Cryptocurrency in Corporate Insolvency: Challenges for Asset Recovery and Creditor Protection in Malaysia (A Comparative Study with Uk and Singapore)

Amira Nurul Aina Amir Asree[1], Ain Nur Afiqah Binti Saifulzaman[2], Hanis Adiba Binti Halizan[3], Nur Fakhira Binti Khairul Anuar[4], Umar Mahfuz Bin Sulaiman[5] , Syuhaeda Aeni Binti Mat Ali[6]

Faculty of Law, Universiti Teknologi MARA, Malaysia.

DOI: https://doi.org/10.47772/IJRISS.2026.100601421

Received: 06 July 2026; Accepted: 11 July 2026; Published: 22 July 2026

ABSTRACT

Traditional corporate insolvency systems are facing serious issues as a result of the growing use of cryptocurrencies in business transactions and corporate investment portfolios. Although digital assets like cryptocurrencies can be valuable parts of a company’s estate, the insolvency process is made more difficult by their decentralized and extremely volatile character especially when it comes to asset recovery and creditor protection. This study discusses deeply at the practical and legal issues surrounding cryptocurrencies in Malaysian corporate insolvency processes with a focus on how well the current legal system handles new digital asset problems. With a focus on the Companies Act 2016 and the regulatory framework created by the Capital Markets and Services (Prescription of Securities) (Digital Currency and Digital Token) Order 2019, the study first examines the current legal position in Malaysia regarding corporate insolvency and digital assets. The study also identifies institutional and regulatory actions that could improve insolvency administration involving digital assets and increase legal certainty by comparing the legal strategies adopted in Singapore and the United Kingdom. The results imply that the present Malaysian framework is still inadequate to handle the special features of cryptocurrencies in insolvency procedures. As a result, the study suggests specific legislative changes, judicial clarification, improved regulatory cooperation and the creation of specialized insolvency procedures.

Keywords : Cryptocurrency, Corporate Insolvency, Digital Assets, Asset Recovery, Creditor Protection in the United Kingdom and Singapore.

INTRODUCTION

The emergence of cryptocurrency as a material component of modern commercial activity has raised difficult legal questions in a number of areas of law, including corporate insolvency law. Corporate holdings of digital assets such as Bitcoin and other cryptocurrencies are growing as investment tools, payment solutions and treasury assets. These innovations have improved financial efficiency and market access but have also revealed the limits of traditional insolvency frameworks. Insolvency practitioners are faced with unique challenges in identifying, securing, valuing, tracing and distributing digital assets for the benefit of creditors when a company holding cryptocurrency enters into insolvency proceedings[1]. Unlike conventional forms of property, cryptocurrencies are intangible, decentralized, borderless, pseudonymous and highly volatile and therefore are fundamentally different from assets contemplated under traditional insolvency legislation.

The practical relevance of this issue is illustrated by the collapse of several crypto related companies around the world. For instance, significant difficulties in tracing and retrieving digital assets dispersed over several jurisdictions and digital wallets were made evident by the 2022 bankruptcy of the cryptocurrency exchange

[1] Nydia Remolina, Aurelio Gurrea-Martínez and Daniel Liu, ‘The Treatment of Digital Assets in Insolvency’ (2024) *Oxford Handbook of Digital Assets and the Law* (forthcoming). Retrieved May 25, 2026, from https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4915592

FTX[2]. These developments point to the significant challenges that insolvency practitioners may face in preserving asset value and ensuring an equitable distribution to creditors when cryptocurrency forms part of the insolvent estate.

The Companies Act 2016 is the main legislation that governs corporate insolvency in Malaysia, with the Companies (Corporate Rescue Mechanism) Rules 2018 and other subsidiary regulations. However, these laws were created with traditional assets in mind and have no specific rules on how to treat cryptocurrency in insolvency proceedings. Although digital assets are recognized and regulated for capital market purposes under the Capital Markets and Services (Prescription of Securities) (Digital Currency and Digital Token) Order 2019 and are regulated by the Securities Commission Malaysia. But questions still linger on ownership rights, tracing of assets, custody, valuation methods and creditor priorities when cryptocurrencies are part of an insolvent company's estate[3].

By contrast, the United Kingdom and Singapore have made great strides in the development of recognition and regulation of digital assets in private law and insolvency contexts. In the United Kingdom, the landmark decision in AA v Persons Unknown established that cryptocurrency can be property capable of proprietary protection under English law[4]. The court in Ruscoe v Cryptopia Ltd (in Liquidation) also accepted cryptocurrencies as property held on trust for account holders, a ruling that has been cited in common law discussions around digital asset insolvency[5]. On the other hand, Singapore has also adopted a progressive approach whereby in CLM v CLN the court recognised cryptocurrency as property that is amenable to proprietary injunctions, thereby entrenching the legal status of digital assets in Singapore's legal system[6]. Singapore's modern insolvency regime under its Insolvency, Restructuring and Dissolution Act 2018 may also be more conducive to emerging digital asset disputes.

In this regard, this paper examines the challenges posed by cryptocurrency in corporate insolvency in Malaysia with respect to asset recovery and creditor protection. The first part discusses the existing Malaysian legal framework on insolvency and digital assets. The second part examines the strengths, weaknesses, deficiencies and regulatory gaps which arise when traditional insolvency principles are applied to cryptocurrency. The third part provides a comparative analysis of the legal approaches in the United Kingdom and Singapore in order to identify potential reforms. In order to effectively address the realities of digital assets and guarantee that the core goals of insolvency law for the maximization of asset value and protection of creditor interests remain sufficiently protected in the digital economy, it is argued that Malaysia needs targeted legislative intervention, judicial clarification, and specialized insolvency protocols.

