

Bird & Bird

# Tokens

Our capabilities



# Supporting our clients

## Working with you

Wherever you are on your digitalisation journey, our international teams of lawyers are ideally placed to help you devise and implement effective strategies to maximise the value of your digital rights assets and their use in your organisation. This document gives an overview of our relevant tokens capabilities.

## Everything is connected

We are a truly international firm, organised around our clients. With our technical expertise and problem-solving experience, we'll help you unlock the potential of change and realise your ambitions.

With more than 1,400 lawyers and legal practitioners across a worldwide network of 31 offices, Bird & Bird delivers expertise across a full range of legal services. Our specialisms, based on an in-depth business understanding, include advice on digital rights & assets, privacy & data protection, commercial, corporate, EU and competition, intellectual property, dispute resolution, employment, finance & financial regulation, and real estate matters.

The key to our success is the ability to respond to the continuous business transformations driven by new technologies and massive use of data and investments in intangible assets, in all key sectors of the economy, including automotive, aviation & defence, energy & utilities, financial services, life sciences & healthcare, retail & consumer, media, entertainment & sport and tech & comms.

## International reach

We have offices in key business centres across the globe. Where we don't have presence, we have strong partner firms.

**Europe:** Amsterdam, Bratislava, Brussels, Budapest, Copenhagen, Dublin, Düsseldorf, Frankfurt, The Hague, Hamburg, Helsinki, London, Luxembourg, Lyon, Madrid, Milan, Munich, Paris, Prague, Rome, Stockholm, and Warsaw.

**Middle East, Asia-Pacific & North Africa:** Abu Dhabi, Beijing, Dubai, Hong Kong, Shanghai, Singapore, Sydney, and Casablanca.

**North America:** San Francisco.

# Bird & Bird & Tokens

NFTs and tokenised assets are currently one of the most talked about topics in every business on a digitalisation journey, no matter where they are in that journey. They are disrupting the way organisations think and operate. Key industries in which we have seen rapid tokenisation include retail and consumer, automotive, aviation & defence, energy & utilities, financial services, life sciences, media entertainment & sport, technology & communications, and healthcare. Tokenisation is becoming a key chapter in Bird & Bird's long history of working with businesses that are going through digital and technological change.

We'd be delighted to assist you on your tokenisation journey.

## What are we seeing?

Our clients are using tokens in many forms:

- as a means of exchange or payment to be used outside their ecosystem (currency-type tokens) or to access services within certain open blockchain platforms (native tokens);
- as digital representation of tradeable assets;
- for digital identities and KYC checks;
- to record corporate acts;
- to record and certify data (including supply chain, of genuine OEM parts and of energy sources as sustainable or carbon neutral);
- as digital collectibles (including of original and e-artwork, music, audio-visual content, gaming skins, etc.);
- as the basis for customer marketing and loyalty programmes;
- for product tracing; and
- as a foundation for activities in the metaverse.

## Tokens – a recap

From a legal perspective, a token is usually a cryptographically secured digital representation of value or contractual rights (including rights to a digital or physical asset) that uses a form of distributed ledger technology, and which can be purchased and sold, stored, and traded electronically.

## Why is tokenisation important?

Tokenisation is helping to reduce fragmentation, friction and inefficiencies in multi-party business processes. It is related to decentralising activities in a network where a large number of participants interact directly with each other as multilateral relationships no longer require centralised coordination or to be entrusted to a central intermediary (so-called 'tokenomics'). Tokenisation is becoming an important way of certifying the right of ownership of assets or providing independent authentication steps in a transaction. It is offering organisations across multiple sectors new ways of engaging with customers (including both consumers and businesses) and generating new revenue streams.

## What types of tokens are there?

Fungible
<b>Investment tokens</b> - security tokens <ul style="list-style-type: none"><li>- Confers administrative and / or economic rights to receive profits, interests and/or other right (e.g., ownership) on tradable assets.</li></ul>
<b>Utility tokens</b> - social tokens <ul style="list-style-type: none"><li>- Provides 'utility' or consumption rights, e.g., right to access or buy services / products that the ecosystem in which they are built offers.</li></ul>
<b>Currency tokens</b> - stablecoins, asset-referenced coins, non-stablecoins <ul style="list-style-type: none"><li>- Means of exchange or payment to pay for goods / services external to the ecosystem in which they're built.</li></ul>

### Hybrid tokens - native tokens

- A mixed set of economic rights (e.g., means of payment) and access-keys to services within some open blockchain platforms (such as data storage, calculation and validation services).

