



# China Proposes an Initiative to Guide Compliant Issuances of Non-Fungible Tokens

## [CHINA REGULATION WATCH](#)<sup>1</sup>

May 24, 2022

By: Zhu Ziwei | Alexandra Ashbrook

### 1. Background

On April 13, 2022, the National Internet Finance Association of China (中国互联网金融协会), the China Banking Association (中国银行业协会) and the Securities Association of China (中国证券业协会) jointly issued an Initiative on Preventing the Financial Risk of Non-Fungible Tokens (the “NFT Initiative”), which identifies illegal uses of non-fungible tokens (“NFT(s)”) as financial assets in certain transactions.

Although in 2017 China issued an Announcement to Prevent the Risk of Initial Coin Offerings (关于防范代币发行融资风险的公告) (the “Cryptocurrency Rules”) to ban the practice of raising funds from the public through issuances of new cryptocurrencies (“Initial Coin Offerings” or “ICOs”), as well as any business related to ICO transactions,<sup>2</sup> China recently issued an official cryptocurrency called Digital Currency for Electronic Payment (“DCEP”) using blockchain technology. Later on January 10, 2019, the Cyberspace Administration of China (“CAC”) issued the Administrative Provisions on Blockchain Information Services (区块链信息服务管理规定) (the “Blockchain Rules”), which regulate—yet encourage—the development and use of blockchain information services. NFTs, an extremely popular concept in the metaverse world since 2021, are also not completely prohibited in China despite their characterization as cryptocurrencies. The NFT Initiative does not create any new legal obligations or liabilities, as it was issued by three industry association as opposed to the requisite competent legislative body. The initiative instead provides some guidance for those who participate in NFT-related businesses, and further outlines illegal practices

---

<sup>1</sup> This China Regulation Watch is provided by Pillar Legal, P.C. (the “Firm”) as a service to clients and other readers. The information contained in this publication should not be construed as legal advice, and use of this memorandum does not create an attorney - client relationship between the reader and the Firm. In addition, the information has not been updated since the date first set forth above and may be required to be updated or customized for particular facts and circumstances. This China Regulation Watch may be considered “Attorney Advertising” under applicable law. Questions regarding the matters discussed in this publication may be directed to the Firm at the following contact details: +1-925-930-3932 (San Francisco Bay Area office), +86-21-5876-0206 (Shanghai office), email: [info@pillarlegalpc.com](mailto:info@pillarlegalpc.com). Firm website: [www.pillarlegalpc.com](http://www.pillarlegalpc.com). © 2022 Pillar Legal, P.C.

<sup>2</sup> Please find more information in our [China Regulation Watch: China Bans Initial Coin Offerings and Cryptocurrency Trading Platforms](#).

around NFTs based on existing laws and regulations (such as the aforementioned Cryptocurrency Rules).

## 2. Restrictions on NFT-Related Transactions in China

The following six major points of guidance are outlined in the NFT Initiative:

- (i) NFTs should not contain characteristics of financial assets (e.g., bonds, insurance, securities, and precious metals);
- (ii) It should not be possible to undermine the NFT's nonfungibility, such as by dividing the ownership, or by other methods to covertly facilitate ICOs;
- (iii) No platform may provide centralized exchanges for NFTs;
- (iv) Cryptocurrencies, such as Bitcoin and Ethereum, may not be used for the pricing and settlement of transactions issuing NFTs;
- (v) Platforms should perform real-name verification for NFT issuers, dealers and buyers, and moreover properly keep each's identity and transaction data in the platform's records; and
- (vi) Associations and members of such associations should not directly or indirectly invest in, or provide financial support for, NFTs.

Based on this guidance, many popular NFT programs outside China might be illegal in China. For instance, Yoga Labs' *Bored Ape Yacht Club* provides the holders of the club's NFTs with additional rights and profits from time to time, giving the NFTs the characteristics of a financial asset.<sup>3</sup> Similarly, in *CryptoKitties*, a leading blockchain game where players can purchase, collect, breed, and sell virtual cats, players may trade and settle the NFTs obtained within the game using Ethereum.

## 3. Compliant NFT Practices in China

Despite its stringent approach to NFTs, China's government does recognize the value of NFTs in promoting cultural industries. As a result, most NFT programs in China cooperate with holders of popular intellectual property to issue NFTs for collection purposes only. Thus in China, NFTs are often called "digital collections" (数字藏品). In June 2021, Ant Group—an affiliate company of the Alibaba Group—launched the first NFT platform in China, Whale Detective (鲸探). Then on August 2, 2021, Tencent also

<sup>3</sup> The Bored Ape Yacht Club is a collection of algorithmically-generated unique ape images which exist as NFTs on the Ethereum blockchain.



launched an NFT platform, Huanhe (幻核) for issuing and displaying NFTs. NFTs issued on both platforms are not available for trading among the registered users of the platform. However, Ant Group's Whale Detective allows registered users to gift NFTs to another user after holding the NFT for more than 180 days. However, these NFTs cannot be gifted in exchange for compensation of any form, including other NFTs. On February 22, 2022, Ant Group issued a notice identifying 56 users who were trading NFTs outside the platform by using the gifting function on the platform. As a result, those users were banned from using gifting function altogether.<sup>4</sup>

Although permitted NFT-related transactions and businesses are limited in China now, engaging with NFT-related business in China is not particularly complicated. According to the Blockchain Rules, NFT-related ventures must be filed with the CAC as a service provided based on blockchain technology.

#### 4. NFTs in China's Game Industry

Typically, "play-to-earn" is a key trait of NFT and blockchain games. However, in China, in-game NFTs usually do not interact with gameplay. Instead, NFTs are considered derivative products of game intellectual property, and in most cases are used for marketing purposes.

On April 27, 2022, NetEase launched an in-game NFT program within its hit mobile game *Onmyoji*—a first for a major mobile game in China. All the income generated by issuing NFTs in NetEase's *Onmyoji* is donated to the China Conservation and Research Center, towards the center's development of public welfare projects related to giant pandas. In addition, NetEase also launched a digital collection gallery platform within the *Onmyoji* game for holders of NetEase's NFTs to display their NFTs. As with Tencent's Huanhe platform, users are prohibited from transferring or trading the NFTs. Moreover, the NFTs issued within the *Onmyoji* game cannot be used as in-game items. As described above, NFT programs launched in China are typically only for NFT collection.

Similarly, Tencent's Huanhe platform recently announced plans to issue a new series of NFTs that use intellectual property from *The Legend of Sword and Fairy* (仙剑奇侠传), the most popular mythical realm game in China. Interestingly, the game's developer Softstar did not issue these NFTs within the game, and instead licensed its intellectual property for use on Tencent's NFT platform.

<sup>4</sup> ["Whale Detective, a digital collection platform of Ant Group, punished 56 users of privately trading digital collections"](#) (蚂蚁集团旗下数字藏品平台“鲸探”处罚私下交易数字藏品用户 56 名), posted by Zaker on February 22, 2022.