

What it takes to rebuild confidence with consumers, institutions and investors



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Trust has always been an issue when it comes to digital assets. Ever since the birth of Bitcoin and the explosion of other cryptocurrencies over a decade ago, digital assets have challenged the status quo and spawned scepticism, if not outright hostility, from those in traditional finance.

Yet, as we explored in our recent Financial Markets Insights paper and accompanying documentary looking at 'The Era of Convergence', traditional and decentralised finance are now becoming more intertwined. In this context, the various market shocks and the collapse of key companies in the ecosystem which took place in 2022, most notably the fall of FTX, have once again caused onlookers to question their trust in the digital asset market.

The past year or more has seen a host of high-profile companies collapsing in the wake of failures, mismanagement and alleged fraud in the crypto market. The fallout from the downfall of companies such as lending company Celsius Network, hedge fund Three Arrows – and the once prominent cryptocurrency exchange FTX and its affiliate Alameda Research – sent shock waves through the ecosystem and caused major damage to cryptocurrency prices.

This raises important questions too about the failings of Centralised Finance (CeFi) and of the gaps that exist in the current digital asset market infrastructure more broadly. And to top it all off, even banks are not immune from market shocks with the industry being further affected by the loss of banking services caused by the collapse of Signature Bank and Silicon Valley Bank – both banks specialised in serving high-tech and cryptocurrency firms.

So, rather than simply blaming bad actors, which exist in every industry (including TradFi), or waiting for regulators to act, what can the industry itself do?

How can responsible firms educate the market, restore trust in the digital asset space and pioneer a better model where the benefits of TradFi (standards, regulation, consumer protection) are combined with the security, transparency and innovation offered by decentralised technologies?

In this paper we speak to key market participants to understand what went wrong, how does the industry move past its "Enron moment", what should be changed and what it will really take for the industry to rebuild confidence with investors and financial institutions?



**Helen Disney**Director, Blockchain and Digital Assets,
The Realization Group



**Toby Babb**Founder and CEO,
Harrington Starr



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### Participants include:



**Lee Schneider** General Counsel, Ava Labs



Sean Kiernan CEO, Greengage





Rosario Ingargiola Founder and CEO, Bosonic





Toby Babb
Founder and CEO,
Harrington Starr





Teana Baker-Taylor Vice President, Policy & Regulatory Strategy, EMEA, Circle



Matt Stover
President,
MG Stover





Kam Patel CEO, Custodiex





**Jack McDonald** CEO, PolySign





Jannah Patchay
Originating Member
& Policy Lead,
Digital Pound Foundation



Helen Dis
Director, B
and Digital
The Realiza

Helen Disney
Director, Blockchain
and Digital Assets,
The Realization Group





Mick Burke
Director of Sales,
Fireblocks





Matt Homer Board Member, Standard Custody





Rebecca Park
Senior Practice Director,
Global Counsel





**Timo Lehes**Co-Founder and CEO,
Swarm





**Hirander Misra**Founder and CEO,
GMEX Group





## What it takes to rebuild confidence with consumers, institutions and investors

2022 was not a good year for the blockchain and cryptocurrency markets. Frontpage headlines reported on the collapse of high-profile companies, mismanagement and alleged fraud. We read highly detailed accounts of the downfall of Decentralised Finance (DeFi) lenders, Celsius and Three Arrows Capital. Then there was the de-pegging of the experimental Terra/Luna UST stablecoin. And, of course, there were massive hacks. In March 2022, \$612m of Ethereum and USDC was stolen in the Ronin Bridge attack. Perhaps the final straw was the disintegration of FTX, a leading cryptocurrency exchange, and its affiliate Alameda Research. The firm, led by Sam Bankman-Fried, who seemed to epitomise the ideal, young, brilliant-yet-nerdy tech CEO, left consumers and institutional investors bereft, unable to recover their investments. These events sent shock waves through the industry, precipitating 'Crypto Winter,' where the market cap fell by as much as 85% from January 2022.

In retrospect, many complex factors were at play: bad actors, lax cybersecurity protocols, and the failings of Centralised Finance (CeFi), which invested billions of venture capital into unscrupulous firms.

The result was catastrophic. In many cases, consumers saw the value of their cryptocurrency portfolios drop to pennies on the dollar. Politicians and legislators spoke up in response, keen to devise a better framework to reform the industry.