### Non- Fungible

#### Non-Fungible Tokens

- Represented by unique data, they may confer different rights (e.g., property rights vs. right of use or enjoyment) on specific, identified physical or digital objects, typically by collection or value-storage.

## Key-elements of the tokenomics ecosystem

The core technology infrastructure for tokenisation is provided by distributed ledgers technology/blockchain and smart contracts:

### Distributed Ledgers Technology (including blockchain)

**What:** peer-to-peer cryptographic communication and decentralised/shared data-storage system between participants in a network based on consensus mechanisms.

**Why:** enables secure, consistent and transparent transactions of digital assets, alignment of information and inalterability of data recorded. It is protected from the risk of theft, tampering or hacking.

**Features:** network of equivalent nodes (peers), data replicated in distributed (synchronised) ledgers, no need for a central authority.

### Smart Contracts

**What:** machine language instructions.

**Why:** automated verification, execution and enforcement of an operation or T&C of an arrangement between two parties.

**How:** causal logic ("If...Then...") and/or recursive rules ("run until that").

**Features:** smart legal contract - a written and legally enforceable contract with obligations written in code; smart contract code, designed to execute elements of smart legal contract if pre-defined conditions are met.

## Key considerations when considering developing tokens

It is important to consider tokenisation projects from multiple legal angles. Tokens projects often involve specialists from more than one area of legal practice to design a solution. We've set out below examples of common legal considerations.

### Commercial / Tech

- It is important to fully understand the business model underpinning the **relevant blockchain project** and draft the agreement accordingly. It is often a good idea to draft a term sheet (signed off by key stakeholders) that summarises the project and the key issues prior to drafting the long form agreement.
- **Example 1: Token project:** Does the project involve the minting of tokens (e.g. NFTs)? If

so, identify who will be issuing and minting the NFTs and selling them to end users and who will be providing the identified digital asset or physical object linked to the NFT. A typical structure is for the licensor (e.g. brand) to license the IP in a digital asset to a tech supplier and for the tech supplier to be in charge of: (i) deploying the smart contract to the relevant blockchain, (ii) minting the NFTs and associating them with the specified digital asset, (iii) selling the NFTs via a platform to end users, and (iv) providing a commission to

the brand in respect of platform sales. Key areas to consider include IP rights, regulatory compliance, commercial related issues (e.g. any minimum commitments) and technology related issues such as the availability of the platform.

- **Example 2: Non-token project:** Does the project involve the better sharing and recording of data between disparate parties using blockchain-based technologies (e.g. supply chain management)? If so, identify whether you are advising the customer accessing the blockchain network to better share and record the data or if you are advising the tech supplier providing access to the technology platform. A typical structure is for the tech supplier to provide access to an app that the customer can use to view data recorded on the relevant blockchain and provide data for recording on the relevant blockchain. The app then interoperates with a back-end blockchain network (either a public blockchain or a private blockchain). Key areas to consider include technology related issues such as licence rights to the app and also rules governing access/participation in the relevant blockchain network.

### Marketing/advertising

- International advertising / marketing laws are the subject of only **very limited harmonisation**, even in trading blocs such as the European Union. The range of laws applicable to the marketing and promotion of tokenised assets and related products and services can be broad, and frequently engages both general marketing law as well as regulations applicable to specific types of products and service, such as a regulation concerning the promotion of financial instruments and services. Determining which laws are applicable to a campaign can be very fact-specific and vary significantly depending on the precise product / service, the form of advertisement and medium through which it is distributed.
- Key areas of **advertising and marketing law** can include general advertising law, financial services regulation, broadcasting law and wider consumer protection laws.
- **Information/disclaimers** – organisations engaging in tokenisation often encounter genuine dilemmas in relation to the use of disclaimers and / or the extent of disclosure of information about a product or service required.
- **Change and enforcement** – the attitude of governments and regulators to both

substantive laws relevant to the marketing and promotion of tokenised assets and related products and services, and to the enforcement of these laws, is currently highly variable across jurisdictions, and evolving rapidly.

