolution of social issues, and community management, and these examples have great potential from the perspective of revitalizing the Japanese economy and local communities.
- However, under current law, there is no clearly defined legal entity or partnership form that ensures the limited liability of DAO members and the flexible establishment and operation of DAOs. There are cases where limited liability of DAO members is recognized in some instances based on the "unincorporated association (*Kenri-nouryoku Naki Shadan*)," a legal doctrine recognized in judicial precedents and

academic theories. However, the treatment of such legal doctrine when applied to DAOs remains to be seen because the doctrine is not based on formal legislation.

- Therefore, there is a growing need to clarify the legal status of DAOs under Japanese law.

B. Proposal

- When considering the granting of legal personality to DAOs, among the various existing legal entity forms, a limited liability company (*Godo Kaisha*), which is based on the premise of unity of ownership and management, and in which the autonomy based on the articles of incorporation is relatively widely recognized, has a relatively high affinity with the nature of DAOs.³
- Therefore, a reasonable approach would be to first introduce a special law for LLC-type DAOs, applying the regulations on limited liability companies under the Companies Act and the regulations on membership tokens under the Financial Instruments and Exchange Act, with some modifications. From the viewpoint of prompt introduction of the law, enacting the law through legislation by Diet members should also be considered.
- Specifically, for example, some rules for limited liability companies, such as the fact that the names and addresses of the members of a limited liability company are matters to be stated in the articles of incorporation, are not suitable for the flexible establishment and operation of DAOs, and thus should be changed in accordance with the characteristics of DAOs.
- The legislation of LLC-type DAOs is intended to increase the options for establishing DAOs and not to deny the establishment and activities of DAOs under other legal forms. Even in cases where an LLC-type DAO is selected, this should not preclude the DAO from issuing tokens other than membership tokens that represent the membership of a limited liability company.

(6) Promoting issuance and circulation of permissionless stablecoins

A. Issue

- To promote digital asset trading, metaverse, and other web3 industries in which Japan can demonstrate its international competitiveness, it is necessary to create an environment in which "permissionless" stablecoins, can be used safely and openly⁴. That is because

³ The same observation is reported in the interim report of the commissioned study on DAOs and consumer protection by the Web 3.0 Study Group of the Digital Agency.

⁴ There are two main types of blockchains where stablecoins are issued and circulated:

permissionless stablecoins are already widely circulated in the world and are suitable means of payment in these fields.

- Considering this situation, the June 2022 amendment to the Payment Service Act officially defined stablecoin as an "electronic payment instrument". It established a new regulated business category of "intermediary of electronic payment instruments" to enable the intermediation of stablecoin.
- However, essential aspects of the regulations for a permissionless stablecoin, such as the details of the regulations that intermediary of electronic payment instruments must comply with, will be defined in a government ordinance and related guidelines that are currently being drafted, and the details of these regulations are currently under review by the Financial Services Agency. Therefore, it is crucial to develop these subordinate regulations and guidelines so that an appropriate regulatory framework can be established to promote the distribution and circulation of permissionless stablecoins.

B. Proposal

- Proposal 1: Permissionless stablecoins based on foreign currency
 - When introducing permissionless stablecoins to Japan based on foreign currency, which are already circulating overseas, the regulators should discuss with the industry how to reasonably regulate stablecoins so as not to impede payment practices from the perspective of both promoting their circulation and protecting users and taking AML/CFT into consideration.
 - First, it is necessary to adopt measures to ensure adequate protection of domestic users in the event of the bankruptcy of a foreign issuer or domestic intermediary, and a regulatory framework should be adopted that allows domestic intermediaries, such as intermediaries of electronic payment instruments, to handle foreign currency-denominated stablecoins without undue burden. For example, requiring companies to hold reserves equivalent to the total amount of stablecoins in domestic circulation, including those held in unhosted wallets, would make it difficult for domestic intermediaries to operate

permissionless blockchains and permissioned blockchains. The former is an open and decentralized system that allows anyone to participate in transactions and their verification on the blockchain without the existence of an entity that manages and operates the blockchain. The latter is a centralized system in which there is an entity (a specific company or group) that manages and operates the blockchain, and only those authorized by the entity can participate in transactions on the blockchain or its verification. The former is mainly used as the basis for the issuance and distribution of crypto assets, stablecoins, and NFTs, while the latter is mainly used as the basis for digital securities, trade transactions and their settlement, and authentication in logistics.

as a viable business, so a realistic measure that works as a business is required.