LITERATURE REVIEW

The Current Position of The Law

Malaysia has gradually developed a regulatory framework governing cryptocurrency through the collaboration between Bank Negara Malaysia ("BNM") and the Securities Commission Malaysia ("SC"). Cryptocurrencies do not have the status of a legal tender in Malaysia. However, some types of digital currencies and digital tokens are treated as digital assets under securities laws in Malaysia[7]. This role is administered by the SC, while BNM supervises anti-money laundering and financial stability concerns. However, despite increasing regulatory recognition of cryptocurrency, significant uncertainty remains regarding its treatment within Malaysia's corporate insolvency framework.

---

[2] *Ibid*

[3] Cone, G., Bjorklund, N. S., & Dyekman, G. C. (2021). Digital assets and property rights in insolvency. *Trusts & Trustees*, *27*(5), 406–413. https://doi.org/10.1093/tandt/ttab051

[4] [2019] EWHC 3556 (Comm)

[5] [2020] NZHC 728

[6] [2022] SGHC 46

[7] Securities Commission Malaysia. *Guidelines on Digital Assets.* Kuala Lumpur: Securities Commission Malaysia, 2024.

ISSN No. 2454-6186 | DOI: 10.47772/IJRISS | Volume X Issue VI June 2026

While cryptocurrencies are classified as digital assets under the Malaysian securities law, Malaysian legislation does not specifically categorize cryptocurrency as a form of property. This creates critical doctrinal issues related to ownership rights, proprietary remedies and insolvency administration. Such uncertainties become particularly significant within corporate insolvency proceedings as identifying, recovering, valuing and distributing assets is fundamental to the protection of creditors.

Corporate insolvency law plays a critical role by providing mechanisms through which financially distressed companies may either be rehabilitated or liquidated in an orderly manner. Historically, insolvency law was primarily concerned with collective debt enforcement and the maximization of creditor recoveries through liquidation. Over time, contemporary insolvency systems has changed from one focused primarily on liquidation to one that primarily focuses on corporate rescue, business restructuring and preserving the value of the business[8]. Malaysia's corporate insolvency framework is mainly governed by the Companies Act 2016, supplemented by amendments introduced through the Companies (Amendment) Act 2024[9]. The framework consists of four primary mechanisms which are schemes of arrangement, corporate voluntary arrangements (CVA), judicial management (JM) and winding up proceedings. Collectively, these mechanisms demonstrate that Malaysia is transitioning from a liquidation-oriented insolvency system towards a rescue-oriented restructuring system.

Under the Malaysian law, one of the most vital restructuring methods is the scheme of arrangement, as outlined from Section 366 to 369 of the Companies Act 2016. It enables insolvent companies to negotiate compromises with creditors under court supervision[10]. Similarly, judicial management reflects the growing influence of corporate rescue principles within Malaysian insolvency law. Judicial management permits the court to appoint an independent judicial manager, whose responsibility is to take control of a distressed company with the intention of rehabilitating the business or selling it for a better outcome than liquidation[11]. Coupled with the Companies (Amendment) Act 2024, this 2024 Act further strengthened Malaysia's restructuring framework with greater access to judicial management and enhanced rescue financing mechanisms. These reforms indicates Malaysia's intention to align its insolvency framework with international best practices and promote a rescue-oriented insolvency culture[12].

One of the most significant legal questions surrounding cryptocurrency concerns its classification within existing legal categories. Whereas traditional assets can usually be assigned a specific legal definition, most cryptocurrencies possess characteristics associated with multiple legal concepts simultaneously. They may function as mediums of exchange, stores of value, speculative investment instruments or transferable digital assets. Due to this, our current legal system has difficulties determining whether cryptocurrencies should be regarded as currency, securities, commodities, property or an entirely new category of asset.

It is to be noted that Malaysian regulators have opted to regulate cryptocurrencies primarily through securities law. The most significant development occurred with the introduction of the Capital Markets and Services (Prescription of Securities)(Digital Currency and Digital Token) Order 2019[13]. This development represents a substantial regulatory advancement in Malaysia's cryptocurrency framework in which this order establishes a foundation for a regulatory environment for the purpose of digital currencies. Regulation 3 of the 2019 Order stipulates that digital currencies and tokens are classified as securities, provided they are typically traded and

---

[8] Finch, Vanessa, and David Milman. *Corporate Insolvency Law: Perspectives and Principles*. 4th ed. Cambridge: Cambridge University Press, 2023.
[9] Ahmad Shariff, Nurretina, et al. "A Philosophical Analysis of the Corporate Rescue Mechanism in Malaysia." *UUM Journal of Legal Studies* 12 (2021): 167–189.
[10] Companies Act 2016 (Act 777) (Malaysia)
[11] *Ibid*
[12] Ahmad Shariff, Nurretina, et al. "A Philosophical Analysis of the Corporate Rescue Mechanism in Malaysia." *UUM Journal of Legal Studies* 12 (2021): 167–189.
[13] Capital Markets and Services (Prescription of Securities) (Digital Currency and Digital Token) Order 2019 (P.U. (A) 27/2019) (Malaysia).

provide value through the process of trade, conversion or redemption. Through this instrument, certain digital currencies and tokens were classified as securities for the purposes of Malaysian capital markets legislation.

By bringing cryptocurrencies within the scope of securities regulation, Malaysian law implicitly acknowledges that digital assets are more than mere technological phenomena. Instead, they are recognised as assets which are capable of investment, ownership and commercial exploitation. While this provides regulatory flexibility, it also creates uncertainty because cryptocurrency remains classified differently across various areas of law[14].

The Malaysian regulatory framework governing cryptocurrency is principally administered by two institutions i.e the BNM and the SC of Malaysia. BNM primarily focuses on financial stability and anti-money laundering concerns. In 2018, BNM introduced its Anti-Money Laundering and Counter Financing of Terrorism (AML/CFT) Policy for Digital Currencies (Sector 6)[15]. This policy classifies digital currency exchange providers as reporting institutions subjected to customer due diligence, record-keeping and suspicious transaction reporting obligations. This policy paper specifies further detailed requirements imposed on the reporting institutions, inside or outside Malaysia where they will be subject to the obligations under the Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities Act 2001 as mentioned in Paragraph 4.2 of Sector 6. The policy reflects the fact that cryptocurrency may facilitate money laundering, terrorist financing, tax evasion and other illegal financial activities due to its decentralised and pseudonymous nature.