### Intellectual Property

- Especially where the rights carried by a token relate to digital content, data or other works typically protected by intellectual property laws, IP considerations are critical. Key considerations can include the following:
  - o Specific rights to be granted under primary licences (typically, the rights required to mint tokens in the first instance) and under secondary licences (the rights granted to a person acquiring the tokenised asset). The scope of secondary rights can be particularly challenging to define.
  - o Particular care should be taken in defining the scope of any exclusivity to be granted to a platform operator or other person seeking rights to create digital works to be associated with tokens.
  - o The commitments and warranties to be obtained from platform providers.

### Regulatory

- Organisations must carefully consider licensing and ongoing compliance requirements when developing and issuing tokens. Consideration must be given to **marketing restrictions** in all countries in which the tokens are offered or promoted. Requirements differ depending on the characteristics of the token and the rights given to token holders.
- There is **no harmonised regulatory framework** for tokens and so regulatory treatment must be approached having regard to each relevant country's existing regulatory framework.
- Key issues to consider include the following:
  - o Is a token a form of specified investment or financial instrument which could trigger licensing requirements or marketing restrictions in relation to its issuance or trading?
  - o Even if the token is not regulated as a specified investment or financial instrument, there are likely to be other issues to consider such as money laundering requirements to register with the relevant supervisory authority and to comply with ongoing **AML requirements** such as applying

customer due diligence on prospective token holders and having a designated money laundering reporting officer.

- **Marketing restrictions also** need to be considered and the general regulatory trend towards imposing restrictions on the marketing of fungible tokens with potentially less restrictions on non-fungible tokens, although this would need to be considered across each relevant jurisdiction.
- Each participant in the distribution chain for a token offering needs to consider its regulatory position, not just the platform issuing or facilitating the trading of the token.
- The regulatory environment is changing rapidly, especially with the **EU developing a Markets in Crypto-Asset Regulation (MICAR)** and the UK proposing to extend its financial promotion regime to fungible tokens.

### Finance / payments

- In financial services, a variety of use cases for tokens has already emerged, including the following:
  - o **Tokenised securities:** Tokenised securities are being used in a variety of contexts, including in crowdfunding (for example, for real estate financing, renewable energy projects and so on). (Re-)payment claims can be connected to tokens, which can serve as proof of ownership of the claim.
  - o **Venture capital funding:** VC funds are showing a willingness to use tokenised funding. A token can replace a traditional certificate and create a new, potentially convenient way of financing. Rights associated with tokens can be structured to closely replicate rights traditionally associated with share ownership, such as voting rights.
  - o **Syndicated loans:** Traditional banks may, on the establishment of syndicated lending or 'Schuldschein', use loans that are issued on the blockchain. The cooperation may include creating platforms on which loans are issued and transferred.
- In all of these use cases, it is essential that the legal connection between the token and the related / underlying claim / right is legally effective to **avoid the risk of the token** being transferred without the claims / rights. In this

context, a key question under conflict of laws rules will be which national law applies to the token. This is likely to be the law of the underlying right / claim, although whilst some jurisdictions have sought to create clear solutions for the transfer of tokens and related claims / rights, others are so far choosing to leave it to be dealt with in future case law.

- In the field of payments, tokens can be used either as a means of payment whose value may or may not be stabilised with reference to commodities, crypto-assets, or a basket of such assets, or as e-money with reference to one or more fiat currencies. When **structuring the issuing of payment or currency token**, a clear view on the strict regulation of e-money is essential. At the same time, it will usually be highly recommended to assess whether the rights structure embedded in the token makes it similar to a financial instrument. If so, tokens are subject to the extensive regulation of the financial sector.

