

---

Australian Digital Financial Standards Advisory Council  
ADC FORUM  
Level 5, 114 Flinders Street  
Melbourne VIC 3000

19 MAY 2023

The Secretary  
Senate Legislative Committee  
Parliament House  
Canberra ACT 2600  
Australia

**– SUBMISSION TO THE AUSTRALIAN SENATE LEGISLATIVE COMMITTEE ON THE  
DIGITAL ASSETS (MARKET REGULATION) BILL 2023 –**

Dear Secretary,

I write on behalf of the Australian Digital Financial Standards Advisory Council (ADFSAC), an initiative of the ADC Forum, to submit our comprehensive views and recommendations regarding the Digital Assets (Market Regulation) Bill 2023 currently under consideration by the Senate Legislative Committee. ADFSAC is a national think-tank comprised of leading experts in the digital financial sector, and we aim to provide informed insights and perspectives to the government from an academic standpoint.

**Background**

The ADC Forum is an Australian think-tank and forum that brings together leaders from various sectors to discuss and address critical issues impacting Australia and the global community. Established in 1989, the ADC Forum serves as a platform for dialogue, collaboration, and knowledge sharing among policymakers, business executives, academics, and civil society representatives. The Forum focuses on a wide range of topics, including economic growth, technology innovation, sustainability, and social development. With its extensive network and multidisciplinary approach, the ADC Forum plays a vital role in shaping policy debates and promoting thought leadership in Australia.

Through its Australian Digital Financial Standards Advisory Council (ADFSAC), the ADC Forum brings together experts and stakeholders in the digital financial sector to provide valuable insights and recommendations to the government, aiming to foster innovation, regulatory clarity, and international cooperation in this rapidly evolving domain.

---

ADC FORUM  
Level 5, 114 Flinders Street  
Melbourne VIC 3000

ADFSAC acknowledges the importance of rising above partisan politics and maintaining a bipartisan approach in addressing the regulatory challenges surrounding the digital asset sector. A balanced and collaborative approach is vital to ensure effective regulation in Australia that fosters innovation, protects consumers, and promotes the long-term stability of the digital financial ecosystem. It is crucial to avoid the pitfalls of a highly politicised environment, as recently witnessed in the United States, where the polarized nature of the digital asset debate has hindered progress, created uncertainties, and limited the development of effective and balanced regulations.

By prioritising a non-partisan perspective, Australia can overcome these challenges and foster a regulatory framework that supports the growth and integrity of the digital asset sector. By emphasising a non-partisan perspective, ADFSAC aims to provide a comprehensive and informed submission to the Australian Senate Legislative Committee.

It is important to note that this submission serves as a general response to the committee, providing high-level recommendations and approaches. The specific details and intricacies of the regulatory framework should be further developed through detailed consultations with regulators, industry stakeholders, and subject matter experts. ADFSAC is committed to engaging in these consultations to provide specific insights and expertise to support the government's efforts in developing a robust and balanced regulatory framework for the digital asset sector.

## Introduction

The Digital Assets (Market Regulation) Bill 2023 proposes significant regulatory measures for the digital asset sector in Australia. ADFSAC recognises the importance of regulating this rapidly evolving industry to protect investors, foster innovation, and ensure the integrity of financial markets. We appreciate the government's commitment to creating an environment that balances consumer protection with the promotion of technological advancements, and the opportunity to make this submission.

The Explanatory Memorandum accompanying the Digital Assets (Market Regulation) Bill 2023 provides detailed background and context on the proposed legislation, outlining the objectives and intended outcomes. ADFSAC has reviewed this document, along with other relevant sources, and we present our recommendations and high-level approaches in the following sections:

### References:

1. Financial Post: "The political polarization of crypto is underway, and it could have huge consequences" (2022)

## **Regulatory Clarity and Safeguards**

ADFSAC recommends that the Digital Assets (Market Regulation) Bill 2023 prioritise regulatory clarity and provide flexible frameworks that allow for innovation while addressing potential risks. Clear and concise regulations are essential to foster trust and confidence in the digital asset sector, as they provide certainty to market participants. By establishing transparent rules and clear definitions, the bill can strike the right balance between enabling business innovation and protecting consumer interests.

