Our reference: DAK:1061447

16 March 2023

Director - Crypto Policy Unit
Financial System Division
The Australian Federal Treasury
Langton Crescent
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By email: crypto@treasury.gov.au

Dear Director

Token Mapping Consultation Paper

Thank you for the opportunity to comment on Treasury's Token Mapping Consultation Paper. If we may say so, we think that the Paper deals with very difficult subject matter in a very clear way. We think that its usefulness will extend far beyond the consultation period of the paper.

Cornwalls is one of Australia's oldest independent law firms. We offer a full range of commercial law services, through independently owned and operated law firms in each of Melbourne, Sydney and Brisbane. This submission is made by Cornwalls Melbourne. We act for Australian and international clients in the crypto ecosystem. We also represent Australian not-for-profit organisations, including those involved in microfinance. As a result, we believe we have a well-rounded perspective of the interplay between innovation and consumer protection. Our submission reflects our views alone. It does not necessarily reflect the views of any particular client.

Our comments are set out in the Annexure.

In summary:

1. We broadly support the taxonomy outlined in the Paper. In our submission we have utilised the distinction between intermediated token systems and public token systems. We consider that distinction, and the sub-categories under each of those categories, create a helpful framework in which to consider how conduct regulation and prudential regulation should occur in the crypto ecosystem.

2. We submit that the concept of "exclusive use or control" of public data is not necessary for a general definition of crypto token and crypto network for regulating financial services. Besides being unnecessary, it will create a risk of conflation of the policies underlying financial services law with the policies underlying property law, including in the context of insolvency. It may prove limiting as a result. However, we suggest that the concept of exclusive use or control is helpful in one limited context: to distinguish between intermediated token systems (where the service provider and not the user will have use and control of the applicable crypto tokens) and public token systems (where users will have self-custody – ie exclusive use or control – of the crypto tokens in connection with the public token system).

3. We agree that a bespoke crypto asset taxonomy and a standalone regulatory framework for crypto has minimal regulatory value.

4. Because crypto products in the public token system category may be fundamentally incompatible with the existing financial services regulatory framework, we suggest that it would be appropriate to bring intermediated token systems into the financial services regulatory framework first. The intention would be to cover intermediaries' activities that are not already within the financial services regulatory perimeter. But given that there is uncertainty in the crypto ecosystem as to what already falls within that perimeter, and the significant problems that could arise if this undertainty is not addressed head on,we suggest the following approach to regulate intermediated token system service providers and mitigate that uncertainty at the same time:

    (a) Crypto asset service providers' services (broadly, services of the type provided by a crypto exchange or a crypto custodian) and intermediated crypto asset providers should be specifically included as a financial product as declared by the regulations under section 764A(1)(m) of the Corporations Act.

    (b) Sections 764A and 766A should be amended so that, provided that the service provider complies with the requirements relating to issuing the new "intermediated token system service" financial product as declared under section 764A(1)(m) (and the corresponding financial service relating to that product) it will not matter – so far as the service provider is concerned - whether or not the underlying token is otherwise a financial product.

    (c) The full panoply of financial services regulation should not automatically be applied to intermediated token system service providers which provide the new "intermediated token system service" financial service outlined above. We suggest that there be detailed consultation with consumer groups and service providers in relation to the licensing and custody consultation, before "switching on" key elements of the financial services regulation in full.

    (d) In the longer term, all crypto asset types (including public token systems) should be regulated in a more principled and comprehensive way. This may be able to be aligned with the reframing and restructuring of Chapter 7 of the Corporations Act that ought to follow the delivery of the Australian Law Reform Commission's Final Report to the Government late in 2023, consideration by the Government and actioning of the Report (or parts of it) in 2024 or beyond.

    (e) Token issuers should be indirectly regulated by way of the controls placed on intermediated token system service providers before they include tokens on their exchange. Further, the section 764A(1)(m) declaration in the regulations as to crypto asset service providers could specify that, if a particular issuer's underlying tokens are financial products, that issuer could be regulated directly if ASIC makes a product intervention order directed at that issuer.