Meanwhile, the Securities Commission of Malaysia plays an essential role in regulating cryptocurrency as an investment asset. Following the introduction of the 2019 Order by the SC, they introduced the Guidelines on Digital Assets, a comprehensive framework governing Digital Asset Exchanges (DAX), Initial Exchange Offerings (IEOs) and token issuance activities[16]. Under these guidelines, cryptocurrency exchanges operating in Malaysia must obtain authorization from the Securities Commission and comply with governance, cybersecurity, disclosure and investor protection requirements[17]. This Guideline also provides that the Recognised Market Operator (RMO) must protect the interest of the client by keeping latest records of the investors as well as the money and digital assets held and making arrangements to protect clients against risk, loss and theft. The regulatory framework seeks to ensure market integrity while protecting investors from fraud and misconduct.

The answer to the issue on how cryptocurrency is categorised as an asset is crucial because insolvency law relies on identification, custody and distribution of the assets belonging to the insolvent estate. As such, if cryptocurrency is not recognised as property, insolvency practitioners may encounter difficulties recovering and distributing digital assets. Given its decentralised and intangible nature, cryptocurrency does not fit easily within the existing traditional property concepts. Cryptocurrency challenges these categories because it lacks physical existence and operates independently of centralised institutions. Consequently, determining its proprietary status is essential to understanding how cryptoassets should be treated in corporate insolvency proceedings.

A key weakness of Malaysia's current approach that impacts the country's ability to regulate cryptocurrency is because of regulatory fragmentation. Different regulators conceptualize cryptocurrency differently depending upon their institutional objectives. The SC regulates cryptocurrency as an investment asset whereas BNM focuses primarily on anti-money laundering and financial stability concerns. This fragmentation of regulations related to cryptocurrency creates doctrinal uncertainty resulting in the absence of a unified legal framework. While securities regulation provides oversight for investment-related activities, it does not comprehensively address questions when it comes to property rights, insolvency administration, trusts or secured transactions. Therefore, there are outstanding legal questions concerning how cryptocurrencies should be treated in insolvency proceedings. Additionally, there are currently no authoritative rules around blockchain tracing and investigation and regulations regarding the disclosure of digital wallets, how to secure custody of cryptocurrencies and how

[14] Ahmad Shariff, Nurretina, et al. "A Call for Regulation of Estate Administration of Cryptocurrency in Malaysia." *UUM Journal of Legal Studies* 14, no. 2 (2023): 735–764.

[15] Bank Negara Malaysia. *Anti-Money Laundering and Counter Financing of Terrorism (AML/CFT) – Digital Currencies (Sector 6).* Kuala Lumpur: Bank Negara Malaysia, 2018.

[16] Securities Commission Malaysia. *Guidelines on Digital Assets.* Kuala Lumpur: Securities Commission Malaysia, 2024.

[17] Ibid

to value cryptocurrencies. This lack of institutional expertise in this area may hinder effective insolvency administration in future cases involving significant cryptocurrency holdings.

METHODOLOGY

This study adopts a qualitative doctrinal legal research methodology to examine the legal status and regulatory treatment of cryptocurrency under the Malaysian law and its implication within the context of corporate insolvency. Doctrinal legal research focuses on the systematic analysis of legal rules, principles, statutes, judicial decisions and regulatory instruments in order to evaluate the current state of the law and identify areas requiring reform. This methodology is utilised due to the objectives of this study is to assess whether existing Malaysian legal frameworks adequately recognise and regulate cryptocurrency as a digital asset and whether such recognition is sufficient for insolvency administration.

The primary sources examined in this study includes Malaysian legislation, regulatory instruments and policy documents. Particular emphasis is placed upon the Companies Act 2016, the Capital Markets and Services (Prescription of Securities) (Digital Currency and Digital Token) Order 2019, the Securities Commission Malaysia's Guidelines on Digital Assets and Bank Negara Malaysia's Anti-Money Laundering and Counter Financing of Terrorism (AML/CFT) - Digital Currencies Policy. These sources provide the legal and regulatory foundation for understanding Malaysia's approach toward cryptocurrency regulation. In addition to primary legal materials, this study also relies on secondary sources including academic journal articles, scholarly commentaries, international policy reports and legal analyses concerning cryptocurrency regulation, property law and insolvency.

This study also employs a comparative legal approach by examining developments in the United Kingdom and Singapore. Comparative analysis is appropriate due to both jurisdictions having developed influential jurisprudence recognizing cryptocurrency as property and have addressed issues concerning proprietary rights and digital assets recovery. Comparative analysis further enables the identification of best practices and legislative reforms relevant to the Malaysian context.

The research however is limited to the legal recognition and regulatory treatment of cryptocurrency under Malaysian law and does not undertake an empirical analysis of cryptocurrency markets, investor behaviour or technological aspects of blockchain systems.

FINDINGS AND DISCUSSION

The Current Issues

In 2021, Malaysia, ranked seventh globally in cryptocurrency ownership among twenty-seven countries[18]. Despite this achievement, Malaysia to this date has yet to establish a comprehensive legal regime that is capable of addressing the unique challenges of digital assets especially in respect to corporate liquidation and bankruptcy proceedings. Due to that absence, we ought to discuss the current issues of Malaysian courts' decisions to understand the recognition of cryptocurrency as property capable of legal protection. For instance, in **Robert Ong Thien Cheng v Luno Pte Ltd & BitX Malaysia Sdn Bhd**[19], the High Court ordered restitution of Bitcoin that had been mistakenly transferred and therefore argued that the decision implicitly recognises Bitcoin as a form of property capable of ownership and recovery. Similarly, in **PP v Mohammad Fadino Khairuman & Anor**[20], the court acknowledged that Bitcoin was eligible for forfeiture actions, regardless of its intangible form or its storage with overseas custodians.