### Commercial, technical, smart contracts

- Establishing a tokens platform, or minting and trading tokens, often involves a matrix of different contracts, including various sets of terms and conditions covering primary and secondary markets. In the case of NFTs or other tokens with which digital content or data are associated, there can be several additional licences and other contracts. It is important to map the various **contractual relationships** that need to be created to enable and regulate the minting, primary sale and secondary trading of all types of tokens.
- One of the attractions of **tokenising certain assets and transactions** is the opportunity for automation offered by the use of smart contracts embedded in platforms and tokens. The coding, registration, execution and monitoring of smart contracts is an important element of setting up any tokens issue. It is important to note that smart contracts often do not replace standard written agreements or terms and conditions in their entirety, and often the task of lawyers is to ensure consistency between human-readable terms and the parallel operation of related smart contracts.

### Data protection

- As with any other environment, the complex **tokens ecosystem** must comply with data protection and privacy law. Amongst other things, issuers must consider: (a) whose identities will be retained with respect to a

token, and by whom, and (b) how to provide notices and ensure compliant data sharing.

- For tokens that feature **personal data of identifiable individuals** - such as images and video footage - appropriate notice must be provided to those individuals, and a strategy must be put in place to manage data subject rights requests relating to published tokens.
- **Platform operators** will need to consider carefully all of the technical and jurisdictional flows of data necessary for the effective operation of primary and secondary markets, transactions, relevant record keeping and regulatory compliance.

### Dispute resolution

**Transactions and relationships on distributed ledger technologies** bring with them a host of new and potentially challenging issues when disputes arise. Organisations should be particularly careful about how disputes between participants to each type of transaction will be resolved:

- **Forum** – The benefits and drawbacks of distributed technology-based dispute resolution systems vs. traditional dispute resolution methods should always be considered, and in light of the specific transaction.
- **Applicable law** – If traditional dispute resolution is used, the judges in a particular forum should be familiar with the relevant technology. Smart contracts should be enforceable under the relevant applicable law.

### Tax

- Most **domestic tax regimes** generally do not fully cater for transactions involving tokens, and the tax consequences of tokens transactions remain largely uncertain.
- It is **vital that organisations** are across domestic tax law to verify reporting requirements, tax treatment of capital gains and the possibility to deduct losses.
- **Non-compliant organisations** may be subject to administrative tax penalties for underpayment of taxes, criminal penalties and/or seizure of the tokens.

### Tokens/ digitalisation resources

We have a number of tokens related resources available in case you wish to take a look. Here is a selection of interesting links:

- How blockchain works video, [click here >>](#)
- Smart contracts video, [click here >>](#)
- Blockchain and legal issues, [click here >>](#)
- What are NFTs?: Non-Fungible Tokens Part 1: What are NFTs, why are they interesting and what do they represent? [click here >>](#)
- Demystifying NFTs and IP, [click here >>](#)
- Fashion meets gaming, [click here >>](#)

## Our credentials

We have extensive experience of advising clients across sectors and jurisdictions on a wide range of tokens-related activities.

### Technology

- We have advised Prestashop (leading e-commerce open source solution using software available as a service on the cloud as well as on premise) on their traceability platform, PrestaTrust. The traceability operation that PrestaTrust aims to implement relies on two steps: proving the integrity of the module's code and proving ownership of a purchased module licence. The information registered on the Ethereum blockchain (with smart contract) in the framework of the PrestaTrust service is publicly retrievable on the blockchain and not modifiable. They may be part of a modification registration (for example, indication of the change of merchant's website) which does not alter the initial information ensuring the traceability of information. We drafted the agreements and assisted the client on French regulation (consumer law, data protection, liabilities, etc).
- We have advised a confidential client selling virtual assets and providing safekeeping and/or administration of virtual assets (providing advice regarding crypto and platform regulation, AML, assistance with the mandatory procedures before the competent authorities, drafting custodian wallet services agreement, drafting selling agreement and outsourcing agreement).
- We have advised a Chinese multinational technology and entertainment conglomerate on:
  - o the establishment of a new NFT marketplace; and
  - o the legal issues around issuing non-fungible tokens (NFTs) to consumers in Hong Kong.
- We have advised (and continue to advise) a developer of core blockchain infrastructure in relation to its open source, blockchain platform and cryptocurrency, including advising on a project involving cross-blockchain transfers of digital assets and tokens.

