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## Financial Stability Board (FSB)

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### **(FSB) International Regulation of Crypto-asset Activities - Questions for Consultation**

ACI Financial Markets Association (ACI FMA) is a leading global trade association representing the interests of the professional wholesale financial markets community. Established in 1955, ACI FMA is focused on enhancing best market practice and supporting market participants to adhere to principles of ethical conduct. ACI FMA is the international association with 60 National Associations worldwide representing over 8.000 members.

ACI FMA is well placed to offer real "boots on the ground" advice on this topic. It has had an active Digital Assets Committee (DAC) in place for over three years, drawing in expertise from regulated Crypto Banks, Crypto Native firms, Brokers to Investment Funds and the wholesale OTC Banking industry in general.

Firstly, we welcome the invitation of FSB for our feedback on the  
**International Regulation of Crypto-asset Activities: A proposed framework – Questions for Consultation.**

***Hereby the 15 Questions answered from ACI FMA:***

## General:

1. Are the FSB's proposals sufficiently comprehensive and do they cover all crypto-asset activities that pose or potentially pose risks to financial stability?

*Yes. the FSB's proposals are sufficiently comprehensive. However, two things should be borne in mind:*

- 1) *It is important to first differentiate between crypto vs other digital asset types. Whilst the functions and activities set out by the FSB are comprehensive, there is a critical distinction which must be made between digital assets, crypto currencies, and tokenised assets, as well as the underlying distributed ledger technology (DLT) infrastructure which may differ in use case across functions and activities depending on the instrument. For example, there are different levels of risk associated with crypto derivatives, derivatives exposures to crypto-assets and asset management activities.*
  - 2) *Given the current liquidity 'squeeze', contagion, bankruptcy and defaults in the crypto space, there is concern that there may be a regulatory knee jerk reaction. It should be recognised that such events have occurred before in the TRADFI space and, as a result, regulatory frameworks have been deployed. A number of the 'Crypto failures' since the start of the 2022 Crypto Winter may be attributed to entities engaging in unregulated 'TRADFI' type activities e.g. funding, then leveraging these activities with inappropriate collateral, lack of client asset segregation as well as a very high level of business and investor interconnectivity among the 'major players'. There are currently international policies, standards and jurisdictional regulatory frameworks e.g. MIFID/MIFIR/DFA/PFMI/FATF/IOSCO, which are applicable to Wholesale Markets and are relevant to and could be further extended to the Crypto-asset markets and activities. Indeed, the EU MICA Regulation does not cover tokens that qualify as financial instruments. These are already regulated in the Markets in Financial Instruments Directive ("MiFID"). Certainly, regulatory focus hitherto has very much been on consumer protection and AML/CTF regulation without due consideration of financial stability risk, cyber hacking, or market manipulation. In the EU, MICA endeavours to bring transparency, harmonisation, disclosure requirements, authorisation, supervision and ensure financial stability to hitherto unregulated Crypto activities in the EU 27 space. Deployment compliance is envisaged for 2024. We would advocate that any proposals for additional or new regulation should be appropriate and proportionate to risk, size, complexity, and systemic importance. This also applies to the financial stability risk that may be posed by the activity or market in which the crypto-asset issuers and service providers are participating in order to underpin and not stymie innovation. The Spot FX markets are unregulated but prosper due to the implementation of a principles based, voluntary FX Global Code. A similar CA code is being developed with the coordination of various trade organisations.*
2. Do you agree that the requirements set out in the CA Recommendations should apply to any type of crypto-asset activities, including stablecoins, whereas certain activities, in particular those undertaken by GSC, need to be subject to additional requirements?