[18] Sooi, C. C. (2022, January 18). Malaysia ranks 7th in cryptocurrency ownership out of 27 countries. Focus on Malaysia.
[19] [2020] MLJU 150
[20] [2026] 4 CLJ 645

Next, the proprietary status of cryptocurrency in corporate insolvency has never been conclusively decided and determined by a Malaysian court. To make matters worse, the Companies Act 2016 is silent on whether cryptocurrency constitutes "property" for the purposes of **Section 472(1) of the Companies Act 2016.** Under this provision, it vests all company property in the liquidator upon winding up. Hence, if cryptocurrency is not definitively property under the Act, a liquidator's statutory power to take custody may not extend to digital wallets[21]. Thus, directors who might resist liquidation may argue that Bitcoin is merely a contractual entitlement rather than actual property that is capable of vesting. This uncertainty forces liquidators to then seek ad hoc court directions which in return will increase costs and reduce creditor recoveries[22]. As a result, the legislative failure to provide a definitive guidance remains a practical impediment.

In theory, the liquidator's powers appear extensive as in **Section 477 of the Companies Act 2016** which requires the liquidator to take custody and control of all company property. This fact coupled with recent Malaysian authorities demonstrate some sort of judicial willingness to adapt traditional remedies to cryptocurrency disputes. In **Zschimmer & Schwarz GmbH & Co KG Chemische Fabriken v Persons Unknown & Anor[23]**,the High Court granted a proprietary injunction and disclosure orders, accepting that digital assets may be traced and frozen in the same manner as conventional assets. However, the existence of these powers does not translate into their effective exercise against cryptocurrency. For example, **Section 241 of the Companies Act 2016** permits examination of directors and officers, but it does not expressly compel disclosure of private keys or wallet credentials. Thus, a director may simply claim that the private key has been lost or destroyed since cryptocurrency may be controlled entirely through information that can be memorised or concealed with ease. As of the time writing this article, there is yet a statutory offence specifically tailored to the non-disclosure of cryptographic keys in insolvency proceedings[24]

Putting ourselves in the shoes of a liquidator who has reason to believe that the company holds cryptocurrency, the first obstacle arises at the threshold of obtaining a Mareva injunction: the liquidator must identify the relevant wallet. Yet cryptocurrency transactions may be conducted anonymously where assets have been transferred through mixers or privacy coins, the liquidator may be unable to identify the recipient at all. The Insolvency Act 1967 and the Companies Act 2016 contain provisions designed to invalidate transactions that unfairly prejudice creditors. Section 53 of the Insolvency Act 1967 renders certain fraudulent preferences void, while Sections 528 and 426 of the Companies Act 2016 address undue preferences in winding-up and judicial management contexts. Upon further inspection, the broad language employed by these provisions can be argued to be sufficiently wide to encompass cryptocurrency transactions. Nevertheless, the textual applicability does not always guarantee a practical enforceability. As mentioned earlier, transfer of cryptocurrency may occur within seconds, pass through multiple wallets, and be routed through anonymity-enhancing technologies before eventually arriving at an overseas exchange. Although blockchain records are publicly visible, identifying the individuals behind wallet addresses often remains impossible.

The evidential difficulties associated with tracing cryptocurrency also undermine avoidance provisions. The circumstances in Zschimmer & Schwarz illustrates that successful tracing depends upon cooperative financial intermediaries who are capable of producing account records. A liquidator challenging a pre-insolvency transfer as an unfair preference may face substantial obstacles in proving both the identity of the recipient and the ultimate destination of the asset. The legal rights that depend upon the identification of counterparties become significantly less effective where assets can be transferred rapidly across borders without traditional financial intermediaries[25]. Inevitably, the harsh reality is that the statutory cause of action may exist under the Companies

[21] Kamis, N. S., & Wahab, N. A. (2022). Analysing the loopholes on estate administration of cryptocurrency in Malaysia. International Journal of Islamic Business, 7(2), 65-77

[22] Nur Syaedah Kamis, Norazlina Abd Wahab, & Mohammad Azam Hussain. (2023). A call for regulation of estate administration of cryptocurrency in Malaysia. UUM Journal of Legal Studies, 14(2), 735-764.

[23] [2021] 4 CLJ 449

[24] Zulhuda, S., & Sayuti, A. (2017). Whither policing cryptocurrency in Malaysia? IIUM Law Journal, 25(2), 179-196.

[25] Haentjens, M., de Graaf, T., & Kokorin, I. (2020). The failed hopes of disintermediation: Crypto-custodian insolvency, legal risks and how to avoid them. Capital Markets Law Journal

ISSN No. 2454-6186 | DOI: 10.47772/IJRISS | Volume X Issue VI June 2026

Act 2016 and Insolvency Act 1967, but the evidential foundation required to sustain it may be practically unavailable.

Both statutes provide mechanisms for the realisation of assets during insolvency proceedings. In principle, cryptocurrency can be sold on a recognised exchange, converted into fiat currency, and distributed among creditors. Despite that, the difficulty lies not in the existence of realisation powers but in the absence of guidance concerning valuation and timing as cryptocurrency markets are characterised by extreme volatility. For instance, a Bitcoin holding worth one million ringgit on the date of the winding-up order could be worth half that amount seven days later or one and a half million ringgit after a market surge[26]. This translates to a need for the Malaysian insolvency legislation to specify the relevant valuation date for cryptocurrency holdings.

The cumulative effect of the authorities discussed above reveals that Malaysian courts have shown considerable doctrinal flexibility in adapting existing legal principles to digital assets. Proprietary injunctions, Mareva injunctions, tracing remedies, proceedings against persons unknown, self-identification orders, and disclosure mechanisms have all been deployed successfully in cases involving technologically sophisticated wrongdoings.

