



**ISLE OF MAN
FINANCIAL SERVICES AUTHORITY**

Lught-Reill Shirveishyn Argidoil Ellan Vannin

**Discussion Paper
Regulation of Crypto-Asset Activities**

DP24-01

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This Discussion Paper is issued by the Isle of Man Financial Services Authority, which is the regulatory body for financial services in the Isle of Man.

The purpose of this paper is to seek views on the current approach to the oversight of certain crypto-asset activities for anti-money laundering and countering the financing of terrorism ('AML/CFT') purposes, the desirability (or not) of regulation, the potential approaches to regulation and how the cost of regulation should be funded. This paper is relevant to persons engaged in crypto-asset activities with a connection to the Isle of Man and their customers.

The closing date for comments is **9 April 2024**.

Please send comments in writing and preferably by email to:

Mrs Sarah Marshall

Isle of Man Financial Services Authority

PO Box 58, Finch Hill House, Bucks Road, Douglas, Isle of Man, IM99 1DT

Email: Policy@iomfsa.im

Telephone: +44 1624 646000

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If you have a query in relation to how this consultation has been carried out, please contact the Authority's Legal & Policy Division by email at Policy@iomfsa.im or by telephone on +44 1624 646000.

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Glossary

AML/CFT	Anti-money laundering and countering the financing of terrorism
Authority	Isle of Man Financial Services Authority
Convertible Virtual Currency ('CVC') activity	Issuing, transmitting, transferring, providing safe custody or storage of, administering, managing, lending, buying, selling, exchanging or otherwise trading or intermediating convertible virtual currencies, including crypto-currencies, virtual assets or similar concepts where the concept is accepted by persons as a means of payment of goods or services, a unit of account, a store of value or a commodity
Crypto-asset	A digital representation of a value or of a right that is able to be transferred and stored electronically using distributed ledger technology or similar technology
Crypto-asset service provider ('CASP')	A legal person or other undertaking whose occupation or business is the provision of one or more crypto-asset services to clients on a professional basis, and that is allowed to provide crypto-asset services
DBROA15	Designated Businesses (Registration and Oversight) Act 2015 (Isle of Man)
Designated Business	Person registered with the Authority under the DBROA15
Distributed ledger	An information repository that keeps records of transactions and that is shared across, and synchronised between, a set of DLT network nodes using a consensus mechanism
Distributed ledger technology ('DLT')	A technology that enables the operation and use of distributed ledgers
EMI	Electronic money institution
E-money / electronic money	Electronically (including magnetically) stored monetary value as represented by a claim on the electronic money issuer which is — (a) issued on receipt of funds for the purpose of making payment transactions; (b) accepted by a person other than the electronic money issuer; and (c) is not excluded by exclusion 8.(i) of the Regulated Activities Order
EU	European Union
FSA08	Financial Services Act 2008 (Isle of Man)
FSB	Financial Stability Board
MiCA	Markets in Crypto Assets Regulation (European Union)
ML/TF	Money laundering / terrorist financing
Non-EMI / E-money stablecoins	Crypto-assets which are asset-backed, but do not meet the legal definition of electronic money

Regulated Activities Order	Regulated Activities Order 2011 (Isle of Man), made under the FSA08
Stablecoins	A category of crypto-assets that aim to maintain a stable value relative to a specified asset, or basket of assets
UK	United Kingdom

1. Executive Summary

1.1 Overview

The Isle of Man Financial Services Authority ('Authority') is responsible for the registration and oversight of Designated Business engaging in convertible virtual currency ('CVC') activity under the Designated Businesses (Registration and Oversight) Act 2015 ('DBROA15').

The term CVC was developed in 2015, prior to the development of international frameworks in this space. Since that time international standards, including relevant terminology, has become more settled. The terms 'crypto-assets' and 'virtual assets' have become more widely used and are terms used in many regulatory proposals. For the purposes of this Discussion Paper the Authority will use the term 'crypto-assets', unless context indicates otherwise.

This Discussion Paper seeks views on the potential expansion of the Island's regulatory framework for financial services to include the regulation of certain activities relating to crypto-assets. It does not represent a commitment to pursue a particular approach. Any proposal to change the regulatory perimeter would be subject to a separate consultation.

