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To whom it may concern,

**Re: ASIC Consultation Paper 381 - Updates to INFO 225: Digital assets: Financial products and services**

**About Global Digital Finance (GDF)**

GDF is the leading global members association advocating and accelerating the adoption of best practices for crypto and digital assets. GDF's mission is to promote and facilitate greater adoption of market standards for digital assets through the development of best practices and governance standards by convening industry, policymakers, and regulators.

The input to this response has been curated through a series of member discussions, industry engagement, and previous engagement with global regulators over the years and GDF is grateful to its members who have taken part.

As always, GDF remains at your disposal for any further questions or clarifications you may have, and we would welcome a meeting with you to further discuss these matters in more detail with our members.

Yours faithfully,  
Elise Soucie Watts – Executive Director – GDF

## Response to the Consultation: Executive Summary

GDF convened our APAC Policy and Regulatory Working Group to analyse the Consultation Paper 381 on “**Updates to INFO 225: Digital assets: Financial products and services**” published by the Australian Securities and Investments Commission. Please note that as this response was developed in collaboration with GDF members, as well as community partners, that portions of our response may be similar or verbatim to individual member responses.

GDF wished to call attention to what we believe may be some of the broader risks of the proposals, chiefly, **that instead of primarily lifting from existing requirements, ASIC should create a dedicated regulatory framework taking into consideration the unique nuances and characteristics of digital assets.** While the consultation and steps toward an Australian regulatory regime are welcome steps forward, we believe more consideration should be given to the unique innovations within digital asset markets, as well as evolving regulations in both other jurisdictions as well as from global standard setters. Global best practice and the advances happening both in industry and in other fast-moving jurisdictions can help to frame an Australian approach.

We are concerned that as set out, Australia may significantly diverge from approaches in other jurisdictions. Ultimately, this may result in the unintended consequence of exposing consumers to more harm (if for example they seek offshore products instead). Our comments aim to align the ASIC approach to global best practice, while also setting out how Australia can aim to set out a market leading framework which supports responsible innovation.

We also appreciate the opportunity to engage on this response, and our response to the proposals looks to provide feedback on consultation, raising areas for consideration which GDF members have observed in their engagements over the past years on other regulatory proposals around the global. Overall, our aim with this response is to support ASIC in developing future-proof and forward-looking regulation.

In collaboration with our members, we have aimed to provide feedback and suggested key themes that would be beneficial for consideration as the Australian public sector builds out these proposals. We also aimed to take into consideration the requirements that industry must also comply with in other jurisdictions. Through this process we identified key thematic areas that we believe ASIC should consider as they move forward to develop a regulatory regime. The key themes identified are:

- 1. We believe that instead of primarily lifting from existing requirements, ASIC should create a dedicated regulatory framework taking into consideration the unique nuances and characteristics of digital assets.**
- 2. We encourage proportionality and a risk-based, technology neutral approach to building out the digital assets regulatory framework;**
- 3. We believe additional clarity is needed on scope and definitions; and**
- 4. We believe transitional provisions and regulatory relief will be essential.**

## Response to the Consultation Questions

Please note that given our key themes we have responded to the questions in alignment with these themes in effort aim to provide broad areas for consideration which may strengthen the framework moving forward, support ASIC in being more future proof in their regulatory regime and contribute to Australia’s growth and engagement in digital asset markets on the global level.

### *AIQ1 Are there any topics or guidance that have not been included in draft updated INFO 225 that you think should be? Please provide details.*

Overall, we believe that instead of primarily lifting from existing requirements, ASIC should create a dedicated regulatory framework taking into consideration the unique nuances and characteristics of digital assets.

Expanding on the key themes in our executive we would note the following key areas not currently included in the draft where ASIC can support a proportionate and risk-based regulatory framework for digital assets including:

