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Director – Crypto Policy Unit  
Financial System Division  
The Treasury  
Langton Crescent  
PARKES ACT 2600

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27 May 2022

Dear Director,

**Crypto asset secondary service providers: Licensing and custody requirements**

Thank you for the opportunity for us to provide a submission in response to the *Crypto asset secondary service providers: licensing and custody requirements* consultation paper published by the Australian Government, The Treasury.

The following sets out our submission in response to the Consultation Paper.

Please do not hesitate to contact our Chief Customer and Partnerships Officer, Andrew Clouston ( ), or our Head of Operational Risk, Alexander Maron ( ) if you have any queries concerning any aspects of this submission.

We welcome the opportunity to provide further, necessary detail that supports this high-level submission to ensure Australia maintains an internationally competitive regulatory environment in Australia.

Yours faithfully,

Steve Weston  
CEO

Volt Bank Limited ACN 622 375 722

## **Executive Summary**

### **Background to Volt Banks engagement with crypto-asset sector**

Volt Bank Limited (Volt) is an Australian digital bank, which obtained an unrestricted Authorised Deposit-Taking Institution (ADI) licence in January 2019. Volt employs a highly differentiated banking-as-a-service (BaaS) platform strategy, which enables bank accounts and payments services to be embedded into the environments operated by Volt's partners, so improving user experience and promoting efficiency.

Volt is currently the only independently owned retail digital bank with an unrestricted ADI licence in Australia. We have been supportive of the crypto-asset community and are a member of Blockchain Australia.

We have been actively involved in the industry round tables led by Treasury. We have been very supportive of the crypto-asset ecosystem over a number of years and currently provide services to digital clients including the digital currency exchange, BTC Markets via our BaaS offering. We are interested in blockchain technology and the use cases for banking and are exploring how we can support businesses and consumers operating in this space.

Australia has an opportunity to become a leader in attracting the best talent and innovation across blockchain and digital assets. However, it is at risk of falling behind other jurisdictions including the US, Singapore, Germany and the UK.

Volt is fully supportive of a fit for purpose regulatory regime that is tech-neutral and risk focused without placing undue restrictions on those who want to enter or expand in the sector. We recognise the challenge for Government in balancing regulation and protection of consumers whilst allowing for growth and innovation.

### **Summary**

Following a review of the Consultation Paper, outlined below is a summary of our recommendations:

- We support the use of one definition for crypto assets to be applied consistently across all Australian regulatory frameworks;
- Crypto Asset Secondary Service Providers (CASSPrs) should be licensed but caution taken to avoid unnecessary additional requirements for existing AFSL holders;
- In principle, we support the proposed set of obligations that the regime is looking to impose on CASSPrs which ultimately aims at protecting consumers;
- We recommend that no new regulatory capital requirements be applied in addition to those already in place for banks;
- It is expected that there will be increased adoption and use of fiat backed stablecoins prior to the issuance of Central Bank Digital Currencies (CBDCs). We recommend Treasury work with other agencies including APRA and ASIC on the stable coin regulations. This will further support greater consumer protection whilst ensuring innovation in this area by Australian issuers.
- Any regulatory requirements for lending against digital assets should consider the different risk factors and then right size any requirements;
- If any regulations were to be introduced, it would be suggested to take a consumer protection focused approach. The focus should be on appropriate product disclosure requirements, including giving retail clients the information necessary to make informed decisions on the risk and viability of DeFi products and services;
- Industry should codify minimum and best practice token custody standards.

## Defining Crypto Assets

Volt is supportive of developing a single definition of crypto-assets. We agree with the primary use cases described in this consultation paper. We do, however, consider crypto-assets to include:

- Cryptocurrencies
- Stable Coins
- Non Fungible Tokens (NFTs)
- Security tokens

We are supportive of the definition of a crypto-asset secondary service provider (CASSPR) to include traditional digital currency exchanges and broker service providers, such as dealers and those providing direct and sub-custody services. The definition is also aligned to FATF's definition of 'Virtual Asset Service Providers'. Part (v) of the proposed definition sufficiently covers the remit of where digital banks such as Volt are keen to play a role.

We support the use of a single definition of crypto assets across all Australian regulatory frameworks which will help ensure consistent understanding and application.

## Proposed licensing regime

We agree that CASSPRs should be licensed but without creating any unnecessary additional requirements for existing AFSL holders. Consideration of incorporating the CASSPR regime into the Corporations Act is appropriate to minimise regulatory duplication and complexity.

An entity which is both APRA and AUSTRAC regulated and has an AFSL, should not be subject to further licensing requirements to provide crypto-asset secondary services as defined in the consultation paper. These existing regulatory frameworks provide appropriate means to ensure that institutions manage their risks and protect consumers.

## Proposed obligations on Crypto Asset Secondary Service Providers

Volt is in principle supportive of the proposed set of obligations that the regime is looking to impose on CASSPRs.

