Bitcoin Policy Institute

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“Digital assets” is a bucket, not a legal category

Native bearer digital assets

no issuer, transfer by control, property-like dynamics

Tokenized claims

issuer/intermediary + underlying right/reserve, contract + insolvency dynamics

secured transactions rules should key off transfer mechanics and third-party visibility, not “blockchain” as such.

Bitcoin as a native, bearer digital asset

Three defining traits

- No issuer to perfect against or demand performance from
- Transfer is effected by control of credentials (keys), not by changing an issuer's books
- Finality/settlement is native to the system (practically important for enforcement)

What that implies for secured lending

- "Control" functions like possession
- Priority disputes tend to favor the party with effective control
- Custody and segregation choices become central risk determinants

Tokenized assets create a two-layer collateral problem

1. On-chain control may not equal off-chain **property rights**

2. Perfection may need to occur in two systems (**ledger + underlying registry/contract**)

3. Insolvency risk: tokenholders may be unsecured creditors of issuer/custodian

Algorithmic 'stablecoins' or synthetic token structures can trade like a claim on dollars while **lacking 1:1 reserve backing**; if the stabilizing mechanism fails, the 'collateral' can rapidly become **economically empty**

What secured transactions law has to answer for bearer assets

Attachment

- what exactly is the collateral (outputs/account rights), and when does debtor have rights in it?

Perfection / third-party effectiveness

- what evidences control, and how can third parties verify it?

Priority

- control vs competing claims, intermediated risk, good-faith acquirer style issues

Enforcement

- how does a secured party realize value without creating systemic legal uncertainty?

Design Goal: avoid forcing everything back into pure possessory pledge economics by making non-possessory control-based perfection credible.

Thank you.

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