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# Civil Rehabilitation Plan – Outline Proposal from Mt Gox Legal.

Updated March 2019

## Background

*Mt Gox Legal* is a co-operative of over 1000 Mt Gox creditors with a collective claim size in the region of 150,000 BTC. It formed in September 2017 in response to the news that the bankruptcy statute prescribed distributing surplus assets to shareholders and not creditors. We have retained the services of MHM Japan and were a key player in persuading the court and the Examiner to approve the commencement in Civil Rehabilitation of Mt Gox.

This document presents conditions for the Civil Rehabilitation plan which we as a group consider to be desirable at this point in time. This is not a formal rehabilitation plan as stipulated under Article 163 (2) of the Civil Rehabilitation act.

This document has been compiled through the participation of our members in online debates and polls, and represents our consensus. The members of Mt Gox Legal are creditors with claims ranging from less than 1BTC to more than 1000BTC. As such, we believe these condition represent the best interests of all Mt Gox Creditors.

## 1/ Cash/Fiat claims

Following the recommendations of the court appointed examiner, Ito-Sensei, we accept that cash claims should be honoured at the same rate they would have been under bankruptcy. This includes, where legally appropriate, the inclusion of interest payments.

## 2/ Bitcoin claims

Given the nature of assets which the Trustee control, and the size of Cash/Fiat claims made under Civil Rehabilitation, we expect that the remaining assets, after Cash/Fiat claims are met will include a mixture of cash in different currencies, and a variety of cryptocurrencies.

The remaining fiat/cash, Bitcoin and Bitcoin Cash assets must be distributed pro-rata to Bitcoin claim holders.

No further sales or purchases of Bitcoin or Bitcoin Cash should be performed under the CR plan regardless of price fluctuations.

### **3/ Mixed claims**

Individuals with both Bitcoin and Cash/Fiat claims should have their fiat/cash claims and Bitcoin claims dealt with separately under the two regimes described above.

### **4/ Benefit to shareholders**

No distribution of Cash/Fiat or cryptocurrency, and no benefit in kind, should pass to shareholders, namely Jed McCaleb, and Tibanne, or to former Mt Gox CEO Mark Karpeles.

### **5/ Alt-coin Forks and Airdrops**

Since 2014, while the Trustee has had possession of Mt Gox's Bitcoins, the private keys for these Bitcoins have been credited with several other alt-coins by forks and airdrops. Bitcoin Cash is one example of this, and distribution for this is referred to above.

We note that no single exchange is currently able to handle all these coins. Likewise no private wallet management software is reliably able to manage all these coins. We are concerned that to distribute these directly to creditors would complicate the distribution process, leave many creditors confused, and potentially result in a downward movement of value of these assets which would not be in the interests of creditors.

We note that the volume of each of these coins held by the Trustee, in almost all cases, is significantly higher than the global daily traded volumes of these currencies, therefore we are concerned that any attempt by the Trustee to sell them *en masse* on the open market would result in a downward movement of the value and also not be in the creditors interests.

We also note that moving these coins requires access to the same keys that also control a very large value of Bitcoins and Bitcoin Cash, and therefore there are security considerations surrounding any operation to transact these alt-coin forks.

With the following points in mind, we suggest that once the trustee has distributed or moved the Bitcoins and Bitcoin Cash to a secure location, the keys which access the remaining alt-coins should be auctioned.

For reference, the list below summarises some of the Alt Coins and forks of value that the Trustee has access to. We hope that the Trustee has safeguarded the keys to the Bitcoins he has already sold as these are of value and could safely be realised in Bitcoin or Fiat now.

We are aware of investment firms interested in purchasing these coins and will pass their details on to the Trustee. We invite him to look for other purchasers.

#### **Token**

BitcoinX (BCX)

Bitcoin Gold (BTG)

Bitcoin Diamond (BCD)

Lightning Bitcoin (LBTC)

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Bitcoin Private  
Super Bitcoin (SBTC)  
Clams (CLAM)  
Bitcoin Interest  
Bitcore (BTX)  
Bitcoin Atom

This list is not exhaustive. It ranks the 10 most valuable, as of mid July 2018. By the time of distribution, the value and the ranking may differ.

## **6/ Timetable for distribution**

We consider a timely distribution to be an essential part of any Civil Rehabilitation plan. We are only able to support a Civil Rehabilitation plan that allows for interim payments at the first possible opportunity.

If any disputed claims are lodged, sufficient resources should be ring-fenced to meet the worst-case costs of those disputed claims, while other approved claims are given an interim settlement with the remaining pool of assets. As each disputed claim is settled, any residual assets must then be immediately distributed without delay.

## **7/ Distribution Channel**

### **Cash/Fiat**

We would like to see claimants given the choice to receive fiat either directly to their bank accounts, or to a cryptocurrency exchange trading account.

We note that receiving fiat through an exchange allows all creditors to receive it at the same time, and also means that creditors who wished to receive a distribution in Bitcoin may reinvest fiat distribution immediately in Bitcoins. This may help mitigate the price effect of any large-scale sell off by the portion of creditors who chose to sell in the aftermath of distribution.

