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Submitted by email to [fsb@fsb.org](mailto:fsb@fsb.org)

15 December 2022

Dear Sir or Madam,

**Re: AIMA response to FSB consultative report on a Proposed Framework for International Regulation of Crypto-asset Activities**

The Alternative Investment Management Association (AIMA)<sup>1</sup> welcomes the opportunity to respond to the Financial Stability Board (FSB) proposed framework for international regulation of crypto-asset activities<sup>2</sup> and review of the FSB high-level recommendations of the regulation, supervision and oversight of 'global stablecoin' (GSC) arrangements<sup>3</sup> (together, the "consultation").

As the global representative of the alternative investment industry, AIMA's involvement with digital assets reflects the growing interest of our fund manager members in this evolving asset class. An increasing number of our member firms are considering, or already active in, various crypto-asset markets or making use of products using distributed ledger technology (DLT). These AIMA member firms include: (i) crypto hedge funds employing alternative active strategies in crypto-assets; (ii) established alternative investment fund managers looking to diversify their existing portfolios through either active or passive investments in crypto-assets; and (iii) various other fund managers,

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<sup>1</sup> The Alternative Investment Management Association (AIMA) is the global representative of the alternative investment industry, with around 2,100 corporate members in over 60 countries. AIMA's fund manager members collectively manage more than US\$2.5 trillion in hedge fund and private credit assets. AIMA draws upon the expertise and diversity of its membership to provide leadership in industry initiatives such as advocacy, policy and regulatory engagement, educational programmes and sound practice guides. AIMA works to raise media and public awareness of the value of the industry. AIMA is committed to developing skills and education standards and is a co-founder of the Chartered Alternative Investment Analyst designation (CAIA) – the first and only specialised educational standard for alternative investment specialists. AIMA is governed by its Council (Board of Directors). For further information, please visit AIMA's website, [www.aima.org](http://www.aima.org).

<sup>2</sup> Available at: [www.fsb.org/wp-content/uploads/P111022-2.pdf](http://www.fsb.org/wp-content/uploads/P111022-2.pdf).

<sup>3</sup> Available at: [www.fsb.org/wp-content/uploads/P111022-4.pdf](http://www.fsb.org/wp-content/uploads/P111022-4.pdf).



fund service providers and platforms using technology to offer innovative services to investors, leveraging upon the potential benefits of DLT.

AIMA believes that blockchain technology is an important innovation that challenges the traditional centralised approach to recordkeeping and which could facilitate useful operational changes across the global capital markets industry, including cost and risk reductions in alternative investment management. DLT could potentially facilitate enhanced liquidity, trading and clearing/ settlement efficiencies for private listed securities, derivatives and real assets.

In 2017, AIMA set up a Digital Assets and Blockchain Group which went on to merge with another industry group to become the association's Digital Assets Working Group (AIMA DAWG). The group had 14 members in its first year and has now grown to more than 375 members globally representing a cross-section of senior industry experts including investment managers, institutional investors and allocators, and various crypto-asset service providers. AIMA DAWG is focused specifically on the intersection of crypto-assets and institutional buy-side asset management.

AIMA welcomes the FSB's work to clarify and align international regulation of crypto-asset activities. The crypto-assets industry faces an evolving global regulatory environment and differences in regulatory guidance between jurisdictions. Policymakers globally should continue to seek a coordinated international framework which preserves the cross-border nature of crypto-markets.

As revealed in the Annual Global Crypto Hedge Fund Report 2022<sup>4</sup>, which provides an overview of the global crypto hedge fund market and examines the extent to which 'traditional' hedge funds are entering the crypto-asset markets, while approximately one in three of hedge funds surveyed are currently investing, 83% of respondents cite regulatory and tax uncertainty as the greatest barrier. We believe that international coordination in respect of crypto-assets regulation and supervision is essential given the inherently international nature of crypto-assets and DLT and would help to prevent regulatory arbitrage and drive greater institutional adoption, while maintaining the integrity and stability of financial markets. We would encourage swift adoption of appropriate rules and regulations for crypto-assets globally in order to bring market participants within regulatory perimeters.

Recent events have shone a spotlight on the role of the crypto-asset market in the financial system, bringing to the forefront a renewed focus on regulation, corporate governance and market infrastructure for crypto-assets activities. We believe that all financial markets participants should be regulated in an appropriate and proportionate manner.

