

Director
Crypto Policy Unit Financial System Division
The Treasury
Australian Government
Langton Crescent
PARKES ACT 2600
Via email: crypto@treasury.gov.au

Dear Director,

I make following observations on the proposals included in *Crypto asset secondary service providers: licensing and custody requirements consultation paper 21 March 2022*.

1. Policy objectives underpinning a licensing regime for CASSPrs

The consultation paper states on page 14 that one of the policy objectives is to “provide regulatory certainty about the policy treatment of crypto assets and CASSPrs, and provide a signal to consumers to differentiate between high quality, operationally sound businesses, and those who are not.”

The objective proposed and the terms “high quality” and “operationally sound businesses” raise a couple of questions. First of all, what are the criteria contriving “high quality”? how to measure whether a business is operating soundly? Secondly, the policy objective proposed is said to “provide a signal to consumers to differentiate...”. It could be inferred that regulation was intended to helping consumers to differentiate good businesses from not so good ones. One would query whether it is the role of regulation or the regulator to assist consumers in this manner, or put it more bluntly, whether the regulator is equipped to achieve such a goal.

2. Alternative options

I support bringing all crypto assets into the financial product regulatory regime, and the regulator then be provided with powers to exempt certain crypto assets.

While tokens could be differentiated as security or utility tokens, the nature of a particular type token remains fluid and is subject to change during its lifetime. One could utilize tokens

initially issued for utility purposes and community use for other purposes, thus change the nature of the token. It would be problematic for the regulator to regulate a type of token when it changes its nature from utility to security at some point in its lifetime.

Therefore, the option that all crypto assets are treated as financial products with exemptions or carve-outs provides better protection for consumers. Responsible entities would be or could be required to report to the regulator if there is such a change.

Your sincerely,

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