

22 May 2023

Senate Standing Committees on Economics  
PO Box 6100  
Parliament House  
Canberra ACT 2600

Submitted via email: [economics.sen@aph.gov.au](mailto:economics.sen@aph.gov.au)

Dear Committee Secretariat,

**Inquiry into Digital Assets (Market Regulation) Bill 2023**

Thank you for the opportunity to provide a submission to the Senate Economics Legislation Committee inquiry into the *Digital Assets (Market Regulation) Bill 2023 (Bill)*.

We invite the Committee to refer to related and previous policy submissions made by BADAS\*L at [www.badasl.com/policy](http://www.badasl.com/policy).

With the limited time available to review and provide a submission, we have spent about 5 hours to provide a modified version of the Bill at Schedule 1 (track changes and review comments showing) and Schedule 2 (clean). In modifying the proposed text of the Bill, and displaying review comments, it is intended that the Committee gains a true sense of:

- the level of further and bipartisan effort involved to introduce law that is at least on par with jurisdictions such as the European Union and Dubai that have outpaced Australia in this area of economic opportunity;
- the need to move to activities-based regulation which is proportionate and that expressly permits regulatory equivalence as a pursuit of designing technology to meet and exceed regulatory objectives (compliance by design) rather than being confined by regulatory regimes;
- the multi-domain nature of crypto-token activities and multi-functionality of crypto-tokens (a token can be used for utility or exchange or payment purposes), which requires a dedicated licensing and supervisory authority whose primary focus is on responsible technology design and understanding and promptly communicating technology risks, which no existing regulatory regime or supervisory authority appropriately deals with.

The tokenisation paradigm extends to non-financial things and increasingly blockchain infrastructure will be used for trusted non-financial online transactions (such as social media posts, online advertisements, emails, messaging) where financial services laws and frameworks are simply insufficient. This Inquiry provides a critical reflection point for Australia to consider its defensive and strategic position to capture the economic growth possible from the anticipated mainstream transition from web2 (Big Tech and walled garden internet) to web3 (the open internet).

The lack of a legislated privacy-preserving digital identity and/or verifiable credential framework is inhibiting blockchain-based innovation which continues to be stifled by outdated KYC requirements that are proven not to be effective in preventing, deterring and catching the majority of financial crime despite how much information is collected. We encourage the Committee to observe the recently commenced consultation to modernise the AML/CTF law to reflect latest FATF standards around crypto-tokens as well as privacy-enhancing technology methods available to conduct customer and transaction risk monitoring.



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We welcome the opportunity to discuss this submission and assist the Committee with their Inquiry.

Yours sincerely,

Signed by:  
  
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**Joni Pirovich**  
Principal  
Blockchain & Digital Assets – Services + Law (BADAS\*L)

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2022-2023

The Parliament of the  
Commonwealth of Australia

THE SENATE

*Presented and read a first time*

**Digital AssetsCrypto-token Activities  
(Market Regulation Licensing) Bill 2023**

**No.     , 2023**

*(Senator Bragg)*

**A Bill for an Act to establish a crypto-token activities licensing and oversight authority, to provide requirements for the legal recognition of decentralised autonomous organisations, to provide for the regulation of activities relating to crypto-digital asset token activities and reporting in relation to central bank digital currencies, and for related purposes**



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1 **A Bill for an Act to establish a crypto-token**  
2 **activities licensing and oversight authority, to**  
3 **provide requirements for the legal recognition of**  
4 **decentralised autonomous organisations, to provide**  
5 **for the regulation of crypto-token activities ~~relating~~**  
6 **~~to digital assets~~ and reporting in relation to central**  
7 **bank digital currencies, and for related purposes**

8 The Parliament of Australia enacts:

Part 1 Preliminary

Section 1

Part 1—Preliminary

1 Short title

This Act is the *Digital Assets Crypto-token Activities Licensing (Market Regulation) Act 2023*.

2 Commencement

(1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

| Commencement information |  |              |
|--------------------------|--|--------------|
| Column 1                 | Column 2   | Column 3     |
| Provisions               | Commencement   | Date/Details |
| 1. The whole of this Act | The day after the end of the period of 6 months beginning on the day this Act receives the Royal Assent. |              |

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

(2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

3 Objects of this Act

The objects of this Act are to protect consumers while promoting investment and innovation in Australia by:

- (a) ~~establishing a crypto-token activities licensing and oversight authority;~~
- (b) to provide the requirements for legal recognition of a decentralised autonomous organisation (DAO) as a separate

**Commented [JP1]:** This likely requires its own Act, that could be crafted with reference to the ASIC Act and the ACCC Act, as well as scope of the new Anti-Scam agency. A new agency could be responsible for oversight of the technology specific risks of DLT and crypto-token activities which none of the existing agencies, except perhaps APRA re cyber resilience, have capability around.

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Section 4

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and distinct person from its participants, and to provide a form of partial limited liability for the DAO;

(c) to providing a bespoke effective regulatory framework for digital crypto-token activities asset that involve the exchanges, digital asset custody, management, advice, or issuing of crypto-tokens services and the issuing of stablecoins, that protects consumers and promotes investment in Australia; and

(b) to provide a bespoke regulatory framework for the issuing of e-money crypto-tokens, operation of an e-money token business, and businesses involving e-money crypto-tokens;

(c) to provide a bespoke regulatory framework for the issuing of asset-referenced crypto-tokens, operation of an asset-referenced crypto-token business, and businesses involving asset-referenced crypto-tokens; and

(c) to provide for the reporting of information by ADIs in relation to designated central bank digital currency; and

(de) to provide for additional duties of the Parliamentary Joint Committee on Corporations and Financial Services relating to this Act and the regulation of crypto-token activities relating to digital assets and designated central bank digital currency.

**Commented [JP2]:** This likely requires its own Act, and should be modelled from the COALA DAO Model Law, and learnings taken from Utah LLD law, Marshall Islands DAO LLC, as well as DAO recognition laws being proposed for New Hampshire.

**Commented [JP3]:** Term adopted for consistency with MiCA, intended to refer to fiat currency pegged stablecoins.

**Commented [JP4]:** This wording is deliberate so as not to capture mere software developers in the business of providing software, including open source software. The wording is intended to capture persons that use the software to offer access to the software via an interface (but not a testnet interface), whether or not those persons receive a fee directly from users or indirectly from grants.

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**Commented [JP5]:** Term adopted for consistency with MiCA, intended to refer to non e-money tokens where the token represents a peg to or a right of redemption of all or part of an underlying thing which may be an asset or liability.

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**4 Simplified outline of this Act**

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This Act establishes a new statutory agency to license and oversee crypto-token activities.

This Act establishes a framework for legal recognition of DAOs and a form of partial limited liability for the DAO.

This Act requires a person to hold a licence granted by ASIC the new statutory agency, or a recognised foreign licence, to operate facilitate a digital asset crypto-token exchange activities, provide a digital asset crypto-token custody service activities, crypto-token management activities, crypto-token advice, or crypto-token issuing activities or issue stablecoins in Australia. Licensees under

**Commented [JP6]:** In the context of issues supervised by AUSTRAC and the new Anti-Scam Agency, it is not clear what ASIC would value add to the licensing and oversight of crypto-token activities involving:

- \* exchange
- \* custody
- \* management

ASIC could possibly value add in the area of issuance (for fund raising) disclosures and advice around crypto-token investments, but unlikely in respect of the technology risks which are the underlying source of technology-2-market risks and technology-2-consumer risks.

Part 1 Preliminary

Section 5

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this Act are required to comply with requirements set out in the rules.

This Act provides the requirements for issuers of e-money crypto-tokens and the operation of an e-money token business as well as a business involving e-money crypto-tokens where Licensable Persons offer access to applications designed to operate with e-money crypto-tokens.

This Act provides the requirements for issuers of asset-referenced crypto-tokens and the operation of an asset-referenced crypto-token business as well as a business involving asset-referenced crypto-tokens where Licensable Persons offer access to applications designed to operate with asset-referenced crypto-tokens.

This Act also provides that ADIs must comply with certain reporting requirements set out in the rules relating to designated central bank digital currency.

Further, this Act sets out additional duties of the Parliamentary Joint Committee on Corporations and Financial Services relating to this Act and to digital assets and designated central bank digital currency.

**Commented [JP7]:** The expanded ambit of the Act is to recognise that an e-money crypto-token issuer cannot feasibly monitor all transactions, and there are further requirements to proliferate transaction-based risk monitoring to more specific levels rather than merely the e-money crypto-token issuer.

**Commented [JP8]:** Why only ADIs? If, for example, the digital yuan is required to settle invoices with chinese suppliers then the wallet likely would not be provided by or through an ADI but a fintech that may not be based in Australia.

5 Definitions

(1) In this Act:

**ADI** means an authorised deposit-taking institution within the meaning of the *Banking Act 1959*.

**APRA** means the Australian Prudential Regulation Authority.

**asset-referenced crypto-token** means a kind of crypto-token digital asset that is designed to maintain a stable value by reference to another value or right, or combination thereof, but excludes e-money crypto tokens and crypto-token commodities ~~purports to maintain a stable value by referring to the value of several fiat~~

Section 5

1 ~~currencies that are legal tender (whether Australian or otherwise),~~  
2 ~~one or several commodities or one or several digital assets, or a~~  
3 ~~combination of such assets.~~

**Commented [JP9]:** Same term as EU MiCA. Definition adjusted to reflect MiCA.

4 **ASIC** means the Australian Securities and Investments  
5 Commission.

6 **ASIC Act** means the *Australian Securities and Investments*  
7 *Commission Act 2001*.

8 **Australia**, when used in a geographical sense, includes every  
9 external Territory.

10 **Central Bank Digital Currency Reporting Requirements:** see  
11 section 34.

12 **civil penalty provision** has the same meaning as in the Regulatory  
13 Powers Act.

