

NAME OF PERSON COMPILING SUBMISSION: Benjamin April
ORGANISATION: The Banking Association South Africa
SUBMISSION DESCRIPTION: International Regulation of Crypto-asset Activities

NR	REFERENCE IN ACT/BILL/DOCUMENT	COMMENT (Why is it a problem?)	PROPOSED WORDING/COMMENT
1.	<p>Are the FSB’s proposals sufficiently comprehensive and do they cover all crypto-asset activities that pose or potentially pose risks to financial stability?</p>	<p>The proposals, while comprehensive, are broad and general. Without clear identification of the risks being solved, there is no clear understanding of where the key risks lie and how to address them. It has been observed that centralised exchanges and custodians have proven to be the biggest risk to consumers, it would therefore be advisable to start by addressing these risks specifically.</p> <p>Recommend a risk framework that included specific risks and mitigations like the fact that it is important that Centralised Crypto Exchanges should have independent audits of their reserves. A comprehensive list of financial integrity risks and operation risks will add immense value</p> <p>The recent collapse of the FTX Crypto exchange and Alameda comes to mind as an example of the need of clear identification of relevant risks in this ecosystem. NFTs also poses different challenges and risks from Crypto Currencies like Bitcoin. A guide on categorisation of various crypto assets and services would assist in driving a common risk management approach. Current financial assets are mostly well categorised by industry.</p>	
2.	<p>Global stablecoins (GSC Recommendations)</p> <p>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?</p>	<p>Some of the facts around Tether have changed including an audit that has taken place on their reserves and the change in the quality of reserves recently. As inferred in the recommendations document - Tether has also always redeemed USDT for USD at 1:1. The lost peg is on the open market and would happen irrespective of regulations as it was fear-based, not fact-based. It should also be noted that through the time of stress referred to in the recommendations Tether redeemed \$7bn in 48 hours.</p>	

NAME OF PERSON COMPILING SUBMISSION: Benjamin April
ORGANISATION: The Banking Association South Africa
SUBMISSION DESCRIPTION: Regulation, Supervision and Oversight of Crypto-Asset Activities and Markets

NR	REFERENCE IN ACT/BILL/DOCUMENT	COMMENT (Why is it a problem?)	PROPOSED WORDING/COMMENT
1.	Page 1 – Proposed recommendations for the regulation, supervision and oversight of crypto-asset activities and markets	<p>The intergovernmental fintech working group of the Prudential Authority (PA) in South Africa has suggested the following principles:</p> <p>Principle 1: Crypto asset service providers (CASPs) must be regulated, and regulated appropriately</p> <p>Principle 2: An activities-based perspective must be maintained, and the principle of ‘same activity, same risk, same regulations must continue to apply and inform the regulatory approach.</p> <p>Principle 3: Proportionate regulations that are commensurate with the risks posed must apply (i.e., a risk-based approach to crypto asset regulation must apply).</p> <p>Principle 4: A truly collaborative and joint approach to crypto asset regulation must be maintained.</p> <p>Principle 5: Continue to proactively monitor the dynamic development of the crypto assets market, including maintaining knowledge of emerging international best practices (through standard-setting bodies, etc).</p> <p>Principle 6: Digital literacy and digital financial literacy levels must be increased amongst consumers and potential consumers of crypto assets.</p> <p>Some principles seem aligned with what is being suggested internationally. Although in theory, the principles for crypto regulation and oversight seem sound, there is a meaningful change impact where crypto assets are being included in</p>	<p>Recommend that international regulators consult with impacted institutions and regulators regarding the impact this has on the current workload and adherence to current regulations. This may have a significant impact on current risk oversight activities associated with change within the financial system context.</p>