- Clarity in scope of the overarching regulatory framework for digital assets as quickly as possible. It is important for the regulation to have a clear scope for types of firms, activities, services and territoriality as innovation and experimentation must be underpinned by legal and regulatory certainty. This should include a clear framework distinguishing utility tokens from financial products.
- Additional clarity around decentralized finance (DeFi) and how regulation would apply to DeFi platforms, including decentralized exchanges (DEXs), lending protocols, and yield farming would be beneficial.
- We would support clarification around smart contracts and how firms can responsibly implement smart contracts within business lines. Last year in collaboration with GFMA we produced the following report<sup>1</sup> that was also used in Project Guardian. We would support ASIC in leveraging this form of industry best practice in their guidance.
- We would support the inclusion of best practice guidance for digital asset issuers or offerors to disclose relevant token and ledger information based on the ISO 24165 DTI standard. Adding a digital token identifier (DTI) to the minimum requirements list for digital assets will ensure that the characteristics of the asset are clearly defined. The openly available DTI Registry contains reference data on the token implementation, such as the ledger, token address, and governance structure, in a consistent format. The standard applies to all digital assets, regardless of whether they are currently or eventually classified as financial assets.
- We believe further consideration should be given to cybersecurity. We would encourage guidance in support of global best practice for operational resilience and cybersecurity requirements with regards to all types of digital assets including stablecoins, tokenized equities, meme coins, or Bitcoin.
- We would also encourage ASIC to consider where legal clarification or change may need to be made to law where necessary (e.g., for some aspects of property law with regards to digital assets).
- As it is currently a focus area globally, we encourage Australian authorities to implement provisions to protect against auto-refusal of bank accounts for the digital asset industry. We would also encourage the banking industry to develop an appeal and justification process for the “risk” identified.

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<sup>1</sup> <https://www.gdf.io/resources/the-smart-contract-primer-an-initial-overview-of-smart-contract-implementation-within-financial-services-regulatory-solutions-for-risk-management/>

For digital asset firms, proportionate and clear regulation will enable them to be aware of their obligations and responsibilities, while providing a framework that outlines the rules and regulations for the industry to comply with. This allows for effective planning, robust compliance measures, adequate governance, contingency planning and provisions for consumer protection.

***A1Q2 Are there any topics or guidance that were included that you think should not have been included? Please provide details.***

While we believe the topics included are relevant, we encourage proportionality around the framework itself. We believe it will also be important for Australian authorities to make explicit commitments to tech neutrality within the framework and guidance for national regulators. We support a risk-based application of the regulatory requirements scaled appropriately depending on the size of market, types of growth, risks etc.

***A1Q3 Do you agree that the good practice guidance in INFO 225 directed to responsible entities is applicable to providers of custodial and depository services that provide custody of digital assets that are financial products? Are there any good practices that you would like added (e.g. on staking services)? Please provide details.***

We would note the following additional areas of best practice that could be added:

- ***Cross-Border Harmonization:*** Given the rapid development of many global frameworks and guidance, approaches being taken in other jurisdictions, and the cross-border nature of digital finance and digital assets, we encourage authorities to support firms in aligning to global best practice. This could be done by:
  - Working towards consistency with other regimes and global standards;
  - Considering the importance of data privacy and protections for digital asset transactions, and in particular different data privacy requirements that are mandated around the world; and
  - As set out above it is important for the regulation to have a clear scope for types of firms, activities, services and territoriality.
- ***Staking:*** We would encourage best practice to be implemented in disclosures and communication regarding the risks and rewards associated with staking, the selection criteria for staking pools or validators, and the procedures in place for managing potential slashing events.
- ***Custody:*** We would provide the following report<sup>2</sup> as an example of best practice and key considerations for custodians given their important role in ensuring trust in the ecosystem. We would specifically propose that specific requirements should be made for best practice in operational resilience requirements for custody for all token intermediaries. This will ensure both consumer protection, and trust across the ecosystem given the critical role of custodians.
- ***Use of DTIs:*** As set out in our response to A1Q1 incorporating DTIs in the good practice guidance will enhance asset identification and regulatory oversight, providing a clearer understanding of the DLT-specific characteristics of digital assets. This will help differentiate assets across different ledgers, including wrapped tokens that may reference the same asset and naming. Traditional identifiers like ISINs identify the asset's economic attributes, while DTIs complement this by identifying the token that represents the financial instrument.

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<sup>2</sup> <https://www.gdf.io/resources/digital-asset-custody-deciphered-a-primer-to-navigating-the-challenges-of-safeguarding-digital-assets/>

***A2Q1 Do you have comments on any of the proposed worked examples? Please give details, including whether you consider the product discussed may/may not be a financial product.***

As set out in our response to A1Q1 we believe it is critical to have a regulatory framework with a clear scope for types of firms, activities, services and territoriality. As currently presented, we are concerned that the examples seem to imply that the majority of use cases where something is not a financial product involve NFTs. Industry consensus and best practice is that NFTs and use cases around NFTs are not financial products. We believe it is critical for ASIC to clarify where NFTs do and do not fall under financial regulation. An overly broad scope and definition will be detrimental to both ASIC's regulatory objectives as it will be overly expansive but will also not provide the clarity that industry needs in order to comply.

