



# CUMMINGS PEPPERDINE ON NFTS

## WHAT DOES NFT STAND FOR?

NFT stands for non-fungible token. While the concept of tokens may be more recent in terms of digital assets, the legal status of non-fungible is long standing.

A fungible security is one which can be replaced by others of the same series without any differences in the rights attributable to them. While cryptocurrencies such as Bitcoin are created digitally, they are equal in value and are fungible.

An asset which is non-fungible is the opposite of this. It is an item which has unique characteristics, is irreplaceable and cannot be interchanged another item. NFTs are digitally unique, no two are the same. They can be transferred, bought and sold but they cannot be interchanged.

## WHAT IS AN NFT?

As well as being unique, an NFT must have an owner and this is of public record which can be easily verified. As an NFT is a unit of data it can be stored on a digital ledger or blockchain and certifies that it is unique. The nature of the storage means that it is immutable.

This use of technology enables ownership of an NFT to be managed securely using unique identification and metadata which no other token can replicate.

NFTs are often used in the world of art. In this instance, the owner of an NFT will have ownership of a digital work of art, but not the actual asset or copyright to the asset (unless this is specifically included, which is not common). One of the most famous examples of the use of NFTs for art, and their value, is that of the digital artist Mike Winkelmann, also known as

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"Beeple". He used a composite of drawings to create an NFT known as "EVERYDAYS: The First 5000 Days.". In March 2021 it sold at Christie's for \$69.3 million, breaking all records.

However, they are used in many other areas as well such as in relation to tickets to events, items of clothes and gaming (an area which is exploding). They can even be used for signatures and contracts.

## WHERE CAN I GET AN NFT?

You can buy an NFT on an online platform which specialises in this product. The exchange should verify the ownership of digital work.

However, it's very much "buyer beware". Replica, counterfeit or fake NFTs are out there, as are hackers who try to get into the wallets holding NFTs. The value of an NFT is also not always sound. There are parties who use "pump and dump" schemes to falsely inflate NFT prices, which later drop hard and fast.

## HOW DO I STORE AN NFT?

As with other digital assets, and also cryptocurrencies, NFTs are held in digital wallets which are created by wallet providers which are frequently required to be regulated under money laundering regulations.

## ARE NFTS REGULATED

This is an interesting question. At first glance it would seem that the NFT market is unregulated. However, many NFTs have characteristics which make them so similar to types of investment which are regulated that they are bought within the regulated regime. It is always wise to explore this along with the regulated status of the parties involved in the creation, issue, sale and storage of NFTs. As well as the potential of an NFT being regulated, which would mean those giving investment advice on them would need to be regulated, the wallet provider and other service providers may need to be regulated under money laundering rules.

Remember that this is a new area of investment with very little history and not one which is always protected in the regulated world. If an investor makes a gain it will be taxed and in the UK this is likely to be capital gains tax. And of course the owner of an NFT may lose all.

Tread carefully and always take legal, regulatory and tax advice before taking any action.



The Cummings Pepperdine Online Training Programme, includes sections focussing on NFTs, has been designed by a specialist board of compliance consultants, solicitors, chartered accountants, tax advisors and regulatory consultants. We believe that we are the only firm which offers training created by this range of qualified advisors.

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