NR	REFERENCE IN ACT/BILL/DOCUMENT	COMMENT (Why is it a problem?)	PROPOSED WORDING/COMMENT
		<p>regulatory frameworks for which should be accounted. In South Africa as an example, the Prudential Authority has indicated one cannot simply de-risk CASPs which places an onus on banks to develop their internal policies and risk management practices</p> <p>See source: http://www.treasury.gov.za/comm_media/press/2021/IFWG_CAR%20WG_Position%20paper%20on%20crypto%20assets_Final.pdf</p>	
2.	Page 1 – Proposed recommendations for the regulation, supervision and oversight of crypto-asset activities and markets	<p>South Africa issued a declaration to include crypto assets as financial products under the Financial Advice and Intermediary Services Act.</p> <p>In the South Africa crypto guidance, it is reiterated that the decision to regulate the crypto assets environment does not signal or suggest endorsement of crypto assets by the IFWG members. Rather, the decision to regulate CASPs aims to promote responsible innovation and regulate the conduct of these providers. This however may not seem to be widely understood in the industry as an endorsement and will be a global issue.</p>	<p>Recommend international regulators ensure adequate training and consumer awareness activities. This is to reduce ambiguity and to ensure customer awareness of the evolving nature of the technology and associated products.</p>
3.	Page 7 / Section 2.1 International Standards and Policies	<p>The FSB distinguishes the following international publications:</p> <p>The Basel Framework, including prudential requirements on capital and liquidity, as well as risk management guidelines such as guidance on operational resilience and the sound management of operational risk, applies to crypto-asset activities conducted by banks. The second public consultation of the Basel Committee for Banking Supervision (BCBS) on the prudential treatment of banks' crypto-asset exposures⁶ proposes a tailored application of prudential requirements to banks' exposures to crypto-assets to address credit, market, liquidity, and operational risks.</p>	<p>Recommend that the Bank of International Settlements Committee on Payments and Market Infrastructures (CPMI) Innovation sandboxes for ecosystems may be more practical to achieve customer safety, transparency and clarity including coordinated responses together with effective risk management and/or policy reform.</p> <p>BCBS Prudential Treatment of Crypto Assets was comparatively more prescriptive on certain elements of crypto assets, for example on what constitutes an effective stabilisation mechanism</p>

NR	REFERENCE IN ACT/BILL/DOCUMENT	COMMENT (Why is it a problem?)	PROPOSED WORDING/COMMENT
		<p>The Bank for International Settlements' Committee on Payments and Market Infrastructure (CPMI) and the International Organization of Securities Commissions (IOSCO)'s Principles for financial market infrastructures (PFMI) apply to systemically important financial market infrastructures (FMIs). In July 2022, CPMI-IOSCO published guidance on the application of the PFMI to stablecoin arrangements (SAs). This guidance, which follows the consultative report of October 2021, reconfirms that if an SA performs a transfer function and is determined by authorities to be systemically important, the SA is expected to observe all relevant principles of the PFMI. The guidance provides further clarifications on how systemically important SAs should observe certain aspects of the PFMI.</p> <p>The IOSCO Objectives and Principles for Securities Regulation and other standards or guidance issued by IOSCO apply to all activities involving crypto-assets deemed regulated financial instruments/securities and all derivatives instruments, irrespective of the classification of the underlying asset. On that basis, IOSCO standards may be applied to a broad range of activities and entities, including issuers and market intermediaries such as trading, lending, and borrowing platforms and protocols (decentralised or centralised), custodians, broker-dealers, investment advisers, market makers etc.</p> <p>Financial Action Task Force (FATF) standards apply extensively to all virtual assets (VAs) and virtual assets service providers (VASPs) as defined in the FATF recommendations and guidance.</p>	<p>for a stablecoin. Given that this is a paper with generic high-level principles, recommend authorities should be guided by when regulating/monitoring crypto assets in their respective jurisdictions, the lack of granularity on certain elements seems appropriate, as it gives jurisdictions enough flexibility to apply the principles in a manner that takes their markets into account.</p> <p>Recommend learnings be derived from financial crime controls.</p>
4.	Page 12 / Section 3.4 Risk management related to wallets and custody services	In South Africa, deposit-taking activities require a banking license. : It is unclear whether the custodial activities once some regulatory scope would constitute deposit-taking activities. In South Africa, we also have to sponsor third-party payment providers (TPPPs) i.e. an entity that provides payment services where; i) money or proceeds of payment instructions are accepted as a regular feature of its business from multiple payers on behalf of a beneficiary; or ii) money or the proceeds	Information

