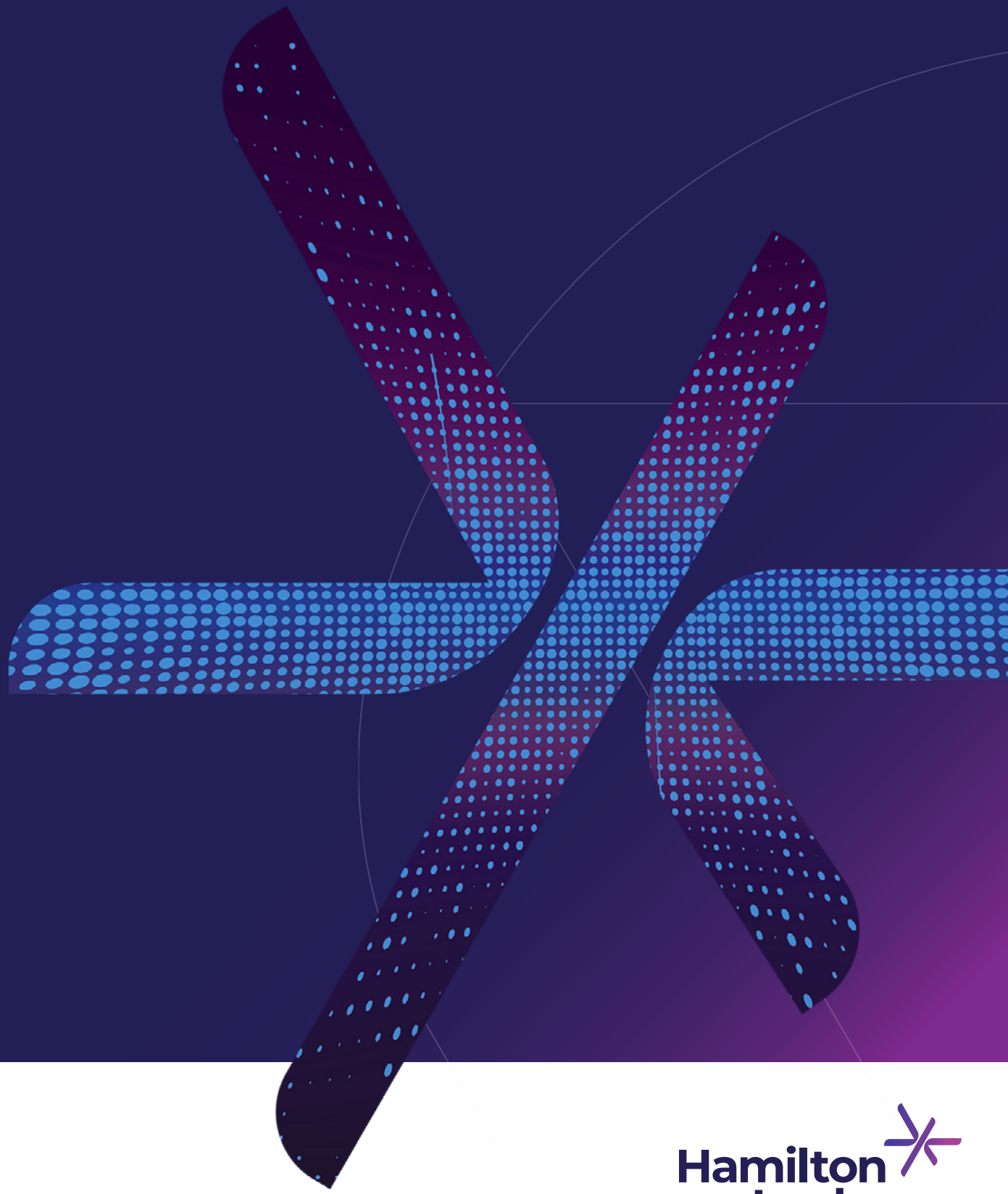
Crypto Crunch

AUTUMN 2023



Hamilton Locke

About Crypto Crunch

Welcome to the Autumn edition of Crypto Crunch!

In this edition we will focus on what is happening internationally including recent SEC actions, the progress of regulation of crypto businesses overseas in the US, Singapore, UK, Hong Kong and elsewhere around the globe.

Please reach out if you have any questions.