Lessons from the United Kingdom

Compared to Malaysia, the United Kingdom ("UK") has a more developed legal framework concerning cryptocurrency, in terms of proprietary classification, insolvency, asset recovery, and creditor protections . This is because in the UK, in handling cryptocurrency matters, its legal system integrates common law property principles, equitable remedies, procedural innovation, and regulatory safeguards, providing a useful model for Malaysian insolvency law reform.

One of the significant strengths of the UK legal framework is in its solution to the question of whether crypto-assets fall within the ambit of property. The UK Jurisdiction Taskforce ("UKJT") Legal Statement on Cryptoassets and Smart Contracts (2019) confirmed that crypto-assets are capable of being recognised as property under English law despite their intangible and decentralised nature[27].This position was subsequently affirmed in the case of AA v Persons Unknown, whereby in this case Bitcoin was recognised as property capable of supporting proprietary injunctions[28].

In addition, the court's judgment in the case of D'Aloia v Persons Unknown has also provided clarification regarding the availability of the proprietary claims and/or tracing remedies for misappropriated crypto assets [29]. Therefore, based on these cases it can be said that legal certainty exists concerning the proprietary character of digital assets, an essential ingredient to settle issues pertaining to the insolvency treatment of crypto-asset.

It should be noted that such doctrinal clarity is important in insolvency proceedings. Under the broad definition of "property" in the Insolvency Act 1986, crypto-assets can be part of the insolvency estate in cases where beneficial ownership is established[30]. By contrast, Malaysian insolvency legislation does not expressly recognise crypto-assets as property, creating uncertainty regarding their classification and treatment during liquidation or bankruptcy proceedings. Besides that, the UK also has developed a sophisticated remedial framework for asset recovery. Courts regularly grant proprietary injunctions and worldwide freezing orders to prevent the dissipation of crypto-assets.

[26] Muhammad Hafizuddin Sufian, Nur Amisha Sutan Syahril, & Norhasliza Ghapa. (2024). Regulatory framework for cryptocurrency: A comparative analysis of Malaysia, Indonesia and Singapore. Malaysian Journal of Social Sciences and Humanities, 9(11), e003113.

[27] UK Jurisdiction Taskforce. (2019). Legal statement on cryptoassets and smart contracts. Retrieved 27 May, 2026, from https://lawtechuk.io/explore/ukjt-legal-statement-on-cryptoassets-and-smart-contracts/ .

[28] [2019] EWHC 3556 (Comm)

[29] [2022] EWHC 1723 (Ch)

[30] Insolvency Act 1986 (UK) Section 436.

ISSN No. 2454-6186 | DOI: 10.47772/IJRISS | Volume X Issue VI June 2026

On the other hand, the UK court also imposed disclosure mechanisms such as in the case of Norwich Pharmacal Co v Customs and Excise Commissioners whereby the court order enable courts to compel the Customs to disclose information that would help identify the wrongdoers[31]. This case created what is now known as a **Norwich Pharmacal Order** which is an order that allows a court to order an innocent third party to provide information that can help identify a wrongdoer.

Similarly, in the case of Bankers Trust Co v Shapira whereby in this case the Court of Appeal in this case order the Banks to disclose information as because it was necessary to trace and recover assets obtained through fraud[32]. This case created what is known as a **Bankers Trust Order** whereby it is a court order to banks and financial institutions to provide information that helps victims trace stolen or fraudulently obtained assets. It should be noted that such remedies are valuable in cryptocurrency disputes as they involve pseudonymous wallets and cross-border transactions, where conventional tracing mechanisms are often inadequate.

Procedural flexibility further strengthens the UK framework in combating cryptocurrency disputes whereby the English courts have shown its willingness to permit substituted service through electronic means, including blockchain-based methods where appropriate. Such flexibility enhances the effectiveness of enforcement against anonymous or unidentified defendants. These procedural mechanisms operate alongside interim remedies available under the Civil Procedure Rules, including freezing injunctions, disclosure orders, and ancillary tracing relief[33].

On the other hand, the existence of regulatory rules also complements these judicial developments. For example, The FCA Client Assets Sourcebook (CASS) requires regulated firms to keep customer assets separate from company assets[34]. The purpose is to ensure that customer assets remain protected and can be returned to their owners if the company experiences financial difficulties . Next, the UK further strengthen its investor protection through Financial Services and Markets Act 2023 which provides a stronger regulatory framework for digital assets and imposes greater responsibilities on firms that hold or manage customer crypto-assets[35]. Nevertheless, there are still challenges in dealing with assets that have been transferred to decentralized finance protocols, mixers or privacy enhancing technologies, which could limit the ability to conduct effective tracing and enforcement proceedings.

In contrast, currently Malaysian legal framework on crypto assets insolvency is unclear as there is no particular law or policy that regulates such an issue . Although digital assets are regulated under several legislation such as the Capital Markets and Services Act 2007, the Capital Markets and Services (Prescription of Securities) (Digital Currency and Digital Token) Order 2019, the Securities Commission's Guidelines on Digital Assets, and Bank Negara Malaysia's AML/CFT framework, these regulations focus more on regulating capital markets and protecting investors. Thus, the issue of whether crypto assets are personal property that can be assigned to a liquidator or whether they take the form of a claim against the custodian remains unclear[36]. This position is illustrated in the case of Robert Ong Thien Cheng v Luno Pte Ltd and BitX Malaysia Sdn Bhd, whereby the High Court ordered restitution of the Bitcoin, effectively recognising that Bitcoin has economic value and can be the subject of a legal claim[37]. This decision was significant because it showed the court willingness to provide legal remedies involving cryptocurrency. However, the issue regarding whether Bitcoin should be treated as

[31] [1974] AC 133.

[32] [1980] 1 WLR 1274.

[33] Civil Procedure Rules 1998 (UK) r 25.1

[34] Financial Conduct Authority. (n.d.). Client Assets Sourcebook (CASS). Retrieved May 27, 2026, from https://www.handbook.fca.org.uk/handbook/CASS/

[35] Financial Services and Markets Act 2023 (UK).

