An Overview of Global Digital Asset Regulations
The regulatory approach to digital assets varies among jurisdictions, with each regulator aiming to address the associated risks. These risks encompass the potential for the digital assets to be exploited for illicit activities, consumer vulnerabilities stemming from a lack of understanding about the complexities of digital assets, and the impact on financial market integrity following the collapse of a digital asset market.

Over the past few years, there has been a significant increase in regulatory attention on digital assets, and this trend is expected to continue. The surge in retail and institutional adoption has led to a rapid surge in market capitalization and extreme volatility. However, the loss of consumer trust resulting from failures, fraud, scams, and mismanagement of customer funds by prominent crypto firms have prompted regulators to take immediate action.

The risks to market integrity underscore the urgent need for a comprehensive global regulatory policy approach and supervisory framework to enhance consumer protection. Moreover, the growing interconnectedness between the digital asset class and the traditional financial ecosystem, along with its increasing impact on financial stability, further amplifies these risks. The pace of innovation and the limited focus on risk management exacerbate the situation.

The Securities and Futures Commission (SFC) and the Hong Kong Monetary Authority (HKMA) are expanding the scope of regulations concerning Virtual Assets (VAs).

On the other hand, the United States, with its dual banking system operating at the state and federal levels, lacks a comprehensive regulatory framework. Consequently, the regulation of digital assets is contingent upon their regulatory asset classification, resulting in a “regulation by enforcement” approach by the Securities and Exchange Commission (SEC).

Notably, the European Union has established a comprehensive regulatory framework that covers crypto-assets, issuers, and service providers. This framework aims to protect investors, preserve financial stability, foster innovation, and enhance the attractiveness of the crypto-asset sector.

In the United Arab Emirates, the Dubai Virtual Assets Regulatory Authority (VARA) has introduced the world’s first tailor-made Virtual Assets (VA) framework, including Full Market Product (FMP) Regulations that facilitate permissible VA activities and services.

The Monetary Authority of Singapore (MAS) seeks to anchor participating firms in the digital asset space with strong risk management practices and value propositions to mitigate consumer harm risks. MAS also actively discourages speculation in cryptocurrencies and implements regulatory measures to restrict them.

No “One-Size-Fits-All” Approach For Digital Asset Regulation

Numerous local authorities have announced their ambitions to become global hubs for digital assets, technology, and innovation.

- Notably, the European Union has established a comprehensive regulatory framework that covers crypto-assets, issuers, and service providers. This framework aims to protect investors, preserve financial stability, foster innovation, and enhance the attractiveness of the crypto-asset sector.
- In the United Arab Emirates, the Dubai Virtual Assets Regulatory Authority (VARA) has introduced the world’s first tailor-made Virtual Assets (VA) framework, including Full Market Product (FMP) Regulations that facilitate permissible VA activities and services.
- The Monetary Authority of Singapore (MAS) seeks to anchor participating firms in the digital asset space with strong risk management practices and value propositions to mitigate consumer harm risks. MAS also actively discourages speculation in cryptocurrencies and implements regulatory measures to restrict them.
- The Securities and Futures Commission (SFC) and the Hong Kong Monetary Authority (HKMA) are expanding the scope of regulations concerning Virtual Assets (VAs).
- On the other hand, the United States, with its dual banking system operating at the state and federal levels, lacks a comprehensive regulatory framework. Consequently, the regulation of digital assets is contingent upon their regulatory asset classification, resulting in a “regulation by enforcement” approach by the Securities and Exchange Commission (SEC).
- Amongst other jurisdictions, China has banned financial institutions from dealing in cryptocurrencies. In Malaysia and Thailand, digital tokens are deemed as “securities” for purposes of securities laws. In Indonesia virtual currencies are not considered legal tender. Bitcoin and other cryptocurrencies are regulated as commodities.

Overall, numerous countries are engaging in research, definition, consultation, negotiation, and legislation to bring digital assets within existing financial services frameworks. However, there is considerable fragmentation in terms of the speed of actions taken, approaches adopted, services and products covered, as well as definitions and terminology employed in the regulatory landscape.
Banks are required to classify cryptoassets on an ongoing basis into two groups:

**Group 1:** Those that meet in full a set of classification conditions. Group 1 cryptoassets include tokenised traditional assets (Group 1a) and cryptoassets with effective stabilisation mechanisms (Group 1b). Group 1 cryptoassets are subject to capital requirements based on the risk weights of underlying exposures as set out in the existing Basel Framework.

