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Australia

Financial System Division
The Treasury
Langton Crescent
PARKES ACT 2600

Attention: Division Head

28 February 2019

Submissions in response to
Initial Coin Offerings Issues Paper January 2019

Dear Sir/Madam,

We thank you for the opportunity to provide submissions on the matters raised in your Initial Coin Offerings Issues Paper, of January 2019.

We operate a Cryptocurrency Exchange and we are registered with AUSTRAC as a Digital Currency Exchange services provider.

Coins, Tokens and Mining

The Issues Paper has not addressed the difference between Coins and Tokens, which may be relevant when trying to define the characteristics of the subject of an ICO.

Coins possess their own blockchain and operate using independent code. Examples of Coins include Bitcoin (BTC) (\$67,631,529,294 USD market cap ¹) and Litecoin (LTC) (\$2,768,757,582 USD market cap ²)

Tokens are created on an existing blockchain, such as ERC-20 Tokens created on the Ethereum Blockchain, examples of which include Binance Coin BNB (\$1,399,098,201 USD market cap ³) and OmiseGo (OMG) (\$186,855,360 USD market cap⁴).

Some cryptocurrencies can also be brought into existence through the process of mining on a cryptocurrency blockchain.

For the purpose of our submissions, we use 'Token' to mean both Coins and Tokens.

¹ <https://coinmarketcap.com/currencies/bitcoin/> at 28/02/2019

² <https://coinmarketcap.com/currencies/litecoin/> at 28/02/2019

³ <https://coinmarketcap.com/currencies/binance-coin/> at 28/02/2019

⁴ <https://coinmarketcap.com/currencies/omisego/> at 29/02/2019

We respond to your Key Questions in order.

Definitions and Token Categories

1.1. What is the clearest way to define ICOs and different categories of tokens?

The issuance of Tokens is not restricted to predefined categories of characteristics. Therefore, at this stage of the developing market, it is unrealistic to try to set all-encompassing definitions. However, certain token characteristics may fit pre-defined definitions.

Therefore, we submit a pragmatic approach may be to develop definition categories, and sub-categories around the following characteristic groups:

(a) Security Token

These may have rights, such as ownership, repayment of a specific sum, or entitlement to share in future profits and are intended to be financial products.

(b) Utility Tokens

A utility Token may give access to a product or service.

(c) Exchange Tokens

A token intended to be used as a means of exchange.

(d) Other tokens

Tokens may be issued outside current anticipated definitions.

Drivers of the ICO Market

2.1. What is the effect and importance of secondary trading in the ICO market?

Token holders may wish to trade the Tokens they hold, or users of an exchange may wish to purchase Tokens for a variety of reasons. Exchange platforms exist to cater to a demand to purchase, and trade, Tokens. Trading should be catered for in a regulated environment.

Tokens are digital assets and intellectual property, and any attempt to restrict trading may prove ineffective due to offshore exchanges being willing to accommodate trading, and the development of decentralised exchanges (DEX), which may accommodate unregulated peer-to-peer trading.

2.2. What will be the key drivers of the ICO market going forward?

ICOs may be pursued for reasons which may include:

(a) to create decentralised networks;

(b) donations to community projects;

- (c) facilitating access to products or services;
- (d) to provide payment gateways;
- (e) tokenisation of existing assets;
- (f) tokenisation of new, or future assets;
- (g) tokenisation of investment products;
- (h) business capital raising.

Opportunities and Risks

3.1. How can ICOs contribute to innovation that is socially and economically valuable?

ICOs offer direct community participation. Participants may have the freedom to participate globally. ICO provide a direct bridge between innovation and the community.

A properly nurtured cryptocurrency and ICO ecosystem may provide an opportunity for Australia to place itself as a global innovative leader in this industry, bringing both jobs and income streams.

3.2. What do ICOs offer that existing funding mechanisms do not?

Participants can obtain fractional portions of tokens and are not usually required to obtain a pre-defined quantity.

ICOs provide the opportunity for projects to go straight to market and provide access globally.

Tokens can be stored in private wallets and transferred instantly as required.

3.3. Are there other opportunities for consumers, industry or the economy that ICOs offer?

ICOs offer opportunities for consumers, industry or the economy to interact in innovative ways, using tokens and decentralised applications (“DAPPS”) on blockchains.

The scope of opportunities for blockchain technology, related (“DAPPS”) and Tokens, is very wide, and the full extent of the opportunities may only be understood in years to come.

3.4. How important are ICOs to Australia’s capability to being a global leader In FinTech?

ICOs will continue to take place. Australia can take steps to attract certain ICOs. If Australia is deemed to be unfriendly to ICOs, it is likely that the blockchain community will be attracted to other locations which are trying to attract the blockchain industry, and it may be difficult for Australia to recapture a lost opportunity.

3.5. Are there other risks associated with ICOs that policymakers and regulators should be aware of?

Risks have been identified in the paper. Monitoring of the development of the industry will help to identify further risks and mitigate harm.

Regulatory Frameworks in Australia

4.1. Is there ICO activity that may be outside the current regulatory framework for financial products and services that should be brought inside?

The scope of this question is too broad to properly comment on given the lack of High Court authority on the matter, and the research which may be required in the given timeframe.

4.2. Do current regulatory frameworks enable ICOs and the creation of a legitimate ICO market? If not, why and how could the regulatory framework be changed to support the ICO market?

Yes, however, the industry could benefit from:

- (a) regulation clarification;
- (b) Government support internationally;
- (c) financial assistance through Government Grants and tax incentives;
- (d) sandbox ICO regulatory framework;
- (e) Government / Industry collaboration working groups.

4.3. What, if any, adjustments to the existing regulatory frameworks would better address the risks posed by ICOs?

Introduction of a regulated Code of Conduct.

4.4. What role could a code of conduct play in building confidence in the ICO industry? Should any such code of conduct be subject to regulator approval?

A Regulated Code of Conduct would be a valuable tool to both regulate the ICO industry and give further credibility to the Australian ICO and Blockchain industry.

4.5. Are there other measures that could be taken to promote a well-functioning ICO market in Australia?

The healthy development and maintenance of the ICO and Blockchain industry in Australia could result from the Government establishing close ties with, and providing rapid feedback to, the industry, and the development of a flexible responsive regulatory environment.

Tax Treatment of ICOs

5.1. Does the current tax treatment pose any impediments for issuers in undertaking capital raising activities through ICOs? If so, how?

We have no submissions on this question.

5.2. Is the tax treatment of tokens appropriate for token holders?

We have no submissions on this question.

5.3. Is there a need for changes to be made to the current tax treatment? If yes, what is the justification for these changes?

We have no submissions on this question.

Yours sincerely,

A handwritten signature in blue ink that reads "Mike Browne".

Mike Browne
Legal Counsel

Infinite Exchange Pty Ltd