More recently the downfalls of Silvergate, Signature and Silicon Valley Banks have shown that, despite regulation, CeFi institutions can still fail. The collapse of these widely used entities posed significant risks of contagion to digital asset firms, emerging technology companies and other banks. In this case, the US and UK governments stepped in to blunt the impact and protect investor deposits.

Enacting regulation is a fine balance. Too many rules can stifle growth prompting innovators to flee to more open markets; too few protective structures can lead to short-sighted, reckless business practices that are harmful for consumers, investors and broader ecosystems.

The future of financial services is most certainly digital. Distributed ledger technology (DLT) is fast changing our concept of how money and payments work. Central Bank Digital Currency (CBDC), bank-backed stablecoins and instant multi-currency settlement are firmly on the horizon. Tokenised financial instruments – equities, bonds and commodities – promise to reduce our reliance on counterparties and vastly increase trading efficiencies. Jurisdictions that roll out overly strict rules will stifle innovation and cause market arbitrage. Start-ups and established firms will simply move across borders to less onerous environments to grow without constraint. Many in the industry are not sitting and waiting for regulations to come. Instead, they are taking a proactive approach to restoring confidence in their business models.

For this paper, we spoke to 14 such leaders from layer-1 blockchains, banks, custody providers, crypto exchanges, technology providers and industry associations on restoring the trust with institutions, investors and consumers. Interviews took place in February 2023, with participants offering their views and insights on:

- The reasons for the crisis and industry's response
- · Myths and misunderstandings perpetuated by the media
- The need for better rules of engagement: the segregation of custody and trade execution, proof of reserves, robust auditing and due diligence
- · Improving risk management practices
- New priorities for regulators and legislators
- The role and importance of education
- What we can expect next: new regulations, use cases, and market growth

A number of key themes emerged. Universally, participants felt that re-establishing trust was critical to the ecosystem and to their businesses' success. Furthermore, it was the duty of the industry to proactively 'save itself' and not wait for regulatory action. Firms needed to act responsibly and sustainably in a more customer-centric manner. Customer assets should be ringfenced, recoverable and kept separate from operating expenses or investments. Sound Know Your Customer (KYC) practices should be required prior to onboarding. Additionally, lessons could be learned from the 2008 financial crisis, particularly around the role of prudential and conduct-level risk frameworks applied preventatively to mitigate many events leading to the recent crypto winter.

Furthermore, with more widespread use of cryptocurrencies (in essence, 'digital money') the damage from a data loss is even more profound. Our interviewees reiterated the importance of robust cybersecurity practices and the role of custodians.

Finally, participants highlighted the need for education and myth-busting. Negative stories about the cryptocurrency market have skewed and dominated recent media coverage. In contrast, actual use cases and content on the benefits of Distributed Ledger Technologies (DLTs) have been less effectively communicated. In this environment, it is difficult for time-poor consumers and policymakers to understand this emerging technology and what it means for financial services. It becomes more challenging than ever to develop effective regulatory and compliance regimes leading to knee-jerk decision-making or 'regulation by enforcement,' which is not good for anyone.

The adoption of new technology is never a straightforward, linear process. We will have bull and bear markets where poor use cases fail and better ones take shape; however, the most successful firms will emerge.

There are many pragmatic approaches to take us forward. Our financial markets have taken hundreds of years to evolve. There are many excellent reasons for Traditional Finance (TradFi)'s risk management and separation of duties and controls. These should not be entirely abandoned because we now have more efficient technology, new market players and exciting new possibilities with DeFi. We can simultaneously look to the past and the future as we develop more workable business models, rules of engagement and regulatory regimes to restore confidence and help our industry thrive.

#### A crisis of trust is evident

Most participants agreed with the statement that people have lost faith in the crypto and digital assets sector in the wake of the 2022 crypto winter. **Teana Baker-Taylor**, Vice President, Policy & Regulatory Strategy, EMEA at Circle, a global digital financial technology firm and the issuer of USD coin, puts it succinctly: "trust has been damaged and reasonably so. The challenge we have now is distilling between actual crypto or digital assets risks and the reputational damage caused by failures related to fraud, a lack of corporate governance, and appropriate and adequate leadership within financial services companies."



"There was a lot of misplaced trust. If something is too good to be true, it probably is. If someone is giving you an 18% yield, you need to ask yourself what they are doing to allow them to do that."