14 ~~**crypto-token commodity** means any crypto-token goods of a~~  
15 ~~fungible nature that are is capable of being delivered in digital~~  
16 ~~form only, including metals and their ores and alloys, agricultural~~  
17 ~~products, and energy such as electricity.~~

**Commented [JP10]:** Cf new bill introduced on 18 May 2023, the 'Securities Clarity Act' by Rep Tom Emmer and Darren Soto (US) to clarify the status of 'digital assets' under the relevant US securities laws. The new bill uses the term 'investment contract asset' to make a distinction between digital assets that are sold as part of an investment contract (perhaps initially to raise capital) and digital assets that are subsequently sold and dealt with outside of an investment contract.  
See bill here:  
[https://emmer.house.gov/cache/files/4/4/44640083-8c24-432d-964e-b0dad3570b6f/A4BFD808D87EF1A7EAB1C7C00FD811C4\\_signed-bill-text.pdf](https://emmer.house.gov/cache/files/4/4/44640083-8c24-432d-964e-b0dad3570b6f/A4BFD808D87EF1A7EAB1C7C00FD811C4_signed-bill-text.pdf)  
This definition likely necessary to deal with tokens in a non-issuance/non-fundraising context (e.g. liquidity mining).

18 **constitutional corporation** means a corporation to which  
19 paragraph 51(xx) of the Constitution applies.

20 ~~**designated central bank digital currency** means digital units of~~  
21 ~~value of a kind prescribed by the rules that are:~~

22 (a) ~~designed to be fungible; and~~

23 (b) ~~issued by or under the authority of the central bank or~~  
24 ~~monetary authority of a foreign country.~~

25 ~~**crypto-token digital asset or cryptographic-token** means a the unit~~  
26 ~~of account in a DLT system, or DLT contracts deployed on that~~  
27 ~~DLT system, were the units can be sent or received in a DLT~~  
28 ~~system at the instruction of a person with access to the private key~~  
29 ~~referable to the public key for the unit or units of a crypto-~~  
30 ~~token digital representation of value or rights which may be~~

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Section 5

1 ~~transferred and stored electronically, using distributed ledger~~  
2 ~~technology or similar technology.~~

3 crypto-token arrangement means the combination of one or more  
4 crypto-token activities facilitated by a DLT system or DLT  
5 contracts, and may include other activities not recorded to the DLT  
6 ledger, to form an arrangement involving crypto-tokens.

7 crypto-token activity means an activity that is recorded using  
8 distributed ledger technology or similar technology which  
9 represents either:

- 10 • sending or receiving one or more crypto-tokens from one  
11 public address to another public address, including the public  
12 address of a DLT contract;
- 13 • sending or receiving one or more crypto-tokens from one  
14 distributed ledger technology format to another and vice versa;
- 15 • deploying a DLT contract to a DLT system; and
- 16 • dealing with crypto-tokens outside of a DLT system.

17 Crypto-token Custody Requirements: see section 16.

18 crypto-token custody activities means activities prescribed by the  
19 rules that relate to the safekeeping of crypto-tokens.

20 crypto-token management activities means activities prescribed by  
21 the rules that relate to the management of crypto-tokens including  
22 for use in staking to participate in data validation activities, or  
23 staking, lending or trading crypto-tokens at risk to earn crypto-  
24 token returns.

25 crypto-token custody activities licensee means a person who holds  
26 a crypto-token activity licence that authorises the provision of  
27 crypto-token custody activities to Australian persons or from  
28 Australia to other persons.

**Commented [JP11]:** A fact-based definition which does not distinguish between fungible or non-fungible or semi-fungible tokens, nor does it relate to value.

To adopt a proportional approach to the regulation of crypto-activities where there is a financial element, further financial-element specific requirements can be set out per activity. However, this definition leaves room to set out specific requirements related to digital identity, privacy, AML/CTF, tax.

Further consideration is required given this definition would depart from the standard definition being used that relies on a 'digital representation of value' and predominantly financial market and retail investor protections rather than other sorts of regulatory protections.

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**Commented [JP12]:** This is required to address Treasury's latest proposed taxonomy which refers to a public token system.

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**Commented [JP13]:** Intended to capture proprietary database arrangements for centralised custody, exchange and management business models.

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Section 5

1 crypto-token exchange activity means activities prescribed by the  
2 rules that relate to one or more of the following kinds of exchanges  
3 being regularly made:

4 (a) exchanges of crypto-tokens for currency (whether Australian  
5 or not), and vice versa;

6 (b) exchanges of crypto-tokens for other crypto-tokens; and

7 (c) exchanges of crypto-tokens for a thing, and vice versa.

8 crypto-token exchange activity means an activity where a crypto-  
9 token is exchanged for another crypto-token or currency or other  
10 thing.

11 crypto-token exchange activities licensee means a person who  
12 holds a crypto-token exchange activities licence that authorises the  
13 facilitation of crypto-token exchange activities to Australian  
14 persons or from Australia to other persons.

15 Crypto-token Exchange Activities Requirements: see section 11.

16 crypto-token exchange activities licence means a licence in force  
17 under Part 2.

18 designated central bank digital currency means a currency issued  
19 by or under the authority of the central bank or monetary authority  
20 of a foreign country where the issue and management of the  
21 currency is all or partly automated using distribute ledger  
22 technology or similar technology, and despite that tangible forms  
23 of access to deal with units of the currency may be made available  
24 by or under the authority of the central bank or monetary authority  
25 of a foreign country.

26 distributed ledger technology or DLT means a kind of technology  
27 that supports the distributed recording of encrypted data to enhance  
28 trust in the integrity of the DLT ledger and DLT system relative to  
29 centralised database technology.

30 DLT contract means a software application that has been launched  
31 on one or more distributed ledger technology systems.

**Commented [JP14]:** Included for policy discussion purposes - a thing could include labour, physical goods - where the compliance impact for merchants 'exchanging' crypto for fiat for a customer to pay for goods would be too onerous on merchants. Refer debate that played out for EU Transfer of Funds Rule and self-hosted wallet transactions with merchants.

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**Commented [JP15]:** DLT contract is deliberately used instead of 'smart contract' as the phrase 'smart contract' is causing confusion in the EU with regard to its use in the Data Act.

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Section 5

1 *DLT ledger* means the version of the ledger that the majority of the  
2 DLT network treats as the correct version.

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3 *DLT protocol* means the software protocol that combines  
4 cryptography and a method for reaching consensus about the  
5 correct version of the DLT ledger amongst distributed persons  
6 using the software protocol to verify DLT transactions.

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7 *DLT system* means the combination of the DLT protocol, the DLT  
8 ledger, DLT contracts deployed to the DLT ledger and the persons  
9 involved in verifying the DLT transactions according to the DLT  
10 protocol.

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11 *Digital Asset Custody Requirements*: see section 16.

12 *digital asset custody service* means a service prescribed by the  
13 rules that relates to the safekeeping, servicing or management of a  
14 regulated digital asset.

15 *digital asset custody service licensee* means a person who holds a  
16 digital asset licence that authorises the provision of digital asset  
17 custody services in Australia.

18 *digital asset exchange* means a facility through which one or more  
19 of the following kinds of exchanges are regularly made:

- 20 (a) exchanges of regulated digital assets for currency (whether  
21 Australian or not);
- 22 (b) exchanges of regulated digital assets for other regulated digital  
23 assets;
- 24 (c) exchanges of currency (whether Australian or not) for regulated  
25 digital assets.

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26 *digital asset exchange licensee* means a person who holds a digital  
27 asset licence that authorises the operation of a digital asset  
28 exchange in Australia.

29 *Digital Asset Exchange Requirements*: see section 11.

30 *digital asset licence* means a licence in force under Part 2.



1 *distributed ledger technology* means a kind of technology that  
 2 supports the distributed recording of encrypted data.

3 *electronic money token* means a kind of digital asset the main  
 4 purpose of which is to be used as a means of exchange and that  
 5 purports to maintain a stable value by referring to the value of a  
 6 fiat currency that is legal tender (whether Australian or otherwise).

7 *exchange token* means a kind of digital asset (other than  
 8 asset-referenced tokens or electronic money tokens) the main  
 9 purpose of which is to be used as a means of exchange.

10 *e-money crypto-token* or *electronic-money crypto-token* means a  
 11 crypto-token arrangement where one crypto-token unit is intended  
 12 to maintain a stable peg to one unit of Australian currency or  
 13 foreign currency and does not include an asset-referenced crypto-  
 14 token.

15 *E-money Crypto-token Issue Requirements*: see section 20.

16 *e-money crypto-token licensee* means a person who holds an e-  
 17 money crypto-token activities licence that authorises the issue and  
 18 facilitation of e-money crypto-token activities to Australian  
 19 persons or from Australia to other persons.

20 *inspector* means an inspector appointed under section 47.

21 *Licensable Person* means a person residing in, established in,  
 22 registered in, or legally recognised in Australia (each, an  
 23 Australian person), or a person that facilitates use of Crypto-token  
 24 Activities by Australian persons.

25 *person* means any legal person and for the purposes of this Act  
 26 includes an organisation that is legally recognised as a DAO under  
 27 this Act.

28 *recognised foreign licence*: see subsection 31(3).

29 *regulated digital asset* means a digital asset of any of the following  
 30 kinds, but does not include a financial product within the meaning  
 31 of Chapter 7 of the *Corporations Act 2001*:

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Commented [JP16]: 'Facilitates use' is intended to capture the person that has the relationship with the customer/user, and is not intended to include mere publication of functional code without an interface.

Commented [JP17]: 'Residing in' is intended to capture Australian resident individual sole traders.

'Established in' is intended to capture unregistered bodies carrying on activities in Australia such as a partnership or unincorporated association of persons, where one or more of the founding team are Australian residents.

'Registered in' is intended to capture legal entities registered with a State or Territory or Federal body in Australia.

'Legally recognised' is intended to capture DAOs that meet the legal recognition criteria in this Act.