NR	REFERENCE IN ACT/BILL/DOCUMENT	COMMENT (Why is it a problem?)	PROPOSED WORDING/COMMENT
		<p>of payment instructions are accepted as a regular feature of the business from a payer to make payment on behalf of that payer to multiple beneficiaries.</p> <p>We are seeing some structures where entities are wanting to create crypto wallets for payments and require sponsorship. This however becomes technically difficult to solve in terms of whether deposit-taking requires a bank's license and the exposure the bank has for these third parties. It is understood there is also usually no depositor insurance held by TPPPs on these wallets.</p> <p>It is also not clear how the custodial services be covered? Are we looking at calling crypto a security? Will the exiting custodian require a separate license?</p>	<p>Clarify</p>
5.	Page 14 / Section 3.6 Data management and disclosure	<p>South Africa is governed by the Protection of Personal Information Act (POPIA) which includes both natural and juristic persons in its definition of a data subject. Data management in traditional banking is extraordinarily complex. It is unclear to what extent this will be achieved via non-permissioned ledgers and the coordination around the same and by who and may result in misalignment where POPIA includes juristic entities in such treatment. Data privacy principles require a lot of coordination to ensure it meets the lawful bases for processing in a pragmatic way. Consent is not always practical/possible and may need to be considered on a use-case basis.</p>	<p>Recommend that data management and disclosure must be a consideration.</p>
6.	Page 18 / Section 4.3 Recommendation 1: Regulatory powers and tools	<p>It is unclear whether authorities have the capabilities to enforce the applicable regulatory, supervisory and oversight requirements including the capacity for corrective action and imposing of restrictions.</p>	<p>Recommend that international alignment, training, tooling, resourcing, and awareness be further explored.</p>
7.	Page 18 / Section 4.3 Recommendation 1: Regulatory powers & tools	<p>It seems taxing to regulate a volatile decentralized asset.</p>	<p>Clarify what steps are being taken to build the capacity to regulate crypto assets. Clarify if this only applies to asset-backed crypto assets or the entire spectrum.</p> <p>Recommend authorities specify backed or unbacked as the target focus.</p>

NR	REFERENCE IN ACT/BILL/DOCUMENT	COMMENT (Why is it a problem?)	PROPOSED WORDING/COMMENT
8.	Page 18 / Section 4.3 Recommendation 1: Regulatory powers & tools	Crypto asset service providers would only account for a fraction of the crypto asset activities with most crypto activities being done anonymously	Clarify how would regulatory powers apply to this class of crypto asset activities.
9.	Page 19 / Section 4.3 Recommendation 2: General regulatory framework	Following the principle of “same activity, same risk, same regulation” and “proportionality,” will proportionality be applied consistently and to a high degree of fairness? It may seem that the regulation towards crypto assets is a move to centralize an idea that was intended to be decentralized.	Clarify if the intention of a regulatory framework on crypto assets is in line with fiat currencies.
10.	Page 19 / Section 4.3 Recommendation 2: General regulatory framework	The potential for inconsistent levels of supervision and oversight despite the principle of “same activity, same risk, same regulation” is likely to be high due to the evolving nature of crypto assets i.e., Volatile asset / possible speculative bubble.	Clarify how the potential inconsistencies will be addressed
11.	Page 19 / Section 4.3 Recommendation 3: Cross-border cooperation, coordination, and information sharing.	Crypto assets are 100% of the time done on a P2P network, without the need for a central server which would easily store all relevant information needed. Hence the decentralization of crypto assets.	Clarify how effective would information sharing be?
12.	Page 19 / Section 4.3 Recommendation 3: Cross-border cooperation, coordination, and information sharing	Indeed, cross-border cooperation would prove to be a useful tool for managing the regulation of crypto assets.	Support cross-border cooperation.
13.	Page 24 / Section 4.3 Recommendation 8: Addressing financial stability risks arising from interconnections and interdependencies	Ecosystem-led discussions and exploration may aid appropriate governance and coordination for interconnections/interdependencies.	Support ecosystem-led discussions and exploration.
14.	Page 26 / Annex 1 / Function 1 / Creating, issuance, redemption, distribution, and underlying infrastructure of crypto assets		Clarify whether there are additional risks to be considered e.g., legal risk
15.	Page 27 / Operating the infrastructure and validating transactions	Payment clearing house rules impact clearing/settlement. Third-party risk for banks is very topical, cyber and/or resilience risk.	Notification

