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15 December 2022

## **EY Comments on Proposed Framework for the “International Regulation of Crypto-asset Activities”**

Ernst and Young Global Limited, the central coordinating body of the global EY organization, appreciates the opportunity to offer its views on the Financial Stability Board’s (FSB’s) proposed framework for the international regulation of crypto-asset activities. Based on our experience working with clients in over 150 countries, including many that are financial service providers, we understand the importance of financial stability not only to financial institutions, but to the broader economy, including companies and individuals whose economic success depends in no small measure on a stable financial system.

We recognize the importance of international coordination to protect the financial system, businesses, and investors from risks associated with crypto-assets, particularly in the wake of recent volatility in the crypto market. **The FSB’s proposed framework represents an important step towards achieving greater investor protection, addressing potential risks to financial stability, strengthening protections against money laundering and other forms of illicit finance, and fostering trust and responsible innovation in the crypto-asset industry.** It will also help to drive greater discipline in areas that have contributed to recent failures such as poor governance and failure to properly protect customer assets.

Overall, **we support the FSB’s “same activity, same risk, same regulation” principles-based approach to the regulation of crypto-assets.** EY believes regulations should address and be measured against the specific risks posed by a crypto-asset or crypto-asset activity to financial stability, investor protection, and lawful finance. Many jurisdictions already have existing or analogous authority that can be extended to crypto-assets and crypto-asset activities. **Moreover, EY is a strong advocate for effective governance and controls, and we welcome the FSB’s focus in these areas.** To that end, we would like to draw the FSB’s attention to our recent paper on *Managing the Digital Assets Environment*, which offers considerations to help traditional finance firms and crypto natives respond to regulatory, investor, and public expectations in relation to governance and risk management, and which also offers considerations for policymakers as they assess regulatory responses to the growth of crypto markets.<sup>1</sup>

The remainder of this letter provides detailed EY comments on the questions set out within the FSB’s consultation. Should you wish to discuss any aspects of our comments with us, please contact Fatima Hassan-Szlamka, EY Associate Director for Global Public Policy at [fatima.hassan@ey.com](mailto:fatima.hassan@ey.com).

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<sup>1</sup> [What actions can drive responsible innovation in digital assets? | EY - Global](#)



## Detailed EY Comments in response to consultation questions

### General

#### **Q1. Are the FSB's proposals sufficiently comprehensive and do they cover all crypto-asset activities that pose or potentially pose risks to financial stability?**

Prior financial crises have highlighted the critical importance of robust supervision, governance, risk management, internal controls, and disclosures in protecting investors, the financial system, and the broader economy. EY is encouraged to see the FSB's proposals draw on lessons learned from these past events, and as set out, we believe the proposals effectively identify crypto-asset activities that currently pose or could pose risks to financial stability.

#### **Q2. Do you agree that the requirements set out in the CA [Crypto-Asset] Recommendations should apply to any type of crypto-asset activities, including stablecoins, whereas certain activities, in particular those undertaken by GSC, need to be subject to additional requirements?**

We understand the need for GSC's to be subject to additional requirements but observe a duplication of requirements across GSCs and crypto assets as currently proposed. For example, recommendation (hereinafter 'Rec') 1 for GSCs has similar language to Rec 1 for CAs and Rec 2 for GSCs and Rec 2 for CAs are substantially equivalent, but Rec 2 for CAs adds the concept of "same activity, same risk, same regulation" which could apply to GSCs.

One approach to help regulators streamline oversight and adoption would be for the FSB to update the GSC-related recommendations to include crypto-asset activities and then supplement with additional requirements unique to GSCs, such as redemption rights and stabilization mechanisms. Moreover, this approach would enable regulators and supervisors to focus on implementing incremental requirements. And it offers flexibility to apply these and other protections to additional asset classes that may be related to or evolve from both GSCs and crypto-assets.

Additional examples to reinforce the above include: GSC Rec 7 requires that GSCs have recovery and resolution plans for orderly wind-down or resolution in the case of insolvency, which could be extended to CAs; and GSC Rec 5 includes references to operational resilience, cyber security safeguards and Anti-Money Laundering/Combating the Financing of Terrorism (AML/CFT) measures and "fit and proper" requirements that might not be applicable to all CAs but could be brought forward in a single set of recommendations as a recommendation specific to GSCs (or all stablecoins).

#### **Q3. Is the distinction between GSC and other types of crypto-assets sufficiently clear or should the FSB adopt a more granular categorization of crypto-assets (if so, please explain)?**

In our view, the FSB's distinctions are sufficiently clear, but a key challenge is the lack of a globally recognized terminology for the classification of crypto-assets and crypto-asset issuers, as well as crypto-asset service providers, which could help regulators better identify related financial stability risks and determine what actions are needed.

