

24 October 2025

The Director
Treasury Digital Asset and Crypto Unit
Australian Government, Canberra
Crypto@TREASURY.GOV.AU

Dear sir/madam,

Australian Custodial Services Association Submission - Regulating digital asset platforms – exposure draft legislation

The Australian Custodial Services Association (ACSA) is the peak industry body representing members of Australia's custodial and investment administration sector. Our mission is to promote efficiency and international best practice for members, our clients, and the market. Members of ACSA include J.P. Morgan, HSBC, State Street, BNP Paribas Securities Services, BNY Mellon, Citi, Clearstream, Netwealth and The Northern Trust Company.

Collectively, the members of ACSA hold securities and investments in excess of AUD \$5.4 trillion in value in custody and under administration for Australian clients comprising institutional investors such as the trustees of major industry, retail and corporate superannuation fund, life insurance companies, responsible entities and trustees of wholesale and retail investment funds, and various forms of international investors into Australia.

ACSA is pleased to provide the following feedback on Australian Treasury Digital Assets Platform and Tokenised Custody Platform exposure draft legislation:

1. Definitions

The definitions of “digital token” and “digital object” in the draft legislation are notably broad. The term “digital object” encompasses any electronic record, including documents, images, or other intangible items recorded electronically. A “digital token” is defined as a digital object over which one or more persons can exercise control, with possession generally equated to the ability to control the object.

We seek clarification on whether the definition of “digital token” is intended to cover all asset classes represented in electronic records, including those not based on blockchain or distributed ledger technology (DLT), such as cash, securities, or other financial instruments. If so, it is important to understand how the proposed regulatory framework for digital asset platforms and tokenised custody platforms will interact with existing regulations governing these asset classes. Specifically, how will overlapping or conflicting obligations be managed when assets traditionally regulated under other regimes (e.g., cash, securities) are held or transacted via digital tokens?

How will the regime address situations where a digital token is representation of an existing regulated product (e.g., tokenised government bonds, tokenised deposits)? Is there a risk of duplicative or conflicting regulation for the same underlying asset?

2. Relationship between tokenised custody platform/digital assets platform with central securities depositories

The definitions of “digital asset platform” (DAP) and “tokenised custody platform” (TCP) in the draft legislation appear to align more closely with concepts of financial market infrastructure rather than financial products. This could lead to confusion regarding the regulatory treatment and classification of these platforms.

We request further clarification on the relationship between central securities depository (CSD) services, traditional custodial services, and the new categories of DAP and TCP. Specifically, what are the substantive differences between the regulatory regime for DAP/TCP and the existing frameworks for central depositories and custodians? How will the new rules apply in practice to platforms that perform similar functions to CSDs?

The explanatory materials state that “dealing in a digital asset platform, or the possessing of digital tokens under such a platform; and dealing in a tokenised custody platform, or the holding of assets or digital tokens under such a platform” does not constitute providing a custodial or depository service for the purposes of the Act. We request further elaboration on the meaning of “dealing in” DAP/TCP, and how these activities will be distinguished from traditional custodial or depository services. Clear guidance is needed to ensure market participants understand the regulatory boundaries and obligations.

The draft provides exemptions for public digital token infrastructure and certain staking arrangements, are decentralised or permissionless protocols where no identifiable operator exists also exempted?

Overall, the definitions of DAP and TCP remain very broad. We recommend further refinement to ensure clarity and to avoid unintended regulatory overlap or ambiguity.

Thank you again for the opportunity to participate in this consultation. Please contact me if you have any comments about this submission.

Yours sincerely

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About ACSA

www.acsa.com.au

Custodians provide a range of institutional services, with clients typically favouring a bundled approach to custody and investment administration. Solutions may include traditional custody and safekeeping, investment administration, foreign exchange, securities lending, tax and financial reporting, investment analytics (risk, compliance and performance reporting), investment operations middle office outsourcing and ancillary banking services.

These services represent key investment back-office functions – often representing the client’s asset book of record and essential source data in relation to the investments they hold.

The key sectors supported by ACSA members include large superannuation funds and investment managers, as well as other domestic and international institutions.

ACSA works with peer associations, regulators, and other market participants on a pre-competitive basis to encourage standards, promote consistency, market reform and operating efficiency.

Note: The views expressed in this letter are prepared by ACSA for the purposes of consideration by Australia Treasury Department in response to Regulating digital asset platforms – exposure draft legislation and should not be relied upon for any other purpose. The comments in this letter do not comprise financial, legal or taxation advice and should not be regarded as the views of any particular member of ACSA.