5. Additionally, as part of the regulation of intermediated token systems in the short term, we suggest that it would be appropriate to undertake a regulatory-gap analysis of a particular class of intermediated crypto assets, namely stablecoins. Any gaps that are identified could be addressed by way of enhanced conduct and prudential regulation, as well as payment system regulation, as applicable.

6. We support our suggestion in paragraph 4 with the following observations:

    (a) The vast bulk of consumer engagement with the crypto ecosystem occurs via intermediaries.

    (b) High profile crypto intermediary failures in Australia and internationally underline the need for Government to act promptly to protect consumers and provide regulatory certainty to responsible intermediaries.

    (c) The prevention of regulatory gaps is important. But we suggest that the short-term focus on intermediaries only (and not directly on token issuers) will not prejudice most consumers. This is because crypto markets rely heavily on centralised entities.

    (d) In any case, issuers of tokens will not be unregulated in the short term. The existing delegation from the ACCC which enables ASIC to regulate misleading or deceptive conduct

in the marketing or selling of tokens will apply, even if the tokens do not involve a financial product. This delegation could be relied upon and expanded if necessary to operate in tandem with ASIC's regulation of service providers under intermediated token systems. Further, as outlined above, ASIC could rely on product intervention orders directed at particular issuers.

(e) As noted above, we place reliance on the distinction between intermediated token systems and public token systems (submitting that, for the purpose only of making this distinction, the test of whether a user has "exclusive use or control" of the underlying tokens is helpful). Although this distinction may be the subject of technological arbitrage, we suggest that the benefits of consumer protection and certainty for service providers may outweigh the arbitrage risk in the short term. In the longer term, this distinction may be capable of being supplanted or refined by more principled and comprehensive rules.

(f) The regulation of service providers of intermediated token system is consistent with, and may therefore permit a degree of harmonisation in the substantive regulation of crypto asset service providers who operate internationally.

(g) It is not a matter we can opine on with certainty, but we suspect that service providers of intermediated token systems may be prepared to incur the costs of complying with a short-term regulatory regime because of the certainty which that will afford. This is despite the fact that they will also have to incur the costs of complying with another (more principled and comprehensive) regime in the foreseeable future.

7. Section 765A of the Corporations Act could be amended to include a specific "safe harbour" to exclude individuals and businesses using crypto networks and crypto assets in a clear non financial way. This would provide a degree of certainty in relation to those non-financial uses. Alternatively, ASIC could make a declaration under section 765A(2) to exclude those non-financial uses.

8. We acknowledge that some of our suggestions may be inconsistent with the objective of technology neutrality that has underpinned Australian financial services regulation for decades. There are good reasons for that objective. These include concerns about technological arbitrage and the needs to avoid having to amend financial services laws to take account of product and technological developments over time. Further, the ad hoc addition of the short-term refinements that we have proposed could give rise to complexities that we have not foreseen. Ultimately, however, the application of existing definitions to the crypto ecosystem gives rise to uncertainty. As of today, it is unclear that this will be able to be addressed comprehensively any time soon. As a result, given the need for prompt action to protect consumers and provide regulatory certainty to responsible intermediaries, we have suggested a short-term expedient. When the financial services regulatory regime eventually covers all types of crypto asset products (including public token systems) in a more principled and comprehensive way there will no longer be a need for this short-term expedient.

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We welcome the opportunity to participate in this consultation. If you wish to discuss any aspect of this submission further, we would be pleased to speak with you.

Yours faithfully

CORNWALLS

ANNEXURE

	Consultation Question	Response
1	What do you think the role of Government should be in the regulation of the crypto ecosystem?	In our view, Government has a critical role in enacting, and administering, appropriate legislation to: • protect consumers; • promote market integrity; • ensure that innovation in the crypto ecosystem is not stifled by lack of clarity in the rules governing the crypto ecosystem; and • enhance the attraciveness of Australia as a technology and financial centre, including by aligning the regulation of crypto asset services and intermediated crypto assets with corresponding regulation internationally, where appropriate. (We stress this is substantive alignment only. We are not suggesting adoption of the taxonomies or regulatory techniques used in any other country.) We comment on this in more detail in our response to questions 4 and 5.
2	What are your views on potential safeguards for consumers and investors?	It is very important for there to be adequate safeguards for consumers and investors. Existing regulatory instruments administered by ASIC could be expanded, and new instruments issued, to impose additional appropriate requirements that are particular to the crypto ecosystem if they are needed.