'a person that facilitates use of Crypto-token activities by Australian persons' is intended to capture foreign persons servicing Australian persons, which requires basic 'know-your-customer-geography'. This is to encourage geoblocking until the particular activity can be facilitated in a compliant way to Australian persons or from Australia. This approach is consistent with EU MiCA exemption where crypto-asset services provided at the 'exclusive initiative of the client' do not give rise to the requirement for authorisation under Article 59 of MiCA. However 'exclusive initiative of the client' is strictly interpreted and could be interpreted differently by each separate national competent authority in the EU (27+). See, e.g., European Securities and Markets Authority (ESMA) public statement re MiFID II rules on 'reverse solicitation' (13 Jan 2021): [https://www.esma.europa.eu/sites/default/files/library/esma35-43-2509\\_statement\\_on\\_reverse\\_solicitation.pdf](https://www.esma.europa.eu/sites/default/files/library/esma35-43-2509_statement_on_reverse_solicitation.pdf)

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Part 1 Preliminary

Section 6

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- 1 ~~— (a) an asset referenced token;~~
- 2 ~~— (b) an electronic money token;~~
- 3 ~~— (c) an exchange token.~~

4 **Regulatory Powers Act** means the *Regulatory Powers (Standard*  
5 *Provisions) Act 2014*.

6 **rules** means rules made under section 49.

7 ~~**stablecoin** means a regulated digital asset of either of the following~~  
8 ~~kinds:~~

- 9 ~~— (a) an asset referenced token;~~
- 10 ~~— (b) an electronic money token.~~

11 ~~**Stablecoin Issue Requirements:** see section 20.~~

12 ~~**stablecoin licensee** means a person who holds a digital asset~~  
13 ~~licence that authorises the issue of stablecoins in Australia.~~

14 **this Act** includes the rules.

15 (2) The rules may define, or clarify the meaning of, an expression used  
16 in this Act that is not defined in this section.

17 **6 Extension to external Territories**

18 This Act extends to every external Territory.

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1 **Part 2—Licensing for certain ~~digital assets~~ crypto-**  
2 **~~token~~ activities**

3 **Division 1—Introduction**

4 **7 Simplified outline of this Part**

5 This Part requires a Licensable Person to hold a licence granted  
6 by ASIC~~the crypto-token activities licensing and oversight~~  
7 authority, or a recognised foreign licence, to ~~operate a digital~~  
8 asset~~facilitate crypto-token~~ exchange activities, ~~provide a digital~~  
9 asset~~crypto-token~~ custody ~~serv~~activities, crypto-token management  
10 activities, provide crypto-token advice~~ee~~, or issue or carry on on a  
11 business involving stable~~ee~~coins e-money crypto-tokens or asset-  
12 referenced crypto tokens to Australian persons or from Australia to  
13 other persons in Australia.

14 This Part provides for the rules to set out requirements with which  
15 licensees must comply.

16 Persons may apply to ASIC~~the crypto-token activities licensing~~  
17 and oversight authority for a licence. ASIC~~The authority~~ may  
18 impose conditions on a licence.

19 The Minister may, by legislative instrument, approve a foreign  
20 licensing scheme for the purposes of this Act.

21 **8 Constitutional basis for this Part**

22 This Part applies in relation to the facilitation through a user  
23 interface of crypto-token activities~~operation of a digital asset~~  
24 exchange, the provision of a digital asset custody service, the  
25 issuing of stable~~ee~~coins, or holding out in respect of any of those  
26 matters:

- 27 (a) by or on behalf of:  
28 (i) a constitutional corporation; or

**Part 2** Licensing for certain digital assetscrypto-token activities  
**Division 1** Introduction

**Section 8**

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- 1 (ii) a body corporate that is incorporated in a Territory; or
- 2 (iii) a body corporate that is taken to be registered in a
- 3 Territory under section 119A of the *Corporations Act*
- 4 *2001*; or
- 5 (iv) a decentralised autonomous organisation or its
- 6 representative appointed to act on behalf of the DAO in
- 7 accordance with section XX of this Act;
- 8 (b) in the course of or in relation to:
  - 9 (i) trade or commerce between Australia and places outside
  - 10 Australia; or
  - 11 (ii) trade or commerce among the States; or
  - 12 (iii) trade or commerce within a Territory, between a State
  - 13 or Territory or between 2 Territories; or
  - 14 (c) by means of a service to which paragraph 51(v) of the
  - 15 Constitution applies; or
  - 16 (d) in the course of or in relation to the carrying on of the
  - 17 business of banking, other than State banking (within the
  - 18 meaning of paragraph 51(xiii) of the Constitution) not
  - 19 extending beyond the limits of the State concerned; or
  - 20 (e) for the issuing of ~~stablecoins~~ stablecoins—in a case
  - 21 where the ~~stablecoins~~ stablecoins are currency
  - 22 within the meaning of section 51(xii) of the Constitution.

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**Division 2—Digital asset crypto-token exchange activities**

**9 Need for a licence**

*Need for a licence*

(1) A **Licensable Person** contravenes this subsection if:

(a) the person ~~operates~~**facilitates**, or holds out that the person ~~operates~~**facilitates**, ~~crypto-token a digital asset exchange activities; and in Australia; and~~

~~(b) — (b) —~~ the person does not hold a ~~digital asset crypto-token activities~~ licence that authorises the person to ~~operate~~**facilitate crypto-token** the exchange activities to ~~Australian persons, or from Australia to other persons in Australia,~~

*Recognised foreign licences and regulatory equivalence*

(2) Subsection (1) does not apply if **either**:

(a) the **Licensable Person** holds a recognised foreign licence that authorises the person to ~~operate~~**facilitate crypto-token** exchange activities to the same or a better standard than this **Act**; or

(b) ~~the Licensable Person establishes that outcomes equivalent to the standards in this Act are met by other means.~~

Note: A person who wishes to rely on this subsection bears an evidential burden in relation to the matters in this subsection (see subsection 13.3(3) of the *Criminal Code* and section 96 of the *Regulatory Powers Act*).

*Fault-based offence*

(3) A **Licensable Person** commits an offence if the person contravenes subsection (1).

Penalty:

**Commented [JP18]:** The word 'facilitates' is preferred over 'operates' because the latter is inflexible for the various modes of business possible because of blockchain technology.

It is possible for a person that facilitates crypto-token exchange activities to initially do so via a proprietary order book but this may change to keep pace with technology advancements (e.g. AMMs).

The word 'facilitate' is also intended to exclude the mere publishing of functional code, which merely allows a person to perform crypto-token exchange activities as coded but without facilitation around performing the activity.

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**Commented [JP19]:** 'Other persons' has been used instead of 'foreign residents' or 'foreign persons' for flexibility for increased movement of 'global citizens' and 'digital nomads'.

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**Commented [JP20]:** Important to allow for regtech innovation, and innovation that surpasses protections afforded by plain language law

**Part 2** Licensing for certain digital asset crypto-token activities

**Division 2** Digital asset crypto-token exchange activities

**Section 10**

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- 1 (a) if the person is an individual—imprisonment for up to 5  
2 years or up to 600 penalty units, or both; or  
3 (b) if the person is a body corporate or legally recognised DAO  
4 under this Act — up to 6,000 penalty units.

5 *Civil penalty provision*

- 6 (4) A person is liable to a civil penalty if the person contravenes  
7 subsection (1).

8 *Civil penalty:*

- 9 (a) if the person is an individual— up to 5,000 penalty units; or  
10 (b) if the person is a body corporate or a legally recognised DAO  
11 under this Act — up to 50,000 penalty units.

12 **10 Licensee's obligations**

- 13 (1) A ~~digital asset exchange~~ licensee with authorisation to facilitate  
14 crypto-token exchange activities must comply with the Crypto-  
15 token Digital Asset Exchange Activities Requirements (see section  
16 11).
- 17 (2) A ~~Licensable P~~ person is liable to a civil penalty if the person  
18 contravenes subsection (1).

19 *Civil penalty:*

- 20 (a) if the person is an individual— up to 5,000 penalty units; or  
21 (b) if the person is a body corporate or a legally recognised DAO  
22 under this Act — up to 50,000 penalty units.

23 **11 Digital Asset Crypto-token Exchange Activities Requirements**

- 24 (1) For the purposes of subsection 10(1), the Authority is responsible  
25 for rules must setting out, and regularly reviewing the effectiveness  
26 of, requirements in relation to for the operation facilitation of  
27 crypto-token of digital asset exchange activities in Australia by  
28 Crypto-token Exchange Activities Licensees, including  
29 requirements for the secure, fair, orderly and transparent operation  
30 facilitation of those crypto-token exchange activities. These

**Commented [JP21]:** 'Up to' has been added for all clauses dealing with penalties so that discretion can be exercised with regard to the severity of the offence.

The stated penalties have not been reviewed for consistency, or reasons to be higher or lower, based on for example the level of penalties for similar offences in the AFSL regime.

**Commented [JP22]:** Other jurisdictions such as Wyoming (USA) and the Republic of Marshall Islands have, and continue to state willingness to, amend laws and regulations every 6-12 months to reflect market risks and trends. If Australia's legislative framework is to keep pace then such agility must be resourced within a specific Authority.

**Commented [JP23]:** Where the exchange activities relate to crypto-tokens, the security of the technology becomes as important as fairness, order and transparency.

requirements are the *Digital Asset Crypto-token Exchange Activities Requirements*.