AIMA has not proposed a concrete definition of a "crypto-asset", nor do we endorse any specific crypto-asset. We, nonetheless, welcome the development of any new investable assets that present opportunities for alternative investment fund managers managing money on behalf of institutional investors to access new return drivers and risk premia, generate returns and manage risks on behalf of investors. Moreover, the rise of tokenised assets could allow investors to access new revenue sources and offer the potential for substantial cost savings for asset owners.

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<sup>4</sup> See, <https://www.aima.org/educate/aima-research/4th-annual-global-crypto-hedge-fund-report-2022.html>.



AIMA's detailed comments on the consultation can be found in an annex to this letter. In the attached Annex, we also provide feedback on developments relating to decentralised finance (DeFi), in light of the FSB's current analysis of potential risks to financial stability stemming from DeFi and whether additional policy work is warranted.

By way of summary, in our response we make the following points:

- Regulatory, supervisory and oversight approaches to crypto-asset activities and markets should be flexible and principles-based to develop alongside evolving crypto-assets and their underlying technologies;
- Regulation should differentiate between the diversity of actors within the crypto-assets ecosystem, including investment managers servicing retail investors and investment managers servicing professional and institutional investors;
- Risk management, data management and disclosure requirements on crypto-asset activities and associated issuers, intermediaries and service providers should take into account the novel characteristics of DLT and crypto-assets;
- Separating certain crypto-asset functions and activities within a single entity, based on the concentration of risk, could provide advantages to investors;
- We generally support the FSB's updated high-level recommendations to promote consistent and effective regulation, supervision and oversight of GSCs across jurisdictions, while supporting responsible innovation and providing sufficient flexibility for jurisdictions to implement domestic approaches; and
- DeFi could help alleviate some financial stability risks as by allowing more platforms of all types (DeFi and traditional finance) concentration risk and systemic risk is reduced.

We would be happy to elaborate further on any of our comments raised in this letter. For additional information, please contact James Delaney, Director, Asset Management Regulation & Sound Practices ([jdelaney@aima.org](mailto:jdelaney@aima.org)) and Aniqah Rao, Associate, Markets, Governance & Innovation ([arao@aima.org](mailto:arao@aima.org)).

Yours faithfully,

A handwritten signature in blue ink, appearing to read "J. Król".

Jiří Król  
Deputy CEO, Global Head of Government Affairs



## ANNEX

### I. Proposed framework for international regulation of crypto-asset activities

#### A. Principle of “same activity, same risk, same regulation”

AIMA supports the FSB’s proposal for crypto-assets and intermediaries to be subject to regulations in line with the principle of same activity, same risk, same regulation, where they clearly perform an equivalent economic function and application to one performed by instruments and intermediaries in the traditional financial system. However, we strongly believe that regulation should take account of the novel features of crypto-assets and fully harness the potential benefits of the associated technology.

We believe that crypto-assets should be considered as an extension of existing financial and non-financial assets and subject to similar overarching regulatory considerations and outcomes, considering their specific purpose, characteristics and degree of fit within existing regulatory rules and requirements.

Institutional investors and allocators must have confidence in market structures and infrastructures in order for the digital assets industry to truly institutionalise. We believe that all institutions that operate as gatekeepers to digital assets markets should be subject to an appropriate standard of regulation.

We acknowledge that when developing rules and regulations for crypto-assets activities and markets, there is a need to first understand better what exactly the technological differences are to those in the traditional financial system (e.g., decentralisation, continuous on-chain settlement, immutability and irrevocability of transactions, no single point of failure, traceability and transparency of information, automation of many of the functions in the value chain). Subsequently, with greater understanding of how crypto-assets activities are not the same, despite them presenting similarities, it would be prudent to use basic principles of financial regulation in order to craft appropriate regulatory frameworks that achieve the same objectives being sought when regulating traditional finance.

For example, one can look at the principles for customer asset protection and segregation regarding intermediaries such as brokers. These principles are universally agreed but they are often delivered through different regulatory approaches across jurisdictions globally. Similar for market abuse laws, there is a rules-based approach to insider trading in the European Union but a legal precedent-based regime in the United States.

In many ways, they could not be more different from one another in the choice of instruments and type of legal or regulatory infrastructure but they do achieve similar outcomes when targeting market integrity. Another example is best execution, there is a principles-based approach taken in legislation for all assets in Europe but a very different regime in the U.S. that is fairly prescriptive and built on a specific technological solution for equities. Still, both of these regimes operate on the broad assumption of treating customer orders in a fair and equitable



manner with a view to achieving the best possible outcome. In other words, we believe the goal for regulation of crypto-assets should be to aim for the same regulatory objectives leading to regulation of similar risks and activities to achieve comparable outcomes.