Recommended areas to expand on and amend are outlined below:-

- Section 2 – *'maintain adequate technological, and financial resources to provide services and manage risks, including by complying with the custody standards proposed in this consultation paper'* – The recommendations around technological requirements in the custody standards appear appropriate. We would recommend that CASSPRs obligations also extend to having either adequate CREST approved PEN testing; and/or meeting industry standards for information security being SOC 2 or ISO 27001 standards.
- Section 3 – *'have adequate dispute resolution arrangements in place, including internal and external dispute resolution arrangements'* – We support this recommendation. Volt currently has a process for handling internal and external dispute resolution. We support alignment with AFCA.
- Section 4 – *'ensure directors and key persons responsible for operations are fit and proper persons and are clearly identified'* - Volt recommends that this aligns to the existing fit and proper and responsible manager test in banking. The current APS 520 Fit and Proper Prudential Standard and AFG Prudential Guidance on Fit and Proper Persons should be considered by Treasury when building the underlying detail behind these obligations.
- Section 5 – *"Minimum financial requirements including capital requirements"* – We acknowledge that the Consultation Paper notes that *adequate financial requirements would be specified by ASIC and would depend on the services provided and volume of transactions. Stronger financial requirements would be imposed on CASSPRs that maintain custody of private keys.* We do consider stronger financial requirements are required for those involved in direct or sub-custody type arrangements on maintenance custody of private keys. We would not support new capital requirements on top of the existing capital levels that are already required for banks. The current prudential framework provides the means for banks and regulators to determine appropriate risk

based capital requirements which reflect their business activities and risk profile. Capital requirements on CASSPrs should be right sized depending on the risk of the approach to custody. Transparency of custody arrangements (e.g. providing clients their wallet addresses or transaction hashes etc) should be another factor that positively impacts capital requirements for CASSPrs.

- The minimum standards should require blockchain monitoring / analytics capability to identify, deter, block and remove suspicious or criminal activity.

### **Crypto assets into the financial product regulatory regime**

We do not support bringing all crypto assets into the existing financial services regime by defining crypto assets as financial products under section 764A of the Corporations Act. We are concerned that this approach could lead to a delay before new crypto assets could be included in the regime, which may impede innovation. Australia has a significant opportunity to be global leading with a fit for purpose regulatory regime, without placing undue restrictions on those who want to enter or expand in the sector. We recognise though the challenge for Government in balancing regulation and protection of consumers whilst allowing for growth and innovation.

### **Stable Coin coverage**

We expect increasing adoption and use of fiat backed stablecoins prior to the issuance of CBDCs. Stablecoin issuers do not appear to be captured by the proposed CASSPr regime. The references to 'stablecoins' do not refer to the different types of stablecoins such as commodity backed; cryptocurrency backed; algorithmic backed and fiat backed. The risk profiles will also differ depending on the different types of stable coin models.

We note that the structure adopted by some fully collateralised stablecoins provides for custody of the treasury reserve by regulated entities, held in the banking system and incorporating independent attestation of the collateral and token balances by recognised accounting firms. We suggest that these features be considered as future appropriate structures for stablecoins in Australia.

We note that APRA released the 'Crypto-assets: Risk management expectations and policy roadmap' in April 2022. This covered possible approaches to the prudential regulation of payment stablecoins. We recommend Treasury work with other agencies including APRA on the stable coin regulations. This will further support greater consumer protection whilst ensuring innovation in this area by Australian issuers.

We support Blockchain & Digital Assets – Services + Law submission to Treasury that minimal law reform is achievable in the next 6 months to support the issue of fully fiat collateralised fiat currency pegged stablecoins that can be treated as 'money' or 'currency' for legal and tax purposes. Such reform would support innovation in payments, tax, digital government and supply chain management and financing.

### **Lending against crypto assets**

Any regulatory requirements for lending against digital assets should consider the different risk factors and then appropriate size any requirements. Some areas for consideration include

- Over-collateralised vs under-collateralised lending.
- Level of rehypothecation in the Digital Assets loan book
- Risk/Volatility of the assets that are collateralising the loan
- Disclosure of potential risks associated with the loans, including disclosure on the source and sustainability of the lending yield

### **Decentralised Finance**

Regulation of DeFi is challenging. The speed and level of innovation would make it difficult for regulators to implement a one size fits all framework. Careful consideration is required given the

impacts of any regulations for DeFi, particularly given that these products and services are globally accessible and built on trustless digital counterparties.

If regulations were to be introduced on DeFi, it would be suggested to take a consumer protection focused approach. The focus should be on appropriate product disclosure requirements, including giving retail clients the information necessary to make informed decisions on the risk and viability of DeFi products and services (for example allowing them to understand the difference of how DeFi yields are generated by AAVE vs Anchor).

To put in place an onerous regulatory framework for DeFi may be counterproductive for Australia, as the innovation and investments into this space, may move to more DeFi friendly jurisdictions with lower regulatory requirements.

**Industry should codify minimum and best practice token custody standards**

We support Blockchain & Digital Assets – Services + Law submission that Treasury should work with the industry to codify the minimum and best practice token custody standards into a Code of Conduct.