(2) Without limiting subsection (1), the *Crypto-token Digital Asset Exchange Activities Requirements* must include requirements relating to the following matters:

- (a) the availability to users, at an easily accessible place on the Licensee's website, of:
  - (i) a clear and accurate summary of the Crypto-token's functions and risks, its Issuer, and related arrangements, as well as the full White paper;
  - (ii) a clear and accurate summary of a completed Security Audit report, with a truthful summary of the material security vulnerabilities remaining and measures in place to mitigate or resolve the exploit of those vulnerabilities, as well as the full and unredacted Security Audit report, for each crypto-token made available by the Licensee for Crypto-Token Exchange Activities;
- (b) in lieu of or in supplement to available and appropriate insurance, the maintenance of a minimum amount of capital;
- (c) the regulation of the conduct of a Licensee's users of the exchange activities's participants and protections for those users exchange's participants in relation to their participation;
- (d) procedures relating to the crypto-token exchange activities, and monitoring of crypto-token exchange activities, facilitated by the exchange Licensee, from perspectives of financial market risk and technology risk;
- (d) the segregation of the Licensee's users' crypto-tokens and currency exchange participants' funds (including digital assets) from those of the licensee, and management of those crypto-tokens and currency funds, including:
  - (i) reporting on user participants' holdings; and
  - (ii) disclosures, in a standard form, regarding what arrangements exist for the protection of participants' users' funds crypto-tokens and currency;

**Commented [JP24]:** Refer to proportionate approach (Recitals 24, 25, 27) to White paper preparation in MiCA, as well as mandatory disclosures:  
[https://www.europarl.europa.eu/doceo/document/TA-9-2023-0117\\_EN.html#title2](https://www.europarl.europa.eu/doceo/document/TA-9-2023-0117_EN.html#title2)

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**Commented [JP25]:** Attempts consistency with wording in MiCA Article 30(2) (asset-referenced tokens). MiCA does not require security audits of tokens listed for exchange but COALA DAO Model Law requires this.

MiCA Article 30(2). Issuers of asset-referenced tokens shall *publish* as soon as possible *in a publicly and easily accessible place on their website a brief, clear, accurate and transparent summary of the audit report as well as the full and unredacted audit report in relation to* the reserve of assets referred to in Article 36.

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**Commented [JP26]:** See Annex IV of MiCA for minimum capital requirements for CASPs:  
[https://www.europarl.europa.eu/doceo/document/TA-9-2023-0117\\_EN.html#title2](https://www.europarl.europa.eu/doceo/document/TA-9-2023-0117_EN.html#title2)

**Commented [JP27]:** This provision doesn't overlap with AML/CTF requirements. Has to be focussed on financial and technology risks.

Section 12

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- 1 with relief from such ~~fund~~ segregation requirements for
- 2 omnibus accounts if conditions specified in the rules are met;
- 3 (e) cybersecurity, including through innovative forms of
- 4 privacy-preserving technology and methods;
- 5 (f) disclosure of information to the exchange's ~~participants~~ users;
- 6 (g) record-keeping and other reporting;
- 7 (h) the obtaining, use and disclosure of information, including
- 8 the disclosure of information to the Authority, the Anti-Scam
- 9 Agency, ASIC, ACCC, APRA or another authority of the
- 10 Commonwealth.

11 **12 ~~ASIC Authority to license and supervise digital asset~~**

12 **~~exchanges~~ crypto-token activities**

- 13 (1) The ASIC Authority has the function of licensing and supervising
- 14 digital asset crypto-token activities exchanges operated in
- 15 Australia dealt within in this Act.
- 16 (2) The rules may provide for or in relation to the primary supervision
- 17 of crypto-token exchange activities licensees by the Authority,
- 18 with secondary supervision support from domain-specific agencies
- 19 such as the Anti-Scam Agency, ASIC, ACCC of those digital asset
- 20 exchanges, APRA or another authority of the Commonwealth.

21 **13 When ~~crypto-token an exchange activities are~~ taken to be**

22 **~~operated-facilitated for in~~ Australian persons**

- 23 (1) For the purposes of this Act, ~~a digital asset crypto-token~~ exchange
- 24 ~~activities are~~ taken to be ~~operated-facilitated for~~ Australian
- 25 persons in Australia if:
- 26 (a) ~~it is operated by the licensee or Licensable Person is~~ a body
- 27 corporate that is registered under Chapter 2A of the
- 28 *Corporations Act 2001*; or
- 29 (b) the person ~~operating-facilitating the~~ crypto-token exchange
- 30 activities engages in conduct that:
- 31 (i) is intended to induce ~~people in~~ Australia persons to use
- 32 the exchange; or
- 33 (ii) is likely to have that effect;



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1                                    whether or not the conduct is intended, or likely, to have that  
2                                    effect in other places as well.

3                    (2) This section does not limit the circumstances in which ~~crypto-~~  
4                    ~~tokena digital asset~~ exchange ~~activities are facilitated~~ ~~is operated~~  
5                    ~~in~~ for Australian persons or from Australia to other persons  
6                    ~~Australia~~ for the purposes of this Act.

Part 2 Licensing for certain digital assets crypto-token activities  
[Insufficient time to track change this section; similar changes proposed here as were processed for exchange activities but lack of track changes does not impute that text is supported] Division 3 Digital asset custody services

Section 14

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1 **[Insufficient time to track change this section; similar**  
2 **changes proposed here as were processed for**  
3 **exchange activities but lack of track changes does**  
4 **not impute that text is supported] Division 3—**  
5 **Digital asset custody services**

6 **14 Need for a licence**

7 *Need for a licence*

- 8 (1) A person contravenes this subsection if:  
9 (a) the person provides, or holds out that the person provides, a  
10 digital asset custody service in Australia; and  
11 (b) the person does not hold a digital asset licence that authorises  
12 the person to provide the service in Australia.

13 *Recognised foreign licences*

- 14 (2) Subsection (1) does not apply if the person holds a recognised  
15 foreign licence that authorises the person to provide the service.

16 Note: A person who wishes to rely on this subsection bears an evidential  
17 burden in relation to the matters in this subsection (see  
18 subsection 13.3(3) of the *Criminal Code* and section 96 of the  
19 Regulatory Powers Act).

20 *Fault-based offence*

- 21 (3) A person commits an offence if the person contravenes  
22 subsection (1).

23 *Penalty:*

- 24 (a) if the person is an individual—imprisonment for 5 years or  
25 600 penalty units, or both; or  
26 (b) if the person is a body corporate—6,000 penalty units.

1 *Civil penalty provision*

- 2 (4) A person is liable to a civil penalty if the person contravenes  
3 subsection (1).

4 Civil penalty:

- 5 (a) if the person is an individual—5,000 penalty units; or  
6 (b) if the person is a body corporate—50,000 penalty units.

7 **15 Licensee's obligations**

- 8 (1) A digital asset custody service licensee must comply with the  
9 Digital Asset Custody Requirements (see section 16).

- 10 (2) A person is liable to a civil penalty if the person contravenes  
11 subsection (1).

12 Civil penalty:

- 13 (a) if the person is an individual—5,000 penalty units; or  
14 (b) if the person is a body corporate—50,000 penalty units.

15 **16 Digital Asset Custody Requirements**

- 16 (1) For the purposes of subsection 15(1), the rules must set out  
17 requirements in relation to the provision of digital asset custody  
18 services in Australia, including requirements for the protection of  
19 customers of those services. These requirements are the ***Digital***  
20 ***Asset Custody Requirements***.

- 21 (2) Without limiting subsection (1), the Digital Asset Custody  
22 Requirements must include requirements relating to the following  
23 matters:

- 24 (a) the designation of key personnel in Australia to be  
25 responsible for provision of digital asset custody services by  
26 the licensee in Australia;  
27 (b) the maintenance of a minimum amount of capital;

**Part 2** Licensing for certain digital assetscrypto-token activities  
**[Insufficient time to track change this section; similar changes proposed here as were processed for exchange activities but lack of track changes does not impute that text is supported]** **Division 3** Digital asset custody services

### Section 17

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- 1 (c) the segregation of the customers' funds (including digital  
2 assets) from those of the licensee, and management of those  
3 funds, including:  
4 (i) reporting on customers' holdings; and  
5 (ii) disclosures, in a standard form, regarding what  
6 arrangements exist for the protection of customers'  
7 funds;  
8 with relief from such fund segregation requirements for  
9 omnibus accounts if conditions specified in the rules are met;  
10 (d) proper auditing, assurance and disclosure arrangements.

### 17 When a digital asset custody service is taken to be provided in Australia

- 11  
12  
13 (1) For the purposes of this Act, a digital asset custody service is taken  
14 to be provided in Australia if:  
15 (a) it is provided by a body corporate that is registered under  
16 Chapter 2A of the *Corporations Act 2001*; or  
17 (b) the person providing the service engages in conduct that:  
18 (i) is intended to induce people in Australia to use the  
19 service; or  
20 (ii) is likely to have that effect;  
21 whether or not the conduct is intended, or likely, to have that  
22 effect in other places as well.  
23  
24 (2) This section does not limit the circumstances in which a digital  
25 asset custody service is provided in Australia for the purposes of  
this Act.

**[Insufficient time to track changes for this Division but  
lack of track changes does not impute text is  
supported]Division 4—Issuing stablecoins**

**18 Need for a licence**

*Need for a licence*

- (1) A person contravenes this subsection if:
- (a) the person issues, or holds out that the person issues, stablecoins in Australia; and
  - (b) the person does not hold a digital asset licence that authorises the person to issue the stablecoins in Australia.

*Recognised foreign licences*

- (2) Subsection (1) does not apply if the person holds a recognised foreign licence that authorises the person to issue the stablecoins.

Note: A person who wishes to rely on this subsection bears an evidential burden in relation to the matters in this subsection (see subsection 13.3(3) of the *Criminal Code* and section 96 of the *Regulatory Powers Act*).

*Fault-based offence*

- (3) A person commits an offence if the person contravenes subsection (1).

Penalty:

- (a) if the person is an individual—imprisonment for 5 years or 600 penalty units, or both; or
- (b) if the person is a body corporate—6,000 penalty units.

*Civil penalty provision*

- (4) A person is liable to a civil penalty if the person contravenes subsection (1).

Section 19

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- 1 Civil penalty:  
2 (a) if the person is an individual—5,000 penalty units; or  
3 (b) if the person is a body corporate—50,000 penalty units.

4 **19 Licensee’s obligations**

- 5 (1) A stablecoin licensee must comply with the Stablecoin Issue  
6 Requirements.  
7 (2) A person is liable to a civil penalty if the person contravenes  
8 subsection (1).  
9 Civil penalty:  
10 (a) if the person is an individual—5,000 penalty units; or  
11 (b) if the person is a body corporate—50,000 penalty units.