- In addition, since there are no clear rules under current law regarding whether legal rights are definitively transferred when permissionless stablecoins are transferred on the blockchain, it is necessary to clarify the rules for transferring rights to secure transactions.
 - Furthermore, assuming that anyone can hold and use permissionless stablecoins in wallets that they manage (i.e. unhosted wallets), intermediaries must ensure AML/CFT through the use of blockchain analysis tools, etc.
- Proposal 2: Japanese Yen based permissionless stablecoins
- For Japan's web3 business to become internationally competitive, it is desirable that not only foreign currency-denominated stable coins but also yen-denominated permissionless stable coins be issued and distributed as soon as possible.
 - Therefore, domestic financial institutions and industry associations should promote the study of business models to make yen-pegged stable coins a viable business. The government should support such efforts and promptly sort out and resolve the remaining issues under regulatory law, as described above.

(7) Measures against unlicensed NFTs, and consumer protection

A. Issue

- There are still many cases, mainly in foreign countries, of unlicensed NFTs being issued and sold by parties other than content holders (rights holders). Since NFTs issued by genuine rights holders have more value than pirated content in general, there are concerns about the occurrence and expansion of consumer damage due to the distribution of unlicensed NFTs. However, it is extremely difficult to completely prevent the issuance and sale of such unlicensed NFTs, as has been the case in the past measures against content piracy.
- In dealing with unlicensed NFTs, proactive action by rights holders is required in terms of both requesting trading platforms to remove them and promoting the distribution of genuine NFTs. However, it is difficult for each rights holder to implement this efficiently on its own. In addition, although there are some test cases to demonstrate that an NFT is genuine, there is no established methodology in practice at this point, and there are certain limits to the dissemination and education of such information to consumers.

B. Proposal

- There are several government and private-sector-led efforts to preclude unlicensed NFTs, including the trial to file a request for deletion to overseas trading platforms experimented in the research project of a METI, and the project performed by the Japan Content Blockchain Initiative (JCBI). The government should continue to advance and support these initiatives.
- In addition, to ensure the removal of unlicensed NFTs by NFT trading platforms, it would be effective to demonstrate that such requests are backed by the government and made as industry-wide requests. In addition, it is necessary that such approaches to trading platforms will be taken continuously.
- One way to demonstrate that such requests are backed by the support of the relevant ministries and agencies is to strengthen the government's disseminating of information in English. The contents and reports of individual test cases and projects, as described above, should be translated into English. In addition, given that persistent efforts are required in the process until an efficient cycle of reporting and removal is realized, direct support with a certain amount of public funds may be provided not only for a single year but continuously to support such initiatives.

(8) Clarifying gambling regulations and revenue distribution in NFT businesses

A. Issue

- In other countries, while the use of NFT in NFT games (so-called GameFi) and sports is growing, fantasy sports services using NFTs are rapidly developing especially in the sports market⁵.
- The NFT White Paper states that since it is not clear whether gambling regulations are applicable to services that combine random sales of NFTs and secondary distribution markets, which have developed rapidly in Europe and the U.S., it is expected that guidelines will be established for operators and that rules will be established to appropriately return revenue from the secondary distribution of NFTs that use the likenesses of athletes, actors, artists, and other performers to them. Based on these proposals, the Council for Sports Ecosystem Promotion formulated and published guidelines on September 20, 2022, based on the results of discussions with relevant ministries, agencies, and sports organizations, etc.

⁵ For example, a service in which digital cards featuring the likenesses of athletes are converted into NFTs and users purchase such NFTs by using crypto assets or other means has become popular. In this service, the NFTs acquired by the user are granted the right to participate in fantasy sports tournaments free of charge, with cash prizes awarded to the participants with the best results.