We, therefore, encourage the FSB to develop a globally agreed taxonomy for crypto-assets, crypto-asset issuers and crypto-asset service providers in collaboration with standard setters in order to help both regulators and market participants identify and mitigate financial stability risks. The FSB's work to develop a global lexicon for cyber security and cyber resilience in the financial sector provides a proven model that can be considered for the development of a crypto-assets and service provider taxonomy.

In addition, we recommend that the FSB extend GSC-related provisions of the consultation to include stablecoins. EY believes that all stablecoins should be regulated because most that exist today are backed by a currency (e.g., US dollar) or other tangible financial asset, and are issued by un- or less-regulated non-banks, which could create risks to the wider financial sector in times of economic stress given their high degree of global interconnectedness. We draw the FSB's attention to a recent paper by the IMF that reinforces this point: "Dollar-denominated stablecoins are growing in popularity in emerging market and developing economies as a potential store of value and hedge against inflation and exchange rate volatility, raising risks of dollarization and cryptoization. The involvement of large financial institutions in areas like reserve management, custody, and issuance has the potential to rapidly generate new risks. In addition, higher volatility correlation has been observed between stablecoins and stock markets, especially during recent market stress periods. Without proper regulation, contagion risks between traditional finance and crypto ecosystem will increase." <sup>2</sup>

#### **Q4. Do the CA Recommendations and the GSC Recommendations each address the relevant regulatory gaps and challenges that warrant multinational responses?**

Overall, we believe that the recommendations address the gaps and challenges that currently warrant multinational responses. Over time, however, consideration may need to be given to how to regulate GSC operating models if they become more decentralized, as they could make the transparency and oversight of governance and accountability more challenging.

Another issue that we see that may complicate the ability to drive consistent regulation of crypto-assets is that there are different risks associated with different types of crypto-assets and crypto-asset service providers, such that the need for specific regulation can vary greatly. To drive greater consistency in regulation, we recommend that the FSB provide more background on broader categories of crypto-assets (including considerations relevant to the entities issuing the crypto-assets) and crypto-asset service providers, clarifying the risks and the need for regulation applicable to each category. The FSB may also want to consider providing further clarification of the underlying risks that could result in financial instability, such that policymakers have a clear line of sight to those underlying risks and can evaluate whether the risks can be addressed by existing regulations (e.g., regulations pertaining to AML/CFT, data privacy, cyber-security, consumer and investor protection, market integrity, competition policy taxation, monetary policy, monetary sovereignty and other macroeconomic concerns), or whether additional regulatory authority is needed to close any gaps and ensure comprehensive, effective regulation, supervision, and oversight of the crypto-asset ecosystem. We believe that this would help to promote the "same activity, same risk, same regulation" concept.

We further recommend that the governance and risk management frameworks referenced in GSC Recs 4 and 5 and CA Recs 4 and 5 and the disclosures referenced in GSC Rec 8 and CA Rec 8 be expanded to address the five components of internal control, including the entity's (i) control environment, (ii) risk assessment process, (iii) processes to monitor the system of internal control, (iv) information and communication, and (v) control activities.

#### **Q5. Are there any financial stability issues that remain unaddressed that should be covered in the recommendations?**

Consistent with our response to Q4, above, we believe that providing greater clarity into the risks that can create financial instability would drive greater regulatory consistency and that these risks can vary greatly

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<sup>2</sup> [Regulating the Crypto Ecosystem: The Case of Stablecoins and Arrangements \(imf.org\)](https://www.imf.org/publications/workingpapers/2018/01/wpr1801)

across crypto-asset categories (including considerations relevant to the entities issuing the crypto-assets) and crypto-asset service providers. We believe that providing this “big picture” perspective that dissects risks by category will be helpful to policymakers in balancing support for innovation with the need for consumer and investor protections and market integrity.

### **Crypto-assets and markets (CA Recommendations)**

**Q6. Does the report accurately characterize the functions and activities within the crypto-ecosystem that pose or may pose financial stability risk? What, if any, functions, or activities are missing or should be assessed differently?**

Please see response to Question 4. We believe that proposals, including the glossaries, provide good examples of different crypto-assets and crypto-asset service providers. However, drawing clearer correlation between the categories, the relevant risks and the need for regulation would be help in driving greater regulatory consistency.

**Q7. Do you agree with the analysis of activity patterns and the associated potential risks?**

No comment.