12 **20 Stablecoin Issue Requirements**

- 13 (1) For the purposes of subsection 19(1), the rules must set out  
14 requirements in relation to the issue of stablecoins in Australia.  
15 These requirements are the *Stablecoin Issue Requirements*.  
16 (2) Without limiting subsection (1), the Stablecoin Issue Requirements  
17 must include the following requirements:  
18 (a) the requirement that the full amount of the face value of the  
19 liabilities for the stablecoins on issue from the licensee must  
20 be held in reserve by the licensee, in accounts kept with an  
21 ADI in Australia, in either:  
22 (i) Australian currency; or  
23 (ii) if the stablecoins purport to maintain a stable value by  
24 referring to one or more foreign currencies—those  
25 foreign currencies;  
26 (b) the requirement that the licensee must give APRA quarterly  
27 statements including the following information:  
28 (i) a summary description of the assets held in reserve by  
29 the licensee for the stablecoins issued by the licensee;  
30 (ii) the number of outstanding stablecoins;

Section 21

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- 1 (iii) the value of the assets held in reserve by the licensee for  
2 the stablecoins issued;
- 3 (c) the requirement that the licensee must be audited annually  
4 and that financial statements relating to the audit are made  
5 publicly available;
- 6 (d) the requirement that the licensee must make publicly  
7 available quarterly statements of the size and composition of:  
8 (i) assets held in reserve for the stablecoins; and  
9 (ii) the issued stablecoin in circulation;
- 10 (e) the requirement for the licensee to develop a tailored and  
11 appropriate plan to protect persons holding stablecoins issued  
12 by the licensee against cybersecurity risks in relation to those  
13 stablecoins.

14 **21 When stablecoins are taken to be issued in Australia**

- 15 (1) For the purposes of this Act, stablecoins are taken to be issued in  
16 Australia if:
- 17 (a) they are issued by a body corporate that is registered under  
18 Chapter 2A of the *Corporations Act 2001*; or
- 19 (b) the person issuing the stablecoins engages in conduct that:  
20 (i) is intended to induce people in Australia to use the  
21 stablecoins; or  
22 (ii) is likely to have that effect;  
23 whether or not the conduct is intended, or likely, to have that  
24 effect in other places as well.
- 25 (2) This section does not limit the circumstances in which stablecoins  
26 are issued in Australia for the purposes of this Act.

Section 22

1 **Division 5—Licenses**

2 **22 How to apply for a licence**

3 (1) A person may, in writing, apply for a licence authorising any or all  
4 of the following:

- 5 (a) the ~~operation-facilitation~~ by the applicant of ~~a digital-asset~~  
6 ~~crypto-token~~ exchange ~~activities to~~ ~~in~~ ~~Australian persons or~~  
7 ~~from Australia to other persons~~;
- 8 (b) the ~~provision-facilitation~~ by the applicant of ~~cryptodigital~~  
9 ~~asset-token~~ custody ~~services-activities to~~ ~~in~~ ~~Australian persons~~  
10 ~~or from Australia to other persons~~;
- 11 (c) the ~~facilitation by the applicant of crypto-token management~~  
12 ~~activities to Australian persons or from Australia to other~~  
13 ~~persons~~;
- 14 (d) the ~~facilitation by the applicant of crypto-token issuance~~  
15 ~~activities to Australian persons or from Australia to other~~  
16 ~~persons~~;
- 17 (e) the ~~provision by the applicant of crypto-token advice to~~  
18 ~~Australian persons or from Australia to other persons~~;
- 19 (f) the issue by the applicant of ~~stablecoins-e-money crypto -~~  
20 ~~tokens or asset-referenced crypto-tokens, or the carrying on~~  
21 ~~of a business involving same, to~~ ~~in~~ ~~Australian persons or from~~  
22 ~~Australia to other persons~~.

23 (2) The application must:

- 24 (a) be lodged in accordance with the rules; and  
25 (b) comply with any other requirements specified by the rules.

26 **23 When a licence may be granted**

27 ~~ASIC-The Authority~~ may grant the licence if ~~ASIC-the Authority~~ is  
28 satisfied that:

- 29 (a) the application was made in accordance with section 22; and  
30 (b) any other requirements prescribed by rules are satisfied.

**Commented [JP28]:** A provisional licence / sandbox would be ideal for experimental crypto-token activities that seek regulatory equivalent outcomes rather than licensing.

In addition, a phasing in or ease of access licensing regime would support new entrants and responsible innovation.

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1 **24 The conditions on the licence**

2 ~~ASIC~~The Authority may, in accordance with the rules:

- 3 (a) impose conditions or additional conditions on a licence; or  
4 (b) vary or revoke conditions imposed on a licence.

5 **25 Varying, suspending or cancelling licences**

6 ~~ASIC~~The Authority may vary, suspend or cancel a licence under  
7 this Part in the circumstances prescribed by the rules.

8 **26 Effect of suspension**

- 9 (1) A person whose licence under this Part is suspended is taken not to  
10 hold that licence while it is suspended.  
11 (2) However, the Minister may specify in accordance with the rules  
12 that subsection (1) does not apply in relation to the licence for  
13 specified purposes.

14 **27 Variation or revocation of suspension**

15 ~~ASIC~~The Authority may at any time vary or revoke a suspension  
16 of a licence under this Part by giving written notice to the licensee.

17 **28 Other matters relating to licenses**

18 The rules may set out:

- 19 (a) matters that must be considered by the Minister in deciding  
20 whether to grant, vary, suspend or cancel, or vary or revoke a  
21 suspension of, of a licence under this Part; or  
22 (b) any matters relating to processes for the granting, variation,  
23 suspension or cancellation of a licence under this Part.

24 **29 Rules may make different provision for different kinds of licence**

25 Without limiting subsection 33(3A) of the *Acts Interpretation Act*  
26 *1901*, if any of sections 22 to 28 provides for the rules to make

**Part 2** Licensing for certain digital assetscrypto-token activities

**Division 5** Licenses

**Section 30**

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1 provision in relation to a matter relating to licensing or proposed  
2 licensing, the rules may make different provision in relation to a  
3 matter depending on whether the licence or proposed licence  
4 concerns a matter mentioned in paragraph 22(1)(a), (b) or (c).

5 **30 Register of licences**

6 (1) The Minister must cause to be maintained a register that sets out  
7 information prescribed by the rules relating to licences granted  
8 under this Part.

9 (2) The register may be maintained by electronic means.

10 (3) The register is to be made publicly available for inspection on the  
11 internet.

12 **31 Recognition of foreign licences etc.**

13 (1) The Minister may, by legislative instrument, approve a licensing  
14 scheme (however described) that:

- 15 (a) is in effect under a law of a foreign country; and  
16 (b) deals with any of the following matters (however described):  
17 (i) authorisation of ~~digital-assetcrypto-token~~ exchange  
18 ~~activities~~;  
19 (ii) authorisation of ~~digital-assetcrypto-token~~ custody  
20 ~~servicesactivities~~;  
21 (iii) authorisation of the issuing of ~~stablecoinse-money~~  
22 ~~crypto-tokens and asset-referenced tokens, and the~~  
23 ~~carrying on of a business involving either or both of e-~~  
24 ~~money crypto-tokens or asset-referenced crypto-tokens.~~

25 (2) The approval of the scheme must specify which of the matters  
26 mentioned in paragraph (1)(b) the approval relates to.

27 (3) A licence (however described) in force under the scheme in  
28 relation to the matter specified in the approval is a **recognised**  
29 **foreign licence**.

Section 31

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- 1 (4) The Minister must not approve a scheme under subsection (1) in  
2 relation to a matter mentioned in paragraph (1)(b) unless the  
3 Minister is reasonably satisfied that the scheme provides for  
4 equivalent requirements to this Act in relation to the matter.
- 5 (5) In deciding whether to make an approval under subsection (1), the  
6 Minister must have regard to:
- 7 (a) reducing the overall compliance burden upon Licensable  
8 Persons;  
9 (b) supporting responsible innovation;  
10 (c) the national interest; and  
11 (d) national security; and  
12 (e) the need to appropriately enforce the laws of the  
13 Commonwealth.

14 Part 3 onwards not included in this submission.  
15

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2022-2023

The Parliament of the  
Commonwealth of Australia

THE SENATE

*Presented and read a first time*

## **Crypto-token Activities Licensing Bill 2023**

**No.     , 2023**

*(Senator Bragg)*

**A Bill for an Act to establish a crypto-token activities licensing and oversight authority, to provide requirements for the legal recognition of decentralised autonomous organisations, to provide for the regulation of crypto-token activities and reporting in relation to central bank digital currencies, and for related purposes**



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1 **A Bill for an Act to establish a crypto-token**  
2 **activities licensing and oversight authority, to**  
3 **provide requirements for the legal recognition of**  
4 **decentralised autonomous organisations, to provide**  
5 **for the regulation of crypto-token activities and**  
6 **reporting in relation to central bank digital**  
7 **currencies, and for related purposes**

8 The Parliament of Australia enacts:

Section 1

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1 **Part 1—Preliminary**  
2

3 **1 Short title**

4 This Act is the *Crypto-token Activities Licensing Act 2023*.

5 **2 Commencement**

6 (1) Each provision of this Act specified in column 1 of the table  
7 commences, or is taken to have commenced, in accordance with  
8 column 2 of the table. Any other statement in column 2 has effect  
9 according to its terms.  
10

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| Commencement information |  |              |
|--------------------------|--|--------------|
| Column 1                 | Column 2   | Column 3     |
| Provisions               | Commencement   | Date/Details |
| 1. The whole of this Act | The day after the end of the period of 6 months beginning on the day this Act receives the Royal Assent. |              |

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11 Note: This table relates only to the provisions of this Act as originally  
12 enacted. It will not be amended to deal with any later amendments of  
13 this Act.

14 (2) Any information in column 3 of the table is not part of this Act.  
15 Information may be inserted in this column, or information in it  
16 may be edited, in any published version of this Act.