NR	REFERENCE IN ACT/BILL/DOCUMENT	COMMENT (Why is it a problem?)	PROPOSED WORDING/COMMENT
16.	Page 29 / Annex 1 / Function 2 / Wallets and custody	Concern: In South Africa, legal risk for TPPP sponsorship. There is also the possibility of needing to use a bank license.	Recommend including conduct e.g., treating customers fairly (TCF), servicing, complaints management, insurance for deposits
17.	Page 32 / Annex 1 / Function 3 / Transfer and transaction	Transaction risk, cyber and resilience risk, exchange control application for international payments in South Africa	Notification
18.	General Comment	We have seen inconsistencies across different regulations with regard to Third Party Information reporting.	Recommend alignment with the current regulations, more especially the OECD's Crypto Asset Reporting Framework.
19.	General comment	Change impact on financial market players for further crypto regulation may need to be explored as in some domiciles traditional banks are often expected to govern third parties.	Recommend change impact on financial market players be explored
20.	General comment	In Tanzania, Virtual Currencies (VCs) which include the so-called digital currencies, stablecoins, or cryptocurrencies are not legal tenders and are not accepted for payment in the United Republic of Tanzania. Crypto assets are not as attractive as in economies where people may try to circumvent currency controls. Crypto-currency assets do not cover central bank-issued digital currencies (CBDCs), which are representations of fiat currency. As in most jurisdictions, there is no specific regulation over virtual currencies (VCs) which are regarded as virtual commodities but not as legal tender in the United Republic of Tanzania.	
21.	General comment	Tax evasion through crypto assets is seen as an extremely high threat. In the context of Seychelles, the perception of offshore financial centres and the country's ranking in the financial transparency index, the existing tax legal framework should be revisited to bring crypto activities within its scope. The tax implications can arise from transactions involving VAs to assist Peer to-peer mining activities, professional advisers and VASP activities in the country. The tax legislation review will allow the authorities to adopt the law for VA/crypto assets purposes.	

NR	REFERENCE IN ACT/BILL/DOCUMENT	COMMENT (Why is it a problem?)	PROPOSED WORDING/COMMENT
22.	General comment	Some supervisors will require sufficient human and technical resources, including information technology tools such as commercially available VA/crypto assets forensic and database and transaction monitoring tools. The complexity of the underlying technology of crypto assets and its rapid ongoing evolution will require such tools and skills for the staff monitoring of crypto assets.	
23.	General comment	Unregulated activity: Currently, the VA falls outside the scope of a currency to be regulated by some central banks and the licensing conditions of certain authorities in certain countries. Although stablecoins could be backed by fiat money, it is not e-money, and there are no directives from competent authorities to situate the regulatory status of stablecoins. The legislative vacuum has provided a revolving door for existing and new actors in the international business to domicile as VASP from some jurisdictions without any regulatory oversight.	
24.	General comment	Anonymised Payment and Transfer Services: Many Traced VASPs have been set up for payments and transfers of VAs, which may heighten ML/TF risks. The existing legislation does not give the supervisor the necessary power to monitor technology that prevents transparency, such as tumbling or mixing services or anonymity-enhanced coins (AECs) supplied by certain providers. The speed of transactions, the VA's global reach, and the potential for increased anonymity and obfuscation of transaction flow to high-risk counterparties cannot be monitored by the Authorities under the existing regulatory setup.	Recommend the development of new supervisory methods to cope with the increased complexity in financial technology businesses and VA services. That should allow them to make more intensive use of data and technological tools like blockchain analytics to improve the effectiveness of their supervisory frameworks.
25.	General comment	Availability of Reliable Identification Infrastructure: Understanding and obtaining information on the purpose and intended nature of the business relationship is a crucial element of the mitigating measures, and such information should be made available to competent authorities and, to some extent, to the public when appropriate.	
26.	General comment	Financial and human resource capacity of law enforcement authorities to investigate, trace, seize and secure virtual assets: The skills and expertise necessary to conduct thorough and complex investigations involving VAs remain highly	