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No dramas – read it here

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Token Mapping Begins

Australia's Treasury has released its consultation paper on token mapping in February 2023. This kicks off the first of several rounds of consultation and submissions will shape the future of crypto regulation in the country. This first paper asks a number of questions but the key themes are:

1. What parts of the crypto industry should be regulated under the existing financial services regime;
2. What parts of the crypto industry should be regulated separately from the existing financial services regime and why, or is such standalone regulation even needed; and
3. How should challenges particular to the crypto industry be handled e.g. questions about public blockchains and open source software.

The consultation paper itself is broken up into four parts and holds 14 questions for consultation. We are expecting this to be the first of several rounds of consultation before draft legislation is released that will detail the licensing and regulatory requirements proposed. The next consultation will be on the particulars of licensing and custody.

Consultation closes 3 March 2023. Hamilton Locke is contributing to submissions being made by industry associations of which we are members, including Blockchain Australia and Fintech Australia.

International Crypto-Asset Roadmap

The International Organization of Securities Commissions (**IOSCO**) have recently published their crypto-asset roadmap for the next 24 months. IOSCO recently created a board-level Fintech Taskforce (**FTF**), of which ASIC is a member. The FTF is developing two reports with policy recommendations:

- a report focusing on crypto and digital assets (**CDA**); and
- a report focusing on decentralised finance (**DeFi**).

One of the overarching goals for IOSCO is to analyse and respond to market integrity and investor protection concerns.

The CDA workstream is being led by the UK's Financial Conduct Authority (**FCA**). It will focus on supporting innovation and assessing risks in the context of the two following factors:

- Fair and orderly trading, transparent markets, suitability and market manipulation; and,
- Safekeeping, custody, and soundness.

The DeFi workstream is being led by the USA's Securities and Exchange Commission (**SEC**) and is intended to again focus on market integrity, investor protection and financial stability. The DeFi workstream will analyse the risks and trends in DeFi, develop principles and standards that apply to common DeFi products and services and highlight the links between DeFi, stablecoins, and crypto-asset trading, lending and borrowing platforms, and broader financial markets.

Given that ASIC sits as a member of both IOSCO and FTF, it is likely that any recommendations that are made to policy will significantly inform the regulatory position of not only centralised crypto and digital assets in Australia but also how we seek to regulate the decentralised space. More information on the IOSCO Roadmap can be found here.

SEC Action

Securities tokens

The SEC is continuing enforcement action against tokens that they consider to be unregistered securities. We outline some recent case developments below.

A. LBRY

On 7 November 2022, the District Court for the District of New Hampshire released its judgment in the SEC v. LBRY, Inc.

LBRY is a decentralised protocol and network that enables people to build apps that interact with digital content on the LBRY. The native token for the LBRY blockchain is called "LBRY Credits" or LBC, which is used for transactions on the network and to compensate miners. LBC may also be sold on secondary markets.

The SEC filed a complaint against LBRY in March 2021, claiming that LBRY was selling LBC as an unregistered security in contravention of the Securities Act. The SEC sought injunctive relief, disgorgement of monies obtained through LBRY's offerings, and civil penalties.

LBRY argued that the token was not a security but rather functions as a digital currency, which is an essential component of the LBRY blockchain. LBRY also submitted that the SEC did not provide sufficient notice that LBC was subject to securities laws, which violated their right to due process.

The court considered the definition of a security and the application of the Howey Test, which comprises of three key elements:

- the investment of money,
- in a common enterprise, and
- with an expectation of profits to be derived solely from the efforts of the promoter or a third-party.

In this case, only the third element was in dispute. In assessing this, the court considered a few representations made by LBRY in relation to LBC, the business model and uses of the LBC.

Based on this, the court held that the third element was met, and LBC was a security. This is because LBRY promoted LBC as an investment that would grow in value over time through the company's development of the LBRY Network, and the fact that LBC may also have a consumptive purpose does not change this.

In relation to "lack of fair notice", LBRY argued that this was the first case that the SEC sought to enforce securities laws to digital tokens that were not issued as part of an initial coin offering (**ICO**). The court dismissed LBRY's arguments on the basis that:

- there is no requirement that the digital token be issued via an ICO, this is just one factor that is considered;
- the SEC's case was a straightforward application of a venerable Supreme Court precedent that has been applied by hundreds of federal courts across the country over more than 70 years; and
- the fact that this case involved the first application of this precedent to the issuer of digital tokens not issued via an ICO does not support LBRY's claim that it did not receive fair notice that its conduct was unlawful.

