1. <u>Daniel Calloway</u>

<u>General Feedback</u>

As an attorney with over 10 years of experience in financial services, it's clear the provided standards/rules of the proposed framework are well-researched and, in many cases, indispensable to establishing an appropriate, international standard. However, what's incredibly conspicuous about the framework is not its contents and what is currently present, but, rather, what's flagrantly missing from its constitution. Specifically, while the detailed recommendations are certainly needed, they are incomplete due to an overall antiquated framework ideology and a dearth of ethical considerations.

To be clear, the following commentary is mostly motivated by current events. In the news, it's all eyes on FTX and that's for good reason. It's certainly not the first investigation into a crypto company (e.g. Ripple), but it is the largest, with the most at stake for the entire industry. As such, as commentators, we'd be remiss if we didn't frame the responses with the current investigation at the forefront. Thus, please consider the following risk categories while pursuing a dynamic framework: (1) Ethical Risk; (2) Social Risk; and (3) Historical Risk.

We must address the elephant in the room: crypto is inherently risky and unstable in its current stage of maturity. Some of the questions then become: how do we manage the risk, to what degree, and why? One of the first things that should be considered for an international framework is the foundation from which it's built. Given the criticality of crypto (e.g., how it can change the world with financial inclusion [positive]; unregulated entity with super-sized influence on financial markets [negative]), it's ethics that should guide <u>every single risk decision</u>, and as of today it's not mentioned anywhere in the framework. Of course, you should have a separate ethics department, but the suggestion here is to add ethics as an official category that underlies all. There are so many practical ethical considerations that could be applied here that would make a tremendous difference.

- For example, one of SBF's comments in his leaked, verified testimony was that he wished there was a public monitor consisting of total client balances, collateral details, margin and risk information, etc. This sounds like a "corporate transparency dashboard" and if it existed for FTX, and was accurate, then the entire debacle probably never happens.
- Another example would be required white collar crime and ethics reporting training for all employees at a crypto firm. Compliance and risk management are about cultures of awareness and responsibility. Put simply, large-scale criminal or unethical activity is drastically reduced when collaboration from bad actors is made difficult, and with proactive training in the aforementioned topics of white-collar crime and ethics reporting you'll, in essence, be creating an entire corporation of watchdogs that are empowered to swiftly report suspicious activity. Ultimately, this could serve as a hefty deterrent.

The fact that both of the above measures are not standard is disconcerting because it shows that consumer protection is not at the forefront and, when dealing with risky investments/asset classes, your avg consumer is the one who needs to be safeguarded.

Additionally, it's important to call out social risk. This is similar to ethical risk but there is indeed a distinction. Essentially, one can view social risk as a subset of ethical risk because the reason social risk is important is primarily due to moral principles. However, social risk truly does standalone because it's exclusively about how your business decision will impact society. Are organizations truly taking that into consideration? We've seen a ton of improvement in this space with the addition of ESG reporting. In fact, climate risk is categorized in the proposed framework and that's a stellar and astute addition. On the other hand, while there has been improvement in ESG and Corporate Sustainability practices, the philosophies behind them haven't trickled down to micro-business decision-making. With as much product testing that firms conduct, it's a dereliction of duty to not assess social risk on a routine basis. Earnestly ask yourself, “Are crypto companies demonstrating positive business impact by integrating social considerations in their operations? Are crypto firms focused on sharing expertise in implementing social management systems?” It’s a mixed bag and until there’s serious commitment to corporate responsibility/sustainability as it relates to community impact (people, the environment, etc.), we’ll continue to have crypto companies putting their profits and customer growth over the well-being of the humans they’re supposed to be providing value to.

Last, there appears to be a lack of perspective when it comes to crypto and its risk profile as an industry. Crypto is obviously not the first type of currency; it is one of many present and historical currencies that’s circulated in society. Therefore, how we should treat crypto from a risk perspective isn’t all that novel. Plenty of scholars have written about cryptos rise and have compared it to other currencies of the past, etc. The argument here is that historical risk perspectives and their inherent wisdom, have been forgotten or at least they’re shamefully underutilized. There was a time when philosophers would guide the governments, treasury, etc. In our current environment, utilizing the FSB report as an example, all of our recommendations come from financial experts. Yes, they are vital, but they are not the only professionals that can lend expertise as it relates to assessing and/or prognosticating risk. Moving forward, it is absolutely critical for international financial regulatory bodies to invite experts from other disciples to advise on risks associated with crypto (macro and micro). Silos have been embraced and there needs to be a shift to a more divergent thinking model.