Another area where further clarity of scope and definition is needed is with regards to stablecoins. We believe the examples on stablecoins should further differentiate between algorithmic stablecoins and asset-backed stablecoins as this is best practice across industry and would also align with other emerging regulatory frameworks. Not only are there different implications for financial stability and the use of these types of stablecoins within payment systems, but algorithmic stablecoins often have no identifiable issuer and thus it would be difficult to comply with requirements associated with centralized issuance.

We would also encourage regulators to clarify and delineate the difference between digital asset issuers and digital asset service providers. When considering issuers, a delineation should also be made between legal entities and decentralised networks. As set out throughout our response we believe that DeFi has its own nuances and will need appropriate and proportionate consideration tailored to the risks presented. We believe that a one-size fits all approach would be impractical and could have the unintended consequence of driving consumers and investors off-shore.

Finally, with regards to tokenized real-world assets (RWAs) we believe additional clarity is need. As set out under A1Q1 we believe the examples concerning tokenized commodities and securities should clarify between regulated securities tokens and non-financial utility tokens representing ownership.

***A2Q2 Are there any additional examples you would like to see included? Please give details of the suggested example(s), and why you consider the digital asset discussed may/may not be a financial product.***

Related to our answers set out previously we believe the framework could provide further clarity and specificity with regards to a number of definitions and specific types of digital assets. For example, these could include: NFTs, staking tokens, utility tokens, stablecoins vs algorithmic stablecoins, and non-cash payment facilities. We would also encourage development of examples of a digital assets custody function as integrated with (i) exchanges and brokerages (ii) asset management and (iii) banking.

***A2Q3 For any of these examples, are there any unintended consequences? If so, what are these and what do you propose in response?***

We would note that given global developments, the jurisdiction that strikes a healthy balance between regulation and innovation could benefit from a huge influx of investment, job creation, and skill transfers that will stimulate growth in the digital economy. Furthermore, from a consumer perspective, the presence of regulation leads to increased trust and reliance on firms and service providers. It encourages greater adoption and participation, with the likelihood of financial protection and legal recourse to funds in case of insolvency or other types of firm

failure. It provides a high degree of assurance, with the knowledge that firms are regulated and supervised by authorities and subject to governance and oversight.

However, Australia risks missing out on these benefits should the scope not be sufficiently tailored to these markets. As currently proposed, we are concerned that the proposal may risk overregulating digital asset markets and stifling innovation. If financial product definitions are applied to too broadly this could unintentionally capture many products beyond financial services, such as utility tokens, in-game assets, and social tokens. This may not only be difficult for ASIC to then implement and enforce but could also lead to unnecessary compliance burdens for businesses. We would at the outset encourage ASIC to ensure that financial product classification remains risk-based and does not inadvertently cover assets with purely functional or utility-driven purposes.

Additional risks include those related to consumer choice and consumer protection. As set out under A1Q1 the absence of a dedicated digital assets regulatory framework can cause regulatory uncertainty and may disincentivize the development of home-grown digital asset products and services. This could have the unintended consequence of limiting the ability of Australian consumers to access a competitive marketplace. In turn this may have a detrimental impact on the ability of Australian economy to attract capital and talent. Furthermore, in the absence of sustainable home-grown digital assets economy and comprehensive framework, Australian consumers will be either incentivised to access digital assets off-shore, without appropriate safeguards and consumer protection mechanisms in place in place.

Proportionate regulation has the potential to strengthen Australia's financial markets and support responsible innovation to develop jobs, skills and nature talent. It is crucial to not deter digital asset innovation as this could result in firms moving to other jurisdictions.

***A3Q1 Do you think it would be helpful to include an example of a wrapped token and/or a 'stablecoin' in INFO 225? If so, do you have any suggestions on the features of the potential examples in paragraphs 20-21?***

Yes, it would be beneficial to provide examples of both. These examples should take into consideration backing assets, issuance, and control mechanisms. On stablecoins specifically, we would encourage the development of at least four additional examples - USD-backed stablecoins, AUD-backed stablecoins, and fiat-to-stablecoin and stablecoin-to-token brokerages.