**Group 2:** Those that fail to meet any of the classification conditions for Group 1. They pose additional and higher risks compared with Group 1 cryptoassets and consequently are subject to a newly prescribed conservative capital treatment. In addition to any tokenised traditional assets and stablecoins that fail the classification conditions, Group 2 includes all unbacked cryptoassets. A set of hedging recognition criteria is used to identify those Group 2 cryptoassets where a limited degree of hedging is permitted to be recognised (Group 2a) and those where hedging is not recognised (Group 2b). Group 2a cryptoassets are subject to adapted market risk rules with netting and 100% capital charge. Group 2b cryptoassets are subject to risk weight of 1250%.

A bank’s total exposure to Group 2 cryptoassets must not exceed 2% of the bank’s Tier 1 capital and should generally be lower than 1%. Banks breaching the 1% limit will apply the more conservative Group 2b capital treatment to the amount by which the limit is exceeded. Breaching the 2% limit will result in the whole of Group 2 exposures being subject to the Group 2b capital treatment. Additional operational risk, liquidity, leverage ratio and large exposure, supervisory review and disclosure requirements apply to both Groups.

For example, BCBS has not yet published a list of specific cryptoassets that fall into each group. However, it is likely that Bitcoin and Ethereum would both be classified as Group 2 cryptoassets since they do not represent a claim on a traditional asset and do not have an effective stabilization mechanism in place.
01.

DUBAI
Virtual Assets Framework
On 7th February 2023, the Virtual Assets Regulatory Authority ("VARA") published its Virtual Assets (VA) Framework. VARA is the world’s first, tailor-made VA regime, and its Full Market Product (FMP) Regulations are designed to cater for the provision of permissible VA activities and services.

### Virtual Assets

The definition of Virtual Assets is set out in Law No. [4] of 2022 Regulating Virtual Assets in the Emirate of Dubai, as a “digital representation of value that may be digitally traded, transferred, or used as an exchange or payment tool, or for investment purposes.

This includes Virtual Tokens, and any digital representation of any other value as determined by VARA. A “Virtual Token” is deemed as “a digital representation of a set of rights that can be digitally offered and traded through a Virtual Asset Platform”.

The deliberate selection of this broad definition ensures that VARA’s jurisdiction extends beyond the conventional scope of regulated crypto activities, such as centralized exchange trading of cryptocurrencies. It also empowers VARA to establish tailored regulations for the expanding array of digital assets, including NFTs and utility tokens.

### Compulsory Rulebooks

VASPs must comply with the following compulsory Rulebooks.

<table>
<thead>
<tr>
<th>Company</th>
<th>Compliance and Risk Management</th>
<th>Technology and Information</th>
<th>Market Conduct</th>
</tr>
</thead>
<tbody>
<tr>
<td>covers matters related to</td>
<td>covers a mix of matters including</td>
<td>covers matters related to</td>
<td>covers matters related to</td>
</tr>
<tr>
<td>Company Structure;</td>
<td>General principles for Regulatory compliance;</td>
<td>Technology Governance, Controls and Security;</td>
<td>Marketing,</td>
</tr>
<tr>
<td>Corporate Governance;</td>
<td>Implementation of a Compliance management system;</td>
<td>Personal Data Protection;</td>
<td>Advertising and Promotions;</td>
</tr>
<tr>
<td>Fit and Proper requirements;</td>
<td>Management, operations and information risk;</td>
<td>Confidential Information</td>
<td>Client Agreements;</td>
</tr>
<tr>
<td>Outsourcing Management;</td>
<td>Record keeping and audit;</td>
<td></td>
<td>Complaints Handling;</td>
</tr>
<tr>
<td>Environmental, Social and Governance;</td>
<td>Employee management and training;</td>
<td></td>
<td>Investor Classifications;</td>
</tr>
<tr>
<td>Capital and Prudential requirements;</td>
<td>Tax Reporting and Compliance;</td>
<td></td>
<td>Public Disclosures;</td>
</tr>
<tr>
<td>Insolvency and Wind-down;</td>
<td>AML and CFT;</td>
<td></td>
<td>Market Transparency;</td>
</tr>
<tr>
<td>Material change to Business or Control</td>
<td>Client Money rules;</td>
<td></td>
<td>Trading Own Account;</td>
</tr>
<tr>
<td></td>
<td>Client Virtual Asset rules;</td>
<td></td>
<td>VA Standards</td>
</tr>
</tbody>
</table>
Issuance Rulebooks