### Entertainment

- We have advised a metaverse media company on the development of a new digital artwork NFT trading platform, including regulation, trade mark licensing, corporate structuring, commercial agreements and all relevant terms and conditions, image rights licensing and content master licences.
- We have advised on an artwork masterpieces-backed NFT project, designing a compliant NFT system to cope with the challenges from IP and security laws.
- We have advised a financial, software, data, and media company by providing them with extensive advice on complex issues surrounding the marketing of tokenised assets, including NFTs and cryptocurrencies, related platforms and custodian services.
- We have advised a leading digital asset company on its IP licence and NFT development agreement with H Plus Creative (an artist studio) for the creation and distribution of NFTs based on art pieces created by these artists.
- We have advised ZDF Enterprise on NFT related matters.
- We have advised a crypto-gaming platform on various aspects of its initial coin offering, NFT minting and distribution, and game development. Our advice has covered a range of areas, such as drafting the end user terms for the platform, the marketplace terms for the exchange on which the company's NFTs can be traded, and the development and publishing agreement for the game in which those NFTs can be used. This has involved advice from our commercial, corporate, intellectual property, data protection, financial regulation, and tax teams.

## Corporate

- Advising a Gibraltar investor fund investing in cryptocurrencies on marketing in the UK and Italy.
- We have advised a US lottery platform on its ICO from an issuer incorporated in Ireland and offering tokens in certain EU countries and in Asia.
- Advising a global fintech company in connection with its strategic partnership with a blockchain software developer to create a blockchain platform for the syndicated loan market. The platform enables participants (agents) to publish and securely record information relating to their syndicated loans onto a private blockchain; data recorded on the blockchain can then be accessed by selected lenders. The partnership is a huge step in the syndicated loan market where information has previously been manually communicated between agents and lenders by phone, fax, and email. The new platform provides participants with access to real-time information on their syndicated loans.
- Assisting a multinational venture capital conglomerate on how they may want to enter the metaverse.
- We have advised a client on various agreements aimed at establishing a joint venture to develop and exploit a blockchain supported insurance platform.

## Sport

- We have advised (and continue to advise) a confidential international federation on the launch of an innovative digital collectibles marketplace through the use of NFTs. Specialist IP advice is required relating to the risks of using player names and images in the creation and promotion of the NFTs on the client's marketplace, and the onward risk of reseller activity. This is a novel area of law with a multitude of complexities given the licensing structures in place between the client, its members and players, and the various uses being made of player information on the other. This advice has been coordinated across several of our offices to ensure compliance in the sports' key territorial markets, which include UK, Australia and Singapore.
- We have advised Arsenal on its recent NFT deal with Socios (a leading sports fan engagement app).
- We have advised a number of other clients on running fantasy sports contests featuring NFTs, looking at whether the purchase of an NFT (with use/value outside the game as a collectible) constitutes 'payment to enter' for the purposes of gambling laws.
- We have advised a major Premier League football club on red flag issues regarding a limited edition NFT run, preserving its position regarding alternative offerings.
- We have advised The FA on whether NFTs are covered in an existing arrangement with Panini regarding the creation of trading cards (including digital versions thereof).
- We have advised the FIA in relation to potential issues regarding a related organisation creating NFTs and the interplay between the perpetual nature of an NFT in circumstances where a fixed term licence is in place.
- We have advised a major Formula One team on its new Digital Collectibles collection and on the promotion of crypto-asset partners.
- We have advised a motor sports event organiser on an electric cars NFT licensing programme.
- We have advised a blockchain software technology provider on its bid for a football league collectible NFT rights, including negotiating a term sheet. The deal is likely to be worth in excess of £250m.
- We have advised a football content organisation in a contract with a major football league in which the league is licensing its intellectual property rights to the client to create a metaverse experience.
- We have advised a sports club on its partnership arrangement with a blockchain platform relating to the issuance of fan tokens.
- We have advised a significant esports provider on the issue of e-tokens to be used as part of its gaming ecosystem.
- We have advised a football club on its partnership/sponsorship arrangements with a gaming company carrying out an initial coin offering on its gaming platform.
- We have advised a Formula One racing team on various aspects of its sponsorship agreements, especially those relating to the promotion of cryptoassets and brands providing relevant platforms and technologies.