- On the other hand, there are concerns that the development of fantasy sports services in Japan utilizing NFTs like those in Europe and the U.S. may fall under the Japanese gambling regulations, and sports organizations and businesses are cautious about providing the same type of services. As a result, the development of certain web3 projects in the Japanese sports market has been hindered.
- In addition, there is a concern that if a Japanese sports organization licenses the use of its players' portraits, etc., to a Western operator that develops fantasy sports using NFTs, the licensing by the sports organization may be found to constitute an offence of aiding a gambling crime. Therefore, there is concern that Japanese sports organizations will not be able to participate in the rapidly expanding fantasy sports market using NFTs in Europe and the U.S.

B. Proposal

- Proposal 1: Organize and establish guidelines regarding the legality of the business, etc.
 - Because similar business models for fantasy sports services using NFT are already rapidly developing in Europe and the U.S., the public and private sectors should work together to sort out the legality of gambling crime and the crime of running a gambling place for the purpose of gain, and then develop guidelines to show that certain types of businesses can be legally operated.
 - Furthermore, a vast market has emerged in the U.S. and elsewhere for a business model that provides prize money from user participation fees. This is the foundation upon which fantasy sports utilizing NFTs have rapidly developed in the U.S. and Europe. To sustainably develop the NFT-based fantasy sports market in Japan, the public and private sectors should work together to examine whether a similar business model is feasible in Japan.
- Proposal 2: Establishment of guidelines on legal methods of profit distribution, etc.
 - To realize the returns from the fantasy sports market using NFTs, which is rapidly expanding in Europe and the U.S., relevant ministries and industry associations must work together to establish guidelines, etc., and to present sports organizations and operators with legal methods of returning revenue through licensing, etc.
 - In addition, the sale of data by Japanese sports organizations to overseas sports betting service providers also shares some legal issues with the returns from the fantasy sports market using overseas NFTs, the public and private sectors should cooperate to resolve these issues

- in a unified manner.
- To achieve these goals, measures to prevent the "free-riding" of Japanese content from other countries should be quickly implemented. This should serve as a foothold for further developing the Japanese content industry in the web3 era.
 - Proposal 3: Establish rules, including the development of a model for the returns from secondary distribution
 - There continue to be doubts about receiving revenue from the secondary distribution of NFTs that use the portraits of players and performers, especially in cases where the player transfers to a different team or retires. Therefore, it is necessary for related organizations, relevant ministries and agencies, and industry associations to work together to urgently develop rules, including the formulation of appropriate revenue return models.

3. Other Points Requiring Consideration

In addition to the issues discussed in section 2 above, the web3PT will continue to study and follow up on the following themes proposed in the NFT White Paper, as well as other critical issues related to web3, while inviting the voices of those involved.

- Establishment of a system to formulate and promote national strategies for the Web 3.0 era: Is it possible to establish a "one stop consultation desk" to seek solutions to promote innovation in cooperation with the public and private sectors?
- Establish an environment for crypto asset settlement on NFT platforms: Is it possible for the FSA to provide interpretive guidance, such as by specifying in guidelines or other means that the management of crypto assets using escrow services is permissible under certain conditions?
- The legal position of banks in NFT related business: Is it possible for the FSA to guide the legal status of NFT-related business by banks (e.g., relationship with the scope of business regulations), such as by providing certain examples?
- Design protection in the digital space: While sorting out the limitations of measures under laws such as the Copyright Act and the Unfair Competition Prevention Act, the possibility of certain measures through the amendment of design rights should be considered in the future.
- Clarification of rules regarding royalties during secondary distribution: Is it possible to alert content holders to the limitations of royalty collection so that they can correctly understand the current situation? In addition, measures to realize cross-sectoral royalty collection under public-private partnerships should be considered.
- Promotion of understanding among content holders: Is it possible to establish information sessions and consultation desk services for content holders in the industry regarding the rights acquired by NFT holders, etc., and to create model terms for content licenses?