The court granted SEC's motion for summary judgment. The SEC is likely to refer to and rely on this case as part of the Ripple case (even though Ripple's defences are more nuanced and sophisticated) and any future claims against digital tokens issuers.

B. Ripple

In December 2020, the SEC filed a lawsuit against Ripple Labs Inc (known as Ripple) and two of its directors, alleging that the sale of the protocol's native token, XRP, was an offering of unregistered securities.

The SEC's lawsuit against Ripple has commenced accepting "Amicus Briefs", which is evidence that is provided by individuals and organisations who are not parties to the case in support of either the SEC or Ripple.

The final arguments are set to be presented at the end of November. While the LBRY judgement is not binding on the Ripple case (as it was heard in a different district), there is speculation that the SEC will refer to the findings in the LBRY judgement in support of its case.

It is likely that the judgement will be provided in early to mid-2023.

Insider trading case

In a first of its kind, the SEC has commenced its first insider trading investigation into the potential breach of various insider trading laws by an employee of the publicly traded cryptocurrency exchange Coinbase, as well as against that employee's brother and close friend, in relation to token listings.

Key to establishing insider trading charges against the defendants is evidencing that the tokens, for which insider information was allegedly provided, meet the definition of a security under the Securities Act, which includes an "investment contract".

As described in the SEC Complaint, the SEC alleged that non-public information was shared about the following nine tokens, which are allegedly securities:

- AMP;
- RLY;
- DDX;
- XYO;
- RGT;
- LCX;
- POWR;
- DFX; and
- KROM.

SEC allege that these nine tokens were securities based on representations made in whitepapers, websites, social media, and messaging systems.

The matter is presently before the court, and we are keeping an eye on this piece of litigation as we suspect that ASIC will be also keeping track of these proceedings. The reason ASIC may take an interest in this particular case is that the SEC alleges these tokens are securities based on disclosures made, as opposed to the actual features or functionalities of the tokens themselves. This is a novel angle, and it will be interesting to see if ASIC seeks to take a similar approach in Australia. ***First DAO Case***

On 18 November 2022, the SEC instituted administrative proceedings against American CryptoFed DAO LLC (**CryptoFed DAO**) to determine whether a stop order should be issued to suspend the registration of the offer and sale of two crypto-assets, the Ducat token and the Locke token.

CryptoFed DAO was registered as a Wyoming decentralised autonomous organisation on 1 July 2021. Following this, Crypto DAO lodged a Registration Statement seeking to register the offer and sale of the Ducat and Locke tokens under the Securities Act.

The SEC alleges there were material misstatements and omissions in the Registration Statement in relation to CryptoFed DAO's business, management, financial condition and whether the tokens are securities. Further, the SEC alleged that CryptoFed DAO failed to cooperate during the examination of the Registration Statement.

This is the first case against a registered DAO, and the SEC has commenced this action to protect investors against misleading statements. It will be interesting to see what impact this may have on the regulation of DAOs more broadly in other jurisdictions.

C. Paxos

The SEC has warned crypto firm Paxos of its plan to sue them over the issue of unregulated securities. Paxos launched a partnership with Binance to issue Binance USD (BUSD), a token independently owned by Paxos, which is a stablecoin pegged to the USD. This comes off the back of regulators in New York state ordering Paxos to stop issuing the token.

The SEC is looking to show that investing in BUSD forms an investment contract and that Paxos did not adequately warn investors of the risks involved in the investing in BUSD and failed to make proper financial disclosures. This really opens the question up about what level of disclosure is required for crypto issuers and the standards that apply.

If the SEC proceeds, we can expect another lengthy case to go before the courts as the SEC details why they believe BUSD is a security. Coupled with the other actions that the SEC already has on foot, we can expect the question of "when is a stablecoin a security" to be definitively outlined over the coming years and the long used Howey test to be amended.

MiCA

On 24 November 2022, the Council of the European Union (**Council**) adopted its position on the 'Regulation on Markets in Crypto-Assets' (**MiCA**), a dedicated regulatory framework for crypto-assets and related activities and services.

The Council and European Parliament will now enter negotiations on the proposals. Once a provisional political agreement is reached, both institutions will formally adopt the regulations.

What crypto-assets are caught by MiCA?