*ACI FMA would concur that the requirements set out in the CA Recommendations should apply to any type of crypto-asset activities, including stablecoins. Authorities should apply effective regulation, supervision, and oversight to crypto-asset activities and markets – including crypto-asset issuers and service providers – proportionate to the financial stability risk they pose, or potentially pose, in line with the principle "same activity, same risk, same regulation", where crypto-assets market participants and intermediaries perform an equivalent economic function to one performed by instruments and intermediaries of the traditional financial sector, they should be subject to equivalent regulation. With GSC, the pace has moved quickly. When the GSC FSB paper was published in October 2020, there was significant prominence to algorithmic stablecoins.*

Since then, with the Terra/Luna failure in 2022, the market has evolved and there is more demand for asset backed GSC products. We would propose that some thought needs to be given to GSCs and their role in DeFi activities (GSCs generally are the backbone of the growth in DeFi protocols and activities). Since the FTX events, we see significant growth occurring in the DeFi space. Therefore, the ACI FMA would propose that consideration as to how to monitor this activity should be given and any potential stability overspill in the case of failure should be explored. In the DeFi space, the issue is theft generally through hacking, which as the market grows, could become a significant issue in the context of financial stability.

3. Is the distinction between GSC and other types of crypto-assets sufficiently clear or should the FSB adopt a more granular categorization of crypto-assets (if so, please explain)?

ACI FMA would concur that the distinction is clear. Arguably, GSC is easier to monitor, regulate as it is closest to a vanilla financial instrument.

4. Do the CA Recommendations and the GSC Recommendations each address the relevant regulatory gaps and challenges that warrant multinational responses?

In light of FTX, we would propose that the lessons learned should be used to analyse whether the CA Recommendations and the GSC Recommendations or the extension of the perimeters of existing regulation would have prevented an FTX type incident. Ultimately client protection, orderly markets, and clear regulatory guidelines, regardless of the new technology, asset class or type of entity servicing it, should be the priority.

5. Are there any financial stability issues that remain unaddressed that should be covered in the recommendations?

The increased interconnectivity between the traditional financial market (TRADFI) and the decentralised finance (Defi) is an area that bears close monitoring as the growth of DeFi and the greater institutional adoption thereof, may, on the one hand, lead to greater financial stability as the 2 worlds are closely entwined and as TRADFI systems and controls may be replicated/extend into the Defi space. Nevertheless, DeFi can and may have weak protocols with resulting risk of potential hacking (which will become more significant as the segment grows) and the contagion risk to GSC. DeFi protocols, although touted as opaque decentralised organisations, these generally do have identifiable leadership (Uniswap founder is on LinkedIn/Twitter for example) and as a result, similar oversight, not necessarily identical, should be considered.

## **Crypto-assets and markets (CA Recommendations)**

6. Does the [report](#) accurately characterise the functions and activities within the crypto-ecosystem that pose or may pose financial stability risk? What, if any, functions, or activities are missing or should be assessed differently?

The report accurately characterises the functions and activities within the crypto ecosystem that pose or may pose financial stability risk. However, it would be appropriate for cooperation by the various international regulatory agencies to be evidenced in as far as there should be a harmonised/homogenous taxonomy, treatment and regulatory responsibility of crypto-assets e.g. crypto-asset, currency or crypto commodity. Furthermore, the ACI FMA agrees that Regulators should require that crypto-asset issuers and service providers have in place, and

*disclose, a comprehensive governance, regulatory and risk management framework, which should be proportionate to their risk, size, complexity, systemic importance and to the financial stability risk that may be posed by the activity or market in which the crypto-asset issuers and service providers are participating. It should provide for clear and direct lines of responsibility and accountability for the functions and activities they are conducting. In some jurisdictions this already exists for the TRADFI market activities.*

*Key areas of focus would include the following:*

*1) Separation of Custody and Trading Activities. To ensure appropriate oversight and control, the regulated FIs safeguarding function would be functionally separated by internal controls from the regulated entities trading function.*

*2) Segregation of Client Assets from the Regulated FI Assets;*

*3) Robust Internal Control - the management of private key technology is critical to exercise control over the assets. Therefore, putting in place key risk management framework is important.*

7. Do you agree with the analysis of activity patterns and the associated potential risks?

*Yes, ACI FMA agrees with the FSB's analysis of activity patterns and the associated potential risks. However, we would add that a key risk for crypto asset ecosystem is regulatory fragmentation. Therefore, ACI FMA is supportive of FSB's Recommendations and endeavours to promote consistency and a common understanding of key elements of regulatory, supervisory and oversight frameworks for crypto-asset activities and markets.*

8. Have the regulatory, supervisory and oversight issues and challenges as relate to financial stability been identified accurately? Are there other issues that warrant consideration at the international level?