***A3Q2 What are the practical implications for businesses (e.g. for issuers or intermediaries) in providing services in relation to wrapped tokens and/or 'stablecoins' that are financial products? Please give details.***

Key practical implications include licensing and compliance costs, AML/CTF compliance requirements, backing asset/reserve requirements.

We would also note that as mentioned throughout the response, for tokens operating within a decentralized environment that a different approach may be needed as requirements related to centralised issuance may not be practical or proportionate.

***A3Q3 Would any transitional provisions or regulatory relief be needed to facilitate transition from regulation of a wrapped token or a 'stablecoin' as a financial product under the current law to the Government's proposed approaches to 'stablecoins' and wrapped tokens? Please give details.***



Yes, in order for Australia to encourage innovation and support firms in growing and scaling in the region transitional provisions will be critical. We propose:

- *Transitional licensing requirements:* a grace period as well as phased compliance will support firms in meeting regulatory requirements and new compliance obligations.
- *Temporarily removing DeFi from scope* as noted throughout our response, the requirements for DeFi are not sufficiently clear at this time. As this part of the ecosystem is still evolving rapidly, we would encourage ASIC to take an approach similar to MiCAR in the EU and de-scope DeFi in order to develop more future proof and fit-for-purpose guidance tailored to the unique nuances of DeFi products and arrangements.
- *Developing a regulatory sandbox:* In line with regulatory engagement in other jurisdictions we would support ASIC in developing a sandbox programme. This could enable firms to continue to operate as they transition to compliance with new requirements and could also enable regulators to work more closely with industry to mitigate risks support responsible innovation in the ecosystem.

***B1Q1 Do you agree that ASIC should progress with a class no-action position as proposed here? If not, please give reasons.***

Yes, we support this approach. However, as noted previously with respect to cybersecurity requirements under A1Q1 we would re-emphasize that the cybersecurity reality of a MMF and a tokenized MMF are fundamentally different, particularly in the context of custody. As the risk is different, the requirements put into place should take these nuances into consideration so that firms can meet the appropriate regulatory outcomes.

***B1Q2 Are the proposed conditions appropriate? Are there any additions or changes to the proposed conditions that will be more effective for investor protection?***

Yes, in general we are supportive however we believe ASIC may also wish to consider including some additional risk-based conditions, reporting to ASIC where appropriate throughout the transition period, and proportionate transparency measure such as disclosures to investors where necessary.

***B1Q3 Do you agree that the class no-action position should be dependent on a person lodging an AFS licence application or written intention to apply for a market and/or CS facility licence? If not, please explain and suggest an alternative.***

Yes, however we would support the additional measure of an extended grace period where appropriate for firms who are engaging in regulatory discussions but may be facing a delay in formal application processing.

***B1Q4 Should there be a deadline for applying for an AFS licence or commencing pre-lodgement discussions in relation to a market and/or a CS facility licence? Please provide reasons.***

Yes, we would support a deadline of one year with an additional provision for case-by-case extensions where appropriate if a firm can demonstrate valid reasons for delays.

***B1Q5 For product issuers, should the no-action position extend to other obligations—for example, to prepare a Product Disclosure Statement (PDS)? Why or why not?***

We do not believe that this should necessarily be auto-extended however we would support a limited exemption period for PDS preparation.

***B2Q1 Do you agree that the same regulatory obligations should apply to digital asset and traditional financial products of the same category (e.g. securities, derivatives)? Please explain your response and provide specific examples.***

In general, we agree with this approach in line with the same risk, same regulatory outcome principle. However, as noted we do believe that in the case of DeFi models, a different approach may be required, and we encourage ASIC to take the time to develop specific guidance for DeFi in line with IOSCO's DeFi principles.

Additionally, as noted under A1Q1 we would encourage consideration of smart contract best practice as well and some of the nuances which may be required for responsible implementation.

