

December 15, 2022



Secretariat to the Financial Stability Board
Bank for International Settlements
Centralbahnplatz 2
CH-4002 Basel
Switzerland

Email: fsb@fsb.org

Dear Sir or Madam,

Ripple Labs Inc. ("Ripple") welcomes the opportunity to comment on the International Regulation of Crypto-asset Activities: A proposed framework - questions for consultation¹ and the related consultative document on Regulation, Supervision and Oversight of Crypto-asset Activities and Markets² (collectively, the "Consultation Papers") published by the Financial Stability Board ("FSB") on October 11, 2022.

We have also taken into consideration the recommendations in the FSB final report and high-level recommendations on Regulation, Supervision and Oversight of "Global Stablecoin" Arrangements³ ("FSB GSC Report") published on October 13, 2020 as well as the consultative report on the Review of the FSB High-level Recommendations of the Regulation, Supervision and Oversight of "Global Stablecoin" Arrangements⁴ ("FSB GSC Consultation") published on October 11, 2022 in formulating our responses to the Consultation Papers.

Ripple would like to thank the FSB for the in-depth and comprehensive analysis that has been undertaken in drafting the Consultation Papers, as well as the opportunity to provide our comments. We respectfully request you take them into consideration as you consider the policy direction and scope of intended regulation for the crypto-asset ecosystem. We

¹ See <https://www.fsb.org/wp-content/uploads/P111022-2.pdf>, International Regulation of Crypto-asset Activities: A proposed framework – questions for consultation.

² See <https://www.fsb.org/wp-content/uploads/P111022-3.pdf>, Regulation, Supervision and Oversight of Crypto-asset Activities and Markets: Consultative document.

³ See <https://www.fsb.org/2020/10/regulation-supervision-and-oversight-of-global-stablecoin-arrangements/>, Regulation, Supervision and Oversight of "Global Stablecoin" Arrangements: Final Report and High-Level Recommendations.

⁴ See <https://www.fsb.org/wp-content/uploads/P111022-4.pdf>, Review of the FSB High-level Recommendations of the Regulation, Supervision and Oversight of "Global Stablecoin" Arrangements: Consultative report.

welcome the opportunity for further engagement with the FSB on the Consultation Papers, and any other related consultations as may be appropriate.

Ripple is also appreciative of the FSB coordinating with other international standard-setting bodies (“SSBs”) to develop a comprehensive and coordinated regulatory framework proposal for the crypto-asset ecosystem.⁵ Ripple has also provided feedback⁶ on the two consultative documents published by the Basel Committee on Banking Supervision (“BCBS”) - the prudential treatment of crypto-asset exposures published on 10 June, 2021⁷ and prudential treatment of crypto-asset exposures - second consultation published on 30 June, 2022⁸ - and we request that the FSB also consider these responses when coordinating with other SSBs.

I. Introduction

Using blockchain technology, Ripple allows financial institutions to process payments instantly, reliably, cost-effectively, and with end-to-end visibility anywhere in the world. Our customers are financial institutions that want tools to effect faster and less costly cross-border payments, as well as eliminate the uncertainty and risk historically involved in moving money across borders using interbank messaging alone.

Some customers, in addition to deploying Ripple’s blockchain solution RippleNet, leverage the digital asset known as XRP for an On-Demand Liquidity (“ODL”) capability. Just as Bitcoin is the native asset to the open-source Bitcoin ledger, and Ethereum is the native asset to the open-source Ethereum ledger, XRP is the native asset to the open-source XRP Ledger. XRP, given its unique design, can serve as a near instantaneous bridge between fiat currencies (or any two representations of value), further reducing the friction and costs for commercial financial institutions to transact across multiple global markets.

Although Ripple utilizes XRP and the XRP Ledger in its product offerings, XRP is independent of Ripple. The XRP Ledger is decentralized, open-source, and operates on what is known as a “consensus” protocol. While there are well over a hundred known use cases for XRP and the XRP Ledger, Ripple leverages XRP for use in its product suite because of XRP’s suitability for cross-border payments. Key characteristics of XRP

⁵ The terms digital asset, virtual currency, cryptocurrency, crypto-asset and others are used interchangeably in the marketplace. For the purposes of this letter, Ripple adopts the terminology and related definitions used by the FSB in its Consultation Papers.