*Yes. ACI FMA would confirm that it is of the opinion that a "principles based approach" and the application of "same activity, same risk, same regulatory outcome" should be adopted.*

9. Do you agree with the differentiated requirements on crypto-asset issuers and service providers in the proposed recommendations on risk management, data management and disclosure?

*Broadly Yes. ACI FMA would urge FSB to consider whether the recommendations can be more granular and specific in their use of the terminology "crypto-asset issuer" and "crypto-asset service provider".*

10. Should there be a more granular differentiation within the recommendations between different types of intermediaries or service providers in light of the risks they pose? If so, please explain.

*Yes. ACI FMA would recommend a distinction should be drawn between regulated Financial Institutions and unregulated Financial Institutions.*

## Global stablecoins (GSC Recommendations)

11. Does the [report](#) provide an accurate analysis of recent market developments and existing stablecoins? What, if anything, is missing in the analysis or should be assessed differently?

*ACI FMA note the following: Further to recent events whereby certain stablecoins broke their peg, it should be reflected in the analysis that in times of market stress, holders of stablecoins may incur risks of full convertibility or redemption loss, if the value of the stablecoins falls below the peg, even though the underlying fiat currencies backing them are still at or above par. We would also advocate further analysis for GSC provisions with regard to:*

- *Conflicts of interest (between issuers and holders)*
- *Basis price risk*
- *Client asset access, client asset segregation*
- *Prudential regulation regarding appropriate liquidity composition, duration limitations, buffers/stress testing requirements as is required in the TRADFI space*

*Additionally, we are of the opinion that there are digital tokens (tokens that are not used by consumers/clients or closed loop tokens) that should be excluded from the definition of “stablecoin” regardless of whether these may have market price or value. Examples of such tokens would be Central Bank Digital Currency (CBDC), Financial Market Infrastructure (“FMI”) Tokens, Settlement tokens, Tokenized commercial bank money/deposit tokens, Non-Fungible Tokens (“NFTs”)*

*Furthermore, there is no mention in the analysis or assessment of the Algo GSC Terra/Luna? This is fundamentally important for the GSC narrative. There is only passing reference to Tether and/or description of the reserve assets that back the largest GSCs. ACI FMA would propose that much greater emphasis and reference to the interconnectivity between issuers of GSCs and their financially linked crypto operating companies should be presented or considered in the analysis. Tether/Bitfinex is mentioned specifically, but Circle and its links to Centre/Coinbase or BUSD/Paxos and Binance are not. There is no mention of/reference to the potential stablecoin friction, which appears to be emerging among certain major players, whereby some major players are potentially auto converting to their own stable coin all USDC and other non-proprietary stable coins on their platform. Through this strategy their own stablecoin becomes the ‘de facto’ USD reference stablecoin on the platform. The potential ensuing market moves/volatility could impact the stability of the industry. We would propose that the report should be expanded to include the movement towards reserve backed GSC (from Algo) and additionally include a study into the usage/users of USDT and USDC (and to an extent BUSD) as the largest GSCs and those, which are potentially most likely to cause financial instability.*

12. Are there other changes or additions to the recommendations that should be considered?

*ACI FMA proposes that GSCs should come under a global (G20) green list. For example, GMO Trust's USD and JPY stablecoins are “green-listed” tokens for trading and custody under New York Department of Financial Services regulation (GMO Trusts regulator). [https://www.dfs.ny.gov/virtual\\_currency\\_businesses](https://www.dfs.ny.gov/virtual_currency_businesses). It may be appropriate to introduce a similar global standard where tokens of financial stability significance (could be just GSCs but can expand to other crypto-assets) meet a green list from various global regulators based on a number of KPI's (regulation, proof of reserves, financial robustness, management etc). This kind of regulatory initiative could give confidence to the wholesale market with regard to the stability of the GSC.*

13. Do you have comments on the key design considerations for cross-border cooperation and information sharing arrangements presented in Annex 2? Should Annex 2 be specific to GSCs, or could it be also applicable to crypto-asset activities other than GSCs?