17 **3 Objects of this Act**

18 The objects of this Act are to protect consumers while promoting  
19 investment and innovation in Australia by:

- 20 (a) establishing a crypto-token activities licensing and oversight  
21 authority;
- 22 (b) to provide the requirements for legal recognition of a  
23 decentralised autonomous organisation (DAO) as a separate  
24 and distinct person from its participants, and to provide a  
25 form of partial limited liability for the DAO;

- 1 (c) providing a bespoke regulatory framework for crypto-token  
2 activities that involve the exchange, custody, management,  
3 advice, or issuing of crypto-tokens; and  
4 (b) to provide a bespoke regulatory framework for the issuing of  
5 e-money crypto-tokens, operation of an e-money token  
6 business, and businesses involving e-money crypto-tokens;  
7 (c) to provide a bespoke regulatory framework for the issuing of  
8 asset-referenced crypto-tokens, operation of an asset-  
9 referenced crypto-token business, and businesses involving  
10 asset-referenced crypto-tokens; and  
11 (c) to provide for the reporting of information by ADIs in relation  
12 to designated central bank digital currency; and  
13 (d) to provide for additional duties of the Parliamentary Joint  
14 Committee on Corporations and Financial Services relating  
15 to this Act and the regulation of crypto-token activities and  
16 designated central bank digital currency.

#### 17 **4 Simplified outline of this Act**

18 This Act establishes a new statutory agency to license and oversee  
19 crypto-token activities.

20 This Act establishes a framework for legal recognition of DAOs  
21 and a form of partial limited liability for the DAO.

22 This Act requires a person to hold a licence granted by the new  
23 statutory agency, or a recognised foreign licence, to facilitate  
24 crypto-token exchange activities, crypto-token custody activities,  
25 crypto-token management activities, crypto-token advice, or  
26 crypto-token issuing activities. Licensees under this Act are  
27 required to comply with requirements set out in the rules.

28 This Act provides the requirements for issuers of e-money crypto-  
29 tokens and the operation of an e-money token business as well as a  
30 business involving e-money crypto-tokens where Licensable  
31 Persons offer access to applications designed to operate with e-  
32 money crypto-tokens.

Section 5

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This Act provides the requirements for issuers of asset-referenced crypto-tokens and the operation of an asset-referenced crypto-token business as well as a business involving asset-referenced crypto-tokens where Licensable Persons offer access to applications designed to operate with asset-referenced crypto-tokens.

This Act also provides that ADIs must comply with certain reporting requirements set out in the rules relating to designated central bank digital currency.

Further, this Act sets out additional duties of the Parliamentary Joint Committee on Corporations and Financial Services relating to this Act and to digital assets and designated central bank digital currency.

**5 Definitions**

(1) In this Act:

**ADI** means an authorised deposit-taking institution within the meaning of the *Banking Act 1959*.

**APRA** means the Australian Prudential Regulation Authority.

**asset-referenced crypto-token** means a kind of crypto-token that is designed to maintain a stable value by reference to another value or right, or combination thereof, but excludes e-money crypto tokens and crypto-token commodities.

**ASIC** means the Australian Securities and Investments Commission.

**ASIC Act** means the *Australian Securities and Investments Commission Act 2001*.

**Australia**, when used in a geographical sense, includes every external Territory.

**Central Bank Digital Currency Reporting Requirements**: see section 34.

1            ***civil penalty provision*** has the same meaning as in the Regulatory  
2 Powers Act.

3            ***crypto-token commodity*** means any crypto-token that is capable of  
4 being delivered in digital form only .

5            ***constitutional corporation*** means a corporation to which  
6 paragraph 51(xx) of the Constitution applies.

7            ***crypto-token*** or ***cryptographic-token*** means the unit of account in  
8 a DLT system, or DLT contracts deployed on that DLT system,  
9 were the units can be sent or received in a DLT system at the  
10 instruction of a person with access to the private key referable to  
11 the public key for the unit or units of a crypto-token.

12           ***crypto-token arrangement*** means the combination of one or more  
13 crypto-token activities facilitated by a DLT system or DLT  
14 contracts, and may include other activities not recorded to the DLT  
15 ledger, to form an arrangement involving crypto-tokens.

16           ***crypto-token activity*** means an activity that is recorded using  
17 distributed ledger technology or similar technology which  
18 represents either:

- 19           • sending or receiving one or more crypto-tokens from one  
20           public address to another public address, including the public  
21           address of a DLT contract;
- 22           • sending or receiving one or more crypto-tokens from one  
23           distributed ledger technology format to another and vice versa;
- 24           • deploying a DLT contract to a DLT system; and
- 25           • dealing with crypto-tokens outside of a DLT system.

26           ***Crypto-token Custody Requirements***: see section 16.

27           ***crypto-token custody activities*** means activities prescribed by the  
28 rules that relate to the safekeeping of crypto-tokens.

29           ***crypto-token management activities*** means activities prescribed by  
30 the rules that relate to the management of crypto-tokens including

Section 5

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1 for use in staking to participate in data validation activities, or  
2 staking, lending or trading crypto-tokens at risk to earn crypto-  
3 token returns.

4 ***crypto-token custody activities licensee*** means a person who holds  
5 a crypto-token activity licence that authorises the provision of  
6 crypto-token custody activities to Australian persons or from  
7 Australia to other persons.

8 ***crypto-token exchange activity*** means activities prescribed by the  
9 rules that relate to one or more of the following kinds of exchanges  
10 being regularly made:

- 11 (a) exchanges of crypto-tokens for currency (whether Australian  
12 or not), and vice versa;  
13 (b) exchanges of crypto-tokens for other crypto-tokens; and  
14 (c) exchanges of crypto-tokens for a thing, and vice versa.

15 ***crypto-token exchange activity*** means an activity where a crypto-  
16 token is exchanged for another crypto-token or currency or other  
17 thing.

18 ***crypto-token exchange activities licensee*** means a person who  
19 holds a crypto-token exchange activities licence that authorises the  
20 facilitation of crypto-token exchange activities to Australian  
21 persons or from Australia to other persons.

22 ***Crypto-token Exchange Activities Requirements***: see section 11.

23 ***crypto-token exchange activities licence*** means a licence in force  
24 under Part 2.

25 ***designated central bank digital currency*** means a currency issued  
26 by or under the authority of the central bank or monetary authority  
27 of a foreign country where the issue and management of the  
28 currency is all or partly automated using distribute ledger  
29 technology or similar technology, and despite that tangible forms  
30 of access to deal with units of the currency may be made available  
31 by or under the authority of the central bank or monetary authority  
32 of a foreign country.

1                    ***distributed ledger technology or DLT*** means a kind of technology  
2                    that supports the distributed recording of encrypted data to enhance  
3                    trust in the integrity of the DLT ledger and DLT system relative to  
4                    centralised database technology.

5                    ***DLT contract*** means a software application that has been launched  
6                    on one or more distributed ledger technology systems.

7                    ***DLT ledger*** means the version of the ledger that the majority of the  
8                    DLT network treats as the correct version.

9                    ***DLT protocol*** means the software protocol that combines  
10                    cryptography and a method for reaching consensus about the  
11                    correct version of the DLT ledger amongst distributed persons  
12                    using the software protocol to verify DLT transactions.

13                    ***DLT system*** means the combination of the DLT protocol, the DLT  
14                    ledger, DLT contracts deployed to the DLT ledger and the persons  
15                    involved in verifying the DLT transactions according to the DLT  
16                    protocol.

17                    ***e-money crypto-token or electronic-money crypto-token*** means a  
18                    crypto-token arrangement where one crypto-token unit is intended  
19                    to maintain a stable peg to one unit of Australian currency or  
20                    foreign currency and does not include an asset-referenced crypto-  
21                    token.

22                    ***E-money Crypto-token Issue Requirements***: see section 20.

23                    ***e-money crypto-token licensee*** means a person who holds an e-  
24                    money crypto-token activities licence that authorises the issue and  
25                    facilitation of e-money crypto-token activities to Australian  
26                    persons or from Australia to other persons.

27                    ***inspector*** means an inspector appointed under section 47.

28                    ***Licensable Person*** means a person residing in, established in,  
29                    registered in, or legally recognised in Australia (each, an  
30                    Australian person), or a person that facilitates use of Crypto-token  
31                    Activities by Australian persons.



Section 6

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1                    **person** means any legal person and for the purposes of this Act  
2 includes an organisation that is legally recognised as a DAO under  
3 this Act.

4                    **recognised foreign licence**: see subsection 31(3).

5                    **Regulatory Powers Act** means the *Regulatory Powers (Standard*  
6 *Provisions) Act 2014*.

7                    **rules** means rules made under section 49.

8                    **this Act** includes the rules.

9                    (2) The rules may define, or clarify the meaning of, an expression used  
10 in this Act that is not defined in this section.

11                    **6 Extension to external Territories**

12                    This Act extends to every external Territory.

1 **Part 2—Licensing for certain crypto-token**  
2 **activities**

3 **Division 1—Introduction**

4 **7 Simplified outline of this Part**

5 This Part requires a Licensable Person to hold a licence granted by  
6 the crypto-token activities licensing and oversight authority, or a  
7 recognised foreign licence, to facilitate crypto-token exchange  
8 activities, crypto-token custody activities, crypto-token  
9 management activities, provide crypto-token advice, or issue or  
10 carry on a business involving e-money crypto-tokens or asset-  
11 referenced crypto tokens to Australian persons or from Australia to  
12 other persons.

13 This Part provides for the rules to set out requirements with which  
14 licensees must comply.

15 Persons may apply to the crypto-token activities licensing and  
16 oversight authority for a licence. The authority may impose  
17 conditions on a licence.

