



Secretariat to the Financial Stability Board
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(Submitted via email – fsb@fsb.org)

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Response to the FSB Consultation on the International Regulation of Crypto-asset Activities

Dear Secretary-General,

Standard Chartered (“**the Bank**”) welcomes the opportunity to respond to the Financial Stability Board’s (“**the FSB**”) consultation on the international regulation of crypto-asset activities (“**the Consultation**”). We support the need for a set of international recommendations, and sincerely appreciate the FSB’s work in engaging with industry during this consultation process. Indeed, we have worked with selected trade associations to provide an industry-wide response.¹

In this bilateral response, therefore, we have limited our comments to those which provide further context or differing perspectives due to our unique institutional perspective. We are a designated FSB-BCBS GSIB, and an industry-leading emerging economy bank, with a presence in 59 markets covering sovereign, institutional, corporate, and retail clients. Over recent years we have also made some progress in the adoption of digital assets including the establishment of a comprehensive risk framework and businesses in crypto trading and crypto custody working within existing regulatory and governance frameworks. The Bank is an advocate for responsible innovation.

We’ve set out our responses to the Consultation’s fifteen questions in the Annex below. However, there are three fundamental issues that merit strong consideration when developing the framework.

1. **The case for extending the regulatory perimeter is now clear-cut.**

Our financial system requires innovation, but not at the cost of stability. There must be a healthy balance. The path of crypto-asset² adoption suggests that crypto-assets which possess tangible value³ and are well-structured are likely to play a growing part in the future of financial services. Yet, in the wake of recent crypto-asset failings by entities outside of the regulatory perimeter, regulation, regulators, and regulated financial institutions – with their established governance, operational controls and conduct standards – must work in concert to bring the innovative engine of distributed-ledgers into mainstream finance *safely*. The Consultation raises concerns about

¹ Namely, GFMA and IIF.

² We mirror the broad terminology of the Consultation.

³ By this we mean a digital asset which provides provide a way to access and drive supply and demand for the goods and services generated in a widely adopted economic system.



the extent of crypto-asset market's interconnectedness with traditional finance. We agree. But we think that rather than being vulnerable to the volatility of cryptoassets, traditional finance can act as a *system stabiliser*. In this respect, regulated firms have aligned interests with regulators – we both would like these risks identified, managed, and controlled. Therefore, we suggest that:

- Established risk-management and governance standards should be embedded into this fast-growing segment of the overall financial system⁴.
- We generally agree with the *same activity, same risk, same regulation* approach. However, the aim of 'same regulation' should be to achieve the 'same regulatory *outcome*'. Importantly, regulatory outcomes should be proportionate to risk and comparable to those in traditional finance. That clarity is now required.
- Extending the regulatory perimeter is not simply about pulling new entities under the umbrella of regulation, but also about enabling already regulated institutions to participate in the activity on an equal footing. Consequently, in parallel to handling crypto-assets and stablecoin as distinct classes⁵, the recommendations should seek to ensure that institutions currently within the regulatory perimeter are able to operate in the crypto-assets space abiding by the same principles and rules as new entrants.

2. The regulatory approach must be comprehensive.

The Consultation has focused on financial stability issues. It admittedly does not overtly cover other risks such as AML, consumer protection and market integrity. However, the most recent examples of failings in the crypto market were driven in part by non-financial stability concerns, which then had a direct and immediate impact on financial stability; these included in particular investor protection and market transparency issues. Helpfully, the paper notes that the FSB has been working closely with the Standard-setting bodies such as BCBS, CPMI and IOSCO, to ensure that work is coordinated and comprehensive⁶. Given this, we recommend:

- A more integrated and comprehensive set of recommendations covering all major risks. This would support aligned regulatory approaches among national regulatory agencies across jurisdictions. Viewing the asset class through systemic stability, consumer protection and market integrity lenses will be critical in promoting safety and soundness and also confidence.
- That the regulatory framework should remain sufficiently agile and future-proofed to reflect the changing risk profiles of crypto-asset markets, activities, and ecosystems as they mature.

⁴ This growth has been driven by increasing consumer and institutional demand.