	Consultation Question	Response
		The regulatory regime administered by the ACCC could likewise be expanded to impose additional appropriate requirements that are particular to the crypto ecosystem, if they are needed. If necessary, the ACCC's 2018 delegation to ASIC in relation to crypto could be expanded so that ASIC will be the applicable regulator regardless of whether or not the regulated activity involves a financial product. As noted in our response to question 3 (and as Treasury is aware) there are several international examples from which appropriate crypto-specific safeguards could be extracted and adapted for Australia. Consumer advocates and industry should be given an opportunity to comment on these requirements in the forthcoming consultation on licensing and custody.
3	Scams can be difficult for some consumers to identify. a) Are there solutions (e.g. disclosure, code auditing or other requirements) that could be applied to safeguard consumers that choose to use crypto assets?	The existing regulatory regime administered by ASIC and by the ACCC (to the extent not delegated to ASIC), and the criminal law, should continue to be applied against the perpetrators of scams. Additionally, there are international examples of appropriate scam mitigation measures being imposed on crypto asset service providers.[1] Measures such as these could be imposed on crypto asset service providers in the first instance. Consumer advocates and crypto asset service providers should be given an opportunity to comment on these requirements in the forthcoming consultation on licensing and custody. Subsequent reforms, providing for comprehensive regulation of intermediated token systems and public token systems, could directly regulate issuers also. This will remove the need to rely solely on indirect regulation of issuers, by way of controlling the admission of tokens to crypto asset service providers' trading platforms.

[1] These international examples include: UK Treasury, "Future Financial Services Regulatory Regime for Cryptoassets: Consultation and Call for Evidence" (February 2023) (**UK Treasury FFS Consultation**) p 38 (trading venues required to reject admission of crypto assets to their platform should they consider it may result in consumer detriment; trading venues to write detailed requirements for disclosure documents required for admission, in accordance with principles established in the FCA's rulebook), also p.44 ; Hong Kong Securities and Futures Commission, "Consultation Paper on the Proposed Regulatory Requirements for Virtual Asset Trading Platform Operators Licensed by the Securities and Futures Commission" (February 2023) (**HK SFC CP**) pp 52-53 (platform operator should, at a minimum, make available on its website material information for each virtual asset to enable clients to appraise the position of their investments, including price and trading volume, background information about the management team or developer, brief description of the terms and features of rhe virtual asset, link to the official website for the asset (if any), and link to the smart contract audit report of the virtual asset (if any)); European Parliament Committee on Economics and Monetary Affairs, Proposal For a Regulation of the European Parliament and of the Council on Markets in Crypto-Assets, and amending Directive (EU) 1019/1937 Provisional Agreement Arising from Interinstitutional Negotiations (October 2022) Article 4a, paragraph 1a (**MiCA**).

	Consultation Question	Response
	b) What policy or regulatory levers could be used to ensure crypto token exhanges do not offer scam tokens or more broadly, prevent consumers from being exposed to scams involving crypto assets?	
4	The concept of 'exclusive use or control' of public data is a key distinguishing feature between crypto tokens/crypto networks and other data records. a) How do you think the concepts could be used in a general definition of crypto token and crypto network for the purposes of future legislation? b) What are the benefits and disadvantages of adopting this approach to define crypto tokens and crypto networks?	In general, we support the analysis of the UK Law Commission on how personal property law should apply to crypto assets.[2] This includes the key recommendation that data objects, including those that enable a user to deal with their tokens on a blockchain, should comprise a third category of personal property. We submit that the concept of "exclusive use or control"of public data is not necessary for a general definition of crypto token and crypto network for regulating financial services. Besides being unnecessary, it will create a risk of conflation of the policies underlying financial services law with the policies underlying property law, including in the context of insolvency. It may prove limiting as a result. Different statutes may treat crypto assets differently in deciding whether they are "property", depending on the policy underlying the statute.[3] Those statutes can be amended consistently with the underlying policy if necessary. In any event, if an overarching resource is required to aid courts in applying property law to crypto assets in a principled way, we favour flexible and non-binding "quasi'-legislative" guidance in the form of guidance from industry and professional bodies.[4] This is because the task of reforming the common law using statute is not straightforward, and the crypto asset ecosystem is constantly developing.[5]