⁶ See https://www.bis.org/bcbs/publ/comments/d519/ripple_labs.pdf & <https://www.bis.org/bcbs/publ/comments/d533/ripple.pdf>, Ripple responses to the BCBS consultative documents.

⁷ See <https://www.bis.org/bcbs/publ/d519.pdf>, Consultative Document - Prudential treatment of cryptoasset exposures.

⁸ See <https://www.bis.org/bcbs/publ/d533.pdf>, Consultative Document - Second consultation on the prudential treatment of cryptoasset exposures.

include speed, scalability, energy efficiency, and cost efficiency - all of which benefits the consumer and helps reduce friction in the market for cross-border payments.

II. General comments and policy considerations

We respectfully submit that any regulatory framework for crypto-assets should encourage responsible innovation by service providers and intermediaries while also ensuring appropriate risk management. In doing so, the FSB will not only promote the strengthened operational resilience of the crypto-asset ecosystem, but also transform the way crypto-asset services are provided. This will ultimately benefit both industry and end-users, and encourage investment in new technologies and innovation.

We therefore believe it is imperative that the FSB take into account the following guiding principles when supporting jurisdictions around the world as they develop regulatory frameworks for crypto-assets. Taken together, these principles will support an international regulatory framework that encourages the potential of blockchain and crypto-asset technology, while also establishing important consumer and market protections that ensure global alignment and reduce the risk of regulatory arbitrage.

Principle 1 - Adopt a globally consistent taxonomy

It is important to note that there is no single or generally recognised definition of crypto-assets at present. Ripple respectfully submits such assets should not be solely defined relative to a specific technology (e.g., cryptography), but, for the purposes of regulation, should instead fall under a broader heading such as “digital assets”, and subsequently classified depending on the particular economic function and purpose they serve. Such an approach is consistent with that taken by other jurisdictions like the United Kingdom (“UK”)⁹ and Singapore¹⁰, which have issued classifications that do not depend on whether a business model uses distributed ledger technology or not, but rather on the inherent characteristics of a token and the rights that attach to it.

Therefore, we respectfully request that the FSB consider adopting a globally consistent taxonomy for crypto-assets to provide clarity as to the legal character of such assets. Additionally, Ripple recommends that there be a clear distinction between payment tokens, utility tokens, and security tokens, as outlined below:

- *Payments or Exchange tokens*: to describe non-fiat native digital assets that are used as means of exchange and have no rights that may be enforced against any issuer;

⁹ See <https://www.fca.org.uk/publication/policy/ps19-22.pdf>, Guidance on Cryptoassets: Feedback and Final Guidance to CP 19/3.

¹⁰ See <https://sso.agc.gov.sg/Acts-Supp/2-2019/Published/20190220?DocDate=20190220>, Republic of Singapore Payment Services Act 2019.

- *Utility tokens*: to describe those digital assets that create access rights for availing service or a network, usually offered through a blockchain platform; and
- *Security tokens*: to describe tokens that create rights mirroring those associated with traditional securities like shares, debentures, security-based derivatives, and collective investment schemes.

Principle 2 - Implement a risk-sensitive regulatory framework

We are supportive of the FSB’s recommendation for authorities to apply effective regulation, supervision, and oversight to crypto-asset activities and markets proportionate to the financial stability and consumer protection risks they pose (or potentially pose), in line with the principle of “same activity, same risk, same regulation”. However, we recommend that the regulatory framework should also align with the following principles to be truly risk-sensitive:

- The regulatory framework should be **technology-agnostic**, and should not explicitly or otherwise endorse any particular technology. In practical terms, this means that financial services using crypto-assets as a solution should not be treated differently from financial services embedding legacy architectures, and there should be parity in the treatment of all technology;
- Given the dynamic nature of crypto-assets, prescriptive regulation risks obsolescence. Prescriptive regulation could also have the unintended consequence of hindering innovation and unwittingly increasing financial stability risk through ‘business-model herding’.¹¹ Therefore, we recommend that the FSB consider a **principles-based** regulatory framework that is drafted in a way to steer market participants to specific regulatory and policy objectives while maximizing flexibility and breadth of application; and
- The regulatory framework should use a **risk-based** approach to identify crypto-asset services that pose sufficient risk to warrant regulation. A simple, and obvious initial distinction in risk-profile should be between crypto-asset intermediaries that provide services to consumers (B2C) and those that only provide enterprise services to businesses (B2B).¹²

The recommended regulatory framework, as proposed above, should be forward-looking and flexible while providing regulatory certainty and consumer safeguards, and at the same time meet the policy goals of encouraging innovation and growth of crypto-assets.

¹¹ That is, the implicit market bias towards certain business models due to the regulatory requirements attached to given financial activities rather than to the behaviour of the market and fundamentals. This can reduce financial stability by undermining actor diversity and hence overall resilience within a financial system.

¹² Regulation has often drawn distinctions between B2B and B2C business models given the inherent differences between retail consumers and more sophisticated market actors. Examples include but are not limited to the European Union’s Second Payment Services Directive and Markets in Financial Instruments Directive.

Principle 3 - Foster innovation sandboxes

Innovation sandboxes for market participants to test new and innovative products, services and business models with end-users in a controlled environment while being subject to regulatory oversight have been set up in multiple jurisdictions.¹³ However, while some regulators have set up successful sandboxes, many regulators currently do not offer any opportunity for such experimentation. This could lead to a potential divergence between jurisdictions in their expertise of supporting the crypto-asset sector with the likelihood of regulatory fragmentation, and potentially even regulatory arbitrage, arising.

In order to incentivise innovation and inform the development of clear and consistent regulatory frameworks for crypto-assets, we believe innovation sandboxes should be encouraged by the FSB, at the very least for specific use cases such as cross-border payments. For example, the BIS Innovation Hub leads a number of cross-institutional projects on some of these issues and it will be important that the FSB support the effective dissemination of conclusions and experience gained from them more widely around international jurisdictions.

However, it is important to note that innovation sandboxes will only be useful if there are clear entry and exit criteria defined, as well as parameters to measure the success of the sandbox.

Principle 4 - Encourage public-private collaboration

Any policy framework intended to regulate crypto-assets should promote an active dialogue between regulators and market participants. Such public-private collaboration will lead to more appropriate and effective policy outcomes for the industry and consumers alike. A collaborative forum that brings regulators and industry stakeholders together to build a rational and holistic framework for blockchain and crypto-assets would represent a substantial step forward toward achieving regulatory clarity. We believe these conversations should be taking place at a national level and the FSB would be a natural host for an international-level discussion so that common problems faced by industry and policymakers around the world can be addressed openly together. This will be the best guarantee of a shared understanding of the benefits, risks and public policy goals of the crypto-asset sector globally.

We welcome the opportunity to provide feedback to the FSB on the Consultation Papers, and recognise this is an important step towards public-private collaboration. We support the FSB coordinating further engagement with global SSBs and regulators.

¹³ Some examples for reference are the FCA Innovation Hub Regulatory Sandbox, <https://www.fca.org.uk/firms/innovation/regulatory-sandbox>, and the MAS FinTech Regulatory Sandbox, <https://www.mas.gov.sg/development/fintech/regulatory-sandbox>.

Principle 5 - Ensure global consistency and comparability

Lastly, given the cross-border nature of crypto-asset markets, Ripple supports having minimum global standards, supported by cross-border cooperation and information sharing across jurisdictions, to help ensure an approach that is consistent and comparable. Ripple is supportive of the FSBs recommendation to require cross-border cooperation, coordination and information sharing.