1.2 What is the purpose of this Discussion Paper?

This Discussion Paper is an opportunity to consider recent international developments in the regulation of activities relating to crypto-assets and provide feedback on desirability and potential expansion of the regulatory perimeter under the Financial Services Act 2008 ('FSA08') to include certain activities relating to crypto-assets. Whilst this document asks specific questions to assist the Authority's considerations, respondents are welcome to comment on other issues that may be relevant to them. Respondents do not need to answer all of the questions when responding. However, the more responses that are received, the more information the Authority will have on which to base future proposals. This Discussion Paper is intended to seek views on potential options. The identification of a particular option should not be taken as an indication that it will be adopted.

1.3 Who may be affected by this Discussion Paper?

This Discussion Paper is relevant to persons engaged in crypto-asset activities with a connection to the Isle of Man and their customers. It is particularly relevant to Designated Businesses engaging in CVC activity, entities regulated under the FSA08 who carry out activities relating to crypto-assets, and their customers.

2. Consultation Process

2.1 The Authority's regulatory objectives

The Authority's regulatory objectives are set out in section 2(2) of the FSA08 as —

- (a) securing an appropriate degree of protection for policyholders, members of retirement benefits schemes and the customers of persons carrying on a regulated activity;

- (b) the reduction of financial crime; and
- (c) the maintenance of confidence in the Island’s financial services, insurance and pensions industries through effective regulation, thereby supporting the Island’s economy and its development as an international financial centre.

The Authority is required to give consideration to certain factors when discharging its functions in accordance with paragraph 3 of Schedule 1 to the FSA08. The most relevant factors for this Discussion Paper are considered as follows:

Factor	Information
The need for the regulatory, supervisory and registration regimes to be effective, responsive to commercial developments and proportionate to the benefits which are expected to result from the imposition of any regulatory burden.	Crypto-asset activities are not currently regulated in the Isle of Man. However, persons carrying on CVC activity are required to register with the Authority under the DBROA15 and be overseen for compliance with AML/CFT requirements.
The need to use resources in an efficient and economic way.	This Discussion Paper seeks views on the potential expansion of the regulatory perimeter under the FSA08 to cover crypto-asset activities. All of the factors listed opposite are relevant. Responses to this Discussion Paper will inform the Isle of Man’s approach to the potential regulation of crypto-asset activities. Any potential change to the regulatory perimeter will be subject to a separate consultation.
The desirability of implementing and applying recognised international standards.	
The desirability of cooperating with governments, regulators and others outside the Island.	
The need to safeguard the reputation of the Island.	
The international character of the financial services, insurance and pensions industries and their markets and the desirability of maintaining the competitive position of the Island.	
The desirability of facilitating the development of the financial services, insurance and pensions industries.	
The impact of its decision on the stability of the financial system of the Island.	

2.2 Responding to the Discussion Paper

Open dialogue with stakeholders is an essential element for successful development of the Authority’s proposals. Constructive feedback will help the Authority reach an informed decision on the content of the proposals and manner of implementation. Respondents should note the following when responding to this Discussion Paper:

- Submissions received by the closing date of the Discussion Paper will be considered but may not necessarily result in a change to the proposals following a review of all responses received.
- Professional bodies, trade associations and other representative groups should provide a summary of the people and organisations they represent when responding to a Discussion Paper as well as the methodology used to gain members' input.
- The Authority requests that submissions are not made anonymously as they will not be considered or included in the Feedback Statement.

This Discussion Paper has been published on the Authority's website and the Isle of Man Government's Engagement Hub¹. A list of specific representative groups to which this Discussion Paper has been sent is shown in the Appendix.

3. Background

3.1 Current Isle of Man position

Persons engaged in certain activities involving crypto-assets currently are not regulated by the Authority. Such persons are, however, required to register with the Authority under the DBROA15 and be overseen for compliance with the Isle of Man's AML/CFT framework. Registrable crypto-asset activities are covered by the CVC definition in the DBROA15.