[36] Capital Markets and Services Act 2007 (Malaysia); Capital Markets and Services (Prescription of Securities) (Digital Currency and Digital Token) Order 2019: Securities Commission Malaysia. (2020). Guidelines on digital assets. Retrieved May 27, 2026, from https://www.sc.com.my/regulation/guidelines/digital-assets

[37] [2020] MLJU 2506

property within insolvency proceedings remain unclear. As a result, the uncertainty regarding how crypto-assets would be treated if an individual or cryptocurrency exchange became insolvent remains unclear.

Academic commentators such as See and Yip have the same view whereby they were in the opinion that important questions concerning ownership, classification, and tracing of crypto-assets remain unresolved[38]. Similarly, Matthias Haentjens, Thomas de Graaf and Roman Kokorin observe that users who hold cryptocurrency through exchanges may possess only contractual rights against the exchange rather than direct proprietary rights over the underlying crypto-assets[39].

Therefore, based on the above explanation, Malaysia may learn several lessons from the UK model whereby firstly there must be a legislative reform or authoritative judicial guidance that expressly recognise crypto-assets as property capable of forming part of an insolvency estate. Secondly, Malaysia should have an effective tracing and recovery mechanism for cryptocurrency cases such as in the UK (Norwich Pharmacal disclosure orders and Bankers Trust tracing relief). Thirdly, Malaysia should also adopt procedural flexibility in handling cryptocurrency cases such as allowing legal documents to be served by social media and other digital methods suited to the circumstances. By doing this it may makes the enforcement more effective and prevent fraudsters from avoiding liability simply by remaining anonymous. Fourthly, Malaysia may follow the Investor Protection through Custody Rule like the UK, where CASS makes it mandatory for the firm to have segregation of assets between the company and its client

Fifthly, similarly in the UK, different laws need to be incorporated in order to handle crypto-related issues in Malaysia, such as property laws, insolvency laws, trust laws, and financial regulation laws. By adopting these rules collectively, it will create a coherent framework that will provide better protection to investors, creditors, and insolvency practitioners.

Overall, the UK demonstrates how a clear property classification, effective equitable remedies, procedural flexibility, and regulatory safeguards can work together to enhance creditor protection and improve insolvency management of crypto assets in particular. Therefore, Malaysia should implement a similar strategy to regulate cryptocurrency-related cases and increase the level of creditors' coverage in terms of property claims.

Lessons from Singapore

Single Regulatory Umbrella Approach: Singapore's Payment Services Act 2019

In Singapore, the Payment Services Act 2019 (PSA) centralises cryptocurrencies under the Monetary Authority of Singapore (MAS), whereby it was stated that the Digital Payment Token (DPT) is required to obtain Service Provider licence and through this centralized approach, it enables direct oversight on cryptocurrency businesses and activities, and further facilitates cooperation with authorities and insolvency practitioners and at the same time, also enhances consumer protection, maintains supervisory oversight, and provides financial stability.[40] It is to be noted that Singapore courts have reinforced a judicial recognition of digital assets, this can be seen in the case of **Aaron Loh Cheng Lee and another v Hodlnaut Pte Ltd**, whereby it was found that cryptocurrency debts constitute real debts for insolvency purposes.[41] In another case, cryptocurrencies were recognised as property capable of being held on trust.[42] These centralized licensing system paired with judicial recognition of digital assets, together created a foundation for cryptocurrency insolvency proceedings in Singapore. By contrast, Malaysia currently recognises cryptocurrency only as a commodity through case law.[43] This lacks both

[38] See, A. W. L., & Yip, M. (2020). Restitution of mistakenly transferred Bitcoins. Law Quarterly Review, 136, 587–594.
[39] Haentjens, M., De Graaf, T., & Kokorin, I. (2022). The failed hopes of disintermediation: Crypto-custodian insolvency, legal risks and how to avoid them. International Insolvency Review, 31(3), 423–445.
[40] Monetary Authority of Singapore. (2022, April 27). MAS' approach to the crypto ecosystem [Speech summary].
[41] [2023] SGHC 2023
[42] Cheong, B. C., & Lin, K. (2024). Crypto assets are property, specifically, choses in action, that are capable of being held on trust. SAL Practitioner, 2024(2), 1–4.
[43] [2020] MLJU 2506

regulatory infrastructure and judicial clarity. Malaysia should introduce legislation requiring licensed Digital Asset Exchanges (DAXs) to cooperate with insolvency practitioners and comply with court orders to enable asset tracing.

Integrating Insolvency and Regulation: The COMI Framework and Cross-Border Jurisdiction

Singapore's Insolvency, Restructuring and Dissolution Act 2018 (IRDA) incorporates UNCITRAL Model Law on Cross-Border Insolvency into Singapore law.[44] Under the Model Law, COMI determines if a foreign insolvency proceeding shall be qualified as a foreign main proceeding.[45] This was applied in **Re Zipmex Co Ltd and other matters**, where the court accepted Singapore as the proper jurisdiction to supervise a cryptocurrency company's restructuring, on the basis that the company managed and controlled its crypto assets from Singapore.[46] Further, in the case of **Re Genesis Asia Pacific Pte Ltd**, where Genesis was made up of three related companies, two in the United States and one in Singapore. For the specific company incorporated in Singapore, the COMI analysis was applied to by the court, therefore recognising US Chapter 11 proceedings of a Singapore-incorporated entity that demonstrates Singapore's willingness to facilitate cross-border insolvency where assets are globally dispersed that can be interpreted as an efficient act reflected by the decision made by the Singapore court.[47]

By contrast, Malaysia has no express equivalent provision. DAXs operating in Malaysia face no express statutory obligation to comply with asset preservation orders in insolvency proceedings, leaving creditors exposed. Malaysia should enact a clear statutory nexus rule binding any DAX operating in Malaysia to comply with such orders, reflecting Singapore's approach, which has proven effective in preserving digital assets for creditors. The Cross-Border Insolvency Bill 2025 was tabled and passed in the Dewan Rakyat on 29 July 2025. It received Royal Assent on 20 January 2026 and was Gazetted on 30 January 2026. The Act adopts the UNCITRAL Model Law on Cross-Border Insolvency in Malaysia.[48] However, it does not specifically cover cryptocurrency such as in Singapore, under IRDA. Therefore leaving uncertainty when it comes to crypto assets, leaving creditors with issues such as difficulties in recovering or protecting their crypto assets.

