

27 July 2021

Consultation Paper 343: Crypto-assets as underlying assets for ETPs and other investment products

B1Q1 Do you consider that crypto-asset ETPs should be available to retail investors through licensed Australian markets? Please provide details, including data on investor demand where available.

We believe that crypto assets ETPs should be available to retail investors. Crypto related exchange traded products are no different from investing in high-risk ETFs or companies. So long as proper disclosure material is provided on each product and the risks are thoroughly communicated. Access to ETPs means that retail investor can get exposure to crypto assets without bearing the risk of losing the asset itself.

B1Q2 Do you consider that crypto-asset ETPs should be cleared and settled through licensed Australian clearing and settlement facilities? Please provide details.

If someone wishes to list crypto related ETPs, there should not be any barriers to do so, again provided that the issuer of the ETP can sufficiently provide the relevant disclosure material. The minimum disclosure criteria will be custom to each individual ETPs taking into consideration parameters such as liquidity, volatility, depth, vesting schedules, available on and offramps etc.

B1Q5 Do you agree with our approach to determining whether certain crypto-assets are appropriate underlying assets for ETPs on Australian markets? If not, why not?

No, we do not agree with the approach suggested. The approach appears to be based on the fact that crypto assets are not already readily available to the retail public.

The criteria provided is highly subjective and will not provide sufficient clarity.

B1Q7 Do you have any suggestions for alternative mechanisms or principles that could achieve a similar outcome to the approach set out in proposal B1? Please provide details.

Establishing criteria should be based on other factors such as:

1. Ability for the asset to be liquidated at any given time.
2. A track record of trading volume over a certain threshold.
3. Sufficient spread relating to the total supply;
4. Any other relevant factors.



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Proposal: C1

C1Q2 Are there any practical problems associated with this approach? If so, please provide details.

Technology moves quite fast. The process described is good practice relating to the current status quo. However, people will seek to automate this process and may need to build on this in the near future.

C1Q3 Do you consider there should be any modifications to the set of good practices? Please provide details.

Potential modifications may include:

1. Limiting the amount of funds held in each hardware wallet;
2. Placing funds within a reputable crypto currency custody provider when funds exceed a certain amount.

C1Q4 Do you consider that crypto-assets can be held in custody, safely and securely? Please provide your reasons.

Yes, with proper knowledge and practice management, cryptocurrency can be safely secured. Crypto ETFs would be significantly easier to store and more secure than an exchange equivalent as they are not likely to use any hot wallets.

C1Q6 Should similar requirements to proposal C1 also be imposed through a market operator's regulatory framework for ETPs? If so, please provide reasons and how it could work in practice.

Yes. Amendments could be made to the existing listing rules.

Proposal: C2

Feedback:

C2Q1 Do you agree with our proposed good practices in relation to risk management systems for REs that hold crypto assets? If not, why not?

No. If an RE is able to attain a better result for their investors on a non-regulated exchange such as a Decentralised exchange, then they should be able to do so. If this practice is removed, they may be at a significant disadvantage in comparison to other market participants. However, the use of a non-regulated exchange by an RE should not go without thorough due diligence.

C2Q4 Are there any other matters related to holding crypto-assets that ought to be recognised in the risk management systems of REs and highlighted through ASIC good practice information? Please provide details and any specific proposals.

As part of risk management, REs should consider trading on centralised and decentralised exchanges that have been sufficiently audited for security purposes.

Centralised exchanges should not be using a dedicated hot wallet system. If they maintain a hot wallet they should store minimal funds in the hot wallet (5-10%) and any funds that exceed the threshold should be stored in a cold wallet.

REs should fully disclose whether they will be collateralising their crypto currency or providing liquidity on pools for relevant rewards.

Cryptocurrency assets should not be stored on an exchange any longer than necessary to avoid any problems that may result in negligence.

C2Q5 Should similar requirements to proposal C2 also be imposed through a market operator's regulatory framework for ETPs? If so, please provide reasons and outline how it could work in practice.

Yes. Amendments could be made to their listing rules.

Proposal: C3

Feedback:

C3Q1 Do you agree with our proposed expectations regarding disclosure obligations for registered managed investment schemes that hold crypto-assets? If not, please explain why not.

Yes, however this is quite light. It should be further expanded to ensure that all necessary information is properly and fully disclosed.

C3Q2 Are there any practical problems associated with this approach? If so, please provide details.

For a fund that specifically deals in cryptocurrency assets, these disclosures are not sufficient for retail purposes. A retail user would not be able to make a fully informed decision with this information alone.

The following parameters should be disclosed in a PDS pursuant to each particular asset:

1. Trading Volume;
2. Top 5 exchanges that trade the asset, their volume and any pricing trends relating to market equilibrium price (for example constantly trading 10% over equilibrium);
3. Ability to liquidate;
4. Speed of liquidation;
5. Where liquidation can take place;
6. Cost of liquidation;
7. Cost of trading;
8. Taxation disclosure;
9. Assets spread;
10. Vesting schedule (if applicable);
11. Asset approximate Support levels;
12. Historic performance;
13. Largest down trends in a certain period;
14. Highest uptrends in a certain period;
15. What currency will the fund purchase the asset in;
16. Risks of technical analysis (if used and disclosed in the PDS);
17. And other relevant parameters.

Proposal: E1

Feedback:

E1Q1 Do you agree with our proposal to establish a new asset kind that will cover crypto-assets?

No. Many crypto assets can comfortably fall under our existing regulatory framework.

E1Q2 Do you consider that crypto-assets may be captured by the existing asset kinds? If so, please explain.

Not for the purposes of an AFSL. For the purposes of an AFSL, it is recommended to be issued regarding assets that use blockchain technology, this removes the requirement to create a new asset class.

Cryptography is simply a tool. Each different cryptographic asset has a different purpose and utility. We believe most assets can comfortably fall under a particular assets class within our current regulatory regime. It would be difficult to create a new asset class and place all cryptocurrency under its banner.

Proposal: E2

Feedback:

E2Q1 Do you agree with our approach to restrict the crypto-assets a registered managed investment scheme is authorised to hold (e.g. to bitcoin or ether)?

No we do not agree. What a MIS can hold should be restricted by the criteria we have provided in B1Q7. The most important factor is the ability to liquidate the assets.

E2Q2 Do you consider there are any other aspects of the AFS licensing regime that need to be clarified or modified to accommodate investment products that invest in, or provide exposure to, crypto-assets?

Whilst there is no need for a new definition of asset classes to include crypto, however, the ideal approach would be to issue a new AFS license to ensure licence holders are competent to handle crypto-assets or related products. For the purposes of an AFSL, it is recommended to be issued regarding assets that use blockchain technology, this removes the requirement to create a new asset class.