The DBROA15's scope is limited to supervising compliance with AML/CFT requirements. There are no elements of regulation involved. For example, the DBROA15 does not impose any business conduct or prudential obligations on the business, nor does it provide any protection for consumers. In addition, the Authority's grounds to refuse an application for registration under the DBROA15 are limited to dishonesty offences and material ML/TF failings.²

The Isle of Man's National Risk Assessment identifies crypto-asset activities as posing significant ML/TF risks.³ However, this does not mean that other risks, such as consumer risk, are low. Mainstream crypto-assets, such as Bitcoin, have seen significant volatility in value since their inception. Variations of crypto-assets, such as Initial Coin Offerings or Non-Fungible Tokens ('NFTs'), have experienced periods of popularity and interest amongst retail customers. However, a large proportion of these ventures have ended in failure, with many failures resulting from fraud or mismanagement. More recently, there have been high-profile failures of large crypto-asset service providers ('CASPs'), such as FTX, Quadriga and Mt Gox. All of these have been attributed to material failures in governance, management controls and systems resilience.

There are currently 22 Designated Businesses registered with the Authority that engage in CVC activity. Some regulated firms under the FSA08 also have business exposure to crypto-assets or to DLT.

¹ <https://consult.gov.im/>

² Section 9 (Grant or refusal of registration), DBROA15

³ <https://www.gov.im/about-the-government/departments/cabinet-office/national-risk-assessment/>

On 21 February 2022, the Authority issued a Request for Input on ‘Innovation and the Regulatory Perimeter’ asking for views and evidence regarding the implications of expanding the regulatory perimeter to include certain crypto-asset activities.⁴ In summary:

- Nine responses were received, which came from four regulated entities, two start-up businesses (not established or trading), one licensed gaming business, one registered Designated Business (a crypto-asset exchange) and a member of the public.
- All respondents generally agreed that some crypto-asset businesses should be regulated, though each respondent had a different view on what types of activity should be regulated. There was, however, a general consensus that crypto-asset exchanges should be subject to some regulation.
- On the whole, respondents felt regulation would lend credibility to the sector and make the Isle of Man a more attractive place to do business. However, they noted over-regulation would cause the industry to fail. Some specifically commented that any regulation must be careful not to hinder business growth in this area.
- Although most respondents believed elements of the sector should be regulated (either in whole or in part) feelings were mixed as to whether or not this would be an overall benefit to the economy.
- Some respondents noted that any regulation needed to be proportionate, and that the regulatory framework for crypto-asset activities should be purpose-built rather than made to fit the existing regulatory framework.

3.2 Current position in the other Crown Dependencies

The Isle of Man monitors developments in the other Crown Dependencies due to similarities between their financial services sectors and the fact that a number of businesses operating in the Isle of Man have a presence in Guernsey and/or Jersey.

The Isle of Man, Guernsey and Jersey currently follow a similar approach by overseeing businesses carrying on certain crypto-asset activities for AML/CFT purposes. There are some variations in approach. At this time, neither Guernsey nor Jersey have announced any proposals for the full regulation of crypto-asset activities. Guernsey and Jersey have recently implemented new Travel Rule requirements for crypto-asset transfers in line with Financial Action Task Force Recommendation 16 and the Isle of Man is due to consult on related proposals imminently.

3.3 Recent international developments

There have been a number of international developments in relation to the regulation of crypto-asset activities since the Authority issued its Request for Input. To summarise:

- On 17 July 2023, the Financial Stability Board (‘FSB’) published high-level recommendations for the regulation, supervision and oversight of crypto-asset

⁴ <https://consult.gov.im/financial-services-authority/request-for-input-innovation-and-the-regulatory-pe/>

activities and markets.⁵ The recommendations include a conduct, governance, risk management and disclosure framework for CASPs, and appropriate powers for regulators to effectively supervise and sanction firms (as well as mechanisms to co-operate with other regulators).

- On 7 September 2023, the FSB and the International Monetary Fund ('IMF') published a joint synthesis paper on policies for crypto-assets.⁶ The paper recommends how jurisdictional frameworks should interact with each other to limit the risk of regulatory arbitrage.⁷ The FSB and IMF are aware that gaps or material differences between jurisdictions may be exploited by bad actors.
- On 16 November 2023, the International Organization of Securities Commissions published its final report on policy recommendations for crypto and digital asset markets.⁸ The recommendations elaborated on regulatory expectations, either through application of existing rules or development of new rules (depending on the jurisdictions) to address the key areas of harm observed in these markets.