18 The Minister may, by legislative instrument, approve a foreign  
19 licensing scheme for the purposes of this Act.

20 **8 Constitutional basis for this Part**

21 This Part applies in relation to the facilitation through a user  
22 interface of crypto-token activities:

23 (a) by or on behalf of:

- 24 (i) a constitutional corporation; or  
25 (ii) a body corporate that is incorporated in a Territory; or  
26 (iii) a body corporate that is taken to be registered in a  
27 Territory under section 119A of the *Corporations Act*  
28 *2001*; or

**Part 2** Licensing for certain crypto-token activities

**Division 1** Introduction

**Section 8**

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- 1 (iv) a decentralised autonomous organisation or its  
2 representative appointed to act on behalf of the DAO in  
3 accordance with section **XX** of this Act;
- 4 (b) in the course of or in relation to:
- 5 (i) trade or commerce between Australia and places outside  
6 Australia; or
- 7 (ii) trade or commerce among the States; or
- 8 (iii) trade or commerce within a Territory, between a State  
9 or Territory or between 2 Territories; or
- 10 (c) by means of a service to which paragraph 51(v) of the  
11 Constitution applies; or
- 12 (d) in the course of or in relation to the carrying on of the  
13 business of banking, other than State banking (within the  
14 meaning of paragraph 51(xiii) of the Constitution) not  
15 extending beyond the limits of the State concerned; or
- 16 (e) for the issuing of e-money crypt-tokens—in a case where the  
17 e-money crypt-tokens are currency within the meaning of  
18 section 51(xii) of the Constitution.

1 **Division 2—Crypto-token exchange activities**

2 **9 Need for a licence**

3 *Need for a licence*

- 4 (1) A Licensable Person contravenes this subsection if:
- 5 (a) the person facilitates, or holds out that the person facilitates,  
6 crypto-token exchange activities; and
- 7 (b) the person does not hold a crypto-token activities licence that  
8 authorises the person to facilitate crypto-token exchange  
9 activities to Australian persons, or from Australia to their persons.

10 *Recognised foreign licences and regulatory equivalence*

- 11 (2) Subsection (1) does not apply if either:
- 12 (a) the Licensable Person holds a recognised foreign licence that  
13 authorises the person to facilitate crypto-token exchange  
14 activities to the same or a better standard than this Act; or
- 15 (b) the Licensable Person establishes that outcomes equivalent to  
16 the standards in this Act are met by other means.

17 Note: A person who wishes to rely on this subsection bears an evidential  
18 burden in relation to the matters in this subsection (see  
19 subsection 13.3(3) of the *Criminal Code* and section 96 of the  
20 Regulatory Powers Act).

21 *Fault-based offence*

- 22 (3) A Licensable Person commits an offence if the person contravenes  
23 subsection (1).

24 **Penalty:**

- 25 (a) if the person is an individual—imprisonment for up to 5  
26 years or up to 600 penalty units, or both; or
- 27 (b) if the person is a body corporate or legally recognised DAO  
28 under this Act — up to 6,000 penalty units.

Section 10

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*Civil penalty provision*

(4) A person is liable to a civil penalty if the person contravenes subsection (1).

Civil penalty:

- (a) if the person is an individual— up to 5,000 penalty units; or
- (b) if the person is a body corporate or a legally recognised DAO under this Act — up to 50,000 penalty units.

**10 Licensee’s obligations**

(1) A licensee with authorisation to facilitate crypto-token exchange activities must comply with the Crypto-token Exchange Activities Requirements (see section 11).

(2) A Licensable Person is liable to a civil penalty if the person contravenes subsection (1).

Civil penalty:

- (a) if the person is an individual— up to 5,000 penalty units; or
- (b) if the person is a body corporate or a legally recognised DAO under this Act — up to 50,000 penalty units.

**11 Crypto-token Exchange Activities Requirements**

(1) For the purposes of subsection 10(1), the Authority is responsible for setting out, and regularly reviewing the effectiveness of, requirements for the facilitation of crypto-token exchange activities by Crypto-token Exchange Activities Licensees, including requirements for the secure, fair, orderly and transparent facilitation of those crypto-token exchange activities. These requirements are the ***Crypto-token Exchange Activities Requirements***.

(2) Without limiting subsection (1), the Crypto-token Exchange Activities Requirements must include requirements relating to the following matters:

- (a) the availability to users, at an easily accessible place on the Licensee’s website, of:

- 1 (i) a clear and accurate summary of the Crypto-token's  
2 functions and risks, its Issuer, and related arrangements, as  
3 well as the full White paper;
- 4 (ii) a clear and accurate summary of a completed Security  
5 Audit report, with a truthful summary of the material security  
6 vulnerabilities remaining and measures in place to mitigate or  
7 resolve the exploit of those vulnerabilities, as well as the full  
8 and unredacted Security Audit report, for each crypto-  
9 token made available by the Licensee for Crypto-Token  
10 Exchange Activities;
- 11 (b) in lieu of or in supplement to available and appropriate  
12 insurance, the maintenance of a minimum amount of capital;
- 13 (b) the regulation of the conduct of a Licensee's users of  
14 exchange activities and protections for those users;
- 15 (c) procedures relating to the crypto-token exchange activities,  
16 and monitoring of crypto-token exchange activities,  
17 facilitated by the Licensee, from perspectives of financial  
18 market risk and technology risk;
- 19 (d) the segregation of the Licensee's users' crypto-tokens and  
20 currency from those of the licensee, and management of  
21 those crypto-tokens and currency, including:
- 22 (i) reporting on users' holdings; and  
23 (ii) disclosures, in a standard form, regarding what  
24 arrangements exist for the protection of users' crypto-  
25 tokens and currency;
- 26 with relief from such segregation requirements for omnibus  
27 accounts if conditions specified in the rules are met;
- 28 (e) cybersecurity, including through innovative forms of  
29 privacy-preserving technology and methods;
- 30 (f) disclosure of information to the exchange's users;
- 31 (g) record-keeping and other reporting;
- 32 (h) the obtaining, use and disclosure of information, including  
33 the disclosure of information to the Authority, the Anti-Scam  
34 Agency, ASIC, ACCC, APRA or another authority of the  
35 Commonwealth.

Section 12

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1 **12 Authority to license and supervise crypto-token activities**

2 (1) The Authority has the function of licensing and supervising crypto-  
3 token activities dealt within in this Act.

4 (2) The rules may provide for or in relation to the primary supervision  
5 of crypto-token exchange activities licensees by the Authority,  
6 with secondary supervision support from domain-specific agencies  
7 such as the Anti-Scam Agency, ASIC, ACCC, APRA or another  
8 authority of the Commonwealth.

9 **13 When crypto-token exchange activities are taken to be facilitated**  
10 **for Australian persons**

11 (1) For the purposes of this Act, crypto-token exchange activities are  
12 taken to be facilitated for Australian persons if:

13 (a) the licensee or Licensable Person is a body corporate that is  
14 registered under Chapter 2A of the *Corporations Act 2001*;  
15 or

16 (b) the person facilitating the crypto-token exchange activities  
17 engages in conduct that:

18 (i) is intended to induce Australia persons to use the  
19 exchange; or

20 (ii) is likely to have that effect;  
21 whether or not the conduct is intended, or likely, to have that  
22 effect in other places as well.

23 (2) This section does not limit the circumstances in which crypto-  
24 tokenexchange activities are facilitated for Australian persons or  
25 from Australia to other persons for the purposes of this Act.

1 **[Insufficient time to track change this section; similar**  
2 **changes proposed here as were processed for**  
3 **exchange activities but lack of track changes does**  
4 **not impute that text is supported]** Division 3—  
5 **Digital asset custody services**

6 **14 Need for a licence**

7 *Need for a licence*

- 8 (1) A person contravenes this subsection if:  
9 (a) the person provides, or holds out that the person provides, a  
10 digital asset custody service in Australia; and  
11 (b) the person does not hold a digital asset licence that authorises  
12 the person to provide the service in Australia.

13 *Recognised foreign licences*

- 14 (2) Subsection (1) does not apply if the person holds a recognised  
15 foreign licence that authorises the person to provide the service.

16 Note: A person who wishes to rely on this subsection bears an evidential  
17 burden in relation to the matters in this subsection (see  
18 subsection 13.3(3) of the *Criminal Code* and section 96 of the  
19 Regulatory Powers Act).

20 *Fault-based offence*

- 21 (3) A person commits an offence if the person contravenes  
22 subsection (1).

23 Penalty:

- 24 (a) if the person is an individual—imprisonment for 5 years or  
25 600 penalty units, or both; or  
26 (b) if the person is a body corporate—6,000 penalty units.



## Section 15

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- 1                    *Civil penalty provision*
- 2                    (4) A person is liable to a civil penalty if the person contravenes
- 3                    subsection (1).
- 4                    Civil penalty:
- 5                    (a) if the person is an individual—5,000 penalty units; or
- 6                    (b) if the person is a body corporate—50,000 penalty units.

### 7                    **15 Licensee’s obligations**

- 8                    (1) A digital asset custody service licensee must comply with the
- 9                    Digital Asset Custody Requirements (see section 16).
- 10                    (2) A person is liable to a civil penalty if the person contravenes
- 11                    subsection (1).
- 12                    Civil penalty:
- 13                    (a) if the person is an individual—5,000 penalty units; or
- 14                    (b) if the person is a body corporate—50,000 penalty units.

### 15                    **16 Digital Asset Custody Requirements**

- 16                    (1) For the purposes of subsection 15(1), the rules must set out
- 17                    requirements in relation to the provision of digital asset custody
- 18                    services in Australia, including requirements for the protection of
- 19                    customers of those services. These requirements are the *Digital*
- 20                    *Asset Custody Requirements*.
- 21                    (2) Without limiting subsection (1), the Digital Asset Custody
- 22                    Requirements must include requirements relating to the following
- 23                    matters:
- 24                    (a) the designation of key personnel in Australia to be
- 25                    responsible for provision of digital asset custody services by
- 26                    the licensee in Australia;
- 27                    (b) the maintenance of a minimum amount of capital;
- 28                    (c) the segregation of the customers’ funds (including digital
- 29                    assets) from those of the licensee, and management of those
- 30                    funds, including:

- 1 (i) reporting on customers' holdings; and  
2 (ii) disclosures, in a standard form, regarding what  
3 arrangements exist for the protection of customers'  
4 funds;  
5 with relief from such fund segregation requirements for  
6 omnibus accounts if conditions specified in the rules are met;  
7 (d) proper auditing, assurance and disclosure arrangements.