[2] UK Law Commission, "Digital Assets Consultation Paper" CP No 256 (July 2022) (**UKLC DA CP**).
[3] UKLC DA CP, pp 14-16.
[4] UKLC DA CP, pp.106-107.
[5] UKLC DA CP, p.106.

	Consultation Question	Response
		It is true that section 1070A(3) of the Corporations Act defines shares in a company and interests in a registered scheme by reference to the law of property. We do not believe that justifies the inclusion of a corresponding provision in the Corporations Act defining crypto assets as property. This is because, unlike crypto assets, company shares and interests in a registered scheme are concepts that would not exist but for the Corporations Act. However, we submit that there are 2 cases where the "exclusive use or control" test is relevant to financial services regulation: *Delineating intermediated token systems* The taxonomy applied in the Paper suggests that it is useful to distinguish between intermediated token systems and public token systems. We respectfully agree, including because, if our suggestion in response to question 5 is accepted, crypto asset services and intermediated crypto assets would be regulated in advance of public token systems. For that purpose alone, we suggest that the concept of exclusive use or control is helpful to distinguish between intermediated token systems (where the service provider and not the user will have use and control of the applicable crypto tokens) and public token systems (where users will have self-custody – ie exclusive use or control – of the crypto tokens in connection with the public token system).[6] We acknowledge that the distinction between intermediated token systems and public token systems (based on whether or not a user has exclusive use or control of the underlying tokens) may be the subject of technological arbitrage. In the short term, however, we suggest that the benefits of consumer protection and certainty for crypto asset service providers will outweigh the arbitrage risk. *Crypto-safekeeping requirements*

[6] The distinction needs to be subject to closer definition in particular contexts such as multi-signature wallets and private key sharding. However, we submit this does not derogate from the general validity of the distinction.

	Consultation Question	Response
		There is an issue as to how existing custody frameworks in Australian financial services should be adapted in relation to crypto asset service providers. In that limited context only, we suggest that it would be desirable for existing financial services custody/safekeeping frameworks to be supplemented by specific controls and safeguards for the safekeeping of private keys. Those specific controls and safeguards may need to rely on a concept of exclusive use and control. We suggest that these measures should be submitted for review by consumer groups and crypto asset service providers as part of the licensing and custody consulation.
5	This paper sets out some reasons for why a bespoke 'crypto asset' taxonomy may have minimal regulatory value. a) What are additional supporting reasons or alternative views on the value of a bespoke taxonomy? b) What are your views on the creation of a standalone regulatory framework that relies on a bespoke taxonomy?	*Value of a bespoke "crypto asset" taxonomy and a standalone regulatory framework* We agree that a bespoke crypto asset taxonomy and a standalone regulatory framework for crypto has minimal regulatory value. Instead, we suggest that it is appropriate to flex existing Australian financial services law to accommodate: • in the short term, the avowedly pragmatic regulation of intermediated token systems only; and • in the longer term, all crypto asset types (including public token systems) in a principled and comprehensive way. The main aspect of the short term action would be to create a financial services regulatory framework for crypto asset service providers. Additionally, as part of the regulation of intermediated token systems in the short term, we suggest that it would be appropriate to undertake a regulatory-gap analysis of a particular class of intermediated crypto assets, namely stablecoins. Any gaps that are identified could be addressed by way of enhanced conduct and prudential regulation, as well as payment system regulation, as applicable. *Why regulate intermediated token systems only, in the short term?* As noted in the Paper (at p.36) "without reforms and new regulatory approaches, some crypto products [in the public token system category, which enable users who are unknown to each other to form transactional relationships in the absence of intermediaries or agents] may be fundamentally incompatible with the existing financial services regulatory framework." We agree. This suggests that developing appropriate regulation for public token systems is going to be relatively more difficult and take longer than the regulation of service providers of intermediated token systems. As a result, we suggest that it would be appropriate to bring intermediated token systems into the financial services regulatory framework first. The intention would be to cover the residue of