3.4 European Union ('EU') approach

On 16 May 2023, the Council of the European Union formally adopted the Markets in Crypto-Assets ('MiCA') Regulation.⁹ The MiCA is scheduled to come into force across EU Member States on 31 December 2024.¹⁰

The FSB's high-level recommendations (see [section 3.3](#)) broadly align with the MiCA. This suggests a broader international move to a more consistent regulatory landscape for crypto-asset activities. The Authority notes that the MiCA (or variations of it) are being adopted in a number of jurisdictions.

3.5 United Kingdom ('UK') approach

In April 2022, HM Treasury in the UK ('HM Treasury') published its response to a consultation and call for evidence on the UK regulatory approach to crypto-assets, stablecoins and DLT in financial markets.¹¹ The response determined that issuers of non-electronic money institution ('non-EMI') stablecoins should become regulated under the UK's existing Electronic Money Regulations 2011 ('E-Money Regulations'). This would bring all stablecoin issuers (whether e-money stablecoin issuers or not) under the same conduct and prudential framework as e-money issuers.

⁵ <https://www.fsb.org/2023/07/high-level-recommendations-for-the-regulation-supervision-and-oversight-of-crypto-asset-activities-and-markets-final-report/>

⁶ <https://www.fsb.org/2023/09/imf-fsb-synthesis-paper-policies-for-crypto-assets/>

⁷ The risk persons may use more favourable laws in one jurisdiction to avoid less favourable laws elsewhere.

⁸ <https://www.iosco.org/library/pubdocs/pdf/IOSCOPD747.pdf>

⁹ <https://www.consilium.europa.eu/en/press/press-releases/2023/05/16/digital-finance-council-adopts-new-rules-on-markets-in-crypto-assets-mica/>

¹⁰ <https://www.esma.europa.eu/esmas-activities/digital-finance-and-innovation/markets-crypto-assets-regulation-mica>

¹¹

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1088774/O-S_Stablecoins_consultation_response.pdf

In May 2023, the House of Commons Treasury Committee called for unbacked crypto-assets (i.e. those which fall outside non-EMI stablecoins) to be regulated as gambling products.¹²

In August 2023, the Financial Services and Markets Bill introduced the planned regime for regulation of these stablecoins used for payments.¹³

In October 2023, HM Treasury published its response to a consultation and call for evidence on future financial services regulatory regime for crypto-assets. HM Treasury proposes to keep the regulatory regime for EMIs as it is and bring non-EMI stablecoins within the E-Money Regulations.¹⁴ Parallel to this, on 8 October 2023, the UK brought the promotion of crypto-assets under the Financial Conduct Authority's financial promotion rules.¹⁵ This means that any person selling or intermediating the sale of crypto-assets to UK consumers must do so in a way that is clear and not misleading.

4. Options for the Isle of Man

The Authority has been monitoring recent developments and has identified the following options on the possible expansion of the regulatory perimeter under the FSA08 to cover crypto-asset activities. Not all of these options are mutually exclusive:

- (1) Maintain current approach under the DBROA15 (i.e. no change);
- (2) Extend existing 'investment' definition to include crypto-assets;
- (3) New regulated activity for the operation of a crypto-asset service provider;
- (4) New regulated activity for issuing and advising on crypto-assets and similar activities;
- and
- (5) New regulated activity for issuing and managing stablecoins.

Views are sought on these options. Related questions are asked in [section 6](#) of this paper.

4.1 Option 1 – Maintain current approach under the DBROA15

Option 1 would be to maintain the current approach under the DBROA15 for AML/CFT oversight of CVC activity and not introduce any regulation of CASPs at the current time. The Island's framework would continue to comply with the Financial Action Task Force Recommendations and there would be no additional costs to the Authority or relevant businesses. Businesses engaged in CVC activity would continue to be registered with the Authority under the DBROA15 and pay annual fees to the Authority and (if relevant) their delegated oversight body.

