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By electronic submission

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Submission on the Digital Assets (Markets Regulation) 2023 (The Bill)

We thank the Senate Economics Committee for the invitation to make a submission in respect of the Bill.

Revolut Payments Australia Pty Limited (**Revolut Australia**) has been actively participating in the legislative discussion on the regulation of cryptocurrency through a number of forums since 2020 (including the Senate Committee on Australia as a Technology and Financial Centre).

About Revolut and Revolut Australia

Revolut Australia is part of the global Revolut group (Revolut), a financial technology group of companies offering a range of financial services to retail and business customers in over 40 countries. Revolut was founded in 2015 in the UK and now has approximately 30 million retail customers and 6,000 employees globally. Revolut is one of the UK's fastest growing technology companies.

Revolut Australia received its Australian Financial Services Licence in May 2020 and launched to the public in August 2020. Revolut Australia also holds an Australian Credit Licence and is progressing an application with APRA to become an Australian Deposit Institution.

Revolut's vision is to reinvent how the world does money by building the world's first truly global financial superapp. We believe in empowering our customers by giving them financial Freedom. Revolut welcomes and supports policymakers efforts to harmonise emerging regulation and oversight of crypto assets and stablecoins, particularly in setting clear rules to

ensure a level playing field and managing the systemic risks of any global crypto assets or stablecoins. We are one of the global leaders in payments, and are committed to leveraging new technology to reduce the cost of moving money from point A to point B. Stablecoins and Central Bank Digital Currencies offer particularly strong potential to accelerate the progress already being made thanks to API based instant payments.

We therefore see a need for risk based regulation of the digital asset sector, where products or services which pose heightened risks to end users, financial stability or sovereignty are appropriately regulated, but the broader ecosystem of Web3 retains the freedom to innovate.

Revolut Australia's crypto offering

Revolut provides a number of financial services all of which centre around the Revolut App. It has been allowing customers in the UK and EU to buy, sell and send cryptocurrencies since 2017. Revolut Australia launched its crypto services to its Australian customers in late 2020 and has seen strong take up to date, driven largely by word of mouth. Revolut Australia currently has almost 15,000 customers of its crypto product with an average holding of approximately \$690.

Revolut Australia offers a simple way for customers to buy, hold and sell crypto assets through a linkage to their Revolut digital money wallet. Revolut Australia customers are not able to deposit or withdraw crypto directly from the app or use cryptocurrency to make merchant payments from the app. Revolut customers can access around 100 different crypto tokens. Revolut does not currently offer the ability for customers to buy or sell stablecoins and does not currently issue digital tokens.

If the Bill is passed into legislation, Revolut Australia would be included in coverage as a Digital Asset Exchange.

Impact of the Bill

In our response to the Senate Select Committee on Australia as a Technology and Financial Centre's third issues paper, we proposed two models of authorisation. The first was to expand the scope of the current financial services laws to recognise crypto assets as a class of "financial product" under the Corporations Act. The benefit of that model was that it would require little new infrastructure for licensing and participants would operate within a well known consumer protection framework.

The second model we proposed was a new Government or industry body which would set participation rules or standards with enforcement by an existing regulator. This model had the advantage of engaging a group of experts to be responsible for the setting of rules which could be adapted over time.

The proposed Bill has some similarities with our second proposal in that it envisages that the

detailed rules for licence holders would be determined not through legislation but through an administrative process - in this case upon the Minister's determination. We will restrict our comments in this submission to the specifics of the licensing regime proposed by this Bill, rather than on the appropriateness of this regime versus other regimes which the Government may still be considering.

1. Categories of Licence Coverage

We think it reasonable to have categories of licence with different requirements and rules covering different aspects of crypto services. The functional split between Asset Exchange businesses and Custody businesses seems a logical approach as there will be many businesses who offer only one of these services. The risks associated with each function are considerably different. We think the nature of most of the inclusions prescribed to be in the rules for each of these licence types are reasonable, however, we would be concerned with the unrestricted power of the Minister to impose minimal capital requirements without any guidance of the appropriate level of capital. While we are not opposed to the concept of a minimal capital base, we think it would be more appropriate for the legislation to prescribe a mechanism for the setting of that Capital requirement. By Comparison, in the banking industry, while APRA has the power to determine appropriate capital levels for Australian Banks, it does so in the context of international Basel standards which provide a global industry baseline. In the absence of such standards for digital asset service providers, Capital could easily be set at a level which would discourage the industry to operate in Australia.