The Issuance Rulebook provides the requirements a VA Issuer will be required to provide to obtain approval from VARA. This includes:

- the Whitepaper;
- the purpose of the VA;
- the nature of the activities for which the VA will be used;
- the identity, full details and, ownership of the Issuer;
- the financing of the Issuer’s business; whether issuing the VA will be the basis for funding any business;
- how any proceeds or other consideration received from issuing the VA will be used;
- who will receive any proceeds and what proportion they will receive;
- the risks related to the business for which the VA will be issued; and
- the governance structure or quality control plan for the business.

Activity Specific Rulebooks

VASPs must comply with the following Rulebooks that correspond to the VA services it is licensed to carry out. Across all rulebooks, VASPs are generally required to publicly disclose details of any past prosecutions or convictions of any members of their senior management or board, regardless of whether such prosecutions/convictions occurred in the UAE or elsewhere.

<table>
<thead>
<tr>
<th>Advisory Services</th>
<th>Broker Dealer Services</th>
<th>Custody Services</th>
</tr>
</thead>
<tbody>
<tr>
<td>sets out the requirements related to offering, providing or agreeing to provide advisory services to persons in respect of actions or transactions relating to VAs. This rulebook covers areas of client suitability for relevant products or services, ensuring competency of staff providing advice, and providing advice that is not misleading, false or deceptive.</td>
<td>provides requirements related to arranging orders, soliciting or accepting orders, facilitating the matching of transactions, entering into transactions as a dealer, market making, or providing placement, distribution or other issuance-related services to clients issuing VAs.</td>
<td>provides requirements related to safekeeping VAs for or on behalf of another person and acting only on verified instructions from or on behalf of that person. Additional information is stipulated with respect to segregation and control, wallet management and general relationship management with clients.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Exchange Services</th>
<th>Lending &amp; Borrowing Services</th>
<th>VA Management &amp; Investment Services</th>
</tr>
</thead>
<tbody>
<tr>
<td>provides requirements with respect to conducting an exchange, trade or service between VAs, or between VAs and fiat currency, matching orders between buyers and sellers, or maintaining an order book in relation to the above. The rulebook is prescriptive on prudential requirements and initial and maintenance margin sums along with what is required in a margin trading agreement.</td>
<td>provides requirements with respect to carrying out a contract under which a VA is transferred or lent from the lender to the borrower, and the borrower commits to return the same, at the request of the lender, at any time either during or at the end of the period agreed upon.</td>
<td>provides requirements regarding acting on behalf of a person as an agent or fiduciary, or otherwise taking responsibility for the management, administration or disposition of that person’s VAs (e.g., investment management or asset management, or taking responsibility for staking to earn fees for validators/node operators of a proof-of-stake DLT).</td>
</tr>
</tbody>
</table>

Official Link:
Virtual assets and related activities regulations 2023
Empowering innovation through responsible regulation of the virtual assets industry
02.

EUROPEAN UNION
Markets In Crypto-Assets
On 20th April 2023, the Markets in crypto-assets (MiCA) regulation was adopted by the EU Parliament paving the way for the EU to become the first major jurisdiction with the comprehensive regulatory framework covering crypto-assets, crypto-assets issuers and crypto-asset service providers. This regulatory framework aims to protect investors, preserve financial stability, while allowing innovation and fostering the attractiveness of the crypto-asset sector.

**Crypto-Assets**

MiCA defines a “crypto-asset” as a digital representation of a value or of a right that is able to be transferred and stored electronically using distributed ledger technology or similar technology.