⁵ For simplicity, we are using Consultation paper approach for these classes.

⁶ As evidenced by Annex 1 (CA) and including the application of existing regulation.



3. Full international alignment is critical.

There is a clear need for international alignment on relevant standards to produce a consistent application of the recommendations (as adapted to local regulatory mandates) and pay due attention to the full range of policy issues. We suggest that:

- The FSB should lead the standard-setting bodies in coordinating a comprehensive and coordinated response to these issues. It should utilize its convening power and its G20 mandate to work with the standard-setting bodies to align on regulatory policy aims, avoiding the potential for regulatory arbitrage.⁷
- The bodies should work together and with industry to establish a global taxonomy of the 'crypto-asset' class. There is a risk that uneven national interpretation could undermine the FSB membership's financial stability aims. For example, by loosely defining a GSC which is intrinsically international in nature, national jurisdictions might apply different interpretative standards which would cause an uneven and disconnected system.
- The framework includes mechanisms for ongoing feedback and policy adjustment in order to continue to improve the regulatory infrastructure for this fast-developing arena.

In conclusion, we require an internationally consistent and comprehensive framework to produce a proportionate and appropriate regulatory framework applicable for all parties and one which supports financial stability. The prudential regulatory system has a crucial and strategic role to play in the development of the crypto-asset ecosystem. We are therefore supportive of FSB's work, and we would appreciate greater clarity about the FSB's process, including timings around operationalisation and implementation of the recommendations.

Thank you once again for the opportunity to provide you with our views and we look forward to continuing this discussion with you.

Yours faithfully,

René Michau
Global Head, Digital Assets

Farisa Zarin
Global Head, Group Public & Regulatory Affairs

⁷ For example, while we agree with the principle of proportionate regulation, we think that the recent BCBS proposals – with an add-on infrastructure charge, a cap on Tier 1 and the absence of netting – do not support regulated institutions in entering the space and so enhancing systemic financial stability.



ANNEX

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?

Yes, we agree that the regulatory perimeter should be extended to ensure that all the players that bring risks to the system are managing and accountable for those risks. This will enable regulated firms to participate within a clear framework, further advancing the de-risking agenda. Regulation should capture issuers, brokers, exchanges and trading platforms, wallet providers and custody service providers. But in doing so regulation should, as in traditional finance (which has a proven system of controls in place), appropriately differentiate between risk profiles of asset classes and services.

As noted, we seek a *same activity, same risk, same regulatory outcome* approach to provide a platform for consistent and equivalent regulatory outcomes. Part of that approach is to ensure that cross-border cooperation works. It can only be effective where all countries adopt aligned minimum standards – any gaps in standards will likely be exploited with firms choosing to locate elsewhere and serving clients from abroad. Such regulatory arbitrage would need to be addressed.

The banking sector has experienced the impact of a corrosive too-big-to-fail ('TBTF') mindset during the Great Financial Crisis, and recent failures in the crypto space suggest that this should become part of the regulatory discussion as particular crypto platforms or service providers grow to hold significant market share. This issue, which is well-identified in the paper, may not be immediately apparent under current arrangements (for example, hidden interconnectedness *within the system* where some market players are less transparent than prudence demands). This is distinct from the valid point about financial conglomerates and the connectedness *within a group entity*⁸, where traditional providers address these risks at a segregated business and group level.

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?

We understand why the distinction has been made between the crypto-asset and GSC regimes. We agree that GSC (or indeed non-global SC) requires additional policies but suggest that the

⁸ CA, s.3.7



paper is unclear as to how the two sets of recommendations will operate in practice to ensure alignment and consistency.

We also note that there is overlap between some of the CA and GSC high-level principles and the use of different nomenclature in the recommendations to describe the same thing. We have not made detailed comments on some of these terminology differences, which may have arisen due to the drafting process between work streams. However, there is a need for these to be made consistent so that there is a clear and uniform taxonomy for both categories⁹. This will help to underpin subsequent analysis and policymaking, given that different categories will have different risk profiles.

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)?

