



To whom it may concern,

The recent events unfolding in the crypto-assets markets demonstrate the need for regulation that is appropriate to these markets, proportionate to the risks, and that encourages innovation.

Recent volatility and the collapse of a large crypto exchange provider has exposed severe vulnerabilities in the crypto financial system. IDAXA believes a specified and new holistic approach to regulatory requirements will produce the exact required outcomes.

While touted as a fundamental break from traditional finance, the crypto financial system turns out to be susceptible to similar risks that are all too familiar from traditional finance, such as leverage, settlement, opacity, immaturity, and liquidity transformation.

Such risks underscore why we now need comprehensive international standards that more fully address risks to the financial system from crypto assets, their associated ecosystem, and their related transactions while allowing for an enabling environment for useful crypto asset products and applications.

Key areas of focus should include licensing, safeguarding and segregation of customers' assets, custody rules, customer and investor protection, business conduct rules, governance, cyber security, market integrity, management of conflicts of interest, enforcement, prudential requirements, and financial stability. However, these solutions must be carefully tailored to an industry that is similar - but different - to the traditional finance industry. So, the solution needs to be carefully thought out.

The Financial Stability Board (FSB), in its coordinating role, is developing a global framework comprising standards for regulation of crypto assets. The objective should be to provide a comprehensive and coordinated approach to managing risks to financial stability and market conduct that can be consistently applied across jurisdictions while minimizing the potential for regulatory arbitrage or moving activity to jurisdictions with easier requirements.

There is an urgent need for cross-border collaboration and cooperation across all international standard-setting bodies to address the technological, legal, regulatory, and supervisory challenges.

A collaboration by all Standard Setters is required around aligned and harmonized definitions of these assets. Also, there is a need for a comprehensive, consistent, and coordinated regulatory approach to crypto.

IDAXA believes there can be a coordinated and collaborative approach between the industry and public authorities to work together.

Therefore we can achieve the policy goal of maintaining financial stability while benefiting from the benefits that the underlying technological innovations bring.

Best,

DocuSigned by:

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Ekaterina Anthony

Chair

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This paper responds to the FSB's questions for consultation contained in its document titled "International Regulation of Crypto-asset Activities. A proposed framework – questions for consultation" dated 11 October 2022.

Introduction

The International Digital Asset Exchange Association (IDAXA) is an independent, nonpartisan membership organization dedicated to being a resource for its members, government officials, business executives, journalists and academia, in order to help them better understand the Virtual Assets world and the issues that surround it. IDAXA represents the consensus voice of the industry without any favor to any individual corporate interest.

IDAXA organized the recent V20 Summit (www.v20summit.org) as an official supporting event to the G20 Leaders Summit in Nusa Dua, Bali, Indonesia. The Summit gathered representatives of global virtual asset service providers and prepared responses to some of the 9 recommendations contained in the FSB document titled "Regulation, Supervision and Oversight of Crypto-Asset Activities and Markets" ("CA Recommendations") dated 11 October 2022.

IDAXA has collated responses from the virtual asset service providers that are participated in the V20 Summit. That said, a reference to IDAXA is a reference to many of the world's largest crypto-asset providers.

Questions

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?*

IDAXA believes that FSB's proposals are comprehensive but wishes to make a number of observations:

- a. Recommendation 4 of the CA Recommendations says that authorities should impose a comprehensive governance framework on providers. IDAXA in principle agrees with imposing a governance framework requirement. However, it believes that further dialogue is required between public and private sectors to address how governance requirements should be scaled - including governance obligations in connection with decentralised finance (**DeFi**) protocols, which IDAXA believes require a different approach to other crypto-asset activities. IDAXA believes that imposing governance obligations on DeFi protocols is like imposing obligations on the Internet. IDAXA would welcome involvement in a working group to discuss this in more detail.
- b. Recommendation 2 of the CA recommendations says that authorities should apply regulation and supervision proportionate to the financial stability risk they pose or potentially pose in line with the principle 'same activity, same risk, same regulation.' IDAXA believes that this approach does not adequately reflect the nuance of the crypto-asset sector. IDAXA prefers something like: "Similar activity, similar risk, specialised regulation, same outcome." This is for a number of reasons.:



- i. The phrase “same activity” perpetuates the mistaken belief that crypto-asset activities are the same as traditional finance activities. For example, a licensed securities exchange needs to manage clearing, settlement and novation. A crypto-asset exchange does not. A better phrase is “similar activity”.
 - ii. The phrase “same risk” reinforces the same mistaken belief. The risks associated with crypto-asset activities are similar and in some cases quite different. For example, traditional exchanges and custodians must manage cyber risk – and so must crypto-asset providers. However, the nature of that risk is similar – but different – to traditional finance businesses because, for example, of the way crypto assets and private keys are stored and accessed.
 - iii. The phrase “same regulation” reinforces a one-size-fits-all approach to regulation. An example of taking this approach is imposing the Travel Rule¹ on crypto-asset exchanges. The rule was imposed on banks to help them pass on crucial messages about transfers of funds between the banks, including originator and beneficiary information. Imposing the same obligation on crypto-asset providers has proven problematic, because they are not highly regulated financial institutions, so there is reluctance to share information in a standardized way. Imagine a US-listed exchange being legally required to share originator and beneficiary information about certain customers when transferring crypto-assets to a Seychelle’s-based exchange operated by an unregulated, unlicensed crypto-asset exchange run by an 18-year old living in their parent’s basement. Implementation of the travel rule in certain jurisdictions has resulted in significantly different requirements to those imposed on banks. That said, the *same outcome* of sharing critical customer information from an anti-money laundering and counter-terrorism financing perspective, needs to be achieved, and IDAXA agrees in principle with the Travel Rule being implemented globally.
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?*