Teana Baker-Taylor, Vice President, Policy & Regulatory Strategy, EMEA at Circle

Matt Homer, Board Member at Standard Custody, a qualified and insured digital asset custodian, echoes this saying: "trust takes a long time to build but can be lost very quickly... the onus is now on the industry to prove that it has fixed its problems."

However, not all participants felt that the loss of trust was universal. **Rosario Ingargiola**, Founder and CEO at Bosonic, a decentralised financial markets infrastructure provider, notes that while "trust has been damaged from a retail and regulatory perspective, many institutions benefitted from the volatility and price action." He says candidly: "many of them are just traders and don't care about what's going on with the broader industry."



"The only way for digital assets to grow as an industry is by becoming part of the real economy and delivering value from inside a regulated environment."

Many factors led to the crisis of confidence. Respondents pointed to the overreaching activities at the crypto exchanges, many of which were lending, borrowing and trading market-making rehypothecation assets. Some were creating their own stablecoins and co-mingling customer funds with corporate funds.

Rebecca Park, Senior Practice Director, Global Counsel

Jack McDonald, CEO of PolySign, parent company of Standard Custody and MG Stover, doesn't mince words: "it was a combination of a lack of risk management, regulatory oversight and adult supervision mixed in with a little bit of fraud, and a whole lot of greed and avarice."

It was not just the crypto companies at fault either. Many institutional investors exacerbated the situation. **Sean Kiernan**, Founder and CEO at Greengage, a digital merchant banking pioneer, says "several metrics-driven investors were looking for growth to justify their valuations. And in doing so, there was less notice of bad behaviour regarding governance."

Rosario Ingargiola (Bosonic) says that some of the exchanges on the retail side were taking advantage of loopholes. He explains that they did this because they were "regulated as money service businesses (MSBs) with minimal regulations, and not as brokerages or exchanges with more onerous rules." He points out that they were actually permitted to hold assets of clients on their own balance sheets as money service businesses, which theoretically made it acceptable to lend those assets out to others.

**Teana Baker-Taylor** (Circle) adds: "there was a lot of misplaced trust. If something is too good to be true, it probably is. If someone is giving you an 18% yield, you need to ask yourself what they are doing to allow them to do that."

## The call for regulatory action is loud and clear

The incidents of 2022 resulted in consumer harm, and politicians and representatives did not miss a beat in speaking out to trigger action from regulators. **Kam Patel**, CEO of Custodiex, a digital asset custody solution provider, says that "globally, we've seen the call for regulation move forward. It's in the news after recent incidents that these things are occurring, and the regulators and governments have to react."



"Traditional finance is not transparent at all, but it's heavily regulated. Rightly or wrongly, we trust the regulation process, audits, etcetera, and thus those markets."

Lee Schneider, General Counsel, Ava Labs



**Rebecca Park**, Senior Practice Director at Global Counsel, a strategic advisory firm, says, "the only way for digital assets to grow as an industry is by becoming part of the real economy and delivering value from inside a regulated environment."

Lee Schneider, General Counsel at Ava Labs, a software company focused on the layer 1 blockchain protocol, Avalanche, compares the need for crypto regulation to that of TradFi. He says: "traditional finance is not transparent at all, but it's heavily regulated. Rightly or wrongly, we trust the regulation process, audits, etcetera, and thus those markets. Blockchain creates a lot of transparency for things on-chain, which should allow for trust without heavy regulation. Crypto exchanges need to find the sweet spot so they can achieve trust, especially in light of last year's events."

Many respondents felt that the lack of regulations created an environment where bad actors could flourish. **Sean Kiernan** (Greengage) adds, "regulations will be a big deal in setting a level playing field. A lot of the names (FTX, Three Arrows, Terra/Luna UST) weren't really regulated. They were essentially behaving by other rules."

### We need better rules of engagement and risk management

With so many different focus areas needing attention, it is difficult to know exactly where to start to improve trust in the cryptocurrency and digital assets ecosystem. Participants' views tended to be coloured by their industry subsector. In the case of larger financial institutions, **Jack McDonald** (PolySign) adds that "one of the silver linings after a difficult year is that there will be a real reset in terms of how institutions think about how they enter the business, how they trade, custody and report, which will ultimately be healthy."

**Mick Burke**, Director of Sales at digital asset custody technology provider, Fireblocks, thinks the priority should be to mitigate risk. He says, "we need to have proper risk management and due diligence on our counterparties that we're trading with, and the best sort of operational security compliance risks covered off."