- Secure content data not stored on the blockchain: Is it possible to establish rules through guidelines for explanatory items by industry associations regarding the risk of losing content data represented by NFTs? In the future, the use of data storage mechanisms that do not depend on specific entities should be considered.
- Diversification of investment vehicles and schemes for blockchain related businesses: Is it possible to allow investment in businesses that acquire and hold crypto assets and tokens by investment limited partnerships through amendment or clarification of the interpretation of the Limited Partnership Act for Investment? The possibility of investment in blockchain-related businesses by the public-private partnership fund and others should also be considered.
- Develop and secure entrepreneurs and engineers skilled in the blockchain technology: As a measure to encourage overseas human resources who will pioneer the web3 era to move to Japan, is it possible for the government to hold and support international conferences inviting overseas talents and issue a special visa (crypto-VISA) for personnel with a certain level of knowledge and skills in businesses related to crypto assets.
- Consideration of introduction of measures such as mandatory identification, etc., to prevent money laundering: Considering the risk of money laundering and terrorism financing (ML/TF) using NFTs, necessary and effective ML/TF prevention should be considered from multiple perspectives in cooperation with the public and private sectors, while also taking into consideration the balance with the promotion of innovation.
- Regulation of NFT transfers to countries/regions subject to economic sanctions: Is it possible for the public and private sectors to consult with each other to spread awareness among the public that even NFT transactions could be subject to the authorization under Foreign Exchange Law in certain cases? This issue should be considered from

multiple perspectives through public-private consultations and international cooperation.

- Issuance of CBDC and its impact on the web3: As each country is considering the issuance of Central Bank Digital Currency (CBDC), consideration should be given to the impact of future issuance of CBDC on the web3 ecosystem, including Stablecoin.
- Trust using the Social Security and Tax Number System: The possibility of a trust guarantee mechanism using the Social Security and Tax Number System should be considered to identify individuals for anti-money laundering and web3 services.

End of Paper

web3PT Interview Schedule

Date	Theme	Interviewee
October 12 (Wed)	On the Evolving Web3 World and National Strategies	<ul style="list-style-type: none"> • Digital Garage, Inc. Director and Co-Founder Joichi Ito • Mori Hamada & Matsumoto Masakazu Masujima, Attorney at law
Friday, October 21	About the web3 Tax System	<ul style="list-style-type: none"> • Japan Blockchain Association (JBA) • Japan Crypto Asset Business Association (JCBA) • Japan Association of New Economy
Wednesday, October 26	Content Strategy in the web3 Era	<ul style="list-style-type: none"> • Japan Content Blockchain Initiative (JCBI) • DENTSU Inc. Solution Creation Future Insight Department
Wednesday, November 2	DAO Legislation	<ul style="list-style-type: none"> • Next Commons Lab • Nagashima Ohno & Tsunematsu Keiji Tonomura, Attorney at Law
November 10 (Thursday)	Urgent proposal (draft) on web3-related taxation	—
	Audit of Token Business ⁶	<ul style="list-style-type: none"> • Japan Association of New Economy • The Japanese Institute of Certified Public Accountants
Wednesday, November 16	The Situation Concerning FTX	<ul style="list-style-type: none"> • Financial Services Agency (FSA)

⁶ Joint Meeting of the Digital Society Promotion Headquarters and web3PT

Date	Theme	Interviewee
Friday, November 18	Issues and Current Status of Token Auditing	<ul style="list-style-type: none"> • HashPort Inc. • Japan Virtual and Crypto assets Exchange Association (JVCEA)
November 24 (Thursday)	Sports Business and web3	<ul style="list-style-type: none"> • Japan Professional Football League (J League) • Council for Sports Ecosystem Promotion
Friday, December 2	Social Impact and the Web3 World	<ul style="list-style-type: none"> • Panasonic Holdings Corporation • World Scan Project, Inc.
December 7 (Wed.)	Stablecoin and Financial Services in the Web3 Era	<ul style="list-style-type: none"> • Mitsubishi UFJ Trust and Banking Corporation • Japan Crypto Asset Business Association (JCBA) • Financial Services Agency (FSA)

web3 Project Team Working Group

Name	Office
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Ken Kawai, Attorney at Law	Anderson Mori & Tomotsune
Keiji Tonomura, Attorney at Law	Nagashima Ohno & Tsunematsu
Kaku Hirao, Attorney at Law	Nishimura & Asahi
Masafumi Masuda, Attorney at Law	Mori Hamada & Matsumoto
Ryo Matsukura, Attorney at Law	(Working Group Office)
Masataka Asahi, Attorney at Law	(Working Group Office)
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