¹² <https://committees.parliament.uk/publications/39945/documents/194832/default/>

¹³ <https://www.legislation.gov.uk/ukpga/2023/29/enacted>

¹⁴

https://assets.publishing.service.gov.uk/media/653bd1a180884d0013f71cca/Future_financial_services_regulatory_regime_for_cryptoassets_RESPONSE.pdf

¹⁵ <https://www.fca.org.uk/publication/policy/ps23-6.pdf>

However, Option 1 would not mitigate the risks to consumers (some of which are retail customers) who would continue to be exposed to a risk of loss. In addition, the Authority's powers to prevent the establishment of businesses posing a risk to consumers are limited under the DBROA15 to dishonesty offences and material ML/TF failings. This increases the risk to the Authority's regulatory objectives (see [section 2.1](#)).

Option 1 may also adversely impact the Island's reputation as an international finance centre should a CASP operating in the Isle of Man be responsible for significant consumer losses. Maintaining the current position would also leave the Isle of Man out-of-line with those jurisdictions that are regulating CASPs or are moving towards it.

The relative cost of Option 1 compared to the other options is covered in [section 5](#).

4.2 Option 2 – Extend existing 'investment' definition to include crypto-assets

Option 2 would be to extend the definition of 'investment' in the Regulated Activities Order to include all or some types of crypto-assets. This would bring most activity covered by the MiCA into the existing Class 2 (Investment Business) regulatory framework.

This approach has a benefit of removing ambiguity between 'tokens' which are covered by the 'investment' definition¹⁶ and those that are not, thereby removing the risk of regulatory arbitrage. However, there are significant drawbacks to placing the regulation of crypto-asset activities into an existing framework that is not specifically designed for it. For example, most businesses engaged in crypto-asset activity in the Isle of Man would need to demonstrate an established track record in investment business to obtain a Class 2 (Investment Business) licence under the FSA08. They would also need to be able to meet the qualification requirements for investment business. In addition, businesses that either have, or are able and willing to obtain, senior executives that meet the Licensing Policy for Regulated Activity under the FSA08¹⁷ could potentially have licence permissions covering any type of investment, not just crypto-assets. With these factors in mind, Option 2 may be too imprecise. Crypto-assets function differently to traditional investments, and their inclusion within Class 2 (Investment Business) regulated activity may cause confusion amongst practitioners and consumers.

The relative cost of Option 2 compared to the other options is covered in [section 5](#).

4.3 Option 3 – New regulated activity for the operation of a CASP

Option 3 would be to make the operation of a CASP into a new regulated activity under the Regulated Activities Order. This could broadly follow the MiCA (e.g. Title 5 – Authorisation and Operating Conditions for CASPs).¹⁸ This approach would deal with a more specific and

¹⁶ Under the current definition these are often called 'security tokens'. The Authority's Guidance on Cryptoasset / Token Activity and Regulation provides further information:

<https://www.iomfsa.im/media/2720/regulatory-perimeter-for-tokens.pdf>

¹⁷ <https://www.iomfsa.im/media/1428/fsa08licensingpolicy.doc>

¹⁸ <http://data.europa.eu/eli/reg/2023/1114/oj>

consumer-centric type of crypto-asset activity than [Option 2](#). It would also allow regulatory requirements to be tailored to the sector.

Articles 66 to 74 of Title 5 of the MiCA also bring the operation of a trading platform for crypto-assets (often called a ‘crypto-exchange’) within the regulatory framework and impose general regulatory requirements, with a focus on conduct and governance rules.

The proposals in Title 5 of the MiCA are similar to those imposed by the standard licence conditions applied to persons carrying on Class 6(2) (Investment-based crowdfunding services) regulated activities under the FSA08.¹⁹

Importantly, Article 76 of Title 5 of the MiCA also imposes market requirements on regulated entities. The MiCA does not require regulators to oversee or regulate the markets themselves in the same way as securities markets must be overseen. This is an important consideration because the Isle of Man does not have a legislative framework for the oversight of securities markets. This is due to the significant costs and obligations associated with establishing and maintaining such a framework. The distinction in the MiCA makes the implementation of a similar regime more viable to the Island.