In closing, while satisfied with the progress that’s been made with the framework, there’s still more work to be done as the industry works out its kinks. The recommendation herein is to view crypto risk holistically with new, supplemental, foundational risk categories, and, most crucially, with the consumer in mind first.

2. Zeeshan Faisal

General (Question number 5)

In order to regulate the actions of banks and fintech providers, particularly in the area of crypto assets, more specific suggestions are required as the adoption of digital technologies are increasing significantly. Risk associated with digital efforts should be treated differently and specifically under Basel’s capital calculation methodology. For capital charge, a specific framework for fintech providers should be devised. At the level of regulatory supervisors, the establishment of strong technology risk management processes and standards is inevitable.

3. Ranjana Sahajwala

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?

The proposals made in the consultative document are comprehensive.

2. Do you agree that the requirements set out in 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?

Yes, agree.

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)?

It is suggested that FSB adopt a more granular categorization of crypto-assets to cover cryptocurrency, crypto tokens, stablecoins (various types), and GSCs with some illustrative names/identities for each category. The categorization will bring clarity to the types of crypto-assets and facilitate a better understanding of the nature, function, and purpose of each crypto-asset type.

Crypto-assets and markets (CA Recommendations)

6. Does the report accurately characterize the functions and activities within the crypto-ecosystem that pose and may pose financial stability risks? What, if any, functions, or activities are missing or should be assessed differently?

Some crypto-asset activities within the crypto ecosystem such as the provision and use of Decentralised Apps (DApps) on a blockchain and the use of Decentralised Autonomous Organisations (DAOs) in crypto-asset activities could be specifically mentioned and included.

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

DAOs and DApps could be included as activities in the crypto ecosystem and the associated challenges such as coding of smart contracts, cyber risks, legal issues, etc. could be included as associated potential risks.

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

Investor and consumer protection is important for maintaining confidence in the system and financial stability. The CA Recommendations should include a separate recommendation for having in place appropriate mechanisms for investor and consumer protection, both at the entity level (entity/person providing the crypto-asset, crypto-activity/service) and at the level of the regulator/supervisor/independent body.

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

Yes, there should be a more granular differentiation within the recommendations between different types of intermediaries and service providers.

The main service providers/intermediaries include cryptocurrency issuers, blockchain developers, cryptocurrency platforms, crypto exchanges, and wallets.

Illustratively, certain recommendations would be more critical for certain types of intermediaries – e.g., the recommendations relating to disclosures, and recovery and resolution planning would be critical for crypto exchanges.

Recommendations relating to data management would be critical for cryptocurrency issuers, platforms, and exchanges.

4. Viresh Markandeya

General

I agree with FSB's approach of "same activity, same risk, same regulation". With Crypto assets getting more entrenched in the financial system leading to more users, intermediaries and service providers the line of division between traditional financial system and Crypto related assets will get thinner. This might increase the risk of the financial instability every time there is some upheaval in the CRA domain. Recent failure/bankruptcy of FTX Exchange and the related trading company Almeida Exchange are good examples of how this event could have spilled over to the conventional banking system if the related Crypto assets had gotten linked and entrenched with traditional banks. That could have led to another Financial crisis within a short span of less than one and a half decade.

The companies which are into Crypto asset activities need to be registered in jurisdictions that are well-regulated to maintain better supervision, control and oversight of activities of these firms. FSBs proposed approach on CA Recommendations and GSC Recommendations seems to be a step in the right direction. As crypto asset activities and Global Stablecoins get more users and investors globally it is prudent to protect both set of stakeholders. Currently there seems to exist significant regulatory arbitrage resulting from the legislation around Crypto activities in different geographies and jurisdictions. This increases the risk of fraud, market manipulation, lack of user and investor protection and can ultimately lead to financial instability as Crypto assets get sizable. This arbitrage needs to reduce, if not disappear, by better information sharing and coordination between different countries, regions and regulatory bodies. This is what Banking sector has achieved. CA and GSC activities need to follow the same to avoid any further shocks in the Financial system.