***B2Q2 Are there any aspects of ASIC's guidance that may need to be tailored for digital assets that are financial products?***

Yes, we believe that ASIC should consider the unique properties associated with digital asset markets, yet it is also crucial for Australian authorities to make explicit commitments to tech neutrality within the framework and guidance. However, as set out previously we would raise a few areas for more specific consideration:

- Digital asset custody – as set out in our primer<sup>3</sup> we believe digital asset custody regulation should be tailored. Additionally, consideration should be made for the difference between custodianship and self-custody.
- Staking – staking is a unique activity which does not have an equivalent in traditional markets. We would encourage ASIC to take into consideration the developments in other regions such as the UK's clarification that staking is not a collective investment scheme<sup>4</sup>, and the EU's Q&A Guidance<sup>5</sup>.

***B2Q3 Do you agree that the approach proposed for custodial and depository services is appropriate for holding custody of digital assets? Do you agree that extending the omnibus client accounts is appropriate for digital assets that are financial products? Please explain, providing examples, if relevant.***

In general, we are supportive of ASIC's proposals however we believe this could be more tailored to take a proportionate and risk-based approach. We also support ASIC's statement that "the entity responsible for custody has specialist expertise and infrastructure relating to digital asset custody" and would note that this type of specialist expertise is essential for the development and delivery high quality custodial requirements.

We would encourage ASIC to include specific provisions in line with global best practice such as guidance on: rehypothecation, private key management, smart contract audit and security controls and appropriate disclosures.

Furthermore, we would encourage clarification that requirement for client digital assets to be "segregated on the blockchain" does not preclude exchanges from trading from omnibus accounts. We would note that practice is as standard across both digital assets markets in traditional financial instruments. It ensures market efficiency, privacy, and cost-effectiveness as centralised intermediaries manage client assets and we believe it still meets ASIC's regulatory outcomes.

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<sup>3</sup> <https://www.gdf.io/resources/digital-asset-custody-deciphered-a-primer-to-navigating-the-challenges-of-safeguarding-digital-assets/>

<sup>4</sup> [https://www.legislation.gov.uk/ukxi/2025/17/pdfs/ukxiem\\_20250017\\_en\\_001.pdf](https://www.legislation.gov.uk/ukxi/2025/17/pdfs/ukxiem_20250017_en_001.pdf)

<sup>5</sup> <https://www.esma.europa.eu/publications-data/questions-answers/2067#>



We would, as mentioned throughout our response, also encourage ASIC to develop best practice, in line with global standards and best practice in digital asset markets, for digital asset cyber security. GDF members believe that this should also include an ability for evaluation ensuring that firms meet ASIC's standards, and that the cyber and operational resilience evaluation is treated as an end-to-end system (as these assessments are in traditional finance markets). This could include:

- Secure key storage through reliance on advanced cryptographic technology;
- Requirements for risk-based transaction authorization policies;
- Requirements for robust transaction processing safeguards such as transaction simulation, address white-listing, and reliance on confidential computing for transaction processing; and
- End-to-end cyber security with multiple layers of key custody security are in place creating effective checkpoints before a transaction is executed.

Finally, we agree it would be best practice for licensed entities to independently verify to an appropriate standard, as determined by industry best practice. This would enable ASIC to be a global leader in digital asset cybersecurity.

***B2Q4 In relation to organisational competence, what are your views on what ASIC could consider in applying Option 5 in Regulatory Guide 105 AFS licensing: Organisational competence (RG 105) for entities providing financial services in relation to digital assets that are financial products?***

As set out throughout our response we believe that DeFi specific considerations will be needed for decentralized or non-custodial services.

Additionally, we would support additional consideration for unique specifications of digital asset firms and global best practice including: market surveillance and market integrity, proportional operational risk and operational resilience requirements, appropriate technical competency requirements (such as those related to smart contracts as mentioned previously).

***B3Q1 In relation to the authorisations sought during an AFS licence application, do you agree that the existing authorisations are generally appropriate to digital asset service providers?***

We are broadly supportive and agree these requirements are generally appropriate. However as set out throughout our response we believe additional consideration should be given to the unique characteristics of digital assets including smart contract, cybersecurity and operational resilience provisions, digital asset specific licensing and authorisation regimes which may not neatly fit within existing models, and digital asset custody provisions as noted throughout our response.

***B3Q2 Do you agree with the proposal to tailor the derivatives and miscellaneous financial investment products authorisations? Are there any others that you would recommend?***

Yes, we support the proposal to tailor the requirements for these types of products but would also suggest additional considerations for tokenized derivatives as well as other products which may require a nuanced regulatory approach such as for staking rewards and other revenue sharing mechanisms which may be a hybrid of existing financial products.