## Financial

- We have advised a major financial institution in relation to its creation of sports-related NFTs (which comprise unique data relating to a digital image, hosted off-chain) being made available via a prize promotion. We also advised on the development of various commercial contracts relating to the creation of the NFTs and the prize promotion, and provided regulatory advice on whether the offering or issuing of the NFTs (via the prize promotion) required the financial institution to obtain any type of financial services authorisation, licence or registration in the UK. We also worked to amend an existing agreement with a football personality whose image rights are being used in connection with the prize promotion and NFTs.
- We have advised a number of EU payment service providers on performing and receiving cryptocurrency payments on payment cards and e-money accounts.
- We have advised on the development of various commercial contracts relating to the creation of NFTs and associated prize promotions, and have provided regulatory advice on whether the offering or issuing of the NFT (via the prize promotion) required the financial institution to obtain any type of financial services authorisation, licence or registration in the UK.

## Intellectual Property

- We have advised a Swiss luxury handbag brand on IP protection and financial regulations to support its potential new business of launching an NFT handbag collection.
- We have advised Water21 Holdings Limited a company that developed "Ethermon" which is a blockchain-based gaming platform featuring NFTs. We assisted in preparing an agreement which assigns the IP (including copyright in the artwork) in the game characters designed by external service providers to the client, with a profit-sharing element.
- We have advised on copyright issues in relation to a proposed launch of a NFT collection.
- We have advised a client on the enforcement of a copyright and trade mark rights against infringers who offered for sale NFTs incorporating the clients' works and trade marks without licence or authorisation.

## Data Protection

- We have advised a client on GDPR regulation regarding a blockchain payment network of a future global payment system built on blockchain using a new currency. The payment network enabled its end users to make transactions, i.e. peer-to-peer money transmissions and cross-border remittances.
- We have advised a client regarding crypto and platform regulation in France and assistance on the mandatory procedure with the French authority, reviewing commercial agreements, T&Cs and data protection.
- We have advised one of the world's largest Bitcoin trading platforms on all of its privacy related matters, ranging from customer data complaints to data protection regulators' enquiries. To meet the volume of requests, we have put together a multi-office team, with fee-earners in the UK, France and Hong Kong.
- We have advised a major social media client on the data protection aspects of the roll-out of NFTs on their platform.

## Insurance

- We have advised EY on the establishment of a joint venture with Guardtime, one of the world's leading blockchain solutions companies, which is set to transform the \$30 billion global marine hull insurance industry. This is the world's first blockchain platform for marine insurance now in commercial use and we were the only firm providing legal advice. Furthermore, it is one of the most significant and largest legal matters involving Blockchain technology to date.
- We have advised a global mining company on its potential membership of a private blockchain network relating to the sending and recording of trade finance documentation.
- We have advised a UK crypto-currency exchange in identifying legal challenges and business opportunities in providing crypto-payment solutions to users, and more specifically assisting in contract negotiations with a payment services provider.

## Regulation

- We have advised a major financial broadcaster with regulatory advertising and financial services advice on running ad campaigns promoting organisations operating in the crypto-asset space.
- We have advised a financial services company regarding cryptocurrencies and blockchain regulation in France, drafting a cryptocurrency wallet agreement, assisting in the company's discussions with an electronic money institution and distribution network, assisting with discussions with the French financial authority.
- We have advised a global crypto-currency exchange on the regulatory treatment of issuing and trading a stablecoin.
- We have advised Volksbank Mittweida with regard to BaFin's (Federal Financial Supervisory Authority) consultation process on money laundering due diligence in connection with virtual currencies.
- We have advised a client on terms and conditions related to a service enabling merchants to accept crypto currency in payment at a pre-determined conversion rate to fiat currency and then convert the crypto currency received into fiat paid into its bank account.
- We have advised a number of clients in relation to regulatory advice on classification and structuring of utility, payment and security tokens.
- We have advised a FinTech savedroid AG in connection with its initial coin offering in the form of an Initial Token Sale (ITS). We also provided this client with support on a regulatory check of their ITS terms and conditions regarding the acquisition, sales and use of its so-called utility tokens.
- We have advised a dynamic Fintech startup with regular advice regarding e-money, payment services and AML issues, cryptocurrencies and blockchain regulation in several EU and non-EU countries.
- We have advised an international crypto asset exchange on licensing issues related to Dubai expansion, including in relation to the merits of various licensing regimes including Dubai International Financial Centre and the Dubai World Trade Centre.
- We have advised a South Korean video games developer and distributor with multi-jurisdictional regulatory advice on the setting up of NFT platforms and issuance of tokens in various countries.
- We have advised a Chinese multinational technology and entertainment conglomerate with regulatory advice on the setting up of NFT Platforms and issuance of tokens in various countries.

