

# CSA allows Fidelity Digital Asset Services to act as liquidity provider to Fidelity Clearing Canada

January 26, 2023

On January 17 and 18, 2023, the Canadian Securities Administrators (CSA) [issued two decisions](#)<sup>1</sup> (the Decisions) that, taken together, allow Fidelity Digital Asset Services, LLC (FDAS), a New York regulated trust company that provides custody and trade execution services for digital assets, to act as a liquidity provider to Fidelity Clearing Canada (FCC) in connection with FCC's crypto asset trading platform.

With the issuance of these Decisions, the CSA has taken another significant step to regulate all aspects of the digital asset industry in Canada, including global players, marketplaces and liquidity providers.

## Background

FDAS' only Canadian client is FCC. Nevertheless, the CSA considers FDAS to be facilitating the purchase, sale and settlement of "Crypto Contracts" with FCC. In this case, the Crypto Contract is the contractual right to the crypto assets that FCC purchases from, or sells to, FDAS from time to time. As FCC's liquidity provider, FDAS applied for time-limited relief exempting it from: the requirements to be recognized as an exchange and a clearing agency or a settlement system; the requirement to comply with the marketplace rules; the prospectus requirement in respect of the Crypto Contracts; and the derivatives trade reporting requirements.

The relief, which will expire in five years, is subject to a number of conditions, including:

- FDAS will not provide its services to any Canadian client other than FCC;
- FDAS will only continue to offer its services to FCC so long as FCC is registered as an investment dealer, is an IIROC member dealer in good standing, and is in compliance with applicable securities law;
- FDAS will continue to be regulated as a New York trust company;
- FDAS will comply with specific financial viability, market integrity and conflict of interest conditions;
- FDAS will maintain certain books and records and internal controls, policies and procedures to manage operational risks; and
- FDAS will report certain specified events or information to the Ontario Securities Commission.

BLG is proud to have worked with FDAS and FCC in obtaining this novel relief. To date, no other foreign liquidity provider has obtained relief from the Canadian securities regulators to provide crypto asset trading services to Canadians.

## How BLG digital assets can help

BLG is committed to helping our clients navigate the challenges and opportunities that 2023 may bring, of which there may be many. [Our Digital Assets team](#) helps clients to determine their regulatory status and to work closely with the regulators to obtain appropriate registrations or exemptions. We understand the digital asset business and we work with our clients to put into place a plan that balances investor protection concerns with the need for innovation while securing a feasible business model. We are also aware that domestic and global participants may be faced with different challenges and obstacles and need to plan accordingly.

**As Canada's largest law firm, BLG serves the digital assets industry nation-wide, leveraging its national expertise in asset management, litigation and class actions, regulatory compliance, corporate finance, mergers and acquisitions, insolvency and restructuring proceedings, and many other practice groups. Given BLG's extensive experience in the industry and its national platform, our lawyers are adept at advising Canadian stakeholders in the industry based on their particular situations.**

<sup>1</sup> The January 17, 2023 decision of the British Columbia Securities Commission, as principal regulator, will be made publicly available in due course.

By

[Carol Derk](#), [Julie Mansi](#), [Galen Flaherty](#)

Expertise

[Digital Assets](#), [Registrant Regulation & Compliance](#)

---

## BLG | Canada's Law Firm

As the largest, truly full-service Canadian law firm, Borden Ladner Gervais LLP (BLG) delivers practical legal advice for domestic and international clients across more practices and industries than any Canadian firm. With over 725 lawyers, intellectual property agents and other professionals, BLG serves the legal needs of businesses and institutions across Canada and beyond – from M&A and capital markets, to disputes, financing, and trademark & patent registration.

[blg.com](http://blg.com)

### BLG Offices

#### Calgary

Centennial Place, East Tower  
520 3rd Avenue S.W.  
Calgary, AB, Canada  
T2P 0R3

T 403.232.9500  
F 403.266.1395

#### Ottawa

World Exchange Plaza  
100 Queen Street  
Ottawa, ON, Canada  
K1P 1J9

T 613.237.5160  
F 613.230.8842

#### Vancouver

1200 Waterfront Centre  
200 Burrard Street  
Vancouver, BC, Canada  
V7X 1T2

T 604.687.5744  
F 604.687.1415

#### Montréal

1000 De La Gauchetière Street West  
Suite 900  
Montréal, QC, Canada  
H3B 5H4

T 514.954.2555  
F 514.879.9015

#### Toronto

Bay Adelaide Centre, East Tower  
22 Adelaide Street West  
Toronto, ON, Canada  
M5H 4E3

T 416.367.6000  
F 416.367.6749

The information contained herein is of a general nature and is not intended to constitute legal advice, a complete statement of the law, or an opinion on any subject. No one should act upon it or refrain from acting without a thorough examination of the law after the facts of a specific situation are considered. You are urged to consult your legal adviser in cases of specific questions or concerns. BLG does not warrant or guarantee the accuracy, currency or completeness of this publication. No part of this publication may be reproduced without prior written permission of Borden Ladner Gervais LLP. If this publication was sent to you by BLG and you do not wish to receive further publications from BLG, you may ask to remove your contact information from our mailing lists by emailing [unsubscribe@blg.com](mailto:unsubscribe@blg.com) or manage your subscription preferences at [blg.com/MyPreferences](http://blg.com/MyPreferences). If you feel you have received this message in error please contact [communications@blg.com](mailto:communications@blg.com). BLG's privacy policy for publications may be found at [blg.com/en/privacy](http://blg.com/en/privacy).

© 2024 Borden Ladner Gervais LLP. Borden Ladner Gervais LLP is an Ontario Limited Liability Partnership.