To achieve regulatory clarity, the Digital Assets (Market Regulation) Bill 2023 should adopt comprehensive definitions of key terms related to digital assets, blockchain technology, and associated activities. These definitions should be based on widely accepted international standards and best practices to ensure consistency and facilitate international coordination. ADFSAC suggests referencing the definitions proposed by international standard-setting bodies such as the Financial Stability Board (FSB), International Organization of Securities Commissions (IOSCO) and the Financial Action Task Force (FATF), which define Digital Asset and Crypto Asset, Crypto Asset and Virtual Asset Service Providers with some degree of similarity. We have prepared a more detailed taxonomy of these and other regulatory frameworks, including the MiCa framework, that we can share, upon request.

Furthermore, the Bill should incorporate mechanisms for ongoing dialogue and consultation with industry stakeholders, academia, and experts in the digital financial sector. This collaborative approach will help ensure that regulations remain effective and adaptable to technological advancements. A bi-partisan approach in the development of the bill will foster greater confidence in its outcomes and encourage long-term stability for the sector.

### **References:**

1. Australian Parliament: Explanatory Memorandum for the Digital Assets (Market Regulation) Bill (2023)
2. US Chamber of Digital Commerce: "Defining Digital Tokens: A Guide to the Regulatory Landscape" (2022)
3. ACCESS: "Proposed Model Framework for Regulating Digital Token Offerings" (2021)
4. Financial Stability Board, (2020), 'Regulation, Supervision and Oversight of "Global Stablecoin" Arrangements', 5.
5. International Organisation of Securities Commission, (2020) 'Issues, Risks and Regulatory Considerations Relating to Crypto-Asset Trading Platforms'.
6. FATF, (2021) 'Virtual Assets and Virtual Asset Service Providers', 109.

## **Consumer Protection and Investor Safeguards**

ADFSAC emphasises the need to prioritise consumer protection and investor safeguards within the regulatory framework. The Digital Assets (Market Regulation) Bill 2023 should include provisions to prevent fraud, money laundering, and illicit activities in the digital asset sector. Enhanced know-your-customer (KYC) and anti-money laundering (AML) measures should be implemented to mitigate risks associated with digital assets. Additionally, the bill should establish mechanisms for dispute resolution and redress for consumers, ensuring fair treatment and promoting market confidence.

To align with international best practices, we recommend that the Digital Assets (Market Regulation) Bill 2023 takes into consideration the ongoing consultation on proposed reforms to the Anti-Money Laundering and Counter-Terrorism Financing (AML/CTF) legislation led by the Attorney General's office. Harmonising Australia's regulatory framework with international standards, such as those proposed by the FATF, will bolster the country's position in combating illicit activities and promoting global cooperation.

The Attorney General's consultation on proposed AML/CTF legislation reforms provides a valuable opportunity to enhance the existing regulatory framework. ADFSAC encourages the government to actively engage with stakeholders during this process to ensure a comprehensive and robust approach to combating money laundering and terrorist financing in the digital asset sector. By aligning with international standards and collaborating with organisations such as the FATF, Australia can demonstrate its commitment to global efforts in combating financial crimes.

We also note that very few countries have laid out a clear regulatory pathway for decentralised autonomous organisations (DAOs) or derivatives or variants of DAOs. Decentralised finance (DeFi) service providers are often governed by DAOs and they transact billions of dollars of value, daily.<sup>4</sup> The Digital Assets (Market Regulation) Bill 2023 is silent on this issue. This is an opportunity for the Australian Government, in collaboration with industry, to create a framework that provides clear guidance not just for corporations and natural persons, but also for newer Digital Asset-based organisations, including DAOs.

References:

1. Australian Parliament: Explanatory Memorandum for the [Bill Name] (2023)
2. Attorney General's Consultation on Proposed AML/CTF Legislation Reforms (2022)
3. Financial Action Task Force (FATF): "Guidance for a Risk-Based Approach to Virtual Assets and Virtual Asset Service Providers" (2021)

## International Coordination

Given the global nature of the digital asset sector, ADFSAC recommends that the Australian government actively collaborates with international counterparts to establish consistent regulatory standards. International coordination is crucial to avoid regulatory arbitrage and ensure a level playing field for market participants. A harmonised global framework (HGF) will promote interoperability, facilitate cross-border transactions, and foster innovation in the digital asset sector.

ADFSAC suggests referencing the work of the FSB in proposing a global harmonised framework for crypto asset activities, as outlined in their recent publication titled "Framework for the International Regulation of Crypto Asset Activities." This framework provides a comprehensive approach to regulating crypto assets while addressing risks related to consumer protection, market integrity, and financial stability.