MiCA classifies crypto-assets into 3 types, which should be distinguished from one another and subject to different requirements depending on the risks they entail:

1. **Asset Referenced Tokens (ART)**
   - crypto-assets that aim to stabilise their value by referencing another value or right, or combination thereof (e.g. commodities), including one or more official currencies.

2. **E-Money Tokens (EMT)**
   - crypto-assets that aim to stabilise their value by referencing only one official currency (for instance EUR, GBP or USD).

3. **Other Crypto-Assets**
   - a category that includes all other types of crypto-assets such as crypto-currencies (Bitcoin, Ether etc.).

**Requirements On Crypto-Asset Issuer/ Offeror**

Before making regulated crypto-assets available to the public in the EU, the offerors must adhere to various transparency, disclosure and notification requirements. These requirements are designed to ensure that potential investors in the EU receive adequate information regarding the characteristics, risks and rights and obligations attached to crypto-assets, allowing them to make informed investment decision.

1. **Requirements on issuers of crypto-assets**

   The offerors must prepare and publish a white paper (investor information document similar to the securities prospectus). This white paper would clearly describe information about:
   - the issuer,
   - the crypto-asset,
   - rights and obligations attached to the crypto-asset,
   - offer of crypto-asset to the public,
   - investment risks
   - and underlying technology.
# Additional requirements for ART/EMT Issuers

## Asset-Referenced Tokens (ARTs):

<table>
<thead>
<tr>
<th>Category</th>
<th>Requirements</th>
</tr>
</thead>
<tbody>
<tr>
<td>Authorisation</td>
<td>Issuers of ARTs must obtain an authorization for engaging in this activity.</td>
</tr>
<tr>
<td></td>
<td>ART white paper should include information on the stabilisation mechanism, investment policy of the reserve assets, custody arrangements for the reserve assets, and rights provided to holders.</td>
</tr>
<tr>
<td></td>
<td>Prospective issuers of ARTs must be EU-incorporated legal entities and must fulfil several key prudential &amp; organizational requirements.</td>
</tr>
<tr>
<td></td>
<td>Authorization from one EU Member State’s NCA enables issuers to offer ARTs and seek trading admission across the EU without obtaining additional authorization.</td>
</tr>
<tr>
<td>Reserve Assets</td>
<td>Issuers of ARTs must adhere to specific requirements on safeguarding reserve assets that stabilize the value of the tokens. Issuers are required to establish and maintain reserve assets that are adequately segregated from issuer’s own assets and other tokens.</td>
</tr>
<tr>
<td></td>
<td>The reserve assets must be held in custody by authorized crypto custodians under MiCA for crypto-assets, authorized investment firms for financial instruments, or credit institutions for all types of reserve assets.</td>
</tr>
<tr>
<td>Redemption Rights</td>
<td>Issuers of ARTs, with the authority to actively manage reserve assets, will be able to invest them only in highly liquid financial instruments with minimal market, credit and concentration risk.</td>
</tr>
<tr>
<td>Reporting &amp; Control Mechanism</td>
<td>For ARTs with an issue value that is higher than EUR 100 million, issuers must provide quarterly reports, including token holder count, token value, reserve asset size, and transaction statistics.</td>
</tr>
</tbody>
</table>

## E-Money Tokens (EMTs):

<table>
<thead>
<tr>
<th>Category</th>
<th>Requirements</th>
</tr>
</thead>
<tbody>
<tr>
<td>License</td>
<td>Only authorized credit institution and e-money institution will be permitted to issue of EMTs.</td>
</tr>
<tr>
<td>Safeguarding Requirements</td>
<td>Issuers of EMTs must adhere to safeguarding requirements outlined in the Second E-Money Directive to ensure that funds received from investors in exchange for EMTs are properly protected.</td>
</tr>
<tr>
<td>Redemption Right</td>
<td>EMTs holders will have a direct claim against the issuers and upon their request, issuers of EMTs must redeem the tokens, at any time and at par value.</td>
</tr>
</tbody>
</table>
MiCA has introduced a list of requirements that will apply to CASPs providing one or more of the following crypto-asset services:

- providing custody and administration of crypto-assets on behalf of clients
- operation of a trading platform for crypto-assets
- exchange of crypto-assets (crypto-fiat, fiat-crypto, crypto-crypto)
- execution of orders for crypto-assets on behalf of clients
- placing of crypto-assets
- reception and transmission of orders for crypto-assets on behalf of clients
- providing advice on crypto-assets
- providing portfolio management on crypto-assets
- providing transfer services for crypto-assets on behalf of clients

Before commencing the provision of regulated services related to crypto-assets to customers located in the EU, prospective CASPs must seek authorization from the NCA in the EU Member State of their establishment.