Title 6 (Prevention and Prohibition of Market Abuse Involving Crypto-Assets) of the MiCA also requires the regulatory framework to impose obligations on the operators of crypto-asset exchanges to prevent insider-dealing, market manipulation and market abuse. Whilst the MiCA does not explicitly require regulatory authorities to become a market supervisor to be deemed equivalent, regulators with existing market oversight functions may decide to supervise crypto-asset markets.

With Option 3, it is important to highlight that exchanges listing crypto-assets that are ‘investments’ (i.e. security tokens) would still need to comply with the relevant investment business regulation. MiCA exchanges would (as in the EU and UK) only be permitted to list crypto-assets which do not meet the definition of an investment.

Under Option 3, any crypto-asset activities which fall outside of the MiCA definitions (such as services to NFTs) would continue to be subject to AML/CFT oversight under the DBROA15.

The relative cost of Option 3 compared to the other options is covered in [section 5](#).

4.4 Option 4 – New regulated activity for issuing and advising on crypto-assets

Option 4 would be to make the activity of issuing, giving of advice and similar activities in relation to crypto-assets a new regulated activity under the Regulated Activities Order. This approach could be aligned to the MiCA and achieve a large degree of consistency between regimes.

¹⁹ <https://www.iomfsa.im/media/2308/specificrulesconditionsforcrowdf.pdf>

A detailed analysis comparing the regulatory obligations imposed on persons undertaking this activity is outside the scope of this paper. However, the regulatory requirements would be broadly similar to those under the Financial Services Rule Book for persons licensed to carry on Class 2 (Investment Business) regulated activities under the FSA08.

Articles 75 to 82 of Title 5 of the MiCA extend the regulatory perimeter in the EU to persons:

- providing advice on crypto-assets;
- executing orders for crypto-assets on behalf of third parties; and
- providing custody and administration of crypto-assets on behalf of third parties.

The above activities could be included as separate sub-classes under a new Class of regulated activity in the Regulated Activities Order. This approach would reflect that different skills and competencies are needed for those providing advice on crypto-assets, compared to those running an exchange or executing orders on behalf of third parties. The nature of the activity is also different to those advising on more traditional investments. Based on some of the business models currently operating in or from the Isle of Man, some of the above activities go hand-in-hand, such as the operation of an exchange and safe custody.

Article 6 of Title 2 (Crypto-assets Other Than Asset-Referenced Tokens or E-Money Tokens) of the MiCA imposes requirements for the content and form of a crypto-asset ‘white paper’, which is similar to an investment prospectus or offering document. This information is required to be fair, clear and not misleading to consumers. It contains a number of prescriptive requirements, however these are not considered to be overly burdensome when compared to similar prospectus or offering document requirements for traditional investments.

The relative cost of Option 4 compared to the other options is covered in [section 5](#).

4.5 Option 5 – New regulated activity for issuing and managing stablecoins

Option 5 would be to make the issuance and management of stablecoins a new regulated activity under the Regulated Activities Order.

Stablecoins are a specific type of crypto-asset that were developed to address the volatility of crypto-assets. They work by linking the value of the crypto-asset to another asset, such as a commodity or a currency. This potentially gives that crypto-asset a ‘monetary value’ which may bring it into the scope of the existing e-money definition for Class 8 (Money Transmission Services) of the Regulated Activities Order if the other e-money criteria are also met. The Island currently has one licensed e-money issuer which used stablecoins as its store of monetary value in this manner.

The MiCA covers stablecoins which are backed by currencies or commodities. These are referred to as ‘asset-referenced tokens’. In addition, both the EU’s MiCA and the UK proposals from HM Treasury expressly state that stablecoins which are ‘true’ e-money will remain under their existing e-money regulatory frameworks.

The Authority could include the issuance and management of stablecoins as a new Class of regulated activity, with a similar regime to the MiCA or the UK to minimise the risk of regulatory arbitrage.

However, like [Option 2](#), Option 5 may be imprecise. There are significant drawbacks to placing the regulation of crypto-asset activities into an existing framework that is not specifically designed for it. In addition, stablecoins can be used in a similar way to e-money and pose many of the same risks.