MiCA does not apply to crypto-assets that are:

- unique and non-fungible tokens (i.e. NFTs);
- regulated under existing financial services legislation;
- crypto-assets provided for free i.e. airdropped tokens; or
- not transferrable to others (i.e. are issued for a discrete purpose only e.g. loyalty schemes);

MiCA applies to the following types of crypto-assets:

- **Crypto-asset referenced tokens:** tokens that aim to maintain a stable value by reference to any value or right, or combination thereof, including one or several official currencies.
- **E-money tokens:** tokens that reference only one official currency of a country.
- **Other crypto-assets:** this is a broad category that captures all other crypto-assets that are not asset referenced tokens or electronic money tokens, such as utility tokens.

The regulatory requirements that apply to these crypto-assets vary as follows:

Requirement	Asset referenced tokens	E-money tokens	Other crypto-assets
Whitepaper			
Draft and publish a whitepaper containing mandatory disclosures and updates	✓	✓	✓
Provide a copy of white paper to local authority	✓	✓	✓
Obtain prior regulatory approval of white paper from local authority before offering to the public	✓		
Marketing Communications			
Provide a copy of marketing communications to local authority	✓	✓	✓
Comply with rules for marketing communications prior to public offer or admission on trading platform	✓	✓	✓
Ongoing Reporting			
Report on the amount and value of crypto-asset referenced tokens at least weekly	✓		

What services are regulated by MiCA?

MiCA regulates the following activities in relation to crypto-assets:

Regulated activity	Requirement
Issuing crypto-asset referenced token	• Must be authorised to issue by a local authority or a credit institution that complies with the applicable rules. To be authorised, the issuer must submit an application that meets certain requirements, including providing a legal opinion, description of governance arrangements, and details of key management. • There are exemptions if the total amount issued over 12 months is less than EUR 5 million or the offer is only made to qualified investors. • There are quarterly reporting requirements for crypto-asset referenced tokens with a value higher than EUR 100 million. Restrictions are also imposed on crypto-asset referenced tokens that have an estimated quarterly average number and value of transactions per day associated with uses as means of exchange higher than 1 million transactions and EUR 200 million, respectively. • Must comply with conduct, governance, custody and redemption plan requirements. • Must implement complaints handling procedures and conflict policies. • Must meet own fund requirements at least equal to the higher of EUR 350,000 and 2% of the average amount of reserve assets in the form of Common Equity Tier One Capital and other permitted instruments.
Issuing e-money tokens	• Must be a credit institution under Directive 2013/36/EU or an 'electronic money institution' under Directive 2009/110/EC. • E-money tokens are deemed to be 'electronic money' as defined in Article 2(2) of Directive 2009/110/EC. They must be issued and redeemed in accordance with the rules laid down in Directive 2009/110/EC unless MiCA provides otherwise. • Holders of e-money tokens must be provided with a claim on the issuer and issued at par value. • An issuer cannot pay interest on e-money tokens and cannot charge redemption fees. • At least 30% of funds received for e-money tokens must be deposited in a separate account in a credit institution, with the balance being held in secure low-risk investments.
Crypto-asset service provides	• There are two categories: - **Category one:** custody services, operating trading platforms and exchange services. - **Category two:** trade execution services, placing services, reception and transmission services, advisory services, and portfolio management services. • Existing regulated institutions (e.g. credit institutions, investment firms, e-money providers, market operators and managers etc.) have passport relief and do not need to apply for authorisation but need to notify their local authority before providing services. The notice period varies depending on the regulated institutions and the nature of the service. • All other service providers need to apply for authorisation and meet the application requirements. • All service providers must meet: - general conduct requirements, prudential requirements (including capital and insurance), organisational requirements, safekeeping requirements, complaints handling requirements, conflicts requirements and outsourcing requirements; and, - any specific requirements that apply to particular services, including custody services, operating a trading platform, exchange services, execution services, placing services, reception and transmission services, advice and portfolio management.

MiCA only regulates the above activities if a legal person provides them. That is, MiCA does not currently apply to DeFI.

C. Japan

Japan has recently passed new regulations across several different Japanese financial service laws, making it more difficult for stablecoins to be issued. The changes are expected to come into effect in June 2023, according to the Japanese Financial Services Agency (**FSA**).