Joint Recommendation for Law Reform: A Dedicated Legislative Framework

Singapore has established a framework for digital assets by judicially recognising that digital assets may be held on trust and that cryptocurrency obligations give rise to enforceable claims in insolvency proceedings. Liquidators were empowered under Section 144 IRDA with broad statutory powers to recover and realise crypto assets, as demonstrated in **Three Arrows case**.[49] While the Securities Commission Malaysia provided Guidelines on Digital Assets in 2020, it remains a purely capital markets regulatory instrument with no interface with insolvency law, thereby indicating a gap.[50] Section 465 of the Companies Act provides only a general winding-up mechanism inadequate for cryptocurrency and recovery.[51]

To address this, Malaysia should introduce a dedicated legislative chapter incorporating four reforms: first, express statutory recognition of digital assets as property capable of proprietary protection. Second, broad liquidator powers mirroring Section 144 IRDA.[52] Further, including authority to obtain documents and conduct examinations over cryptocurrency fund assets extended to foreign liquidators recognised under the UNCITRAL

---

[44] Global Restructuring Review. (2026). Malaysia's move to adopt the UNCITRAL model law on cross-border insolvency. Global Restructuring Review.
[45] *Ibid*
[46] [2022] SGHC 196
[47] [2023] SGHC 240
[48] A Step Forward: Cross-Border Insolvency Bill (2025).
[49] Memorandum Opinion And Order Granting In Part And Denying In Part The Foreign Representatives' Service Motion Appearances,Chapter 15, Case No. 22-10920. 23-24
[50] Securities Commission Malaysia. (2024). Guidelines on digital assets (SC-GL/1-2020, 3rd revision).
[51] Companies Act 2016, Section 465
[52] Insolvency, Restructuring and Dissolution Act 2018, Section 144

Model Law as demonstrated in *Three Arrows* case.[53] Third, a safe harbour for the valuation and realization of digital assets. Fourth, impose clear statutory duties on licensed DAXs, including obligations to maintain segregated digital assets and cooperate with insolvency practitioners in ensuring that digital assets can be traced, preserved, and distributed effectively in Malaysia insolvency proceedings.

CONCLUSION AND RECOMMENDATIONS

This paper has shown that the application of conventional corporate insolvency rules faces substantial obstacles due to the increasing incorporation of cryptocurrencies into business operations. Although Malaysia's current insolvency structure as outlined in the Companies Act 2016 is still largely successful for traditional assets, it was not intended to handle the special needs of digital assets. Due to the fact that the cryptocurrencies are pseudonymous, decentralized, transnational and extremely volatile in which poses practical and legal challenges that go beyond the presumptions of conventional insolvency law.[54] Therefore, in terms of identifying, safeguarding, valuing, tracking and realizing bitcoin assets for distribution to creditors may provide significant challenges for insolvency practitioners. These difficulties highlight serious weaknesses in the existing Malaysian framework and cast doubt on the efficacy of creditor protection in situations when insolvent businesses possess digital assets.

The analysis also showed that the core goals of insolvency legislation are undermined by flaws in asset tracing, private key possession and control, valuation uncertainty and crossborder enforcement. The value of an insolvent estate may be considerably reduced, and creditor interests may be harmed if digital wallets cannot be accessed or assets moved through decentralized networks cannot be recovered.[55] Furthermore, there is uncertainty for creditors, courts and insolvency practitioners due to the lack of clear legislative guidance about the proprietary status and insolvency treatment of cryptocurrencies. In the end, this ambiguity could undermine business confidence and make it more difficult to manage insolvency procedures involving digital assets.

The comparative analysis shows that the strategies used in Singapore and the United Kingdom can teach us important lessons. Through judicial recognition of cryptoassets as property and the creation of significant soft-law instruments such as the UK Jurisdiction Taskforce's Legal Statement on Cryptoassets and Smart Contracts which have enabled creative proprietary remedies and asset recovery mechanisms, the UK has advanced legal certainty.[56] By combining control of digital asset operations under the Payment Services Act 2019, Singapore on the other hand, has taken a more integrated regulatory strategy and established a clearer regulatory leverage point for enforcement and supervision.[57] These developments show that targeted reforms, judicial clarity, and specialized operational protocols can greatly improve the ability of insolvency regimes to respond to emerging technologies, without necessarily requiring a complete overhaul of current insolvency principles.

As a result, the suggestions made in this study are more than just theoretical or aspirational. Rather these are urgent and practical steps that are required to protect creditors, uphold market trust and guarantee the ongoing efficacy of Malaysia's bankruptcy regime in the digital era. The legislation needs to change quickly enough to keep up with technological advancements as the use of cryptocurrencies grows. In addition to strengthening creditor protection, a revised insolvency law that explicitly acknowledges digital assets, equips insolvency practitioners with efficient recovery tools and promotes crossborder collaboration will demonstrate Malaysia's

[53] Memorandum Opinion And Order Granting In Part And Denying In Part The Foreign Representatives' Service Motion Appearances,Chapter 15, Case No. 22-10920. 23-24

[54] Mangano, R. (2020). *Cryptocurrencies, cybersecurity and bankruptcy law: How global issues are globalizing national remedies. University of Miami International and Comparative Law Review, 27*(2), 355–394.