	Consultation Question	Response
		intermediaries' activities that are not already within the financial services regulatory perimeter. But given that there is uncertainty in the crypto ecosystem as to what already falls within that perimeter, and the significant problems that could arise if this undertainty is not addressed head on,[7] we suggest the following approach to regulate intermediated token system service providers and mitigate that uncertainty at the same time: • Crypto asset service providers' services (broadly, services of the type provided by a crypto exchange or a crypto custodian) and intermediated crypto asset should be specifically included as a financial product by a regulation under section 764A(1)(m) of the Corporations Act. We appreciate the aims of technology neutrality but feel that it will be difficult to define the applicable product without using the term "crypto asset". We submit that the term should be defined to maximise technology neutrality but without being so abstract as to create interpretive difficulties. Perhaps the definition in Article 3, paragraph 1(2) of MiCA could be adapted for this purpose. • Further, we suggest that sections 764A and 766A should be amended so that, provided that the service provider complies with the requirements relating to issuing the new "intermediated token system service" financial product declared by ASIC (and the corresponding financial service relating to that product) it will not matter – so far as the service provider is concerned - whether or not the underlying token is otherwise a financial product. • The full panoply of financial services regulation should not automatically be applied to service providers which provide the new "intermediated token system service" financial service outlined above. We suggest that there be detailed consultation with consumer groups and service providers in relation to the licensing and custody consultation, before "switching on" key elements of financial services regulation in full. • For clarity: ○ The above proposal would not excuse an intermediated token system service provider from complying with the present financial services regulatory structure where it is dealing in, or issuing, a financial product that is unrelated to whether the underlying token is a financial product. For example, the proposal would not alter or reduce the obligations of a crypto asset service provider if it issues or deals in a financial product such as derivatives in connection with particular tokens, or a non-cash payment facility. That characterisation will not be dependent on the underlying tokens themselves being financial products.

[7] For example, MiCA providers that if a token falls within existing financial services categories it will not be covered by MiCA. But it is not entirely clear when a token will fall within those existing financial services categories. It has therefore been suggested that "[while] the MiCA route is apparently easy, … its practical repercussions [in not harmonising with EU financial law concepts across the EU] may well enrich lawyers and infuriate market participants for years." Zetzsche, Arner and Buckley, "The Markets in Crypto-Assets Regulation (MiCA) and the EU Digital Assets Strategy (2020) p. 28.

	Consultation Question	Response
		○ Issuers of particular tokens that are financial products could be directly regulated by ASIC issuing specific product intervention orders directed to the issuers, if ASIC has concerns about the circumstances surrounding the issuing of those particular tokens. Given the terms of section 1023D, these orders would be limited to the issue or regulated sale of tokens to retail clients (whether or not the tokens are likely to be available to wholesale clients too. *The position of issuers* We suggest that, in the short term, issuers could be indirectly regulated by way of the controls placed on crypto asset service providers before they list tokens on their exchange.[8] As noted above, particular issuers could nonetheless be regulated directly if ASIC makes intervention orders directed to them. *The position of crypto asset service providers which provide multiple vertically-integrated services* The regulation of crypto asset service providers (e.g. crypto exchanges) will be dependent on their activities, not the institutional label they have as "exchanges". As a result, to the extent that they do more than just operate an exchange for the sale and purchase of tokens at a spot price, and exchange fiat for crypto or crypto for fiat, exchanges will be regulated according to what they actually do. This could include issuing their own tokens, providing advice, lending, bespoke custody services and so on. These other activities would fall to be assessed against the applicable regulatory perimeters as applicable. *Concluding comments* We make the following points in support ot our suggestion: • The vast bulk of consumer engagement with the crypto ecosystem occurs via intermediaries. This is acknowledged in the Paper.[9] Correspondingly, this is where the gravest examples of consumer harm have occurred. Further, this is presently where the most significant volume of activity takes place.

