

WFE Response to the Financial Stability Board's
Consultation Document –
'Addressing the regulatory, supervisory and oversight
challenges raised by "global stablecoin"
arrangements'



Background

The World Federation of Exchanges (WFE) is the global trade association for regulated exchanges and clearing houses. We represent over 200 market-infrastructures, spread across the Asia-Pacific region (~37%), EMEA (~43%) and the Americas (~20%). with everything from local entities in emerging markets to groups based in major financial centres. Collectively, member exchanges trade some \$95 trillion a year; while the 50 distinct CCP clearing services (both vertically integrated and stand-alone) collectively ensure that traders put up \$1 trillion of resources to back their risk positions.

With extensive experience of developing and enforcing high standards of conduct, WFE members support an orderly, secure, fair and transparent environment for investors; for companies that raise capital; and for all who deal with financial risk. We seek outcomes that maximise financial stability, consumer confidence and economic growth. And we engage with policy makers and regulators in an open, collaborative way, reflecting the central, public role that exchanges and CCPs play in an internationally integrated financial system. The WFE coordinates its activities via working groups, which includes a dedicated Fintech Working Group consisting of technology experts working on crypto-assets and related technology for exchanges and CCPs.

If you have any further questions, or wish to follow-up on our contribution, the WFE remains at your disposal. Please contact:

Jonathan Pallant, Regulatory Affairs Manager: jpallant@world-exchanges.org

Richard Metcalfe, Head of Regulatory Affairs: rmetcalfe@world-exchanges.org

Response to the FSB's Recommendations

The WFE supports the overall ambition of this document, namely seeking to address fragmented regulatory approaches (by moving to an outcomes focus); applying the 'same business, same risk, same rules' principle; and building on the need for cross-border co-operation in the supervision of global stablecoin (GSC), both for wholesale and retail.

However, the WFE would advocate the broader application of the concepts set out by the FSB in three areas:

- Classification/taxonomy
- Application to all crypto-assets
- Applying cross-border co-operation recommendations and information-sharing requirements to the supervision of all those trading GSC/crypto-assets

Classification/taxonomy

The document discusses the classification of GSC and recognises the lack of existing consistent and common regulatory classifications¹. This lack of commonality permeates not just GSC and stablecoin but also the wider crypto-asset space and leads to additional problems which filter through the regulatory process – creating a fragmented regulatory landscape.

To address this, the WFE supports a taxonomy being generated by the international standard-setting bodies. In adopting the use of a global taxonomy, a common understanding would develop of whether a GSC or crypto-asset fits a certain classification or definition (eg do the features of the crypto-asset meet the definition/classification of a security) which would, in turn, reduce the variance in application of regulation, to GSCs/crypto-assets, between jurisdictions².

Whilst differences might remain across the globe in securities regulation itself, the fragmented approach to the type of GSC/crypto-asset which falls under that regulation would potentially be reduced. This results in a more universal application of regulation, especially if the principle of 'same business, same risk, same rules' is applied and is focused on regulatory objectives and outcomes.

It is noted that a GSC/crypto-asset may be purposefully engineered to fit outside an established regulatory framework³ and that even with the most comprehensive and encompassing taxonomy, the nature of the sector means that some forms of GSC/crypto-asset will evolve so that they do not fit easily or at all within existing regulatory perimeters. However, there would still be value in seeking to lay down regulatory parameters as far as is possible, via a taxonomy, as "ultimately, there could be policy inconsistencies if economically equivalent assets are treated differently for regulatory or supervisory purposes"⁴.