Adding to this, **Teana Baker-Taylor** (Circle) thinks that developing regulation will help more firms 'walk the talk' and behave in a reputable manner. She says, "regulators are looking at ways to ensure greater consumer protections and market integrity – such as demonstrating operational resilience, uptimes, adequate security features, PEN test results. Policymakers will ask the industry to demonstrate they're creating a safe and sound environment for people to move value."

Kam Patel (Custodiex) feels that good security practices and architecture are critical. "Trust," he says, "is driven by iron-clad security. We built our product around an institutional-grade, real-time cold storage approach to the custody assets of digital assets."



"I think exchanges having custody of client assets is going to go away and be segregated... those exchanges will get regulated like brokerages, which is what they really are in their current form."

Rosario Ingargiola, Founder and CEO, Bosonic

**Rebecca Park** (Global Counsel) thinks that "the most obvious area where we could see firms leaning in is in the fraud and economic crime space. Companies need robust KYC and illicit finance prevention measures."

**Matt Stover**, President of MG Stover, a fund administration firm for digital assets, thinks that regular audits by independent third-party firms and establishing proof-of-reserves / proof-of-stake are critical. He highlights, "the need to regularly verify that the amount of digital assets held by a custodian matches the amount of assets held by its customers" and to "accurately monitor credit worthiness and other nuances beyond customer liability."



Similarly, consumers should be proactively informed if firms will lend or invest their assets. **Rosario Ingargiola** (Bosonic) reflects that "it's really simple. If you're interacting with a retail customer, they must opt-in to anything that represents a risk or conflict of interests. If you're planning to do stuff with their money that you're not disclosing, then they have to opt-in to that."

On 15 February, US Securities and Exchange Commission Chair Gary Gensler released a statement indicating that the SEC is considering a proposal to expand the role of qualified custodians in securing assets on behalf of investors. If enacted, this legislation would reign in the activities of many crypto exchanges to ensure that "advisers don't inappropriately use, lose, or abuse investors' assets."

We spoke to many participants before Mr Gensler's statement was released, and custody, whether self-directed or designated custody, was front of mind.

Many of our interviewees felt that the exchanges were conducting too many concurrent activities like issuing digital assets and managing custody services as well as trading, routing and developing apps and that this "workflow presented too much key man risk, especially for larger institutions."

**Mick Burke** (Fireblocks) believes there is risk in outsourcing essential services. He adds, "you really can't trust anyone but your own standard operating procedures these days, especially in digital assets. Working with a sub-custodian means outsourcing the security of an asset, as well as the operational component of record-keeping and safeguarding in relation to that asset," he continues. "Financial institutions often achieve better results by deploying a direct custody system for digital assets. Direct custody enables financial institutions to provide a more seamless user experience, retain tighter control over risk and compliance operations and leverage their own balance sheets."

**Rosario Ingargiola** (Bosonic) sums up the majority view of our respondents. "I think exchanges having custody of client assets will go away, and this function will be segregated... those exchanges will get regulated like brokerages, which is what they are in their current form."

## The myths of crypto remain persistent

The crisis of trust was not just the fault of lack of regulation, poor business practices and bad actors. In many cases, myths and misinformation were propagated by the media to be recirculated and amplified on social media. Consumers and policymakers had difficulty separating truth from fiction, fuelling a hyper-volatile crypto market with stratospheric highs and hard collapses. The respondents poked holes in several myths:

#### Myth 1 - "Crypto is one industry"

Lee Schneider (Ava Labs) says that "'crypto' is so many different things because tokenisation can apply to any asset, item or bundle of rights. NFT collectibles have different functions and features than layer 1 protocol tokens. The person who bought an NBA Top Shots NFT has vastly different goals for that token than if she bought a layer 1 protocol token like Bitcoin, Ether or AVAX tokens."



"One such myth was that DeFi failed, whereas in reality, it was the downfall of centralised, unregulated operating models."

Hirander Misra, Founder and CEO, GMEX Group



#### Myth 2 - "DeFi was the problem. It doesn't work in the real-world and causes turmoil in the markets"

**Hirander Misra**, Founder and CEO, GMEX Group, a global market infrastructure provider for trading digital assets, notes: "one such myth was that DeFi failed, whereas, in reality, it was the downfall of centralised, unregulated operating models."