### **Cryptocurrency**

Our preference is that claimants are offered the choice to receive cryptocurrency either to an exchange account or to private wallet addresses provided by the claimant.

### **Exchanges**

Distribution through exchanges allows the assets to be transferred cheaply and securely, and for all creditors to be credited at precisely the same moment.

For reference, a survey of over 512 members of Mt Gox Legal conducted in June 2018, showed that Kraken was the most popular choice with an 80% approval among creditors.

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Exchange	Percentage who agreed the exchange would be acceptable for distribution
Kraken	80.47%
Coinbase	40.82%
Bitstamp	34.38%
Binance	22.85%
GDax/Coinbase Pro	12.11%

Kraken already has a relationship with the Trustee under bankruptcy, they have indicated they wish to continue this under Civil Rehabilitation in public statements. We see an obvious benefit for creditors in this relationship continuing.

We understand that Payward Asia which operates the Kraken exchange has recently become a member of the Japan Virtual Currency Exchange Association and is applying for licensing to be a registered currency exchange trader.

The full results of this survey above have been provided to the Trustee, our lawyer at MHM Japan, and to Fukuoka-Sensei at the law firm Nishimura & Asahi. They can be requested by concerned parties at [support@mtgoxlegal.com](mailto:support@mtgoxlegal.com).

## 8/ Recovery of further coins

We believe that given:

- the US indictment of Alexander Vinnik, accused of laundering Bitcoins stolen from Mt Gox, and his current incarceration in Greece,
- the US law enforcement pursuit of a known but undisclosed co-conspirator to Vinnik,
- and the US's apparent confiscation of assets relating to Vinnik and the co-conspirator, and
- reported activities of Russian law enforcement,

there is a real possibility that further assets may be recovered in the future. As such we believe it is important for the Civil Rehabilitation plan to include an ongoing legal entity which can be the legal recipient of any funds discovered after CR is concluded and distribute them fairly among Bitcoin claim holders.

Polling on the funding and management of this ongoing entity, can be found in the Annex 1. It shows an overwhelming majority are in favour of maintaining such an entity.

## 9/ Trading records

For creditors in certain jurisdictions, the ability to demonstrate their trading record on Mt Gox is a legal tax responsibility. Accordingly the CR plan must include a way for creditors to request and receive this information in a timely manner. If appropriate a reasonable fee can be charged to individual creditors to cover the administrative cost.

## **10/ Proof of Ownership**

We require the trustee or the court to provide, on request and if necessary chargeable to the requesting creditor, a certificate or proof of ownership which the creditor can use to alert their banks and revenue services of the provenance of funds.

## **11/ Communication**

Once in Civil Rehabilitation, we would expect quarterly reporting and creditor meetings which last at least 2-hours.

We would request that all communications, especially those relating to the vote on the CR plan are written by native English speakers, and include both a layman version as well as the necessary legal text. This is to avoid confusion, especially among creditors for whom English is a second language.

## **12/ Self-assessment claims**

We do not want to create a barrier for rightful victims of Mt Gox's collapse from receiving their due compensation. However we are strongly opposed to any mechanism that sees Mt Gox Assets being diverted to the Japanese government while Bitcoin claim-holders are not made 100% whole, in Bitcoin terms.

We understand that the trustee believes he has a duty to file claims for all Mt Gox account holders he is aware of. We plan to object to claims for account holders who have never filed claims under Bankruptcy or Civil Rehabilitation.

Further we understand that it is harder to file objections to claims that were filed under bankruptcy but not re-filed under CR. Therefore we recommend the CR plan stipulates that appropriate funds to cover these claims be held in trust for the length of the statute of limitations on those claims, (10 years if necessary) and whatever remains unclaimed at that point should then be distributed to creditors to "active" bitcoin creditors, proportionately to the total of filed claims.

I can re-iterate, we are **STRONGLY** against any mechanism which sees unclaimed value being apportioned to the Japanese state or any 3<sup>rd</sup> party who was not a victim of the Mt Gox collapse.

## **13/ Further considerations**

This report includes pre-requisites, recommendations and requests that are important to our creditors given the information we have been able to gather at this time. They may change and be added to as more information becomes available to us.

We are open to discuss and disambiguate the contents of this report. We can be contacted at [support@mtgoxlegal.com](mailto:support@mtgoxlegal.com)

Andy Pag, Co-ordinator, Mt Gox Legal

## Annex 1

Polling of creditors on the need for an ongoing legal entity concluded 14/March/2019

1/ Even though it's impossible to know, do you think there will be future recoveries?

- 81% Yes
- 19% No
- 131 votes

2/ Do you want an ongoing entity that can be the legal claimant for any recoveries and share them equally among creditors?

- 93% Yes
- 7% No
- 118 votes

3/ How much would you be comfortable spending on this entity? (from the Mt Gox estate)

- 31% Up to \$10m (~1% of payout)
- 18% Up to \$1m (~0.1% of payout)
- 14% More than \$10m (~1% of payout)
- 10% Up to \$5m (~0.5% of payout)
- 6% Up to \$50k
- 5% Nothing (answered no to Q2)
- 4% Up to \$10k
- 4% Up to \$2m
- 3% Up to \$100k
- 119 Votes