NR	REFERENCE IN ACT/BILL/DOCUMENT	COMMENT (Why is it a problem?)	PROPOSED WORDING/COMMENT
		specialised. Bespoke training to supervisors and law enforcement agencies on the use of the technology and how to investigate and prosecute related crimes must be planned and implemented accordingly.	
27.	General comment	There is a need to have an effectiveness of international cooperation.	
28.	General comment	While the CA and GSC documents are to be seen as standalone documents, they would benefit from harmonization of language and coverage (where applicable) in areas that apply to both CAs and GSCs, examples are Disclosure, Data storage and access to data, and Risk Management.	
29.	General comment	While liquidity and funding risk is explicitly mentioned, it seems that concentration risk is not. It presents an important Risk type to consider for CAs and GSCs.	
30.	General comment	Both GSCs and CAs typically function across a network of activities. Currently, the proposed GSC recommendations cover this network while the CA recommendations appear to only focus on CA issuers and service providers providing customer-facing services. This leaves out important infrastructure services such as the Lightning Network related to Bitcoin or cross-chain bridges for example which are typically not operated by CA issuers and are not customer-facing.	
31.	General comment	<p>It should be clarified how the below CA recommendations are intended to work together and be applied in all jurisdictions.</p> <p>Regulatory Powers and Tools:</p> <ul style="list-style-type: none"> • Authorities should require crypto-asset and service providers to meet all applicable regulatory, supervisory, and oversight requirements of a particular jurisdiction before commencing any operations in that jurisdiction and adapt to new regulatory requirements as necessary or appropriate. <p>General Regulatory Framework:</p>	Clarify

NR	REFERENCE IN ACT/BILL/DOCUMENT	COMMENT (Why is it a problem?)	PROPOSED WORDING/COMMENT
		<ul style="list-style-type: none"> • Consistent with past approaches to technological change, authorities should assess whether existing regulatory, supervisory and oversight requirements adequately address the financial stability risks of crypto-asset activities, including any emerging or new risks that may arise and, if needed, clarify or supplement existing regulatory, supervisory and oversight requirements. • In cases when crypto-asset activities outside the scope of financial regulation may pose risks to financial stability, authorities should, as needed, seek to expand, or adjust their regulatory perimeter, as appropriate <p>Comprehensive regulation of crypto asset service providers with multiple functions:</p> <ul style="list-style-type: none"> • To the extent that such combinations are a result of non-compliance with existing regulations, authorities should enforce their powers and use their tools as appropriate and in line with jurisdictional legal frameworks, including disaggregation and separation of certain functions. • Authorities should consider additional prudential requirements if appropriate to address additional risks or conflicts of interest. 	
32.	General comment	Does CA recommendation 8 (Addressing financial stability risks arising from interconnections and interdependencies) cover research houses like “Alameda”?	Recommendation: The definition of “interconnections and interdependencies” should be defined in more detail.
33.	General comment	Do these recommendations cover Distributed Autonomous Organisations?	Clarify
34.	General comment	The CA recommendations should cover on-chain and off-chain data/assets/protocols or other arrangements and network components.	
35.	General comment	The nature of CAs and their networks means that global reach exists even in the nascent stages of any CA issuer's projects or initiatives, therefore the inherent potential financial stability risk always remains extremely high.	Clarify

NR	REFERENCE IN ACT/BILL/DOCUMENT	COMMENT (Why is it a problem?)	PROPOSED WORDING/COMMENT
		<p>It is unclear how a differentiation may be achieved when considering the below recommendation (unless this is only a point in time – which then implies that the potential risk is discarded)</p> <p>General Regulatory Framework</p> <ul style="list-style-type: none"> The assessment of potential financial stability risks should consider the interconnectedness between the crypto-asset market and the wider financial system, the overall size and nature of the activities being conducted (including the degree of financial intermediation, leverage, credit, liquidity, and maturity transformation), as well as of the risk of spilling over into other jurisdictions. 	
36.	General comment	<p>It is unclear how these recommendations are intended to cover consensus blockchains like Bitcoin or Ethereum.</p> <ul style="list-style-type: none"> This is especially true for Disclosure and data matters, given that a 50%+1 majority enables these networks to in effect change the transaction history by creating a new path to the current date from the date in the past at which the transaction in question occurred This also impacts governance matters related to the blockchain and DeFi – thus clarification would be welcomed to address if these “voting” mechanisms cover Governance mechanisms. Could effective governance be executed through code that is embedded in the CA issuer’s protocols, and smart contracts on and/or off the chain? 	Clarity
37.	General comment	GSC recovery and resolution recommendations should also be incorporated into CA recommendations.	
38.	General comment	Un-hosted wallets should be explicitly considered in Risk management for CAs as they are for GSCs. The same goes for permissionless or anonymous networks.	
39.	General comment	<p>From the recommendations, it is not clear if the VASPs will be given a full spectrum of CA multiple use cases (i.e., trading, lending, custody, and brokerage services). As these services are very different, we would need clarity on each one of the roles and the supervision thereof.</p> <p>These activities would need to be regulated individually.</p>	<p>Recommend limiting the spectrum CA, based on the acceptable use cases.</p> <p>Acceptance would accelerate as CAs become better understood by the market.</p>