[8] See the overseas resources specified in n 1, noting, however, that the UK Treasury and MiCA contemplate direct regulation of the issuer also, not just the crypto asset service provider.
[9] E.g. at pp 5, 13, 31, 34 and 36.

	Consultation Question	Response

	c) In the absence of a bespoke taxonomy, what are your views on how to provide regulatory certainty to individuals and businesses using crypto networks and crypto assets in a non-financial manner?	• Pending the development of a more principled and comprehensive regulatory structure for all types of crypto asset products, the focus in the short term should be to:
		  ○ protect the vast bulk of consumers who transact via intermediaries; and
		  ○ provide additional regulatory certainty to responsible intermediaries.
		• Although the prevention of regulatory gaps is important,[10] we suggest that the short-term focus on intermediaries only will not prejudice the vast majority of consumers. The reality is that "crypto markets rely heavily on centralised entities….Without such gateways, crypto would need to rely on users taking self-custody of their funds in digital wallets using private keys. Given the risks involved, mainstream adoption [is] inconceivable."[11]
		• In any event, issuers of tokens will not be unregulated in the short term. The existing delegation from the ACCC which enables ASIC to take action against misleading or deceptive conduct in marketing or selling of tokens, even if the tokens do not involve a financial product, could be relied upon and expanded if necessary to operate in tandem with the regulation of service providers under intermediated token systems. Further, if the tokens issued by the issuer are financial products, ASIC would be able to use its intervention order powers against the issuers as noted above.
		• The expansion of the "financial services" definition by Government as a "quick fix" has been demonstrated recently by the inclusion in section 766A of the Corporations Act of claims handling and settling services and superannuation trustee services. There is no reason why it ought not to be done again for crypto asset service providers and intermediated crypto asset providers.
		• High profile crypto intermediary failures in Australia and internationally underline the need for Government to act promptly to protect consumers and provide regulatory certainty to responsible intermediaries.
		• The short term expedient we have suggested could in time be replaced by more principled and comprehensive reform to regulate all types of crypto asset within the Australian financial services regulatory framework. This would ideally coincide with the reframing and restructuring of Chapter 7 of the Corporations Act that ought to result after the Australian Law Reform Commission's Final Report is provided to the Government late in 2023, considered by the Government and actioned in 2024 or beyond.

[10] As flagged by ASIC in its Submission to Treaury in response to the Consultation on Crypto-Asset Secondary Service Providers – Licensing and Custody Requirements (June 2022) (at pp. 33-34).
[11] See Aquilina, Frost and Schrimpf, BIS Bulletin No 66 "Addressing the Risks in Crypto: Laying Out the Options"(January 2023) at p. 2.

	Consultation Question	Response
		• It is not a matter we can opine on with certainty, but we suspect that service providers of intermediated token systems may be prepared to incur the costs of complying with a short-term regulatory regime because of the certainty which that will afford. This is despite the fact that they will also have to incur the costs of complying with another (more principled and comprehensive) regime in the foreseeable future. *Providing regulatory certainty for the use of crypto networks and crypto assets in a non-financial manner* We suggest that this may be addressed – in the short term - by amending section 765A of the Corporations Act to include a specific "safe harbour" to exclude individuals and businesses using crypto networks and crypto assets in a clear non financial way. This would provide a degree of certainty in relation to non-financial uses. Alternatively, ASIC could make a declaration under section 765A(2) to exclude those non-financial uses. This would not preclude the individuals or businesses who have the benefit of the safe harbour from being regulated as regarding marketing and misleading or deceptive conduct by the ACCC (or by ASIC via a delegation from the ACCC). We recognise that the above proposal Is not consistent with the aim of technology neutrality because it will be necessitate the definition of crypto networks and crypto assets for the purposes of the safe harbour. Further, when the financial services regulatory regime eventually covers all types of crypto asset products (including public token systems) in a more principled and comprehensive way there should be no need for the "safe harbour" suggested above, Our suggestion is a temporary expedient pending that broader and more principled reform.
6	Some intermediated crypto assets are 'backed' by existing items, goods, or assets. These crypto assets can be broadly described as 'wrapped' real world assets.	We have no comments to make.