In general, we would seek a more granular treatment of GSC and crypto-assets but one which is subject to appropriate re-calibration as the area evolves. While we appreciate the need for future flexibility as new crypto-based structures emerge, different crypto-assets may present a range of risk profiles, and different roles and activities within the crypto-asset ecosystem will carry different risks. An agreed global taxonomy for use by regulators and regulated institutions alike would be welcome.

For example, the GSC definitions are imprecise and require a more precise framework, as they stand, any designation could become inconsistently applied between jurisdictions. There is a significance difference in risk between a fully fiat-backed stablecoin and one which relies on an algorithm to maintain stability. Additionally, any framework should account for granular treatments without excessive process or due diligence requirements to justify those treatments.

However, to designate different types of assets, given the international nature of digital assets there needs to be regulatory consistency. We would seek clear global definitions of the categories. In terms of designation, currently financial institutions are designated as systemically-important by the regulators, for example Standard Chartered is designated a GSIB by the FSB and BCBS based upon clear criteria. For designating GSC, we see no reason why such existing process could not be extended to identify systemically important digital assets.

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

⁹ See GFMA response to Consultation and its points about settling a taxonomy.



Yes, in line with our comments for question 1, we think that most relevant gaps have been handled by the paper.

However, many of the risk issues identified in the reports, whether risk issues in clients, business lines, operations, and markets, are already addressed in the risk and governance frameworks to be found in traditional financial institutions. These are designed to ensure that regulators enjoy full risk transparency for the purposes of monitoring financial stability and institutional resilience. Enabling traditional finance providers to operate in the digital markets with proportionate regulation would be an important step towards raising risk management and consumer protection standards in those markets and increasing financial stability.

The Consultation could improve its coverage of auditing and governance gaps specific to this digital structure, for example in underlying coding, where code may be poorly formulated, or may have security vulnerabilities. Traditional audits were not designed to deliver the desired outcomes needed in the crypto-asset space, so more clarity or new standards around cryptoasset-related audits, for example around proof of reserves for GSCs and proof of assets for custodians would be helpful to support work in this space.

We are also supportive of CA and GSC custodians being regulated, as the losses through technological and operational risks could include misappropriation, hacks, ineffective custody operations, all of which have the potential to be significant and result in insolvency.

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

Yes. The Consultation sets out an approach to data collection, recording and reporting requirements. However, based on operational experience we recommend international reporting standards and an approach to data collection which reflects existing collection practices. This is not simply a process issue as it would benefit financial stability by providing regulators with timely and comparable data.

As an international financial institution in 59 markets, we would want to avoid multiple regulatory requests for different data sets across jurisdictions which would result in inefficiency for regulator and regulated alike. With consistency, cross-border institutions would be able to collect standardised data sets and deliver those to regulators.

In general, process requirements should be streamlined and aligned. As new, risk-appropriate rules for crypto-assets take shape, banks should be permitted to read across to and rely on the authorisation/regulatory status of a crypto-asset and participants in its ecosystem when determining



prudential treatments, rather than undertaking onerous and duplicative due diligence assessments of entire ecosystems.

As noted above, one of the facets of recent issues in crypto markets has been interconnectivity, specifically the large exposures held by CA entities. In line with the same risk/ regulation approach we see a read-across from banking regulation (in relation to loan concentrations) which could be addressed by a future iteration of the paper.

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?

Yes, in general, Annex 1 list does categorize the essential functions and activities within the crypto ecosystem and sets out risks and vulnerabilities. Definitions should be consistent in focusing on those activities which could contribute to financial stability risk, for example the activities of crypto intermediaries and crypto-asset service providers where (as appropriate) it would be beneficial for activities to be robustly segregated to help manage the manifold conflicts¹⁰.

However, the CA document does not give a sense of the key or priority risks from a financial stability perspective or the likely transmission of stability risks, namely what the key specific financial stability risks are most likely to be and how they will likely crystallise. For example, a similar risk may develop in different ways depending on how interconnected it is with the rest of the financial system. If we know this, we know how well the current recommendations will address these risks

Given the global nature of crypto markets and the need for market integrity, consumer protection, and competition, there remains also a risk that post-FSB and BIS prudential work various significant risks may continue to be unaddressed to deliver a comprehensive framework, without a clear route for them being resolved at an international level.