The relative cost of Option 5 compared to the other options is covered in [section 5](#).

5. Impact Assessment

Regulation affords a greater degree of protection for consumers and regulated businesses, however it carries a cost. Businesses incur costs to ensure they comply with regulatory requirements and, in some instances, may face civil penalties for non-compliance. Regulators also incur costs in establishing and maintaining a regulatory framework and supervising regulated businesses.

Aside from Option 1, all other options would involve the regulation of certain types of crypto-asset activity. The exact scope and method for achieving this would vary. However, if one of Options 2, 3, 4 or 5 were pursued, businesses carrying on crypto-asset activity would be subject to regulation under the FSA08. They would need to satisfy the Licensing Policy for Regulated Activities²⁰ and meet specific requirements under the Financial Services Rule Book. Individuals carrying on Controlled Functions or key person roles would also need to meet the Regulatory Guidance on Fitness and Propriety.²¹ The introduction of a new regulatory framework will have a significant impact on existing crypto-asset businesses. Some may not be able or willing to meet the increased demands placed upon them, which could result in a decrease in the number of such businesses on the Island.

The relative costs of the options in [section 4](#) are outlined as follows:

- **Option 1:** Maintaining the current approach under the DBROA15 would result in no additional costs to the Authority or relevant businesses.
- **Option 2:** The cost of extending the 'investment' definition would be relatively small as the framework already exists. The cost of supervising the current sector would also be fairly small, as the current crypto-asset activity sector is not particularly large when compared to other jurisdictions and would likely only include a few businesses.
- **Option 3:** The cost to introduce a new regulated activity for CASPs would be significant. Policy resource would need to be allocated to develop and maintain the new framework. There would also be ongoing work to ensure the legislation and associated guidance remained up-to-date in what is a rapidly evolving sector.

²⁰ <https://www.iomfsa.im/media/1428/fsa08licensingpolicy.doc>

²¹ <https://www.iomfsa.im/media/3166/regulatoryguidancefitnessandpropriety.pdf>

- **Option 4:** The cost to introduce a new regulated activity for the issuing and giving advice on crypto-assets and associated activities would be significant. It would involve a similar level of resource and work required as for [Option 3](#).
- **Option 5:** The cost to introduce a new regulated activity for issuing and managing stablecoins would be similar to that of [Option 2](#). The stablecoin business model is generally quite similar to that of Class 8(4) (Issue of electronic money). Class 8(4) would require some modification, however this option would avoid the need to create a new regime. Whilst the Authority would need to allocate policy resource to develop and implement the framework, it has supervisory and authorisations experience from the supervision of a licensed e-money issuer, which could further aid in the reduction of operational costs.

As mentioned above, the majority of the work for some of the options given would be in the development of the relevant legislation and guidance. The Authority would need to allocate policy resource to develop and maintain a regulatory framework for crypto-asset activities. There would also be an ongoing requirement to ensure legislation and guidance remains up-to-date in what is a rapidly evolving sector.

A small number of crypto-asset businesses are already subject to financial services regulation in the Isle of Man if it amounts to a defined regulated activity (such as investment business or the issuance of e-money). If the regulatory perimeter was expanded to encompass some CVC activities that can currently be performed under a Designated Business registration, it may be appropriate to do so in relation to some of those CVC activities, but not all.

The establishment of new regulated activities for crypto-asset activities would either need to be funded by fee income from those regulated entities, fee income from the wider financial services sector, a subvention from the Isle of Man Government, or a combination of those three.

Feedback from the 2022 Request for Input suggested that, if the sector was to be regulated, then the sector itself should cover the cost of its own regulation. The cost to implement and maintain a new regulatory framework for crypto-asset activities would result in particularly high fees for the regulated entities themselves given the relatively small size of the current sector. The potential wider economic benefits to the Island of establishing a framework for regulating crypto-asset activities is currently unclear. If a sufficient business case for the Island is identified, the Isle of Man Government may consider providing financial support for the costs of introducing a new regulatory framework, e.g. if it was expected to bring significant benefits to the Island's economy and its reputation as an international finance centre.

6. Questions

Question 1 (Required)

Name:

Question 2 (Required)

Which of the following type of respondent do you most represent?