2. Stable Coins

We note that this licence category is unlike the first two categories in that it deals with only a particular type of digital token (the stable coin) rather than a whole function (i.e. the issuing of digital tokens). We would think it more appropriate that the issue of tokens (e.g. through an Initial Coin Offering (ICO)) would be a better category of licence coverage. Within that category special provision could be made for certain token types such as stable coins.

We note that issuers of tokens may already be regulated where the token constitutes a financial product under the Corporations Act. If a particular stable coin has the characteristics of a "derivative" it would be covered by existing financial services law and the AFSL licensing regime. The interaction of any new regime with the Corporations Act would need to be carefully considered to avoid conflict of laws or double licensing requirements.

If "token issuance" generally were to be a new licence category then it may make sense to include all types of digital tokens in the new regime and remove coverage by the Corporations Act of those tokens which meet the definition of "financial products" in that Act. The new rules could still specify different requirements for different types of tokens.

3. Additional Observations

Regulation should Incentivise low risk products and low risk providers

We recognise the need for strong controls on crypto asset products or crypto asset service providers which pose a high risk to end users, financial stability or sovereignty. We believe a risk based approach will be essential to ensure market participants are incentivised to invest in, and promote, products and services which are safe. We would therefore recommend that across both crypto asset and stablecoins regulatory regimes, the rules should differentiate between high and low risk (i) providers and (i) products & services. For example:

- **Products and services:** The provision of higher risk products (e.g. privacy tokens, etc) or higher risk services (e.g. access to mixing services) should trigger the application of additional obligations (e.g. higher prudential requirements, consumer disclosures, audit, etc). The highest level of regulation should be reserved for products which could become a systemic risk in the retail or wholesale banking system. It may make sense for higher risk products and services to face constraints when marketing and for regulated providers to have to get additional pre-approvals before such products or services can be issued.
- **Providers:** Entities which are already under the supervision of the regulators (e.g. fully licenced Banks) should have expedited and non-duplicative licence approvals to provide and market low risk crypto assets or stablecoins given they will already have met strong oversight requirements for their primary licenced activities (e.g. prudential, safeguarding, AML/KYC, governance, etc). This will incentivise mainstream financial service providers to participate in this emerging space, reducing the dependency on crypto specific providers or non-financially regulated tech providers. It will also ensure that the financial providers with the most scale and robust oversight in Australia are incentivised to focus primarily on supporting the adoption of low risk products and services. Entities which generate revenue from multiple product lines, notably those which offer products which involve long term credit exposures (e.g. mortgages), will be incentivized to provide digital asset services in a sustainable way to their clients. Ensuring pure play crypto providers or tech companies with limited experience of financial regulation have to meet similar high level of governance requirements as fully regulated financial institutions will be key to ensure consumers and businesses remain protected.

Need for broad consumer protection

The Bill sets out only a high level framework for a new licensing regime. containing a small number of mandatory rule inclusions for each category. Much of the impact of the regulation is likely to lie in the rules. The Bill does not suggest that the rules would cover the type of consumer protections currently required of financial products (e.g. disclosure obligations, design and distribution obligations, misleading conduct provisions). We therefore assume another

consumer protection regime would still be required to provide those protections. We question the efficiency of a regulatory model requiring multiple enforcement regimes.

International alignment

Many other jurisdictions are developing comprehensive regulatory regimes for crypto assets (e.g. EU, UK, Singapore, etc). The proposed regime in the Bill adopts a similar approach to some of these jurisdictions, but at present it is unclear how closely the detailed definitions, requirements and oversight will align. Given the global nature of digital assets, including fully decentralised products and exchanges, we recommend that any legislation and rules align on rules as far as possible. We would note the Financial Stability Board's workstream on Crypto Asset and Stablecoin regulation is due to report back in the next months, which may provide a useful framework for alignment.

In summary, our position on the draft Bill is that we are generally supportive of the direction, but there are a number of further issues which should be considered before this legislation is passed.

If you require any more information about Revolut or about this submission please contact Scott Jamieson at

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