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

Mostly. The Consultation¹¹ states that financial stability is the focus of the recommendations, but it does at time stray into associated areas, such as conduct. The different policy agendas are difficult

¹⁰ See also answer to 7 below.

¹¹ "...the focus of this report is on regulatory, supervisory and oversight issues relating to crypto-assets to help ensure safe innovation...."



to untangle. We think that safe innovation can only be delivered with comprehensive consideration of broader issues – such as data protection, conduct, and market integrity.

More specifically:

- Liquidity risk is cited in the paper (and in previous FSB reports). For regulated banking institutions, liquidity is a central risk which is subject to extensive regulation and institutional focus. Given the fundamental risk of liquidity mismatches, and experience of such mismatches in recent crypto-market structures, this risk should be more extensively defined. For example, Annex 1.1 which covers “creating, issuing and redeeming crypto-assets” contains just a short bullet on this factor, relating to PoS protocols. The issue around liquidity is much broader than this with risk crystalizing in a number of ways, for example in redemption assets profiles.
- The identification of risks pertaining to custodial wallets¹² has been reinforced by reportedly poor governance and control processes in the FTX case. Traditional finance has provided robustly-governed custodian services for many years (such as segregating client funds from firm assets). The application of those high standards to the crypto-wallet space would address financial stability issues, such as potential for risk transmission amplification and relatedly, consumer protection.

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?

The paper is clear in its aim to address financial stability objectives, yet the structure of the regulatory, supervisory and oversight section¹³ does not logically flow from systemically identifying risks which could impact financial stability, and instead adopts a modular set of discussions.

We would highlight cross-border factors as a fundamental underlying issue: alignment of rulemaking through to systemic or ‘global’ designation, to common supervisory standards and processes should be intrinsic to a financial ecosystem which is based on operating without borders. These factors should be given prominence throughout the paper, rather than just being another identified ‘challenge’. We support anti-fragmentation, namely the cross-border cooperation of regulators and the harmonisation of requirements applicable to crypto-assets and underlying infrastructures in a manner that can support interoperability.

¹² s.3.4 and Recommendation 5.

¹³ CA s.3



There is a coordination challenge with FSB members moving ahead with their own regulatory approaches – we recommend that these national approaches are effectively aligned.

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?

We think that the recommendations should be applied to crypto-asset issuers and services providers in a *proportionate* way and achieve outcomes which would be the same (not 'comparable' as set out in Recommendation 5) to those in traditional finance.

From the position of a traditional provider of financial services, we welcome regulation which brings non-traditional providers within the regulatory perimeter in order to benefit financial stability.

Traditional finance providers, such as banks, can help improve the transparency, liquidity, and operational resilience of the crypto-asset market with proven controls, regular supervisory examination, and transparent reporting. It can also improve the flow of insightful market intelligence that regulators receive through established processes, from providers operating in the arena. Furthermore, banks can develop risk management tools to support the overall policy goal of de-risking. In terms of market development, based on our own commercial experience, we know that there is appetite among institutional participants to deal with regulated entities in regulated markets.

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.

Yes, we are in favour of regulation being linked to activity, for example underlying market infrastructures compared to other service providers.

As in our response to question 4, we've noted the benefits that a traditional finance provider – with their established client servicing, risk management and operational processes – can bring to crypto market as an intermediary or as a service provider. This is not comparable to a service provider building a risk management-regulatory adherence-firmwide governance system from scratch.

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?



We recommend that risks within stablecoin ecosystems should be addressed. Critical roles in stablecoin ecosystems should be regulated and supervised, including reserve management and wallet provision. This may require new regulatory powers for activity which has no regulatory precedent.

The opening section of the GSC Consultation is titled 'Strains in crypto-assets markets and implications for stablecoins'. In this section there is a focus on the collapse of *algorithmic* stablecoin Terra. This is understandable given TerraUSD's position in the market but there are significant differences in the risk profile of stablecoins related to their purpose, reserve structure and transparency.