IDAXA is of the view that DeFi protocols should not be subject to the same regulation as centralised finance (**CeFi**). IDAXA acknowledges FSB² and IOSCO’s³ concerns about governance being concentrated or ultimately controlled by a small number of persons. However, DeFi should not itself be regulated. Rather, CeFi providers and entities that control DeFi protocols should be regulated.

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)?*

¹ For more detail on the Travel Rule, see the FATF’s paper titled “Targeting Implementation of the FATF Standards on Virtual Assets and Virtual Asset Service Providers:

<https://www.fatf-gafi.org/media/fatf/documents/recommendations/Targeted-Update-Implementation-FATF%20Standards-Virtual%20Assets-VASPs.pdf>

² See FSB’s CA Report, October 2022, page 40

³ See IOSCO Decentralized Finance Report, March 2022, <https://www.iosco.org/library/pubdocs/pdf/IOSCOPD699.pdf>, page 41



[We have not prepared a response to this question.]

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

[We have not prepared a response to this question.]

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

[We have not prepared a response to this question.]

Crypto-assets and markets (CA Recommendations)

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

[We have not prepared a response to this question.]

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

[We have not prepared a response to this question.]

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?*

IDAXA emphasizes the need for global *harmonization* of crypto-asset regulation, including defined terms and crypto-asset taxonomies, thresholds, capital adequacy requirements, and other conduct and disclosure obligations. This avoids regulatory arbitrage and reduces the likelihood of financial instability in-country and globally.

IDAXA also emphasizes the need for mutual recognition of *equivalently regulated* jurisdictions. So, if a business in one country is fully regulated in another country that has equivalent levels of regulation, there is some international passporting or relief framework that the business can access.

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?*

IDAXA agrees with the FSB's recommendations subject to the following:

- c. **Risk Management:** Recommendation 5 says that authorities should require a risk management framework that addresses relevant risks, including reporting on all material risks. The framework should also address custodial wallet service providers



and providers facilitating trading and maintaining operating rules. IDAXA agrees with a principles-based risk management approach. In particular:

- i. Reporting on risks: Matters that have a material impact on the business, customers, and eco-system should be reported. Examples are solvency or going concern matters and material cyber events.
 - ii. Custody risk: There should be a harmonized global standard on asset and transaction-based cold wallet requirements. Also, there should *not* be an onshore requirement for custody, given the global and distributed nature of crypto-assets and crypto-asset providers. Instead, there should be an equivalency requirement where custody can be held in a jurisdiction with equivalent standards and mutual recognition amongst countries of those standards.
 - iii. Operating rules: Providers of exchanges agree with operating rules similar to traditional exchange rules but which recognize the inherent differences. For example, crypto-asset exchanges don't need regulation relating to clearing, settling and novation.
- d. Data Management: Recommendation 6 says that authorities should require frameworks for collecting, storing, safeguarding and reporting data. IDAXA agrees with this recommendation. In particular:
- i. Requirements should be technology agnostic to allow for Privacy Enhancing Technologies to be leveraged.
 - ii. Mandating centralized data storage is fraught risk (including cyber risk) and should be avoided.
 - iii. A bespoke working group should be established that includes the Global Privacy Assembly, FATF and IOSCO.
- e. Disclosure: Recommendation 7 says that authorities should require disclosure to users and stakeholders of risks and other matters. IDAXA agrees with the FSB's disclosure recommendations. In addition, IDAXA believes
- o Any requirements for disclosure should require clear and concise disclosure, including limitations on the length of disclosure documents. Examples of limitations in various jurisdictions include the short-form product disclosure statements allowable for certain products in Australia.⁴
 - o DeFi protocols should not be subject to the same disclosure obligations. Any disclosure obligations imposed on DeFi protocols should be explored in more detail.
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.*

[We have not prepared a response to this question.]

⁴ See, for example, ASIC Regulatory Guide 168: Disclosure: Product Disclosure Statements (and other disclosure obligations) <https://download.asic.gov.au/media/b1gpxbuq/rq168-published-06-july-2022.pdf>, at paragraphs 111-112.



Global stablecoins (GSC Recommendations)

[We have not prepared a response to the 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?*
12. *Are there other changes or additions to the recommendations that should be considered?*
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?*
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?*
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.*



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