¹ Addressing the regulatory, supervisory and oversight challenges raised by "global stablecoin" arrangements, FSB, April 2020, Pg. 19

² Regulation of Cryptocurrency Around the World, Library of Congress, August 2019 and Crypto-assets regulators directory, FSB, April 2019

³ Crypto-assets, Work underway, regulatory approaches and potential gaps, FSB, May 2019 Pg.12

⁴ Ibid. Pg. 12

Those GSC/crypto-assets that fall outside the scope of regulation, it should be assumed, do so for a reason. This suggests that greater emphasis should be placed by authorities on publicising the existence and nature of the regulatory distinction between products. Authorities should likewise flag the distinctions that exist relating to the status of those who provide trading platforms – as distinct from established exchanges, covering any issues of dual capacity and related conflicts – as well as the status of market participants who offer any other relevant services. This basic measure might reduce the need for jurisdictions to take vastly different approaches (with policy measures to protect consumers). This is important for the application of consumer protections as those GSC/crypto-assets that comply with regulation (providing greater assurances for users), will not be undermined by those products which deliberately or otherwise evade regulation.

A periodic review of the taxonomy would ensure that innovative forms of GSC/crypto-assets, which may have matured in characteristics and may constitute a new viable and commonly used product, can be incorporated and are able to be regulated.

Application to all crypto-assets

The nature of crypto-assets and the technology used in the trading of crypto-assets are inherently cross-border. As a result, the recommendations outlined, in the main, could be applied beneficially to all crypto-assets (inclusive of both wholesale and retail GSC). This is on the same basis of their application to GSC:

“Differentiated jurisdictional approaches could give rise to regulatory arbitrage and fragmentation without close coordination and a common set of standards. Jurisdictions generally seek to apply their rules and regulations to activities taking place in their jurisdiction, including in situations where stablecoins are offered to local users from abroad. However, the effective application and enforcement of a jurisdiction’s rules may be difficult as users access services on the Internet and authorities cannot easily locate the provider of the services. It may be further complicated by the fact that different regulatory classifications of stablecoins and hence different regulatory, supervisory and oversight approaches are adopted across jurisdictions.”⁵

This leads to a further question as to the importance of recommending that deference be embedded in the future trading of GSC and crypto-assets more broadly. With the supportive and guiding hand of these recommendations, along with an international taxonomy, regulatory deference should be enhanced and encouraged, due to the more common understanding of the assets involved and their treatment.

The WFE would also suggest that relevant existing international financial standards could have the potential to be applied to GSCs, as well as their application to crypto-assets as a whole, such as the FATF standards⁶.

Applying cross-border co-operation recommendations and information sharing requirements to the supervision of all those trading GSC/crypto-assets

As highlighted in the IOSCO section of the paper under *Co-operation and information exchange*, “Given the cross-border nature of global stablecoins, it will be important that markets regulators and other financial supervisors cooperate amongst themselves to reduce the risk of regulatory arbitrage through fragmentation. These regulatory

⁵ Addressing the regulatory, supervisory and oversight challenges raised by “global stablecoin” arrangements, FSB, April 2020, Pg. 20

⁶ Ibid. Pg. 16

co-operation tools, both with other securities regulators and with banking and payments regulators, can strengthen the ability of authorities to protect their domestic investors and ensure stablecoin market transparency”⁷.

The WFE particularly welcomes recommendation three in this regard and, again, believes that its application could extend to crypto-assets more generally. However, the WFE would advocate going further and explicitly detailing the need to share information, not just on GSC or crypto-assets but on their issuers and the platforms on which they are traded. Without formalised co-ordinated approaches to enforcement and oversight in general, issues around market integrity and consumer protection will not be fully addressed. This approach would also support and better facilitate regulatory deference.

Ensuring that this recommendation, and the others, are fully applied and that GSC/crypto-assets are subject to supervisory scrutiny is naturally key to the successful implementation and outcome of the FSB’s proposals. The WFE notes with concern that the FSB’s “survey indicates that jurisdictions were less likely to regulate the governance over the whole stablecoin arrangement, the operation of the infrastructure of a stablecoin arrangement and the validation of transactions. The type of regulatory coverage of stablecoin activities varies.”⁸ It also notes that the application of the PFMI may be ‘challenging’ and require some ‘adaptation’ but under the guidance provided, alongside continued engagement at the international and national level, as well as operating under the principle of regulatory deference, that the end outcome would be beneficial to all.

⁷ Addressing the regulatory, supervisory and oversight challenges raised by “global stablecoin” arrangements, FSB, April 2020, Pg. 60

⁸ Ibid. Pg. 15