NR	REFERENCE IN ACT/BILL/DOCUMENT	COMMENT (Why is it a problem?)	PROPOSED WORDING/COMMENT
40.	Page 75	Definition of issuer: "An entity, person, or other structure that creates new crypto-assets." It is our view that this is too generic. It needs to be more specific as there are numerous differences across protocols and tokens. Bitcoin is 'issued' by the protocol while other crypto assets are issued by an entity of the business.	
41.	Page 75	Definition of Crypto-asset services: There is a need to separate custodial and non-custodial, CeFi and DeFi.	Recommend the separation of custodial and non-custodial, CeFi and DeFi.
42.	Page 76	Definition of DeFi: If we are to separate CeFi and DeFi what are the differentiating criteria?	Clarify
43.	Page 76	Crypto-asset trading platform: Consideration needs to be given to the need to separate CeFi and DeFi as risk differs significantly due to the difference in security and transparency.	Recommend the separation of CeFi and DeFi.
44.	Page 76	Definition of crypto-asset service providers: • It is our view that there is a need to separate CeFi and DeFi as the risks are completely different. • "among others" is too broad.	Recommend the separation of CeFi and DeFi.
45.	General comment	We agree with the principle from the FSB that states that "authorities should have the appropriate powers and tools, and adequate resources, to regulate, supervise, and oversee crypto-asset activities and markets, including crypto-asset issuers and service providers, as appropriate." We believe that this should be to the extent that it does not stifle innovation. It is our view that there should be a specific focus where a firm can lose or steal, or otherwise risk consumer funds, and therefore should be required to be licensed.	Support
46.		The principles of the "Proposals for Clarifying Laws Around Cryptocurrency and Blockchain Technologies in Response to Requests for Feedback from Senator Pat Toomey" highlight some current areas of uncertainty that have been voiced: https://www.coincenter.org/app/uploads/2021/09/Toomey-Policy-Proposals.pdf	Information

NR	REFERENCE IN ACT/BILL/DOCUMENT	COMMENT (Why is it a problem?)	PROPOSED WORDING/COMMENT
47.		Regulation should define the role (and applicable regulation) of various intermediaries in the digital asset value chain. A typical value chain will have - Issuer - Exchange - Broker - Custodian.	Recommend that regulation define the role (and applicable regulation) of various intermediaries in the digital asset value chain
48.		The role of intermediaries will also vary depending on whether assets are on a public blockchain or private. It is a key issue from a risk perspective.	Information
49.		A key issue which is critical for both regulators and market players is to identify the change in role (traditional vs digital asset value chain)	Information
50.		The consultation papers sometimes refer to applicable regulations rather than specific references. For e.g, in the case of stablecoin issuance, which regulation will apply? Securities or currency as its being used as payment tokens and traded as security.	Clarify

Review of the FSB High-level Recommendations of the Regulation Supervision and Oversight of “Global Stablecoin” Arrangements

NAME OF PERSON COMPILING SUBMISSION: Benjamin April

ORGANISATION: The Banking Association South Africa

SUBMISSION DESCRIPTION: Review of the FSB High-level Recommendations of the Regulation Supervision and Oversight of “Global Stablecoin” Arrangements