[55] Preparing for the Crypto Winter: Complexities in Cryptocurrency Exchange Insolvencies.. (n.d.) >*The Free Library.* (2014). Retrieved May 25, 2026 from https://www.thefreelibrary.com/Preparing+for+the+Crypto+Winter%3a+Complexities+in+Cryptocurrency...-a0782677646

[56] UK Jurisdiction Taskforce, 2019; *AA v Persons Unknown* [2019] EWHC 3556 (Comm); Law Commission, 2023

[57] Monetary Authority of Singapore. (2023). *Response to feedback received on proposed regulatory measures for digital payment token services.*

jurisdictional maturity. In the end, these changes would establish Malaysia as a safe, reliable and alluring center for lawful digital asset enterprises in the increasingly interconnected global digital economy.

REFERENCES

Cases

1. AA v Persons Unknown [2019] EWHC 3556 (Comm)
2. Aaron Loh Cheng Lee and another v Hodlnaut Pte Ltd [2023] SGHC 2023.
3. Bankers Trust Co v Shapira [1980] 1 WLR 1274.
4. D'Aloia v Persons Unknown [2022] EWHC 1723 (Ch).
5. Norwich Pharmacal Co v Customs and Excise Commissioners [1974] AC 133.
6. Re Genesis Asia Pacific Pte Ltd [2023] SGHC 240
7. Re Zipmex Co Ltd and other matters [2022] SGHC 196
8. Robert Ong Thien Cheng v Luno Pte Ltd and BitX Malaysia Sdn Bhd, [2020] MLJU 2506.
9. Ruscoe v Cryptopia Ltd (in Liquidation) [2020] NZHC 728

Legislation

1. Capital Markets and Services Act 2007 (Malaysia).
2. Capital Markets and Services (Prescription of Securities) (Digital Currency and Digital Token) Order 2019 (Malaysia).
3. Civil Procedure Rules 1998 (UK), r. 25.1.
4. Companies Act 2016 (Act 777) (Malaysia).
5. Companies (Amendment) Act 2024 (Malaysia).
6. Financial Services and Markets Act 2023 (UK).
7. Insolvency Act 1986 (UK), s. 436.
8. Insolvency, Restructuring, and Dissolution Act 2018 (Singapore)
9. Payment Services Act 2019 (Singapore)

Journal Articles

1. Ahmad Shariff, Nurretina, et al. "A Philosophical Analysis of the Corporate Rescue Mechanism in Malaysia." UUM Journal of Legal Studies 12 (2021): 167–189.
2. Ahmad Shariff, Nurretina, et al. "A Call for Regulation of Estate Administration of Cryptocurrency in Malaysia." UUM Journal of Legal Studies 14, no. 2 (2023): 735–764.
3. Cheong, B. C., & Lin, K. (2024). Crypto assets are property, specifically, choses in action, that are capable of being held on trust. SAL Practitioner, 2024(2), 1–4.
4. Haentjens, M., De Graaf, T., & Kokorin, I. (2022). The failed hopes of disintermediation: Crypto-custodian insolvency, legal risks and how to avoid them. International Insolvency Review, 31(3), 423–445.
5. Latiff, Norliza Abdul, et al. "Customer Protection and Money Laundering in the Era of Digital Currency." Management and Accounting Review 21, no. 3 (2022): 89–110.
6. See, A. W. L., & Yip, M. (2020). Restitution of mistakenly transferred Bitcoins. Law Quarterly Review, 136, 587–594.

Regulatory and Institutional Materials

1. Bank Negara Malaysia. (n.d.). Anti-money laundering, countering financing of terrorism and targeted financial sanctions for financial institutions. Retrieved May 27, 2026.
2. Cone, G., Bjorklund, N. S., & Dyekman, G. C. (2021). Digital assets and property rights in insolvency. Trusts & Trustees, 27(5), 406–413. https://doi.org/10.1093/tandt/ttab051

3. Financial Conduct Authority. (n.d.). Client Assets Sourcebook (CASS). Retrieved May 27, 2026, from https://www.handbook.fca.org.uk/handbook/CASS/
4. Memorandum Opinion And Order Granting In Part And Denying In Part The Foreign Representatives' Service Motion Appearances,Chapter 15, Case No. 22-10920. Retrieved June 6, 2026, from https://www.nysb.uscourts.gov/sites/default/files/opinions/312810_79_opinion.pdf
5. Nydia Remolina, Aurelio Gurrea-Martínez and Daniel Liu, 'The Treatment of Digital Assets in Insolvency' (2024) Oxford Handbook of Digital Assets and the Law (forthcoming). Retrieved May 25, 2026, from https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4915592
6. Securities Commission Malaysia. (2020). Guidelines on digital assets. Retrieved May 27, 2026, from https://www.sc.com.my/regulation/guidelines/digital-assets
7. Securities Commission Malaysia. (2024). Guidelines on digital assets (SC-GL/1-2020, 3rd revision). Retrieved May 24, 2026, from https://www.sc.com.my/api/documentms/download.ashx?id=ae96213d-e71b-4682-8ac6-127a6da558ea
8. UK Jurisdiction Taskforce. (2019). Legal statement on cryptoassets and smart contracts. Retrieved May 27, 2026, from https://lawtechuk.io/explore/ukjt-legal-statement-on-cryptoassets-and-smart-contracts/

Digital and Web sources

1. Global Restructuring Review. (2026). Malaysia's move to adopt the UNCITRAL model law on cross-border insolvency. Global Restructuring Review. https://globalrestructuringreview.com/review/asia-pacific-restructuring-review/2026/article/malaysias-move-adopt-the-uncitral-model-law-cross-border-insolvency
2. Monetary Authority of Singapore. (2022, April 27). MAS' approach to the crypto ecosystem [Speech summary]. Retrieved May 28, 2026, from https://www.mas.gov.sg/news/speeches/2022/mas-approach-to-the-crypto-ecosystem
3. Wong Han Wey, & Medha Ong Ann Ting. (2025, July 29). *A step forward: Cross-border insolvency bill 2025*. Lee Hishammuddin Allen & Gledhill. https://lh-ag.com/dispute-resolution-a-step-forward-cross-border-insolvency-bill-2025/