

## RESPONSE TO CONSULTATION PAPER

<b>Consultation topic:</b>	Proposed Regulatory Measures for Digital Payment Token Services
<b>Name/Organisation:</b>	<p>Responses were collated from an e-roundtable held on December 6, 2022 as well as responses sent in to CFA Society Singapore.</p> <p>CFA Society Singapore:</p> <ol style="list-style-type: none"><li>1. Chan Fook Leong, CFA</li><li>2. Chen Yunfei</li><li>3. Dexter Tiah, CFA</li><li>4. Eric Pascal, CFA</li><li>5. He Zhubing, CFA</li><li>6. Keshav Jain, CFA</li><li>7. Pavel Potekhin, CFA</li><li>8. Sarah Song, CFA</li><li>9. Other respondents who wish to remain anonymous</li></ol> <p>CFA Institute</p> <ol style="list-style-type: none"><li>1. Phoebe Chan</li><li>2. Sivananth Ramachandran, CFA</li></ol> <p>Responses were also drawn from a yet-to-be-released cryptoasset report by CFA Institute.</p>
<b>Email address for any clarification:</b>	<a href="mailto:advocacy@cfasocietysingapore.org">advocacy@cfasocietysingapore.org</a>
<b>Response to consultation paper</b>	Submitted on 21 December 2021 via link provided by MAS: <a href="https://go.gov.sg/mas-cp-dpt-services-2022">https://go.gov.sg/mas-cp-dpt-services-2022</a>

**Question 1.** MAS seeks comments on the proposed scope of “retail customer” for consumer access measures.

Response to Question 1: There is broad agreement to the proposal to apply “*consumer access measures to any customer:*

*(a) who is not an AI or institutional investor; and*

*(b) who is resident in Singapore (in the case of an individual) or formed or incorporated in Singapore (in the case of a partnership or corporation).”*

Some reasons in support of the above proposal include:

- a. Given recent adverse developments in the cryptoasset space as outlined in the consultation paper and the mass media, retail investors should be accorded another layer of protection.
- b. Proposed measures make sense as they rely on already existing robust and appropriate scope of “retail customer”.

In responding to this consultation paper, we want to take the opportunity to also provide the underlying thought processes when responding to Question 1 – 17 as this can assist regulators in further understanding our views. They include:

- a. The need to balance the following objectives:
  - Investor protection especially retail investors.
  - Grow Singapore as the preferred destination for decentralised finance (DeFi) and other disruptive financial services and technology that can potentially add value to the society.
- b. Is a digital payment token (DPT) a security, commodity, currency or something else? The debate is still ongoing in various jurisdictions. Nevertheless, we believe a practical approach and regulation are needed in view of:
  - Reasons cited in a).
  - Continued growth in investor interest in DPT despite recent turmoil in cryptoasset markets, collapse of DPT service providers (DPTSPs) and significant risk in cryptoassets.
  - Potential systemic risk to the economy due to the increasing size of market, firms, use of leverage and certain features of cryptoassets.
  - Entities soliciting funds from the public.
- c. Need to categorise DPTSPs and regulate their business conduct. Different cryptoasset-related services should be regulated according to the risks they represent to investors and different parties.

- d. Similar to equity trading, market integrity is paramount to the growth of markets. Market manipulation and use of nonpublic material information should not be tolerated.
- e. Similar to the asset management space, custody of cryptoassets needs to be regulated and secure. Investors' funds must not be used to fund business operations. They also must remain separate in the case of bankruptcy.
- f. DPTSPs should be transparent in their operations and adopt best business practices to safeguard investors' funds. These include putting in place timely disclosure practices and adopting recommended practices in areas of conflicts of interest and compliance.
- g. Despite the fast-changing and still-evolving DPT space, regulators should attempt to harmonise regulation given cross-border and decentralised nature of DPTs processes and activities.

**Question 2.** MAS seeks comments on the options for the treatment of DPT holdings for the purpose of determining a customer's eligibility as an Accredited Investor (AI).

Response to Question 2: There were various views which did not seem to converge on any one or a few particular option(s). The following is a summary and aggregation of various view:

- a. It is sensible to count DPT holdings towards AI determination as DPT is an 'established asset class'. However, a substantially large haircut needs to apply to the value of the DPT holdings for AI determination purposes (for example, 75-90%).
- b. There should be a cap like the option suggested in point 3.6 in the consultation paper. Alternatively, a range bound cap can be administered.

**Question 3.** MAS seeks comments on the proposal to assess the retail customer's knowledge of the risks of DPT services, as well as the risks to be covered by the assessment. MAS also seeks comments on possible next steps for DPTSPs, should the retail customer be assessed not to have sufficient knowledge of the risks of DPT services.