	Consultation Question	Response
	a) Are reforms necessary to ensure a wrapped real-world asset gets the same regulatory treatment as that of the asset backing it? Why? What reforms are needed? b) Are reforms necessary to ensure issuers of wrapped real-world assets can meet their obligations to redeem the relevant crypto tokens for the underlying good, product, or asset?	
7	It can be difficult to identify the arrangements that constitute an intermediated token system. a) Should crypto asset service providers be required to ensure their users are able to access information that allows them to identify arrangements underpinning crypto tokens? How might this be achieved?	a) Yes. This obligation should be limited by what is practically possible to explain and disclose about those underpinning arrangements. The inability to explain and disclose those underpinning arrangements fully should itself be clearly signposted as that will go to the risk being taken by the user. b) There are several useful initiatives covered in the international resources we mentioned in our response to question 3.[12]

[12] See the resources specified in n 1.

	Consultation Question	Response
	b) What are some other initiatives that crypto asset service providers could take to promote good consumer outcomes?	
8	In addition to the functional perimeter, the Corporations Act lists specific products that are financial products. The inclusion of specific financial products is intended to both: (i) provide guidance on the functional perimeter; (ii) add products that do not fall within the general financial functions. a) Are there any kinds of intermediated crypto assets that ought to be specifically defined as financial products? Why? b) Are there any kinds of crypto asset services that ought to be specifically defined as financial products? Why?	Please see our responses to questions 4 and 5.

	Consultation Question	Response
9	Some regulatory frameworks in other jurisdictions have placed restrictions on the issuance of intermediated crypto assets to specific public crypto networks. What (if any) are appropriate measures for assessing the suitability of a specific public crypto network to host wrapped real world assets?	We have no comments to add.
10	Intermediated crypto assets involve crypto tokens linked to intangible property or other arrangements. Should there be limits, restrictions or frictions on the investment by consumers in relation to any arrangements not covered already by the financial services framework? Why?	Yes, at least in the short term. Please see our response to questions 4 and 5.
11	Some jurisdictions have implemented regulatory frameworks that address the marketing and promotion of products within the crypto ecosystem (including network tokens and public smart contracts). Would a similar solution be suitable for Australia? If so, how might this be implemented?	We do not believe this is necessary in Australia, given the frameworks administered by ASIC and the ACCC.

	Consultation Question	Response
12	Smart contracts are commonly developed as 'free open-source software'. They are often published and republished by entities other than their original authors. a) What are the regulatory and policy levers available to encourage the development of smart contracts that comply with existing regulatory frameworks? b) What are the regulatory and policy levers available to ensure smart contract applications comply with existing regulatory frameworks?	We have nothing to add at this time.
13	Some smart contract applications assist users to connect to smart contracts that implement a pawn-broker style of collateralised lending (i.e. only recourse in the event of default is the collateral). a) What are the key risk differences between smart-contract and conventional pawn-broker lending?	We have nothing to add at this time.

	Consultation Question	Response
	b) Is there quantifiable data on the consumer outcomes in conventional pawn-broker lending compared with user outcomes for analogous services provided through smart contract applications?	
14	Some smart contract applications assist users to connect to automated market makers (AMM). a) What are the key differences in risk between using an AMM and using the services of a crypto asset exchange? b) Is there quantifiable data on consumer outcomes in trading on conventional crypto asset exchanges compared with user outcomes in trading on AMMs?	We have nothing to add at this time.

16 March 2023