For example, we support regulations designed to maintain and enhance sound legislative and regulatory structures which protect and enforce investors' property, shareholder and creditor rights in a fair, equitable and proportionate manner. We also encourage development of sound regulation dealing with the safe-keeping of assets and we support the implementation of robust and proportionate corporate governance structures. We also support efforts to establish common global definitions and templates for regulatory reporting and clearly defined and internationally harmonised market abuse definitions for sustaining the integrity of markets. These examples of regulatory principles and outcomes that we support should be applicable to crypto-assets markets in order to take account of the fact that the activities and risks appear to be the same, but in many instances a different regulatory approach or framework might be required given the specificities and risk of different technologies.

Finally, we believe that the application of any existing or new regulation to crypto-assets must be flexible and principles-based to develop alongside evolving crypto-assets and their underlying technology, while supporting both innovation and financial stability.

## **B. Requirements for governance, risk management, reporting and disclosure**

AIMA generally supports the FSB's proposals for crypto-asset issuers, intermediaries and service providers to be subject to adequate requirements for governance, risk management, reporting and disclosure that are proportionate to the size, complexity and risks of their respective activities.

We strongly believe that regulation should accommodate the diversity of actors across crypto-asset markets. As such, we support a more proportionate application of rules for firms that is based on the nature, size and complexity of their operations. Furthermore, in the context of investment management, we believe that rules should reflect the significant differences in the business models, products and distribution channels of investment managers servicing retail investors and those of investment managers servicing professional and institutional investors. Regulatory principles, including any activity-specific principles, must be drafted in a way that recognises this diversity and does not encourage regulators to adopt a "one-size-fits-all" approach to the regulation of different subsectors, each with their own specificities, within an overall category.

AIMA believes that any requirements on crypto-assets issuers, intermediaries and service providers should, in the first instance, take into account the novel features of DLT and crypto-assets. In the context of crypto-assets that constitute specified investments, we would highlight the risk of applying new requirements that contain duplicative reporting and burden market participants with unnecessary high reporting costs. As such, while existing requirements under securities regulations applicable to regulated markets could be useful in providing protection to underlying investors, certain carve-outs and amendments would need to be made to support



their use. In the context of data collection, we believe that regulators should take an incremental approach and work with industry participants to identify what data would be most meaningful from a supervisory perspective.

### **C. Disaggregation and separation of certain functions and activities**

AIMA generally supports the FSB's suggestion that certain crypto-asset functions and activities may require disaggregation and separation to address risks from the compounding effects of different functions.

The creation of an aptly regulated environment is particularly important for investment managers as firms must fulfil their fiduciary duties, meet redemptions and maintain the structure of portfolios in the interests of clients. We believe that separating certain crypto-assets functions and activities within a single entity based on the concentration of risk can provide advantages to investors.

## **II. Decentralised Finance (DeFi)**

AIMA believes that the application of blockchain technology for the provision of financial services could provide an additional way to manage concentration risk, systemic risk and support the stability of the global financial system.

DeFi could potentially help alleviate financial stability risks as by allowing more platforms of all types (DeFi and traditional finance) concentration risk and systemic risk can be reduced. By reducing the concentration of service providers, DeFi reduces reliance on existing intermediaries and increases diversity in the financial system, acting as a 'release valve' as opposed to a replacement for traditional finance. We believe that this could assist in minimising insolvency and liquidity risks and mitigating a central point of failure. A critical feature of a stable financial system is the diversity of its key participants as well as the difference in their capacity to take on particular risks.

The benefits of DeFi were shown during the recent market volatility as decentralised protocols maintained their integrity and behaved in a stable manner despite volatile asset values and without requiring intervention.

With cybersecurity becoming a key global risk in recent years, AIMA acknowledges the cybersecurity risk within DeFi and crypto-assets. Any major cyber incident, whether in the traditional financial system or DeFi, if not properly contained, could disrupt financial systems and exacerbate financial stability risks. In the context of DeFi, we would emphasise that recent hacking activity has occurred on cross-chain bridges (which enable users to transfer crypto-assets between two or more different networks) as opposed to the DeFi protocols themselves. We encourage the FSB to continue developing recommendations for strong standards of cybersecurity and cyber-related practices for the finance sector to help mitigate the risk. In developing rules, the FSB and public authorities should take a principles-based approach and apply the principle of proportionality. This would allow market participants to embed practices that are appropriate for their business model, size and risk profile.