NR	REFERENCE IN ACT/BILL/DOCUMENT	COMMENT (Why is it a problem?)	PROPOSED WORDING/COMMENT
1.	Page 11 / Section 3.1 Authorities' readiness to regulate and supervise global stablecoin arrangements / Recommendation 1	Although there is now increased regulation on virtual assets (VA), several market players were involved before the actual enactment of the laws. How would we make sure all market players abide by the legislature, and how to track those that do not?	Recommend that the authorities use their powers to limit, within their respective jurisdictions, people who can trade in VA as well as regulate platforms that can be used.
2.	Page 11 / Section 3.2 Comprehensive oversight of GSC activities and functions / Recommendation 2	Although there can be legislature in place to govern virtual asset service providers (VASPs), there lies a grey area regarding the trading platforms used. To be able to effectively regulate GSC activities which rely on trading platforms, to ensure that in the same way VASPs need licensing, the intermediary trading platforms require licensing as well.	Recommend that the intermediary trading platforms require licensing as well, to ensure a full end-to-end regulated environment.
3.	Page 17 / Section 3.8 Disclosures / Recommendation 8	The lack of standards for disclosures opens room for money laundering and tax evasion risks.	Recommend clear and full financial and general disclosures to prevent money laundering and counter-terrorism risks.
4.	Page 18 / Section 3.9 Redemption rights, stabilisation, and prudential requirements / Recommendation 9	If there is an initial coin offering (creation of new coins), what mechanism would be in place for the regulators to be able to see these new coins on the digital ledger? We use audited financials to establish liquidity ratios. If you are relying on the issuers/exchanges to report on this, how does the regulator verify the information? This is where you have exchanges that have insufficient reserves and are exposed to risk and losses if there is a 'run' on the coin/exchange (we have just seen it happen with FTX). Transparency and validity of supporting reserves need to be seen as an essential backstop.	Recommend transparency and validity of supporting reserves to be established through a combination of audit and disclosure.

NR	REFERENCE IN ACT/BILL/DOCUMENT	COMMENT (Why is it a problem?)	PROPOSED WORDING/COMMENT
5.	General comment	The complexity of the regulations may hinder the amount of interest there currently is in the VA space but overall, these would make it a more controllable area and therefore the recommendations are welcomed with the above recommendations as well.	
6.	General comment	Stable Coin - A crypto-asset that aims to maintain a stable value relative to a specified asset, or a pool or basket of assets. Additional clarity is required for non-fungible tokens versus stable coins e.g., NFT pegged to a piece of art. May need further exploration in the schematic under general regulations i.e., IP etc.	Recommend additional clarity for non-fungible tokens versus stable coins e.g., NFT pegged to a piece of art. Recommend further exploration in the schematic under general regulations i.e., IP etc.
7.	General Comment	We have seen inconsistencies across different Regulations regarding Third Party Information reporting.	Recommendation: With regards to reporting it is important that there is alignment with the current Regulations, more especially the OECD’s Crypto Asset Reporting Framework.
8.	General comment	Definitional guidance is evolving and may need to be explored per use case scenarios/characteristics e.g., stablecoins versus NFTs	Recommend additional definition guidance.
9.	General Comment	In the case of Botswana, there was a deficiency in money laundering and counter-terrorism measures which led to its greylisting in 2020. In that, there has been a grey area in terms of regulation of VA with no clear legislature in place to control crypto asset trading until only recently with the Virtual Asset Act released in February 2022 to regulate VASP, with the “Yellow card” platform being the first to receive a license.	Comment
10.	General Comment	There is a lot of anonymity which is not regulated per the Virtual Assets Act, and this can result in money laundering risks. FAFT “travel rule” - A key AML/CFT measure, which mandates that Virtual Currency Exchange Providers (VCEPS) obtain, hold, and exchange information about the originators and beneficiaries of VC transfers.	Recommend the development of guidance to make sure there is transparency in who is trading in these assets, to enforce the “travel rule” and to prevent money laundering.