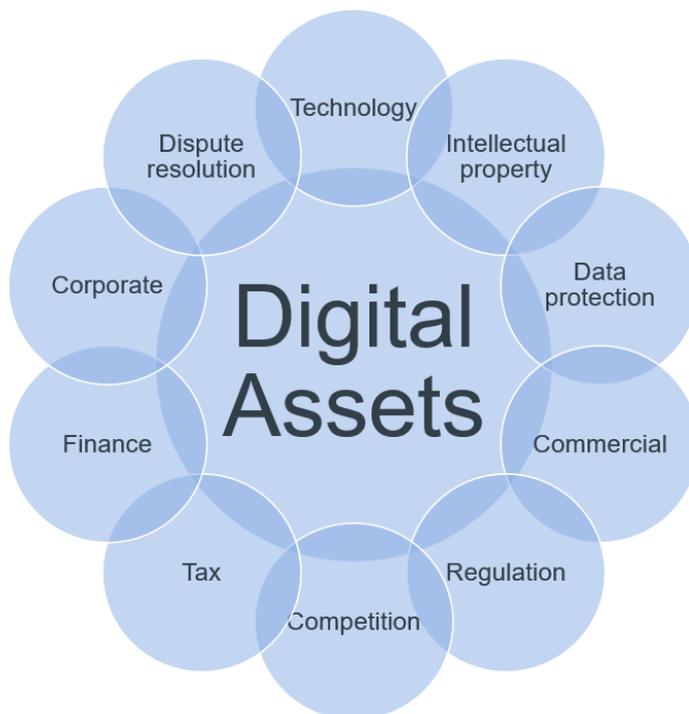
# Digital Rights & Assets

For nearly a decade, we have been building a team specialising in advising clients on data, AI, tokens, and digital identities & trust, and formally established our Digital Rights & Assets (DR&A) group in 2019.

## Cross-practice, cross-sector, international

The ability to bring together an array of advisers to collaborate with clients is especially important when it comes to digital assets, where solutions frequently have several dimensions. From the outset, our DR&A group has been designed to be:

- **Cross-practice** – whatever project, query, challenge or opportunity, our DR&A group naturally brings together the right combination of practice experts from across our teams.
- **Cross-sector** – we work with clients from across all Bird & Bird’s sectors, focusing on the way that these clients are incorporating digital assets, such as data and tokens, into their business. Our internal processes for sharing knowledge quickly and efficiently ensure that all of our clients benefit from our learnings and insights, from working with organisations in financial services, telecommunications, media, entertainment and sport, retail and consumer, aviation, automotive, energy and life sciences. All industries are making specific uses of data, AI, tokens and digital IDs, but there is much that industries can learn from one another, and we believe we have an important role to play in enabling that.
- **International** – we have DR&A specialists across our 31 offices, from which we service clients in around 120 jurisdictions.



### Tech Transactions

- Technology transfers
- Strategic alliances, JVs
- IT and network projects
- BPO outsourcing
- Cloud and IoT
- Software
- Disruptive technologies - 5G, blockchain, robotic process automation
- System implementations



### Intellectual Property

- Brands
- Copyright & related rights
- Patents
- Product design
- Trade secrets
- Transactional IP



### Privacy

- Regulatory & Public Affairs
- Compliance
- Privacy disputes & litigation
- Breaches & enforcement
- DPO services
- Data transfers
- Cookies & online tracking

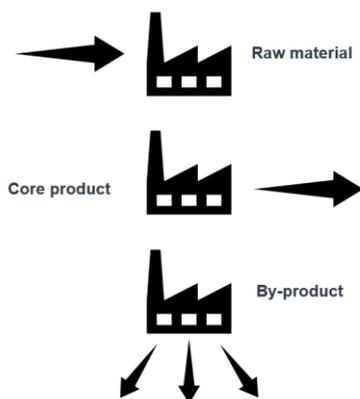


### Digital Rights & Assets

- Data – non-personal and mixed data sets, regulatory, governance, contracting
- AI – deployment, regulatory, ethics
- Tokens – NFTs, utility tokens, financial instruments
- Digital ID & trust – regulatory, technology, solutions deployment