Japan identified three key policy perspectives for crypto-assets and stablecoins:

1. Financial stability
2. User protection
3. AML/CTF

The FSA has noted that their primary policy perspective for stablecoins is financial stability. The key concern that they have is that digital money stablecoins that are linked (or claimed to be linked) to a fiat currency are susceptible to runs. The FSA has proposed a regime to ensure redemption occurs at par (i.e., at their face value) and that the price is stable and linked to the value of the asset backing.

The regulations allow only domestic banks, domestic fund transfer service providers and trust companies to issue these stablecoins. The issue requirements that apply vary depending on the issuer:

Domestic Banks	Banks must issue stablecoins as deposits. This means that the deposits are subject to prudential regulation and protected by deposit insurance (similar to the Financial Claims Scheme, which the Australian Government can activate, and which is administered by APRA).
Domestic Fund Transfer Service Providers	Fund transfer service providers must issue stablecoins as claims on outstanding obligations. These providers secure their obligations using money deposits with regulated depositaries, bank guarantees and prescribed assets (such as bank deposits and government bonds).
Trust Companies	Trust companies must issue stablecoins as trust beneficiary rights. A trust company is required to hold any trusted assets (i.e., the fiat asset backing) in bank deposits.

There are also strict requirements that apply to stablecoin redemptions.

There are no significant changes to intermediaries providing buying, selling, exchanging, intermediating, custodial or transfer services concerning stablecoins. There are no prohibitions on foreign intermediaries from participating, provided that it complies with existing regulations for intermediaries.

The key requirements that apply to intermediaries offering services in relation to stablecoins include:

- Not dealing in stablecoins other than those that
  - have clear rules on the transfer of rights;
  - comply with AML/CFT requirements; and
  - adequately protect the users' rights, such as subsequent revocation of transactions and compensation for losses, in the event of bankruptcy of the issuers or intermediaries, or technical failures.
- Entering into contractual agreements with issuers that stipulate the sharing of liability for losses to ensure proper coordination between the issuers and intermediaries in case of accidents.

The JSA is considering how they will regulate stablecoins issued by foreign issuers and propose additional measures to ensure the same user protections as those issued by regulated Japanese issuers. You can expect further regulations on stablecoins in the New Year.

D. Singapore

On 26 October 2022, the Monetary Authority of Singapore (**MAS**) published two consultation papers proposing regulatory measures that will form part of the Payment Services Act 2019 to reduce the risk of consumer harm from cryptocurrency trading and to support the development of stablecoins as a medium of exchange in the digital asset ecosystem.

Digital Payment Token Services

The first consultation paper is called Proposed Regulatory Measures for Digital Payment Token Services and proposes a number of additional regulations covering the following measures:

- Consumer access measures that:
  - clarify who is a retail customer for a digital payment token and whether digital payment tokens can be taken into account when assessing whether someone is an accredited investor and, if so, whether dollar limits or only stablecoins should apply to such an assessment;
  - require digital token service providers (**DTPSPs**) to assess a retail customer's knowledge of the risks associated with digital payment token services, what risks should be covered, and what providers should do if they assess a retail customer does not sufficiently understand the risks;
  - prevent DTPSPs from offering incentives (monetary or non-monetary) to access a service or for referring someone to a service;
  - preclude retail customers from accessing a credit facility to purchase or continue to hold digital payment tokens or leveraging a digital payment token transaction; and
  - prevent DTPSPs from accepting payments from customers using a credit card.
- Business conducts measures that:
  - require DTPSPs to segregate customer assets from corporate assets. As part of this, MAS is considering whether an independent custodian requirement should be imposed;
  - impose disclosure requirements on DTPSPs to help customers to understand the arrangement and risks better
  - require DTPSPs to reconcile customer asset holdings daily;
  - require DTPSPs to implement appropriate risk controls to ensure the safety and control of customers' digital payment tokens;
  - prevent DPTSPs from mortgaging, charging, pledging retail customer's digital payment tokens and require DPTSPs to provide a clear risk disclosure document and obtain the customer's explicit consent before undertaking these activities for non-retail customers;
  - required DPTSPs to implement controls to identify, address, disclose and mitigate conflicts;
  - require DPTSPs to disclose how trades are executed and their listing and governance policies for digital payment tokens; and
  - require DPTSPs to have in place adequate customer complaints policies and procedures.
- Mandate the Notice of Technology Risk Management requirements currently applicable to other types of financial institutions, such as banks, to DPTSPs. Market integrity measures that:
  - promote the fair, orderly and transparent operation of markets; and
  - require the implementation of market surveillance and monitoring activities.