However, Ripple posits that a framework that also supports mutual recognition of licenses across jurisdictions could also lead to a level playing field globally, thereby supporting the sustainable growth and development of the crypto-assets ecosystem. Enabling greater mutual recognition would be a natural benefit of adopting common minimum international standards.

Such mutual recognition decisions exist for traditional financial institutions and infrastructures, which can be used as a template for crypto-asset service providers and intermediaries. Many of the regulatory and supervisory institutions for crypto-asset companies would be the same as those for the traditional financial sector, which should foster trust and ease communication between jurisdictions. However, Ripple would like to highlight that in making such a determination, a principles-based approach should be followed (in line with Principle 2 noted above). An overly prescriptive process for a mutual recognition determination could disincentivize global firms from exploring this option.

With this overview, Ripple respectfully submits the following feedback on the questions for consultation in the Appendix.

Ripple appreciates the opportunity to provide feedback on the Consultation Papers as you study these important issues, and we would encourage and support further dialogue with all stakeholders. Should you wish to discuss any of the points raised in this letter, please do not hesitate to contact Rahul Advani (Policy Director, APAC) at radvani@ripple.com and Andrew Whitworth (Policy Director, EMEA) at awhitworth@ripple.com.

Sincerely,

Ripple Labs Inc.

APPENDIX

Ripple respectfully submits the following feedback to the questions set forth in the Consultation Papers.

I. 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 best guarantee against potential risks to financial stability arising from crypto-asset activity is the implementation of comprehensive and coordinated risk-sensitive regulatory frameworks in all jurisdictions. This will ensure mitigation of potential risk domestically while reducing the likelihood of regulatory arbitrage internationally. The FSB's proposals are a welcome step to reaching this outcome.

As explained in Principles 1 and 2 of Section II of this submission (General comments and policy considerations), Ripple believes that there are two fundamental elements to a sufficient regulatory regime:

1. The granular categorisation of crypto-assets based on their inherent characteristics. This should be standardised across jurisdictions as much as possible. Ripple proposes three categories of crypto-asset: payment/exchange tokens, utility tokens, and security tokens to align with the economic function and purpose served by these assets respectively.
2. The implementation of a risk-sensitive regulatory framework based on the principles of 'same activity, same risk, same regulation' and technology-agnosticism. This means regulation should focus on the potential risk of the activity to financial stability and consumer protection, making no inherent distinction between traditional finance and financial activities enabled by crypto-assets. Additionally, a core distinction should be made between the risk profiles of customer-facing businesses (B2C) and businesses that only provide services to other businesses (B2B).

The remainder of our principles support these two fundamental elements: the introduction of sandboxes to encourage regulatory innovation; private-public dialogue to foster responsible market innovation; and global consistency to mitigate against regulatory fragmentation and arbitrage.

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?

As set out in Section II of this submission (General comments and policy considerations), the CA Recommendations should be overarching and comprehensive principles that apply to all types of crypto-asset activity. This principles-based framework should then allow for the differentiated treatment of a crypto-asset according to its token classification and risk-profile (e.g., if it is marketed to consumers, could it impact financial stability). In this way both stablecoins and other crypto-assets would be treated appropriately for the potential risks they pose but within a single overarching-framework. This would encourage certainty among market participants as to their regulatory treatment, as well as enhance coordination globally.

But it is not the case that certain crypto-activities demand *additional* requirements so much as *all* crypto-activities require *tailored* requirements for the potential risks they pose and based on a token's inherent characteristics, within a comprehensive principles-based framework.

3. 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)?

As outlined in Principle 1 of Section II of this submission (General comments and policy considerations), Ripple believes that the FSB should undertake a more granular categorisation of crypto-assets based on the particular economic function and purpose they serve. Ripple recommends that there be a clear distinction between payment tokens, utility tokens, and security tokens, which will allow for the development of a clear, risk-sensitive regulatory framework that distinguishes between different types of crypto-asset activity.