We are supportive of measures suggested in 3.15. As the market for DPTs is nascent and rapidly evolving, MAS may want to consider appropriate forms of continuous education and assessment requirements.

**Question 4.** MAS seeks comments on the proposal to restrict DPTSPs from offering incentives to retail customers.

Anecdotal evidence point to successful use of incentives as a powerful tool to entice investors in Singapore to sign up for equity trading accounts in recent years. Incentives do work.

A case can be made for restricting incentives as outlined in 3.17. More so when DPTs have additional layers of complexity such as stable coins which employs algorithm to achieve a peg.

Nevertheless, there were also voices of disagreement to the proposal, more so when investors have been subjected to 'risk awareness assessment' in 3.15.

**Question 5.** MAS seeks comments on the proposed restrictions on debt-financed and leveraged DPT transactions.

We wholeheartedly agree with the proposed restrictions.

**Question 6.** MAS seeks comments on the proposed segregation measures relating to customers' assets.

**Question 7.** MAS seeks comments on whether DPTSPs should be required to appoint an independent custodian to hold customers' assets. MAS also seeks comments on other control measures that would help to minimise the risk of loss or misuse of customers' DPTs.

**Question 8.** MAS seeks comments on whether the proposed disclosure and reconciliation measures are appropriate and adequate, and whether any other disclosures would be useful.

Response to Question 6- 8: The recent collapse of a global DSTSP and the ripple effect on other DSTSPs have motivated many including us to contemplate various issues in the cryptoasset space. Hence, we are in agreement with the proposed segregation measures including the need for independent custodian and monthly reconciliation. MAS could perhaps also contemplate third party auditors for various aspects of the reconciliation process.

**Question 9.** MAS seeks comments on the proposed risk management controls for customers' DPTs. MAS also seeks comments on any other measures to safeguard the private keys and storage of customers' DPTs.

The onus is on investors to hold and store private keys securely. This is not dissimilar to ATM, trading account and access to other financial services logins and passwords. An additional requirement may be to incorporate another layer of security such as 2FA.

Nevertheless, investors can opt for custodian services should there be a robust custodian ecosystem for emergency recovery when needed.

**Question 10.** MAS seeks comments on the proposed restriction on DPTSPs not to lend out retail customers' DPTs. MAS also seeks comments on any other measures to protect customers' DPTs from the risks of unregulated borrowing and lending by DPTSPs.

We strongly agree with the proposed restriction.

However, should lending out of DPTs are to be allowed, there must be express consent from investors and disclosure of risks involved in lending (such as counterparty risks) must be made known to investors.

**Question 11.** MAS seeks comments on the proposed measures to identify and mitigate conflicts of interests. MAS also seeks comments on any other measures to identify and mitigate conflicts of interest.

In light of recent adverse developments in the market for cryptoassets, we agree with the proposed measures.

**Question 12.** MAS seeks comments on the proposal for DPT trading platform operators to publish its policies and procedures on the process for selecting, listing, and reviewing DPTs, as well as the relevant governance policies. MAS also seeks comments on any other measures or disclosures to enhance market discipline on DPT trading platform operators, with regard to DPTs traded on their trading platforms.

We agree with the proposal. The disclosure requirements should not be too onerous for the DPTSPs to comply with. Non-compliance may result in fines or suspension of licence to operate.

**Question 13.** MAS seeks comments on the proposed complaints handling policies and procedures. MAS also seeks comments on any other measures or disclosures to ensure that customer complaints are dealt with in a fair and timely manner.

We welcome these proposals which are common amongst financial services and fintech firms.

**Question 14.** MAS seeks comments on the proposed requirements for DPTSPs to establish a high level of availability and recoverability of critical IT systems that they use to support their business and services. MAS also seeks comments on the proposed incident reporting and customer information protection requirements.

We wholeheartedly agree with the proposed requirements. Business continuity testing should be done periodically on people, process and systems to ensure resilience of the IT infrastructure.

**Question 15.** MAS seeks comments on effective systems, procedures and arrangements that DPT trading platform operators should implement, in order to promote fair, orderly, transparent trading of DPTs offered for sale on their trading platform.

**Question 16.** MAS seeks comments on effective measures, including the implementation of market surveillance mechanisms, to detect and deter unfair trading practices.

Response to Question 15 – 16: We are supportive of proposals to enhance market integrity for DPTs. Similar to equity trading, market integrity is paramount to the growth of markets. Market manipulation, use of nonpublic material information and other illicit activities should not be tolerated.

**Question 17.** MAS seeks comments on the proposed transition period of 6-9 months. MAS also seeks other comments to facilitate the transition towards the implementation of the regulatory measures.

No comment