NR	REFERENCE IN ACT/BILL/DOCUMENT	COMMENT (Why is it a problem?)	PROPOSED WORDING/COMMENT
11.	General Comment	Cross-border transactions are not monitored for financial reporting, as is done in the traditional financial ecosystem, which can lead to a risk of tax evasion. There would need to be a way to monitor and report on all transactions for proper tax treatment.	Recommend CBDCs have an embedded smart contract that prohibits the transfer to countries sanctioned by the CBDC issuer country.
12.	General Comment	There is a need for regulators across different jurisdictions to work together to minimise tax evasion and money laundering risks through cross-border transactions as well.	Recommend regulators across different jurisdictions work together to minimise tax evasion and money laundering risks through cross-border transactions as well.
13.	General comment	With stablecoins attempting to mirror the pricing of real-world assets (and backed by fiat assets), stablecoins are increasingly being integrated into the traditional financial system, which may have uncertain consequences.	The FSB recommendations around stablecoins are quite robust and are welcomed
14.	General comment	Are the FSB high-level recommendations focused on fiat-backed stablecoins or do they include stablecoins backed by other crypto assets?	Clarify
15.	General comment	The “Yellow Card” platform exists in Zambia. It is the largest and most popular CA service provider. It manages both backed (Tether & Ethereum) and unbacked (Bitcoin) CA. These would fall under custodial wallets and regulations. Non-custodial wallets would at some point be redeemed into fiat currency when anonymity can be lifted	Clarify what actions would the FSB recommend for non-custodial wallets in which private keys are generated by individuals and are anonymous. Recommend Tax disincentives (non-custodial wallets) vs tax incentives (custodial wallets) be applied to influence the market.
16.	General comment	While the CA and GSC documents are to be seen as standalone documents, they would benefit from harmonization of language and coverage (where applicable) in areas that apply to both CAs and GSCs, examples are Disclosure, Data storage and access to data, and Risk Management	Recommend the harmonisation of language and coverage (where applicable) in areas that apply to both CAs and GSCs,

NR	REFERENCE IN ACT/BILL/DOCUMENT	COMMENT (Why is it a problem?)	PROPOSED WORDING/COMMENT
17.	General comment	While liquidity and funding risk is explicitly mentioned, concentration risk is not. It presents an important Risk type to consider for CAs and GSCs.	<p>Recommend considering concentration risk for CAs and GSCs.</p> <p>Recommend the GSC should include on-chain and off-chain data/assets/protocols or other arrangements and network components.</p>
18.	General comment	<p>How are the GSC recommendations below intended to work together?</p> <p>Risk Management:</p> <ul style="list-style-type: none"> In addition to prudential requirements outlined in recommendation 9, authorities should require GSC arrangements to have comprehensive liquidity risk management practices and contingency funding plans that set out the strategies and tools for addressing a large number of redemptions i.e., run scenarios, and are regularly evaluated and operationally robust. The GSC arrangement should also have robust capabilities to measure, monitor and control funding and liquidity risks, including liquidity stress testing. <p>Recovery and resolution of GSC</p> <ul style="list-style-type: none"> Authorities should require that GSC arrangements have in place appropriate planning to support an orderly wind-down or resolution under the applicable legal (or insolvency) frameworks, including continuity or recovery of any critical functions and activities within the GSC arrangement. 	Clarify
19.	General comment	<p>The GSC recommendation below should apply to the entity in the arrangement that bears the risk:</p> <p>Risk Management</p> <ul style="list-style-type: none"> Authorities should require that GSC arrangements have in place policies that set out how all functions and activities within the GSC arrangement are subject to 	Clarify

NR	REFERENCE IN ACT/BILL/DOCUMENT	COMMENT (Why is it a problem?)	PROPOSED WORDING/COMMENT
		<p>risk management measures that are appropriate to and commensurate with the specific risks that GSC arrangements may pose. If the risk from the fluctuation in the value of the underlying assets is borne, partially or totally by the GSC operator, the relevant prudential framework (e.g., market risk framework) should be applied to the GSC operator.</p>	
20.	General comment	<p>The below GSC recommendation should be harmonised with the CA recommendation at the bottom:</p> <p>Risk Management (GSC)</p> <ul style="list-style-type: none"> • Authorities should require that GSC arrangements have in place policies that address heightened risks for GSC arrangements, such as operational risks (including fraud and cyber risks), compliance risks (including money laundering/terrorist financing risks), and provide for appropriate consumer and investor protection, in line with legal obligations in jurisdictions where a GSC arrangement operates. <p>Disclosures (CA)</p> <ul style="list-style-type: none"> • Authorities should require crypto-asset issuers and service providers to disclose any material risks associated with the underlying technologies, such as cyber security risks, as well as environmental and climate risks and impacts, as appropriate and in line with jurisdictional legal frameworks. 	Clarify
21.	General comment	<p>"Is the distinction between GSC and other types of crypto-assets sufficiently clear or should the FSB adopt a more granular categorisation of crypto-assets (if so, please explain)?"</p>	