CASPs must have reputable and knowledgeable management, maintain specified capital, implement effective complaints handling and conflict of interest management procedures, ensure proper outsourcing compliance, and adhere to regulations preventing market abuse. These measures aim to establish sound governance, protect investors, and mitigate risks with crypto-assets.

Official Link:
The European Parliament and the Council of the EU - regulation on markets in crypto-assets
Digital finance: Council adopts new rules on markets in crypto-assets (MiCA)
03.

HONG KONG
Virtual Assets Framework
Hong Kong aims to become a global hub for Virtual Assets (VA) through implementing a harmonised regulatory framework, covering the entire ecosystem. The Securities and Futures Commission (SFC) and the Hong Kong Monetary Authority (HKMA) continue to expand the reach of regulations over activities related to VAs.

**Virtual Asset**

A virtual asset (VA) is defined as a cryptographically secured digital representation of value that functions as a medium of exchange accepted by the public as payment for goods or services; and can be transferred, stored or traded electronically.

The SFC’s regulatory philosophy is based on the overarching principle of “same business, same risks, same rules”.

**Security Token Offerings (STOs)**

Security Token Offerings (STOs) typically refer to specific offerings which are structured to have features of traditional securities offerings, and involve Security Tokens which are digital representations of ownership of assets (e.g., gold or real estate) or economic rights (e.g., a share of profits or revenue) utilising blockchain technology.

In Hong Kong, Security Tokens are likely to be “securities” under the Securities and Futures Ordinance (SFO) and so subject to the securities laws of Hong Kong.

**Activities Involving STOs**

**January 2022**

The SFC and HKMA expanded their jurisdictions over certain types of regulated activities involving VAs. These include distribution activities, dealing services and advisory services. Service providers are required to ensure compliance with all existing legal and regulatory requirements.

**Selling Restrictions**

Must be licensed or registered for Type 1 regulated activity (dealing in securities) and the STOs should only be offered to professional investors.

**Information For Clients**

Provide the information in relation to STOs in a clear and easily comprehensible manner.

Provide prominent warning statements covering risks associated with virtual assets.

Implement adequate systems and controls to ensure compliance with the requirements before they engage in the distribution of STOs.

**Due Diligence**

Conduct proper due diligence in order to develop an in-depth understanding of the STOs, including the background and financial soundness of the management, development team and issuer as well as the existence of and rights attached to the assets which back the STOs.

Scrutinize all materials relevant to the STOs including published information such as the whitepaper and any relevant marketing materials.

Ensure that all information given to their clients is accurate and not misleading.

**June 2022**

The SFC announced a mandatory licensing regime for Virtual Asset Service Providers (VASPs) which hold client assets and provide virtual asset sale or purchase services by electronic means.
HKMA concluded its consultation paper on stablecoins. The key points from the discussion paper are given below:

**Risk-Based Approach**

HKMA will adopt a risk-based approach to determine the stablecoin structures that fall within the purview of regulation under the proposed regime.

Initially, the focus will be on regulating stablecoins that are tied to one or more fiat currencies.

The framework will incorporate flexibility to accommodate the inclusion of other stablecoin structures under regulation in the future.

**In-Scope Key Activities**

- **Governance**: Establishing and maintaining rules governing a stablecoin arrangement subject to regulation.
- **Issuance**: Issuing, creating, or destroying stablecoins falling within the regulatory scope.
- **Stabilization**: Managing stabilization and reserve arrangements of the regulated stablecoins, whether provided by the issuer.
- **Wallets**: Offering services for storing users’ cryptographic keys enabling access to their holdings of regulated stablecoins and managing such assets.

**Key Regulatory Principles**

- **Comprehensive Regulatory Framework**: Covering a wide range of matters, including ownership, governance, financial resource requirements, risk management, AML/CFT, user protection, regular audits, and disclosure requirements.
- **Principal Business Restriction**: Regulated entities are prohibited from engaging in activities that deviate from their permitted principal business as defined by their license.