We suggest that an evidence-based review may be appropriate in order to better frame the subsequent recommendations. As the Consultation notes, the current FSB analysis of existing stablecoin arrangements concludes that most stablecoin do not meet the proposed standards. In the interests of transparency, it would be useful for this analysis to be released as supporting evidence. This would be helpful to the industry who could clearly see where proposed standards were not being met and to regulators who could clearly demonstrate that their decision-making processes around new standards are justified.

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

Yes, the scope of new stablecoin rules must be precise and focused and dependent on purpose and the risk profile. New rules for stablecoins should target new risks, for example those that are intended to be used for retail payments or for settlement in crypto-asset ecosystems may present new, unregulated risks to consumer protection and financial stability. Other use cases (for example, for wholesale settlement in capital markets) or formats (for example, stablecoins issued by banks or e-money firms) may not present new, unregulated risks and can potentially be overseen with existing frameworks including banking, payments, and e-money rules¹⁴.

New forms of money can coexist, but interoperability must be supported by robust designation and aligned operational processes. New forms of privately and publicly issued digital money are emerging (i.e., stablecoins and central bank digital currencies or CBDCs). The ability to move in and out of different types of money (tokenised deposit accounts, e-money, stablecoins, CBDCs, traditional payment accounts) is important to support resilience and confidence. We need to avoid

¹⁴ For example, MAS proposals on stablecoins would provide that stablecoins that do not comply with its recommendations can nevertheless be issued but would not be able to use the protected label of *regulated stablecoins*.



'lock-in' around any single payments option in tomorrow's digital economy, which means it is important to design policy frameworks.

Money in tokenised formats that is issued by commercial banks, central banks, or market infrastructures for settlement would not have the same risk profile as a stablecoin. It is important that definitions are agreed in a consistent manner across jurisdictions to enable cross-border use cases and interoperability.

Enhanced requirements make sense for systemically important stablecoins and should be aligned globally. Some stablecoins may achieve scale that makes them systemic and critical for day-to-day payments activity, which warrants an enhanced regulatory approach (e.g., higher capital requirements). For stablecoins that are systemic across multiple markets, the thresholds used to determine systemic status and core regulatory requirements should be aligned across jurisdictions; further international standard setting will help achieve this.

In this regard, precise definitions, and quantitative qualifying criteria for 'global stablecoin' will help.

13. Do you have comments on the key design considerations for cross-border cooperation and information sharing arrangements presented in Annex 2 [1]? Should Annex 2 [1] be specific to GSCs, or could it be also applicable to crypto-asset activities other than GSCs?

International regulatory and supervisory coordination and information sharing already takes place in other financial markets and we would support an extension of existing practices to GSC rather than bespoke arrangements. One example of this would be the respective roles of Home and Host regulators, which is fundamental to existing financial cross-border regulatory arrangements but is not cited in the Consultation. There is already a model for cooperation in the international regulatory colleges which handle international entities.

GSC is not the only emerging financial stability risk that regulators and supervisors have begun to address in their interactions with market participants¹⁵. However, as the report states, common understanding of the regulatory objective is important and so we require regulatory clarity – both in terms of regulatory objectives and designated regulators – and cross-border consistency, so that regulators in different jurisdictions approach these arrangements in the same way. We wish to avoid regulatory fragmentation. As an international firm operating in many emerging economies, we would seek more detail around international collaboration.

In terms of Annex 2, given that it relates to reserve assets, it is naturally applicable to GSC alone.

¹⁵ Climate disclosures are another example.



14. Does the proposed template for common disclosure of reserve assets in Annex 3 [2] identify the relevant information that needs to be disclosed to users and stakeholders?

Rules for stablecoin backing should be carefully calibrated to avoid broader market impacts. It is important that stablecoin capital and liquidity requirements mitigate risks around redemption and reflect specific use cases and risk profiles. Importantly, stablecoin backing requirements that ringfence stablecoin reserves outside the banking system could result in liquidity and funding impacts for commercial banks which may lead to unintended consequences.

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 [3]?

There should be quantifiable thresholds for each identified factor, or at least a caveat that such thresholds will be set by the FSB in future. In addition, the qualification process should 'weight' each factor or at least rank in importance. If these factors are not precisely specified, the chance of uneven designations which cannot be relied upon by market participants will increase.