Additionally, the Digital Assets (Market Regulation) Bill 2023 should consider the recommendations and guidelines provided by industry associations and advisory bodies recognised by international organisations. ADFSAC highlights the importance of collaboration with organisations such as the

Global Blockchain Business Council (GBBC), Global Digital Finance (GDF), and the International Digital Asset Exchange Association (IDAXA), which is the formally recognised industry advisory body to the FATF. Engagement with these organisations will enable Australia to stay at the forefront of international developments and contribute to shaping global regulatory standards for the digital asset sector.

References:

1. Australian Parliament: Explanatory Memorandum for the Digital Assets (Market Regulation) Bill 2023 (2023)
2. Financial Stability Board (FSB): "Framework for the International Regulation of Crypto Asset Activities" (2022)
3. Organisation for Economic Cooperation and Development (OECD): "OECD Blockchain Policy Principles" (2021)
4. Global Blockchain Business Council (GBBC): "Blockchain Policy Recommendations" (2022)
5. International Digital Asset Exchange Association (IDAXA): "Best Practices for Virtual Asset Service Providers" (2021)
6. For example, see Home | Uniswap Protocol

## Applied Technology

In addition to prioritising regulatory clarity and consumer protection, ADFSAC recognises the transformative potential of emerging technologies, particularly blockchain, in facilitating compliance with regulations and driving efficiency gains for the government. Blockchain technology, with its decentralised and transparent nature, has the potential to revolutionise regulatory processes and enhance trust in the digital asset sector. By leveraging blockchain technology, government agencies can streamline and automate various compliance procedures, reducing administrative burdens and lowering costs.

For instance, blockchain-based smart contracts can be utilised to automate regulatory compliance processes in the crypto sector. These self-executing contracts can automatically enforce and verify compliance with regulatory requirements, such as anti-money laundering (AML) and know-your-customer (KYC) regulations. The immutable and transparent nature of blockchain ensures that compliance records are securely recorded and easily auditable, reducing the risk of fraudulent activities and increasing regulatory oversight.

Furthermore, blockchain technology can be harnessed to improve the efficiency of financial transactions and settlements, benefiting both the government and market participants. Blockchain-based systems can enable near-instantaneous and cost-effective cross-border transactions, eliminating the need for intermediaries and reducing associated fees. This streamlined approach not only enhances efficiency but also enhances transparency and traceability, making it easier for regulatory bodies to monitor and track financial activities in real-time.

By embracing blockchain technology, the government can achieve significant efficiency gains while maintaining regulatory compliance. These technological advancements have the potential to revolutionise traditional regulatory processes, reduce administrative costs, and enhance the overall effectiveness of regulatory oversight in the crypto sector.

References:

1. Deloitte: "Blockchain and the future of regulatory compliance" - <https://www2.deloitte.com/us/en/insights/focus/tech-trends/2019/blockchain-in-regulatory-compliance.html>

2. World Economic Forum: "Building Block(chain)s for a Better Planet" -  
<https://www.weforum.org/reports/blockchain-for-sustainable-markets>
3. European Parliament: "Blockchain for the Next Generation Internet: The Future of Regulation" -  
[https://www.europarl.europa.eu/RegData/etudes/STUD/2021/694190/IPOL\\_STU\(2021\)694190\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2021/694190/IPOL_STU(2021)694190_EN.pdf)

## Conclusion

ADFSAC appreciates the opportunity to provide our insights on the Digital Assets (Market Regulation) Bill 2023. We believe that by prioritising regulatory clarity, consumer protection, and international coordination, Australia can establish a robust regulatory framework for the digital asset sector. The adoption of clear definitions, ongoing dialogue with industry stakeholders, and alignment with international standards will foster innovation, protect investors, and promote Australia's position as a leader in the digital financial space.

We trust that our recommendations will be carefully considered by the Senate Legislative Committee in its deliberations on the Digital Assets (Market Regulation) Bill 2023. ADFSAC remains committed to supporting the government's efforts in developing effective and forward-thinking regulations for the digital asset sector. We are available for further consultations or to provide additional information as needed.

Thank you for your attention to this important matter.

Sincerely,

---

Loretta Joseph  
Chair ADFSAC

---

Matt Faubel  
Chair, Program Committee  
ADC Forum

---

ADC FORUM  
Level 5, 114 Flinders Street  
Melbourne VIC 3000

AUSTRALIAN DIGITAL FINANCIAL ADVISORY COUNCIL  
- AN INITIATIVE OF THE ADC FORUM -  
[www.adcforum.org/adfsac](http://www.adcforum.org/adfsac)