**Q8. Have the regulatory, supervisory, and oversight issues and challenges as they relate to financial stability been identified accurately? Are there other issues that warrant consideration at the international level?**

In our view, the regulatory, supervisory and oversight issues and challenges as they relate to financial stability have been identified accurately. However, they should continually be monitored to keep pace with the rapidly evolving nature of the crypto-asset market. We would also point the FSB to our recommendations as set out in response to question 4 for other issues that warrant consideration. Moreover, as national regulators consider and take forward the FSB recommendations, it will be important to ensure rules are harmonized to the extent possible to ensure their consistent cross-border application and to avoid confusion within the crypto-asset industry and among other stakeholders such as investors and consumers.

**Q9. Do you agree with the differentiated requirements on crypto-asset issuers and service providers in the proposed recommendations on risk management, data management and disclosure?**

Yes, we agree with the differentiated requirements as proposed.

**Q10. Should there be a more granular differentiation within the recommendations between different types of intermediaries or service providers in light of the risks they pose? If so, please explain.**

In our view, intermediaries and services providers are interrelated. The bigger challenge, as set in other areas of our submission, is the need to differentiate crypto-asset issuers and crypto service providers and what risks they pose to financial stability. See response to question 4 for more details.

## ***Global stablecoins (GSC Recommendations)***

**Q11. Does the report provide an accurate analysis of recent market developments and existing stablecoins? What, if anything, is missing in the analysis or should be assessed differently?**

In our view, the report provides an accurate analysis of recent market developments and existing stablecoins.

**Q12. Are there other changes or additions to the recommendations that should be considered?**

The following are other changes or additions to the recommendations for the FSB's consideration:

- Consistent with our response to Questions 2, we observe that some of the recommendations that apply to GSCs could be extended to cover all crypto-assets and vice versa. For example, GSC Rec 1 and CA Rec 1 are consistent in language and GSC Rec 2 and CA Rec 2 are substantially equivalent, but CA Rec 2 adds the concept of "same activity, same risk, same regulation" which could also apply to GSCs.
- We propose that language for custodial wallet providers in recommendation 2 be **extended to cover all custodial wallet providers** rather than limited to those that provide services to GSCs. This will ensure customer assets are safeguarded in any situation regardless of whether a GSC or other.
- With regards to the FATF travel rule for GSCs, we encourage the FSB to develop more guidance on how this would work in practice in scenarios involving **unhosted wallets**. A key aspect that needs to be considered for unhosted wallets is who would be obliged, and able to implement FATF travel rule controls on behalf of the GSC given there is no intermediary between the GSC and the user, and as such there is no entity facilitating the crypto transactions. It should be noted under existing AML and Transfer of Funds Directives and Regulations, the obligation to implement these requirements is imposed on obliged entities who oversee and facilitate the relevant transactions. In the case of GSC's as previously noted, this obliged entity-customer relationship would not exist.

**Q13. Do you have comments on the key design considerations for cross-border cooperation and information sharing arrangements presented in Annex 1? Should Annex 1 be specific to GSCs, or could it be also applicable to crypto-asset activities other than GSCs?**

We are supportive of the key design considerations as set out in Annex 1, and consistent with our recommendations elsewhere, observe that Annex 1 could be applicable to all crypto-asset activities.

**Q14. Does the proposed template for common disclosure of reserve assets in Annex 2 identify the relevant information that needs to be disclosed to users and stakeholders?**

The FSB's proposed template provides a good starting point for common disclosure of reserve assets, and it is important to ensure such disclosures are auditable as this will ensure rigor in the quality of information provided.

We also recommend such disclosures are made in a public document akin to a prospectus, which will be helpful for investors. Information disclosed could include:

- The nature of customer agreements and policies for maintaining reserves, how the reserves are maintained (i.e., custody), roles of other entities involved in maintaining custody or performing any activities relevant to the reserves and redemption rights.



- Reserve asset minimums within risk management policies. This information could apply to GSCs and crypto exchanges, and complements what exists in the banking sector, where some entities have internal risk policies that require reserves to be held above the minimum required by law.

Outside of disclosures, we recommend regulators consider ensuring reserve assets are audited by third-party service providers that have adequate independence, expertise, and capabilities. In parallel, it will be critical for international standards, including in auditing, to keep pace with these expectations and if they evolve to cover areas outside of reserve assets.

**Q15. Do you have comments on the elements that could be used to determine whether a stablecoin qualifies as a GSC presented in Annex 4?**

Please see response to Question 3.

Thank you for considering these views.

Sincerely,

Fatima Hassan-Szlamka, EY Associate Director, Global Public Policy

Shawn Maher, EY Global Vice Chair, Public Policy