## Building on market-leading practices and decades of experience

Our DR&A group is a natural addition, building on the foundations of marketing-leading international practices in technology transactions, intellectual property, and privacy. It continues our long-term focus on delivering not just excellent service and technical legal expertise, but a deep understanding of relevant technologies and business models.



## Your relationship with digital assets

Our clients have a range of different relationships with digital assets. For some data, tokens and IDs are vital inputs to their core operations; for some, they are their main product; and for others, digital assets are a by-product of business or industrial processes that they may have been running for years, the independent value of which may only now becoming clear.

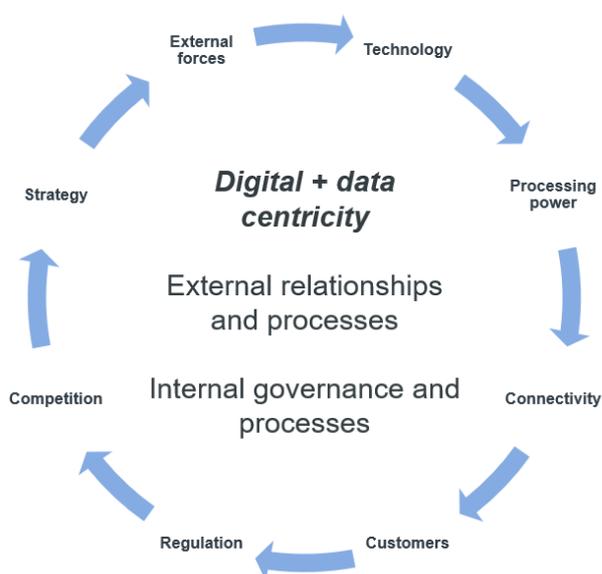
## The drive towards data and digital centricity

Your relationship with your digital assets is important because for nearly all clients it represents the starting point for a journey. This journey for many is as exciting as it is inevitable, as whole industries are propelled towards greater data and digital centricity – that is, placing your data and digital assets at the heart of organisations’ day to day operations and the tools that you are using to fulfil your business and digital strategies.

Multiple factors are driving this change in every sector, spanning everything from technological advances such as faster connectivity and greater processing power, through external pressures from customers, competitors, and regulators, to a constantly unfolding range of opportunities for organisations to adapt and grow in new digital spaces. With web 3.0 and the prospect of any number of metaverses on the horizon, the importance of being present in these new digital spaces is set to grow significantly.

## The importance of end-to-end approaches

An organisation’s ability to establish and preserve the value of intangible assets such as a digital data, tokens and digital IDs depends heavily on it having in place effective, end-to-end frameworks for governance, policies, and operational controls.



Lawyers, and the law, have a crucial role to play in helping to capture and protect the value of digital assets around the world. However, this is rarely simple. In many jurisdictions the law does not yet protect these assets simply or directly in the way that it does for, say, classically recognised copyright works. Lawyers therefore often need to deploy a combination of sometimes complex and innovative legal techniques, which in turn rely on good governance, policies and controls.

## Digital Rights & Assets and Regulation

With increasing regulatory activity in digital asset governance, effective digital asset management is essential to your organisation's compliance and positive reputation. Our 'Digital Rights & Assets European Digital Strategy Developments' tool guide takes you through the latest developments in data as a key asset, crypto assets, AI as a digital asset, privacy and data protection, cybersecurity, digital identity & trust services and consumer. The tool guide is regularly updated and can be accessed [here](#).

Our team monitors all new and changing regulations that relate to digital rights and assets and can provide all clients with a bespoke impact assessment upon request.

# Global Leads



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Digital Rights & Assets

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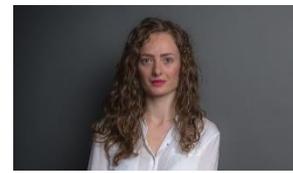


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