The legal nature of a DAO under Singapore law

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Singapore's common law reaches a similar default by a different route. A group of persons carrying on a business in common with a view to profit is a partnership under s. 1 of the Partnership Act 1890, with each partner jointly liable for the firm's debts under s. 9 and liable without limit. A group not carrying on a business is an unincorporated association, which has no legal personality, cannot hold property except through trustees and exposes its committee members to personal liability for contracts they make on its behalf.[1] A DAO that governs a protocol generating fees and distributing them to holders is carrying on a business with a view to profit. A DAO that governs a public-good protocol with no distribution may be an unincorporated association. Neither result protects the members.

Singapore has one further trap. The Societies Act 1966 requires registration of any club, company, partnership or association of ten or more persons, with exceptions, and makes it an offence to be a member of an unregistered society. The Act was aimed at secret societies and is rarely applied to commercial groups, but its terms are wide enough to cover a DAO with Singapore-resident members. The author has seen it raised in diligence.[2]

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The United States decision in CFTC v Ooki DAO, in which a federal court held that a DAO was an unincorporated association capable of being sued and that its token holders who voted were members, is persuasive in Singapore and has been cited in Singapore commentary as the likely approach of a Singapore court. Part J, Chapter VI treats the developing case law.

Notes

1. Partnership Act 1890 (Singapore), ss 1, 5 and 9; on unincorporated associations see the Singapore cases collected in Part J, Chapter VI, and the Societies Act 1966, which requires registration of certain associations of ten or more persons. ↩
2. Societies Act 1966 (Singapore), ss 2 (definition of society), 4 (registration) and 14 (offences relating to unlawful societies). The Registry of Societies has not, to the author's knowledge, taken any position on DAOs. ↩

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