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Bank for International Settlements (BIS)
Centralbahnplatz 2
CH - 4002 Basel
Switzerland

Paris, 29th September 2022

Second BIS consultation on the prudential treatment of cryptoasset exposures.

Response from ACI FMA Digital Assets Committee (DAC):

ACI Financial Markets Association (ACI FMA) is a leading global trade association representing the interests of the professional wholesale financial markets community. Established in 1955, ACI FMA is focused on enhancing best market practice and supporting market participants to adhere to principles of ethical conduct. ACI FMA is an international association with 60 National Associations worldwide representing over 8.000 members. ACI FMA is well placed to offer real "boots on the ground" advice on this topic. It has had an active Digital Assets Committee (DAC) in place now for over three years drawing in expertise from regulated Crypto Banks, Crypto Native firms, Brokers to Investment Funds and the wholesale OTC Banking industry in general.

We responded to the first consultation and welcome the opportunity to do so again with this second one.

Firstly, we welcome the proposed BIS regulatory framework and the engagement on this topic as markets, consumers and Banks will be better placed to gain the benefits of this technology if suitable regulation is put in place. In particular, the introduction of an exposure limit of 1% to tier 1 capital to be held in Crypto is welcome.

However, we believe there are areas that need further refinement and as such have focused our response to the following four items.

- Remaining uncertainty around boundaries.

  There are many types of stablecoins in circulation across a number of regulatory jurisdictions, for example Japan has defined stablecoins as e money with a new legal framework that will take effect in 2023, with Japan's Financial Services Agency planning to introduce regulations for stablecoin issuers in the coming months.

The issuance of stablecoins will be limited to licensed banks, registered money transfer agents and trust companies in Japan. The new legislation also introduces a registration system for financial institutions to issue such digital assets and provides measures against money laundering.

In this framework, the Fintech sector with its Innovation and creative destruction that society gains so much from has a place.

Whilst emulating this framework would be encouraging, we believe that further support for the Fintech sector should be provided by enabling the licensed access to an Insured deposit scheme as well as Central Bank accounts.

The BIS has an opportunity to take a positive stance on this and to coordinate a number of jurisdictions, ensuring innovation and protective measures are consistent and best practice.

- Remaining challenges around application of Group 1 criteria and cliff effects.

A financial asset that has millisecond liquidity (to buy and sell is not the same as a Digital asset in the same financial asset class IF it cannot be accessed at the same time/speed. This creates "Herstatt" risk. Example:

A treasury bond that can be sold in seconds is not the same as the exact digital stable token/coin on the same treasury bond that takes 2 days to access/get out of "cold storage" to then be in a position to sell it.

In wholesale FX markets we have seen pegs being attacked through time and now with two recent problems in stablecoins.

Having a "real time," online screen to display the tokens in circulation and the assets held against those stable coins/tokens would provide transparency for confidence in said tokens.

Issuers should be required to have a transparent and known mechanism for any attempts to arbitrage the pegs both up and down resulting in a move back to said peg/parity. This erodes the speculative attack, causing a loss discouraging speculators similar to the Hong Kong dollar peg.

Finally, there should be a method of managing the wind down of a stablecoin that preserves market order and as much as possible consumer funds.

- DLT add-on may undermine economic viability of a wide range of digitalisation projects.

Banks and many entities in the Fintech sector have invested heavily in lowering the cost and improving the service of the current Financial Market and in some cases DLT is a cornerstone of these investments. This is because these technologies do bring real and new benefits.

Regulation should be technology neutral and focus instead on the underlying asset which may have the effect of creating a lot more assets as the technology impacts the behaviour of the asset. For example, one would expect the market to price differently a USD token with less than one hour settlement window to our current T2 settlement dollars. So rather than an add on, the market may provide a discount.

DLT as a technology has after some 10 years of extensive use, now achieved an enviable track record for robustness, immutability and censorship resistance at a cost point many times lower than traditional financial technology infrastructure.

We feel that there should be no add-on for DLT but some separate classification of the asset where there are differences enabled by the technology.

- Group 2 exposure limit and conservative treatment will undermine banks' ability to participate in crypto markets both direct and indirect (1250% is way too high) which is bad for Bank participation which in turn is bad for a broader functioning market in Crypto which is ultimately bad for consumers.

  This Crypto market is here to stay and, as it continues to grow and develop, we should have a level playing field and allow banks in rather than this curious grey zone of poorly and or unregulated activity that has grown too big and important in our customers minds to ignore.

Thank you again for the opportunity to participate in this consultation. The Crypto market is evolving and growing at a pace, underpinned by delivering real value as their customers perceive it. As OTC wholesale market professionals, we know instinctively that to ignore or go slow on embracing a market shift will inevitably lead to paying a higher cost later.

Please do not hesitate to contact Kim Winding Larsen at kwl@acifma.com if you require further feedback and/or clarifications.

Kind regards,
ACI Financial Markets Association

Kim Winding Larsen
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History of ACI FMA:

ACI Financial Markets Association ("ACI FMA") is a global non-political, non-profit association of wholesale financial market participants. ACI FMA was established under the French Law of 1901 and based on mutual recognition of markets professionals, with the objective of developing the profession, without discrimination of any sort.

Since 1955, ACI FMA has represented the interests of individuals in professional trading, broking, operations, regulatory and compliance activities in global financial markets.

Its main mission is to be a leading, global association of wholesale financial markets professionals, contributing to market development through education, best market practices, technical advice and networking events.

Focused on three core values of Membership, Education and Ethical Conduct, ACI FMA is committed to supporting market participants to operate at the highest standards of ethical conduct and best market practice. Specifically, these values represent:

- Membership: ACI FMA counts over 8,000 individual members representing 60 National Associations globally

- Education: Accredited, portable qualification and certification of professional and ethical standards to market participants worldwide

- Ethical Conduct: ACI FMA members are expected to maintain the highest ethical conduct in adherence to global Codes relevant to them.

ACI FMA members are proud to represent individual responsibility, and benefit from a network of global peers who place great emphasis on the best possible practices in our profession, in the same way as modern regulatory regimes and industry codes.

Through cooperation with ACI FMA, an entity is able to demonstrate that concrete steps are being taken to ensure all the staff have been trained to the highest ethical standards of conduct, and that they understand their individual obligation.

ACI FMA members are longstanding proponents and influencers of ethical conduct and good market practices to financial markets professionals.