**Rosario Ingargiola** (Bosonic) adds, "The problem is a lot of the issues at FTX and Genesis – these are all essentially CeFi players, right? They were not using blockchain in their businesses other than sending a crypto asset over a layer-one protocol. So, they're not DeFi. They were not using the technology to make things trustless."

#### Myth 3 - "We've never seen anything like this crypto winter before"

**Jack McDonald** (PolySign) notes: "A [typical] bear market is defined as being down 10% or more. Our crypto winter last year was down 70%. So, it's much more painful than a traditional bear market in the stock market. But in a sense, they're the same."

**Sean Kiernan** (Greengage) believes that the cause of the crypto winter is more systemic. "I think the bigger impact on valuation has been quantitative easing (QE). And if we see the recent upswing, part of it may be a sentiment in the broader markets that QE might return. And cryptocurrencies, particularly Bitcoin, interestingly seem to present a defensive position against inflation, which is here."

## Regulatory priorities from square one

The participants felt that the lack of regulatory framework makes business conditions challenging. One respondent says frankly, "it's like driving down the highway with no idea of the speed limit. At any one point, you might get pulled over for speeding by a different regulator, or 'police' from a city, county, or state. They all have their view on speeding, but nobody tells you what that is."

Another participant points out that regulators are procrastinating. "They don't want it to happen on their watch... there are a lot of regulators who actually don't want a regulated space, particularly in Washington. Their objective is not to regulate it and to keep it outside of the regulated system as much as possible."



"If we do it well, we will bring people into the fold to engage in good behaviours."

Sean Kiernan, Founder and CEO, Greengage

## Where to begin depends on your corner of the market

Lee Schneider (Ava Labs) thinks we should start with the basics. "We should focus on developing core principles," he says. "High-level aims and tenets for market integrity, disclosure, privacy, anti-fraud and so on. Once these tenets are defined at an umbrella level, you can build detailed regulations underneath."

Many participants agreed with the principle of "same activity, same risk, same regulation." This idea, used in EU and the UK, imposes similar requirements upon different players in a market segment, regardless of the legal nature of each entity. Its goal is to create a level playing field to spur innovation where fintechs can better compete with larger institutions.

**Rebecca Park** (Global Counsel) thinks we need to start with bare minimum protections. She says: "at the very least, we should start with protections and ring-fencing for customer assets and client money."



Payments and stablecoins are another regulatory priority area. **Matt Homer** (Standard Custody) says, "stablecoins are becoming the payment system of the future. And will probably be the first area where there's regulatory clarity."

Taking this point further, **Jannah Patchay**, Originating Member and Policy Lead of the Digital Pound Foundation says: "regulators should look at the policy and structures for digital assets as forms of money that will be used for payments. They need to encourage innovation and development in the space."



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Jannah Patchay, Originating Member and Policy Lead, Digital Pound Foundation

She also thinks we should examine cryptocurrency regulations and expand consumer protections. She says that "high risks loans and swaps are taking place. These shouldn't be allowed and are doomed to fail."

**Timo Lehes**, Co-Founder and CEO of Swarm, a blockchain-based tokenisation and trading platform, thinks the regulators should focus on "interacting with market participants. That's the only way to get it right. If they sit at their desks and draw up rules in isolation, it will not be a workable solution. It will lead to regulatory arbitrage and people moving to more lenient jurisdictions."

**Sean Kiernan** sees a real opportunity at hand. "If we do it well, we will bring people into the fold to engage in good behaviours. The danger is that, if you have regulation that is too heavy or makes it impossible for firms to engage, they'll just go elsewhere or choose less regulated routes. And then you don't prevent the bad behaviour."



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Timo Lehes, Co-Founder and CEO of Swarm

## The lack of clarity remains problematic

**Jack McDonald** (PolySign) says that "it's challenging to run a company in this space when there's not a uniform view in this country and globally, of what these assets are – are they a security, commodity or currency? Who's regulating them? As a result, there is a lot of regulation by enforcement."

Another respondent said: "nobody wants to talk to the SEC right now... they say, 'come talk to us.' And if then if you expose anything to them, it's like, 'wait, that's wrong'. So now, we want to punish you or stop you from trading. It ends up being counterproductive."

Banks that had previously provided consumers with access to crypto exchanges see risk and have taken a heavy-handed approach to limit access to them. As a result, it is harder for the industry to secure investment to grow and move past the current crisis. **Teana Baker-Taylor** (Circle) thinks that the 'de-banking' of crypto makes it difficult for consumers, even educated ones, to invest. "Many banks have effectively turned off consumers' credit cards when onboarding and offboarding with crypto platforms. If you were 'crypto-curious' or new to the industry, you might think those challenges are not worth it."