Following the consultation, MAS is proposing to issue Guidelines that cover the following measures and provide DPTSPs with a six to nine-month transition period to comply. Following this, regulatory change will be implemented.

Stablecoins

The second consultation paper is called Proposed Regulatory Approach for Stablecoin Related Activities. In this consultation paper, MAS identifies the inadequate regulatory framework to support credible and reliable stablecoins.

In light of this, MAS proposes a specific regulatory regime to address the regulation of stablecoin issuers and intermediaries. The regulatory regime will focus on single currency pegged stablecoins issued in Singapore.

MAS proposes to regulate these stablecoins by introducing a new regulated activity of "stablecoin issuance" in the Payment Services Act 2019. The regulated activity will contemplate bank and non-bank issuance of stablecoins, and different licensing, capital and reserve requirements will apply depending on who the issuer is, the volume and the assets backing the stablecoin. MAS also proposes auditing, segregation, redemption and disclosure requirements for stablecoin issuance.

Further, MAS is also consulting on the issuance of Singaporean stablecoins in multi jurisdictions, the requirements that should be imposed on intermediaries (who are not issuing stablecoins) and whether systemic stablecoin arrangements should be designated as a payment system.

E. United Kingdom

The Financial Conduct Authority has flagged that regulations for firms marketing cryptocurrency products are in the pipeline. This follows recent changes to marketing laws for high-risk investment products, which don't extend to crypto-assets.

The rules that apply to crypto marketing will be published once the Government and Parliament confirm in legislation how crypto marketing will be brought into the FCA's remit. However, these rules are likely to follow the same approach as those for other high-risk investments.

F. Hong Kong

Hong Kong is positioning itself to be the global virtual asset hub. In line with this, the Government released a Policy Statement on 31 October 2022.

The Government and financial regulators are working towards providing a facilitative environment that promotes the sustainable and responsible development of the virtual asset sector in Hong Kong.

As part of this, the Government is open to recalibrating its legal and regulatory regime to accommodate this. Some of the key initiatives include:

- Developing a licensing regime for virtual assets service providers that will align the anti-money laundering and counter-terrorist financing and investor protections requirements for virtual asset exchanges with those that apply to traditional financial institutions;
- Considering making virtual assets available to retail investors via exchange-traded funds. The Securities and Futures Commission will publish a circular;
- Considering a future review into the property rights for tokenised assets and the legality of smart contracts;
- Considering the next steps concerning stablecoin regulation following the outcome of the Hong Kong Monetary Authority consultation paper on regulating activities relating to payment-related stablecoins.

In addition, the Government and regulators have been exploring different pilot projects to test virtual assets, including:

- NFT issuance for Hong Kong Fintech Week 2022,
- Green bond tokenisation for institutional investors, and
- e-HKD a retail CBDC.

It will be interesting to see how this all plays out and what this will mean for Asia as a digital asset hub, given Singapore's focus on consumer protection and movement away from a pro-crypto stance.

About Hamilton Locke Funds & Financial Services

As Australia's fastest-growing law firm, Hamilton Locke is a law firm with a difference.

We are focused on transforming the traditional approach to corporate and commercial legal counsel. We react quickly to change while continuously driving maximum value for clients, and we hire and develop the best talent from across the globe. By making use of modern systems and technology, our team is freed up from bureaucracy and administration to really focus on doing what they do best – solving complex client problems. Our Funds and Financial Services Team at Hamilton Locke (formerly, The Fold Legal) has become one of the go-to firms for cryptocurrency, blockchain, fintech and insurtech businesses seeking regulatory advice. We are now one of Australia's largest financial services teams as a result of the recent merger between The Fold Legal and Hamilton Locke.

We are known for our technical expertise and industry knowledge, which we use to provide practical solutions for our fintech, cryptocurrency and digital asset clients. Our ranking recognises our financial and credit services expertise in Chambers and Partners Asia-Pacific and FinTech Legal Guides. Reflecting our commitment to client service, we also won Best Law & Related Services Firm (<$30mil) across several specialist categories over the past three years based on direct feedback from our clients.

We have been deeply steeped in the FinTech space since early 2013 and continue to deepen and strengthen this experience as one of Australia's largest and most diverse financial services practices.

We are technical specialists with a broad and deep understanding of blockchain technology, cryptocurrencies and digital assets, exchange, Decentralised Autonomous Organisations (DAO), alternate platforms and cryptocurrency products and service offerings.