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

Ripple believes that the CA Recommendations and GSC Recommendations broadly address the relevant regulatory gaps and challenges that warrant multinational responses. However, as outlined in Principle 5 of Section II of this submission (General comments and policy considerations), Ripple believes that any regulatory framework should also support mutual recognition of licenses across jurisdictions. Such a framework could also lead to a level playing field globally, in turn supporting the sustainable growth and development of the crypto-assets ecosystem and reducing regulatory arbitrage.

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

The greatest financial stability issue is the lack of globally-coordinated, comprehensive regimes that treat different crypto-assets and crypto-asset companies according to their risk profiles. This leads to the risk of regulatory fragmentation and arbitrage that can have international spill-over effects. Promoting such a risk-based regime in jurisdictions around the world would give businesses certainty, promote consumer confidence, and mitigate financial stability risk from regulatory arbitrage. The regime should also take into account companies' and tokens' cybersecurity and operational resilience risk-profiles, as well as governance (where appropriate) and prudential concerns.

II. 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 characterises the crypto-asset activities which might pose financial stability risk appropriately. It is important that when assessing these risks that the focus be on the potential risks from the *activity* rather than the underlying technology, and that regulatory treatment be the same as the economically same activity in the traditional financial system. The principle of 'same activity, same risk, same regulation' must be adhered to. Otherwise the regulation would be, in effect, addressing the underlying technology used and not the financial activity undertaken - which would violate the well-regarded principle of technology-neutrality and be unjustified by the potential risks of the activity. It would remove the level playing field, which could in itself lead to increased financial stability risks.

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

Ripple broadly agrees with the analysis of activity patterns and the associated potential risks carried out by the FSB in the Consultation Papers. However, we would like to note that the crypto-asset ecosystem is continually evolving, and such activity patterns should be reviewed periodically to ensure the regulatory framework is capturing all relevant activities, and hence risks.

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?

Ripple agrees with the identified supervisory challenges, but would like to reiterate our position from Principle 5 of Section II of this submission (General comments and policy considerations) that the best guarantor of international financial stability in the crypto-asset sector is aligned regulatory frameworks between jurisdictions, forming the basis

for an increased level of mutual recognition between supervisors. This would reduce regulatory arbitrage risk and ensure single-supervision that can reduce the risk of supervisory lapse. Although perhaps out of scope of this question, improved coordination between domestic supervisors in many jurisdictions would also benefit overall stability in the sector.

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?

As set out in Section II of this submission (General comments and policy considerations), Ripple believes that all requirements on crypto-asset companies should be risk-based and therefore differentiated. This applies for prudential requirements, as well as those for risk management, data management, and disclosure.

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.

As set out in Section II of this submission (General comments and policy considerations), as well as in our replies to previous questions, Ripple believes that the foundational point of a regulatory framework for crypto-assets should be that it is risk-based. This means that requirements on all crypto-asset actors and instruments should be differentiated according to the financial stability and consumer protection risks they pose. Within reasonable bounds, the more granular these distinctions are, the better.

Ripple has suggested creating a global taxonomy of three types of crypto-asset tokens (payment/exchange, utility, security) as well as stablecoins. This builds on the existing approach of a number of jurisdictions such as the UK, EU, and Singapore. An obvious distinction to make with respect to crypto-asset intermediaries and service providers is between those that offer services to consumers (B2C) and those that provide services to businesses (B2B).

III. 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?

Ripple has no comments on this question.

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

Ripple has no comments on this question.

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?

Ripple is supportive of the key design considerations for cross-border cooperation and information sharing arrangements presented in the FSB GSC Consultation.¹⁴

However, as outlined in Principle 5 of Section II of this submission (General comments and policy considerations), Ripple believes that such arrangements should also extend to crypto-asset activities other than GSCs to ensure global consistency and comparability.

Ripple believes that authorities should rely on existing cooperation and information sharing arrangements where such arrangements exist, and new arrangements should be considered where they do not. The goal of such arrangements should be to share information on adverse situations and enforcement actions against non-compliance in a timely manner.

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?

Ripple has no comments on this question.

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?

Ripple has no comments on this question.

¹⁴ See FSB GSC Report, Page 22-23.