## Education will re-energise the industry

Many respondents spoke of the importance of education to restore trust and in rebooting the marketplace. Each stakeholder, whether a consumer, partner, legislator or policymaker, will have different needs.

Lee Schneider (Ava Labs) prefers more of a back-to-basics approach. "As the technology is new, there is a steep learning curve... with Ava Labs' 'Owl Explains' series, we go through how blockchains work, what is tokenisation, smart contracts, wallets – the basics. Tackling a new subject takes time to learn and understand."

Some participants felt a more nuanced approach was needed. "At this stage, I would not be going to the regulators to say, 'I'm coming to educate you' – instead, it's about being transparent. Firms need to demonstrate the attitude that they're an open book, show what they're doing, answer questions and help [the regulators] understand it."

**Timo Lehes** (Swarm) thinks the focus should lie on "demonstrating beneficial use cases" that show the real value of digital assets and DLTs.

**Teana Baker-Taylor** (Circle) says that education should take place directly and in person. "I can't stress enough the incredible importance of having a seat at the table providing your feedback directly, or through a trade organisation, to respond to consultations or meeting with your policymakers."

### Creating the future now

Many participants felt now, in a bear market, was the ideal time for their firms to build. They had several predictions for the space in the next six to 12 months.

#### 1 - Institutions will enter the space.

Rosario Ingargiola (Bosonic) predicts: "big institutional players will step in and take market share from crypto natives... and when they [institutions] roll out real offerings, there will be a huge shift. In turn, people will go to smaller crypto-native firms to access things they can't get at a BNY Mellon... maybe a staking or another interesting product."

Kam Patel (Custodiex) thinks despite recent tech layoffs, 2023 will be a year of recovery. He says, "talented employees from big companies with new pink slips will go off and try to build new solutions. It will inspire entrepreneurs to build elements of this ecosystem they think are missing and seen from the inside."



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Kam Patel, CEO of Custodiex

#### 2 - Jurisdictions lead or will catch up quickly.

**Hirander Misra** (GMEX Group) believes that "we'll see continued leadership from Asia, particularly Singapore in the institutional and governmental space and Africa in payments. We shouldn't, however, discount the US. I think we'll see them play catch up from a regulatory standpoint."





"Many take the view that cryptocurrency will be a more of a pilot programme to prove the underlying technology and efficacy around DLTs and blockchains. But the real capital markets opportunity is around the tokenisation of assets."

Jack McDonald, CEO of PolySign

#### 3 - Advancing use cases pave the way forward.

**Jannah Patchay** (Digital Pound Foundation) predicts the rollout of more "commercial stablecoin products backed by fiat."

Similarly, **Jack McDonald** (PolySign) muses that we'll "start to see more from a Central Bank Digital Currency standpoint. Many take the view that cryptocurrency will be a more of a pilot programme to prove the underlying technology and efficacy around DLT and blockchains. But, the real capital markets opportunity is around the tokenisation of assets."

Matt Homer (Standard Custody) believes that physical assets will start to be tokenised. As a result, we'll see "more real-world assets coming on-chain. It's something that everyone's wanted to see for a very long time, and it might start happening in a meaningful way."

**Mick Burke** (Fireblocks) thinks we'll see more in the web3 realm. "Fireblocks is working with some of the world's biggest institutions and corporates to enable use cases in web3. Brands like Nike, Adidas, HSBC, and Warner Brothers are partnering with web3 studios to build a new way to engage existing customers and win customers. This necessitates the provision of a secure infrastructure which protects against both external and insider threats, with the ability to scale to meet growing market demand whilst providing connectivity to the web3 ecosystem."

**Sean Kiernan** (Greengage) predicts that DLTs will be used to create digital identity frameworks for anti-money laundering (AML). He says, "there are fantastic possibilities to improve AML by centralising digital identity frameworks and using zero-knowledge proofs to protect privacy. This is what's most exciting about web3. If we can do that, we can start to see real benefits."



"The rise of web3 necessitates the provision of a secure infrastructure which protects against both external and insider threats, with the ability to scale to meet growing market demand whilst providing connectivity to the web3 ecosystem."

Mick Burke, Director of Sales, Fireblocks



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