- **Full Backing and Redemption At Par**

  The reserve assets of a stablecoin arrangement must always maintain a value equivalent to the outstanding stablecoins.

  Stablecoins relying on arbitrage or algorithm-based valuation will not be accepted.

  Holders of stablecoins should have the ability to redeem them for the referenced fiat currency at an equal value within a reasonable timeframe.

Official Link:
- Statement on initial coin offerings
- Statement on Security Token Offerings
- HKMA - Conclusion of discussion paper on crypto-assets and stablecoins (January 2023)
04.

SINGAPORE
Digital Token Framework
Singapore endeavours to position itself as a nation fostering an innovative and accountable ecosystem for digital assets. The Monetary Authority of Singapore (MAS) strives to attract reputable firms that exhibit robust risk management practices and compelling value propositions, thereby mitigating the potential risks of consumer harm. MAS also aims to enhance consumer awareness regarding the risks associated with cryptocurrencies and related services and implement regulatory measures to limit their proliferation.

**Digital Token**

A digital token is a digital representation of the value or rights of the holders of the token to receive a benefit or perform specified functions. They are created and stored using primarily the distributed ledger technology (DLT) to encrypt and assure the authenticity of the digital token.

MAS has issued “A Guide to Digital Token Offerings” on the application of securities laws in relation to offers of digital tokens in Singapore. MAS will examine the features and characteristics of a digital token to ascertain the laws and regulations applicable to the token.

**Digital Payment Token (DPT)**

- is a digital representation of value that is not denominated in any currency;
- and is not pegged by its issuer to any currency;
- is a medium of exchange accepted by the public, as payment for goods or services;
- and can be transferred, stored or traded electronically.

Examples of DPTs (commonly referred to as “cryptocurrency”)

- Bitcoin
- Ether
- Litecoin
- Ripple

The provision of DPT services are regulated under the Payment Services Act 2019 (PS Act).
Digital Token Service Providers

Intermediaries who facilitate offers or issues of digital tokens must satisfy Securities and Futures Act (SFA)/ Financial Advisers Act (FAA)/ Payment Services Act (PSA) requirements.

Service Provider Requirements

1. Primary platform on which one or more offerors of digital tokens may make primary offers or issues of digital tokens

   - must hold a capital markets services licence for the regulated activity under the SFA
   - must be made in or accompanied by a prospectus that is prepared in accordance with the SFA and is registered with MAS

2. Financial advisor in respect of any digital tokens

   - must be authorised to do so in respect of that type of financial advisory service by a financial adviser’s licence under the FAA

3. Trading platform at which digital tokens are traded

   - must be approved by MAS as an approved exchange or recognised by MAS as a recognised market operator under the SFA

4. Any service of dealing in digital payment tokens or any service of facilitating the exchange of digital payment tokens

   - must be licensed and will be regulated under the PSA

MAS Notice on Prevention of Money Laundering and Countering the Financing of Terrorism (“AML/CFT requirements”) will apply if the person is deemed to be an intermediary conducting one or more of the regulated activities.

26th October 2022

The MAS published two consultation papers outlining proposed regulatory measures to minimize the potential risks of consumer harm associated with DPTs and to foster the growth of stablecoins as reliable mediums of exchange within the digital asset ecosystem.

MAS Consultation Paper On DPT Services

MAS will require that DPT Service Providers (DPTSPs) ensure proper business conduct and adequate risk disclosure. Key measures in the consultation paper are given below:

1. Consumer access measures

   - Risk awareness assessment: DPTSPs should assess that a retail customer has sufficient knowledge of the risks before providing any DPT service to that customer.

   - Restriction on offering of incentives: DPTSPs should not offer incentives (whether monetary or non-monetary) to retail customers to participate in a DPT service.

   - Restrictions on debt-financed and leveraged DPT transactions: DPTSPs should not allow the use of credit facilities and leverage by retail consumers for trading DPTs.

2. Business conduct measures

   - Segregation of customers’ assets and risk management controls: DPTSPs should ensure that customers’ assets are segregated from its own assets and held for the benefit of the customer.

