



Five things you should know about China's NFT market



1. Non-Fungible Tokens (NFTs) are embraced in China

NFTs have become a growing phenomenon in China as in many other places around the world since 2021. This is in spite of an unfavourable regulatory environment towards cryptocurrencies, which are also derived from blockchain technology.

Latest developments at a glance

- According to a list published by the Cybersecurity Administration of China (CAC) on 3 March 2022, an NFT issuance/incubation platform has become one of the latest market players to complete filings to be a “blockchain-based information service provider.” This clarifies the applicability of China’s developing blockchain regulatory regime to NFT businesses.
- NFT market players in China are not limited to private-sector enterprises – some players could also have a government background. The former includes such tech giants as Tencent, Alibaba and Baidu, which have launched their NFT marketplaces. The latter includes Xinhua News Agency and China Central Television, which have developed and issued their NFT products, and government-sponsored cultural artwork exchanges seeking to set up online trading platforms for NFT-based digital artworks.



2. Definancialisation

While the Chinese government is not hostile to the concept of NFTs per se, it is clear that the Chinese government will have zero tolerance for their financial use.

On 13 April 2022, industrial associations including the National Internet Finance Association of China, the China Banking Association, and the Securities Association of China jointly issued the **Proposals on Preventing NFT-related Financial Risks** (the **Proposals**), which set forth some basic principles for NFT-related businesses, with a focus on rebuffing the attempts to financialise or securitise NFTs. While these industrial associations are not government regulators and the Proposals have no legal effect, the Proposals may be seen as “testing the water” and may shed some light on future legislative direction.

Many key onshore market players have adopted the following measures to minimise the financial attributes of NFTs, in order to not be considered as engaging in illegal securities issuance, fundraising or exchange business, or violating the cryptocurrency and ICO ban in general:

- tokenising artworks on the consortium blockchain rather than the public blockchain;
- referring NFT products as “virtual collectibles” instead of “tokens” to avoid the apparent association with cryptocurrencies;
- prohibiting the use of cryptocurrencies for transactions of NFT products;
- suspending secondary trading of NFT products for the time being; and
- prohibiting any fractionisation of NFT products.

Some of the measures (such as the ban on secondary trading) may be relaxed or lifted as the regulatory framework on NFTs evolves. However, many others are expected to stay as standard industrial practices.

Foreign market players are advised to adopt the same measures to the extent possible when providing NFT-related services to Chinese residents, or those engaging in NFT businesses in China, to avoid being on the radar of PRC regulators.



3. Anti-Money Laundering (AML)

Another important aspect that the Chinese government is particularly wary of is the money-laundering risks arising from NFTs.

As to the Chinese onshore NFT market, such risk is indirectly controlled by the effort to definancialise NFTs, especially by limiting payments to be made through banks or licensed third-party payment companies that are AML-obligated persons. The risk is further reduced by the market practices to make NFTs analogous to “collectibles” as opposed to financial assets. However, foreign market players that intend to provide NFT-related services to Chinese residents on a cross-border basis should also be aware of the potential extraterritorial effect of the PRC AML laws, particularly the criminal laws. For the sake of prudence, foreign market players that intend to provide NFT-related services to Chinese residents are advised to follow the same approach adopted in relation to the Chinese domestic market when doing so.



4. Blockchain regulation

In early 2019, the CAC issued the Administrative Provisions on **Blockchain-Based Information Services** (the **Blockchain Provisions**) as the foundational regulation governing blockchain. As stated above, the Blockchain Provisions are relevant because blockchain is the underlying technology of the NFTs.

The Blockchain Provisions govern “blockchain-based information services carried out in China,” and subject “blockchain-based information service providers” to a series of regulatory requirements, including in particular the completion of post filings with the CAC within ten business days from the commencement of the services, and the need to receive security assessments when launching new products, new applications or new features. To elaborate, “blockchain-based information service providers” refer to persons that provide blockchain-based information services to the public or the nodes through which such services are provided, and the organisations or institutions that provide the aforementioned persons with technology support. From this definition, however, it is not entirely clear if a foreign blockchain service provider with no China nexus other than having PRC residents as users may be captured by the Blockchain Provisions. We will closely monitor any clarification in this regard.



5. IP and data considerations

Given that many NFTs link to copyrighted works (including images, music and artwork), their creation, distribution and commercialization raise IP issues. Notably, a Chinese court recently handed down the country’s first copyright infringement case involving a NFT digital work. NFT platforms should be aware of their potential liability, as at least one Chinese court has imposed a general obligation of preliminary IP review and monitoring of NFT works on their platforms. Please see our earlier [article](#).

China has a complex, overlapping regulatory regime concerning data protection and cybersecurity. Foreign market players that intend to provide NFT related services to Chinese residents should also carefully assess their obligations under PRC data protection legislations. Please refer to our offerings on the [China Data Regime](#).

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