8 **17 When a digital asset custody service is taken to be provided in**  
9 **Australia**

- 10 (1) For the purposes of this Act, a digital asset custody service is taken  
11 to be provided in Australia if:  
12 (a) it is provided by a body corporate that is registered under  
13 Chapter 2A of the *Corporations Act 2001*; or  
14 (b) the person providing the service engages in conduct that:  
15 (i) is intended to induce people in Australia to use the  
16 service; or  
17 (ii) is likely to have that effect;  
18 whether or not the conduct is intended, or likely, to have that  
19 effect in other places as well.  
20 (2) This section does not limit the circumstances in which a digital  
21 asset custody service is provided in Australia for the purposes of  
22 this Act.

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1 **[Insufficient time to track changes for this Division but**  
2 **lack of track changes does not impute text is**  
3 **supported]Division 4—Issuing stablecoins**

4 **18 Need for a licence**

5 *Need for a licence*

- 6 (1) A person contravenes this subsection if:  
7 (a) the person issues, or holds out that the person issues,  
8 stablecoins in Australia; and  
9 (b) the person does not hold a digital asset licence that authorises  
10 the person to issue the stablecoins in Australia.

11 *Recognised foreign licences*

- 12 (2) Subsection (1) does not apply if the person holds a recognised  
13 foreign licence that authorises the person to issue the stablecoins.

14 Note: A person who wishes to rely on this subsection bears an evidential  
15 burden in relation to the matters in this subsection (see  
16 subsection 13.3(3) of the *Criminal Code* and section 96 of the  
17 Regulatory Powers Act).

18 *Fault-based offence*

- 19 (3) A person commits an offence if the person contravenes  
20 subsection (1).

21 *Penalty:*

- 22 (a) if the person is an individual—imprisonment for 5 years or  
23 600 penalty units, or both; or  
24 (b) if the person is a body corporate—6,000 penalty units.

25 *Civil penalty provision*

- 26 (4) A person is liable to a civil penalty if the person contravenes  
27 subsection (1).

28 *Civil penalty:*

- 29 (a) if the person is an individual—5,000 penalty units; or
-

1 (b) if the person is a body corporate—50,000 penalty units.

2 **19 Licensee’s obligations**

3 (1) A stablecoin licensee must comply with the Stablecoin Issue  
4 Requirements.

5 (2) A person is liable to a civil penalty if the person contravenes  
6 subsection (1).

7 Civil penalty:

8 (a) if the person is an individual—5,000 penalty units; or

9 (b) if the person is a body corporate—50,000 penalty units.

10 **20 Stablecoin Issue Requirements**

11 (1) For the purposes of subsection 19(1), the rules must set out  
12 requirements in relation to the issue of stablecoins in Australia.  
13 These requirements are the *Stablecoin Issue Requirements*.

14 (2) Without limiting subsection (1), the Stablecoin Issue Requirements  
15 must include the following requirements:

16 (a) the requirement that the full amount of the face value of the  
17 liabilities for the stablecoins on issue from the licensee must  
18 be held in reserve by the licensee, in accounts kept with an  
19 ADI in Australia, in either:

20 (i) Australian currency; or

21 (ii) if the stablecoins purport to maintain a stable value by  
22 referring to one or more foreign currencies—those  
23 foreign currencies;

24 (b) the requirement that the licensee must give APRA quarterly  
25 statements including the following information:

26 (i) a summary description of the assets held in reserve by  
27 the licensee for the stablecoins issued by the licensee;

28 (ii) the number of outstanding stablecoins;

29 (iii) the value of the assets held in reserve by the licensee for  
30 the stablecoins issued;

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- 1 (c) the requirement that the licensee must be audited annually
- 2 and that financial statements relating to the audit are made
- 3 publicly available;
- 4 (d) the requirement that the licensee must make publicly
- 5 available quarterly statements of the size and composition of:
- 6 (i) assets held in reserve for the stablecoins; and
- 7 (ii) the issued stablecoin in circulation;
- 8 (e) the requirement for the licensee to develop a tailored and
- 9 appropriate plan to protect persons holding stablecoins issued
- 10 by the licensee against cybersecurity risks in relation to those
- 11 stablecoins.

12 **21 When stablecoins are taken to be issued in Australia**

- 13 (1) For the purposes of this Act, stablecoins are taken to be issued in
- 14 Australia if:
- 15 (a) they are issued by a body corporate that is registered under
- 16 Chapter 2A of the *Corporations Act 2001*; or
- 17 (b) the person issuing the stablecoins engages in conduct that:
- 18 (i) is intended to induce people in Australia to use the
- 19 stablecoins; or
- 20 (ii) is likely to have that effect;
- 21 whether or not the conduct is intended, or likely, to have that
- 22 effect in other places as well.
- 23 (2) This section does not limit the circumstances in which stablecoins
- 24 are issued in Australia for the purposes of this Act.

1 **Division 5—Licenses**

2 **22 How to apply for a licence**

3 (1) A person may, in writing, apply for a licence authorising any or all  
4 of the following:

5 (a) the facilitation by the applicant of crypto-token exchange  
6 activities to Australian persons or from Australia to other  
7 persons;

8 (b) the facilitation by the applicant of crypto-token custody  
9 activities to Australian persons or from Australia to other  
10 persons;

11 (c) the facilitation by the applicant of crypto-token management  
12 activities to Australian persons or from Australia to other  
13 persons;

14 (d) the facilitation by the applicant of crypto-token issuance  
15 activities to Australian persons or from Australia to other  
16 persons;

17 (e) the provision by the applicant of crypto-token advice to  
18 Australian persons or from Australia to other persons;

19 (f) the issue by the applicant of e-money crypto -tokens or asset-  
20 referenced crypto-tokens, or the carrying on of a business  
21 involving same, to Australian persons or from Australia to  
22 other persons.

23 (2) The application must:

24 (a) be lodged in accordance with the rules; and

25 (b) comply with any other requirements specified by the rules.

26 **23 When a licence may be granted**

27 The Authority may grant the licence if the Authority is satisfied  
28 that:

29 (a) the application was made in accordance with section 22; and

30 (b) any other requirements prescribed by rules are satisfied.

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1       **24 The conditions on the licence**

2                       The Authority may, in accordance with the rules:

- 3                       (a) impose conditions or additional conditions on a licence; or  
4                       (b) vary or revoke conditions imposed on a licence.

5       **25 Varying, suspending or cancelling licences**

6                       The Authority may vary, suspend or cancel a licence under this  
7                       Part in the circumstances prescribed by the rules.

8       **26 Effect of suspension**

9                       (1) A person whose licence under this Part is suspended is taken not to  
10                      hold that licence while it is suspended.

11                      (2) However, the Minister may specify in accordance with the rules  
12                      that subsection (1) does not apply in relation to the licence for  
13                      specified purposes.

14       **27 Variation or revocation of suspension**

15                      The Authority may at any time vary or revoke a suspension of a  
16                      licence under this Part by giving written notice to the licensee.

17       **28 Other matters relating to licenses**

18                      The rules may set out:

- 19                      (a) matters that must be considered by the Minister in deciding  
20                      whether to grant, vary, suspend or cancel, or vary or revoke a  
21                      suspension of, of a licence under this Part; or  
22                      (b) any matters relating to processes for the granting, variation,  
23                      suspension or cancellation of a licence under this Part.

24       **29 Rules may make different provision for different kinds of licence**

25                      Without limiting subsection 33(3A) of the *Acts Interpretation Act*  
26                      1901, if any of sections 22 to 28 provides for the rules to make  
27                      provision in relation to a matter relating to licensing or proposed  
28                      licensing, the rules may make different provision in relation to a

1 matter depending on whether the licence or proposed licence  
2 concerns a matter mentioned in paragraph 22(1)(a), (b) or (c).

### 3 **30 Register of licences**

4 (1) The Minister must cause to be maintained a register that sets out  
5 information prescribed by the rules relating to licences granted  
6 under this Part.

7 (2) The register may be maintained by electronic means.

8 (3) The register is to be made publicly available for inspection on the  
9 internet.

### 10 **31 Recognition of foreign licences etc.**

11 (1) The Minister may, by legislative instrument, approve a licensing  
12 scheme (however described) that:

13 (a) is in effect under a law of a foreign country; and

14 (b) deals with any of the following matters (however described):

15 (i) authorisation of crypto-token exchange activities;

16 (ii) authorisation of crypto-token custody activities;

17 (iii) authorisation of the issuing of e-money crypto-tokens  
18 and asset-referenced tokens, and the carrying on of a  
19 business involving either or both of e-money crypto-  
20 tokens or asset-referenced crypto-tokens.

21 (2) The approval of the scheme must specify which of the matters  
22 mentioned in paragraph (1)(b) the approval relates to.

23 (3) A licence (however described) in force under the scheme in  
24 relation to the matter specified in the approval is a ***recognised***  
25 ***foreign licence***.

26 (4) The Minister must not approve a scheme under subsection (1) in  
27 relation to a matter mentioned in paragraph (1)(b) unless the  
28 Minister is reasonably satisfied that the scheme provides for  
29 equivalent requirements to this Act in relation to the matter.



**Part 2** Licensing for certain crypto-token activities

**Division 5** Licenses

**Section 31**

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- 1                   (5) In deciding whether to make an approval under subsection (1), the  
2                   Minister must have regard to:
- 3                   (a) reducing the overall compliance burden upon Licensable
  - 4                   Persons;
  - 5                   (b) supporting responsible innovation;
  - 6                   (c) the national interest; and
  - 7                   (d) national security; and
  - 8                   (e) the need to appropriately enforce the laws of the
  - 9                   Commonwealth.
- 10
- 11 Part 3 onwards not included in this submission.