Our knowledge of cryptocurrencies and digital assets, combined with our traditional financial services expertise, is market leading. We use our industry knowledge and expertise to deliver practical, compliant, and innovative solutions for our clients.

We have worked with cryptocurrency and digital asset exchanges, miners, cryptocurrency and digital asset payment businesses, cryptocurrency and digital asset platforms, DAOs and token issuers to design innovative and compliant offerings.

We are a partner and member of Blockchain Australia, FinTech Australia and Insurtech Australia.

Key Contacts

Michele Levine - Partner

Michele is an innovative and trusted financial services lawyer that develops strong and attentive relationships with her clients. Michele acts for a broad range of clients across financial services, credit, insurance, fintech, payments and cryptocurrency. She provides support on all legal aspects, including regulatory advice on product design, service offerings, distribution, licensing, agreements, compliance obligations, transactions and regulator engagement and enforcement.

Michele understands the regulatory environment (current and emerging) and is well-placed to advise on regulatory requirements and risk mitigation strategies for businesses of all sizes. She is passionate about fintech and leads our relationship with Blockchain Australia and Fintech Australia.

Michele Levine has also recently been awarded 'Professional Advisor Leader of the Year' at Blockchain Australia's Blockies 2022 Awards.

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Jaime Lumsden - Partner

Jaime is a leading Australian expert on the application of the financial services and consumer credit regulatory regime. She delivers fearless and technically excellent advice across a range of industries, including life and general insurance, payments products, derivatives, foreign exchange, horse racing syndicates, wealth management, charitable fundraisers, business and consumer credit, but now pay later, and cryptocurrency (a niche area, where few others have the expertise and understanding). She has been instrumental in the product design and structuring of several buy now pay later and cryptocurrency products to minimise or scale regulation in order to viably compete with incumbents and to speed up launch dates. The majority of her work involves developing novel solutions for innovative clients who need a flexible and creative approach to emerging problems in the fintech space.

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Charmian provides legal and compliance advice to a broad range of financial services industry participants, including insurance brokers, general insurers, underwriting agencies, fintechs and insurtechs. She is often engaged to provide legal sign-off on product design and development and insurance distribution, including group purchasing arrangements. She is sought out for her niche expertise in innovative insurance solutions including, parametric products, discretionary mutuals and aggregate deductible schemes.

Charmian advises on all aspects of financial services law. She loves nothing more than devising new risk products and solutions – like peer-to-peer models and other alternative risk vehicles. She also thrives on helping businesses grow and develop over time, from seed funding through to acquisition or IPO. Startups often seek her out when they need a sounding board to refine their ideas. She creatively finds new solutions that are within the boundaries of the law yet commercial in their execution.

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Erik Setio - Partner

Erik's extensive expertise covers financial services law, funds management (including all forms of collective investment vehicles), capital raisings and structuring and provision of financial products and services to wholesale and retail clients. Underpinning this is his deep knowledge of financial services regulatory matters, including financial services licensing, marketing, disclosure, distribution and issuance of financial products.

Erik offers clients over fifteen years of specialist experience in investment funds and financial services regulation. He has advised major financial services providers on the structuring, establishment and promotion of listed and unlisted funds, and capital raising and fund restructures.

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Simon has seen the financial services industry from many angles, having worked for the regulator, a fund manager, a big four bank and a leading law firm. He brings his broad experience in financial services and regulatory advice to help his clients create cutting-edge service offerings that are both innovative and practical.

Simon's clients are financial services businesses that hold or operate under an AFS licence, or intend to obtain an AFS licence. Simon has significant experience in wealth management and advises his clients on legal, regulatory, M&A and litigious matters. He has deep technical expertise from decades spent liaising with the regulator, managing disputes, drafting contracts and disclosure documents, and negotiating complex transactions. Simon advises on all areas of financial services law, with a particular focus on financial advice, managed accounts and regulatory disputes.

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Brendan is independently recognised as a 'leading lawyer' (Chambers Asia Pacific Guide 2014 – 2019) in the field of investment funds, and acts for fund managers in a wide range of commercial transactions. His work includes structuring and advising on property funds (wholesale and retail), preparing product disclosure statements/offer documents, joint venture agreements and other commercial agreements in relation to complex acquisition and funding arrangements, the application of the Corporations Act and ASIC regulatory policy.

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