- (a) Designated Business – CVC activity;
- (b) Designated Business – Non-CVC activity;
- (c) Potential crypto-business – not currently registered;
- (d) Current/past customer of crypto business;
- (e) Potential customer of crypto business;
- (f) Regulated entity – Financial Services Act 2008 or Insurance Act 2008;
- (g) Industry association or other representative body;
- (h) Isle of Man Government; or
- (i) Other person – Please specify.

Response:

Question 3 (Required)

If you answered 'Other person' to Question 2, please explain what type of respondent you represent.

If you answered Question 2 with any of the other types ('a' to 'h'), please put "N/A" below.

Response:

Question 4

Are you responding on behalf of an organisation?

Response:

Name of organisation (if applicable):

Question 5 (Required)

If you represent a business, please explain the nature of your business and your interest in crypto-asset activity.

If you are not representing a business, please put "N/A" below.

Response:

Question 6 (Required)

May we publish your response? Please read our [Privacy Policy](#) for more details and your rights.

- Yes, you can publish my response in full;
- Yes, you may publish my response anonymously; or
- No, please do not publish my response.

Response:

Question 7 (Required)

Do you agree crypto-asset activities should be regulated? Please indicate whether you:

- (1) Strongly agree;
- (2) Slightly agree;
- (3) Neither agree nor disagree;
- (4) Slightly disagree; or
- (5) Strongly disagree.

Response:

Question 8 (Required)

Please explain the reasons for your answer to Question 7.

Response:

Question 9 (Required)

Please rank the options presented for the potential regulation of crypto-asset activities in your order of preference with (1) being the most preferable and (5) being the least preferable:

- (1) Maintain current approach under the DBROA15 (i.e. no change);
- (2) Extend existing 'investment' definition to include crypto-assets;
- (3) New regulated activity for the operation of a crypto-asset service provider;
- (4) New regulated activity for issuing and advising on crypto-assets; and
- (5) New regulated activity for issuing and managing stablecoins.

Rank:	Option:
	(1) Maintain current approach under the DBROA15 (i.e. no change)
	(2) Extend existing 'investment' definition to include crypto-assets
	(3) New regulated activity for the operation of a crypto-asset service provider
	(4) New regulated activity for issuing and advising on crypto-assets
	(5) New regulated activity for issuing and managing stablecoins

Question 10 (Required)

Please explain your ranking of the options in response to Question 9.

Response:

Question 11

Are there any other options for the potential regulation of crypto-asset activities that you think should be considered?

Response:

Question 12

If you believe crypto-asset activities should be regulated, what kind of information would you like to see in a future Consultation Paper on the subject?

Response:

Question 13

Do you have any additional comments in relation to the regulation of crypto-asset activities?

Response:

7. Next Steps

Following closure of the discussion period, the Authority will review the responses received and publish a Feedback Statement on both the Authority's website and the Isle of Man Government's Engagement Hub.

The responses to this Discussion Paper will be used to inform the Authority's approach to the regulation of crypto-asset activities.

Appendix – List of Groups to which this Discussion Paper has been sent

- Alliance of Isle of Man Compliance Professionals
- Association of Chartered Certified Accountants (Isle of Man branch)
- Association of Corporate Service Providers
- Chartered Governance Institute (Isle of Man branch)
- Chartered Institute for Securities and Investment (Isle of Man branch)
- The Department for Enterprise
- Digital Isle of Man
- Finance Isle of Man
- Financial Intelligence Unit
- Financial Planners & Insurance Brokers Association
- Gambling Supervision Commission
- Institute of Directors (Isle of Man branch)
- Insurance Institute of the Isle of Man
- Isle of Man Association of Pension Scheme Providers
- Isle of Man Bankers Association
- Isle of Man Captives Association
- Isle of Man Chamber of Commerce
- Isle of Man Law Society
- Isle of Man Society of Chartered Accountants
- Isle of Man Wealth & Fund Services Association
- London Institute of Banking and Finance (Isle of Man branch)
- Manx Actuarial Society
- Manx Insurance Association
- Society of Trust and Estate Practitioners (Isle of Man branch)
- The Treasury