   - Identification & mitigation of conflicts of interest: DPTSPs should establish and implement effective policies & procedures to identify & address conflicts of interests, and disclose to their customers as well as the steps taken to mitigate them.

   - Disclosure of DPT listing and governance policies: DPT trading platform operators publish their policies & procedures on the process for selecting, listing and evaluating a DPT, before making it available for trading.

   - Complaints handling: DPTSPs should have in place adequate policies and procedures to handle customer complaints.
MAS Investor Protection Measures For DPT Services

3rd July 2023
MAS published investor protection measures for Digital Payment Token Services. These measures are introduced following an October 2022 public consultation on regulatory measures to enhance investor protection and market integrity in DPT services.

Measures Relating to DPTSPs’ Lending and Staking of Retail Customers’ Assets

DPTSPs are restricted from facilitating the lending and staking of retail customers’ assets.

This restriction does not apply to non-retail customers but DPTSPs should provide a clear risk disclosure document and obtain the customer’s explicit consent.

Segregation of Customers’ Assets

DPTSP should properly segregate customers’ assets from the DPTSP’s own assets and hold them on trust for the benefit of its customers.

Requiring an Independent Custodian

MAS will not be mandating the use of independent custodians for customer assets.

To mitigate the risk of internal fraud and misappropriation of customer assets, DPTSPs should maintain a separate custody function that is operationally independent from other business units.

Risk Management Controls For Customers’ Assets

DPTSPs should maintain adequate systems, processes, controls, human resources, and governance arrangements to ensure the integrity and security of customers’ assets and mitigate the risk of any loss of customers’ assets.

MAS considers that an appropriate balance to strike is to have DPTSPs keep at least 90% of customers’ DPTs in cold wallets, while allowing up to 10% to be kept in other wallets (e.g., hot wallets).

Statement of Account

DPTSPs should provide monthly statements of account to customers.

Daily Reconciliation of Customers’ Assets

DPTSPs should do daily reconciliation of customers’ assets, including moneys, at the entity-level.

Safeguarding of Customers’ Moneys

The existing requirements on the safeguarding of customers’ moneys under the PS Act will be extended to DPTSPs.

90% of customers’ DPTs in cold wallets
MAS Consultation Paper On Stablecoin-Related Activities

MAS intends to focus its regulatory regime on single-currency pegged stablecoins (“SCS”). For SCS with circulation exceeding S$5 million in value, the issuer will have to obtain a major payment institution (MPI) licence to be recognised as an issuer of MAS-regulated SCS. SCS with circulation <S$5 million will be regulated under DPT requirements of the PS Act and may choose to meet stablecoin requirements under the Act.

**Regulatory framework for stablecoin issuers**

- **Type of stablecoin issued**
  - Single currency-pegged (SCS)
  - Non-single currency-pegged

- **SCS issuers** are required to hold reserve assets in cash, cash equivalents or short-dated government debt securities that are at least equivalent to 100% of the par value of the outstanding SCS in circulation.

- Reserve assets must be denominated in the same currency as the pegged currency.

- Requirements on independent attestation and segregation of reserve assets, and timely redemption at par value will also apply.

- **SCS in circulation > S$5mil**: SCS in circulation ≤ S$5mil

- **SCS issuers** must meet a base capital requirement of the higher of S$1 million or 50% of annual operating expenses of the SCS issuer.

- They must also hold liquid assets which are valued at the higher of 50% of annual operating expenses or an amount assessed by the SCS issuer to be needed to achieve recovery or an orderly wind-down.

- An SCS issuer is not allowed to undertake other activities that introduce additional risks to itself. This includes investing in and extending loans to other companies, lending or staking of SCS and other DPTs, and trading of DPTs.

- Singapore banks will be allowed to issue MAS-regulated SCS and no additional reserve backing or prudential requirements will apply if the SCS is issued as a tokenised form of their liabilities. This is because the banks are already subject to stringent risk-based capital and liquidity, ML/TF, technology risk management and other requirements under the Banking Act.

- Regarding non-issuance services, DPT Service Providers can offer all types of stablecoins if they clearly label the MAS-regulated SCS to distinguish them from the unregulated ones. This practice will assist customers in making well-informed decisions after evaluating the risks involved in using unregulated stablecoins.