*Crypto-assets are still in their relative early stage of development as an asset class, any regulatory approach taken by the FSB should be agile, flexible and easily adapted to any future changes in the crypto-asset landscape in order to facilitate continued innovation. Ultimately, there should be cross-border cooperation and information sharing arrangements on all aspects of the crypto eco-system with respect to potential financial stability concerns. GSCs are only one element of this but as we have seen with FTX, other parts of the crypto ecosystem activity can precipitate instability.*

14. Does the proposed template for common disclosure of reserve assets in Annex 3 identify the relevant information that needs to be disclosed to users and stakeholders?

*ACI FMA concurs that a comprehensive template for the common, transparent disclosure of reserve assets should be advocated, particularly in the wake of the most recent FTX events.*

15. Do you have comments on the elements that could be used to determine whether a stablecoin qualifies as a GSC presented in Annex 4?

*ACI FMA believes that the descriptions are appropriate for stablecoin and GSC but the properties/elements that makes a stablecoin a GSC are a function of its growth (market cap, percentage of crypto market, proliferation globally and it's overspill into DeFi as well as the financial space with stability concerns). Circle at \$1BN mkt cap in early 2020 was a stablecoin, with a current market capitalisation of \$45BN, it is now regarded as a GSC and is interconnected within the Crypto market infrastructure and is a significant participant in TRADFI (amount of reserves, amount of treasuries purchased etc.)*

Thank you again for the opportunity to participate in this consultation.

The Crypto market is evolving and growing at a pace, underpinned by delivering real value as their customers perceive it. As OTC wholesale market professionals, we know instinctively that to ignore or go slow on embracing a market shift will inevitably lead to paying a higher cost later.

Please do not hesitate to contact ACI FMA President, Kim Winding Larsen at [KWL@ACIFMA.COM](mailto:KWL@ACIFMA.COM) if you require further feedback and/or clarifications.

*Kind regards,*

ACI Financial Markets Association (ACI FMA)



Kim Winding Larsen  
ACI FMA President



Alan Scott  
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*Anne-Maria Rothenstein*

Anne-Maria Rothenstein  
ACI FMA Board, Working Groups and Committees Representative



## **History of ACI FMA:**

ACI Financial Markets Association ("ACI FMA") is a global non-political, non-profit association of wholesale financial market participants. ACI FMA was established under the French Law of 1901 and based on mutual recognition of markets professionals, with the objective of developing the profession, without discrimination of any sort.

Since 1955, ACI FMA has represented the interests of individuals in professional trading, broking, operations, regulatory and compliance activities in global financial markets.

Its main mission is to be a leading, global association of wholesale financial markets professionals, contributing to market development through education, best market practices, technical advice and networking events.

Focused on three core values of Membership, Education and Ethical Conduct, ACI FMA is committed to supporting market participants to operate at the highest standards of ethical conduct and best market practice. Specifically, these values represent:

- Membership: ACI FMA counts over 8,000 individual members representing 60 National Associations globally
- Education: Accredited, portable qualification and certification of professional and ethical standards to market participants worldwide
- Ethical Conduct: ACI FMA members are expected to maintain the highest ethical conduct in adherence to global Codes relevant to them.

ACI FMA members are proud to represent individual responsibility, and benefit from a network of global peers who place great emphasis on the best possible practices in our profession, in the same way as modern regulatory regimes and industry codes.

Through cooperation with ACI FMA, an entity is able to demonstrate that concrete steps are being taken to ensure all the staff have been trained to the highest ethical standards of conduct, and that they understand their individual obligation.

ACI FMA members are longstanding proponents and influencers of ethical conduct and good market practices to financial markets professionals.