**Official Link:**
- MAS - A guide to digital token offerings
- Consultation Paper on Proposed Regulatory Measures for Digital Payment Token Services
- Consultation Paper on Proposed Regulatory Approach for Stablecoin-Related Activities
05.

UNITED STATES OF AMERICA
Crypto-Assets Guidelines
The US has a ‘dual banking system’, meaning that digital asset service provision can be regulated at the state level or at the Federal level. In both cases, the state and Federal regulatory and enforcement agencies have outpaced Congress and the White House in moving to regulate digital asset activity.

This has been done through using existing legal authorities, regulating digital asset activity using the payments scheme and, in some cases, through the banking system, leveraging the non-depository trust vehicle to regulate digital asset activity.

In the absence of a comprehensive framework, the regulation of digital assets is a function of their regulatory asset classification, which may in certain cases overlap.

### Crypto-Assets

<table>
<thead>
<tr>
<th>Possible Categorisation</th>
<th>Possible Classification</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Payment Instrument</strong></td>
<td><strong>Currency</strong></td>
</tr>
<tr>
<td>or ‘value that substitutes for currency,’ placing the provision of their services within the money service business (MSB) regulatory framework.</td>
<td>FinCEN may classify crypto-assets as a currency.</td>
</tr>
<tr>
<td><strong>Commodity Instrument</strong></td>
<td><strong>Commodity</strong></td>
</tr>
<tr>
<td>if it constitutes a service, right or interest in which contracts for future delivery are presently or in the future dealt in. Classification as a commodity places oversight over derivative instruments related to them under the commodity regulatory regime, which may include requirements for state registration.</td>
<td>CFTC may classify crypto-assets as a commodity.</td>
</tr>
<tr>
<td><strong>Security Instrument</strong></td>
<td><strong>Security</strong></td>
</tr>
<tr>
<td>if it constitutes an investment of money in a common enterprise with a reasonable expectation of profits to be derived from the efforts of others. It may be subject to registration requirements and service provision may obligate the provider to register with securities regulators.</td>
<td>SEC may classify crypto-assets as a security.</td>
</tr>
</tbody>
</table>

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**MSB**  
Money Service Business

**SEC**  
US Securities and Exchange Commission

**CFTC**  
Commodity Futures Trading Commission

**FinCEN**  
Financial Crimes Enforcement Network

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**About FinCEN**  
FinCEN’s mission is to safeguard the financial system from illicit use and combat money laundering and promote national security through the collection, analysis, and dissemination of financial intelligence and strategic use of financial authorities.

**About CFTC**  
The Commodity Futures Trading Commission is an independent U.S. government agency that regulates the U.S. derivatives markets, including futures, options, and swaps.

**About SEC**  
Recent SEC Enforcement On Digital Asset Firms

Some of the high-profile companies that have been targeted by the SEC include:

**Coinbase**
The SEC sued Coinbase in June 2023, alleging that the company had operated as an unregistered securities exchange.

**Binance**
The SEC has sent a subpoena to Binance, seeking information about the company’s operations.

More details

A trading platform which offers trading of crypto assets which are “securities” and operates as an “exchange” as defined under federal securities laws must be registered with the SEC as a national securities exchange.

The SEC has been cracking down on digital asset firms in recent months, with several high-profile enforcement actions.

The SEC’s chairman, Gary Gensler, has said that many crypto companies are violating securities laws, and that the agency is “not going to let the Wild West continue.”

The implications of the SEC’s crackdown on digital asset firms are still being felt. Some companies have been forced to change their business practices, while others have simply ceased operations.

The crackdown has also had a chilling effect on the broader crypto market, as investors have become more cautious about investing in digital assets.

In addition to the enforcement actions, the SEC has also been working to develop new rules and regulations for the crypto industry. In March 2023, the SEC proposed new rules that would require crypto exchanges to register with the agency.

The SEC’s crackdown on digital asset firms is likely to continue in the coming months and years. The agency is determined to bring more clarity and regulation to the crypto space, and the industry is not immune to its enforcement actions.

Official Link:
Regulation of Cryptocurrency and Initial Coin Offerings (ICOs) in United States (US)
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