



Consultation Report on issues, risks and regulatory considerations relating to crypto-asset trading platforms. June 2019.

On 28 May 2019, the International Organisation of Securities Commissions (IOSCO) published a consultation report on “*Issues, Risks and Regulatory Considerations Relating to Crypto-Asset Trading Platforms*” in order to encourage the public to comment on the issues identified, risks, key considerations and related toolkits set out in the document.

The emergence of crypto-assets is an important area of interest for regulatory authorities and supervisors of securities markets, particularly those with authority over secondary markets and/or the trading platforms that facilitate the secondary trading of crypto-assets.

Prior to this report, in 2017 IOSCO published a report on financial technologies (Fintech), in which it discussed, inter alia, distributed ledger technology (DLT) and the role of tokenization of assets and fiat money. In that report, IOSCO states that “*tokenization is the process of digitally representing an asset or ownership of an asset. A token represents an asset or ownership of an asset. Such assets can be currencies, commodities, securities or properties.*”

For this Consultation Report, crypto-assets are a type of private asset that primarily depends on cryptography and DLT or similar technology, and can represent an asset such as those indicated in the above paragraph.

The report is aimed at regulatory authorities designated as competent authorities that have determined that a crypto-asset or an activity involving a crypto-asset falls within its jurisdiction. IOSCO considers that in these cases, IOSCO’s “Objectives and Principles of Securities Regulation” and “Methodology for Assessing Implementation of the IOSCO Objectives and Principles of Securities Regulation” provide guidance in considering the novel and unique issues and risks that arise in this new market. It also considers that both documents facilitate the promotion of IOSCO’s core objectives of securities regulation, which include protecting investors and ensuring that the markets are fair, efficient and transparent.

The Consultation Report describes issues and risks identified to date that are associated with the trading of crypto-assets on CTPs.

In relation to the issues and risks identified, it describes key considerations and provides related toolkits that are intended to assist regulatory authorities which may be evaluating CTPs within the context of their regulatory frameworks. The key considerations relate to:

- Access to CTPs
- Safeguarding participant assets
- Conflicts of interest
- Operations of CTPs
- Market integrity

- Price discovery
- Clearing and settlement
- Technology

The key considerations should not be considered standards or requirements that jurisdictions are expected to comply with or adopt in the context of the regulation of CTPs. In addition, there may be other considerations not highlighted in this report that may be more appropriate for certain regulatory authorities depending on their legal and regulatory framework. The key considerations established in this report are based on a series of IOSCO Principles applicable to these matters and set out in its Methodology and, in particular, those relating to Cooperation (Principles 13, 14 and 15), Secondary Markets (Principles 33, 34, 35, 36 and 37), Market Intermediaries (Principles 29, 30, 31 and 32) and Clearing and Settlement (Principle 38).

Most jurisdictions apply their existing regulatory frameworks to CTPs when the crypto-assets traded qualify as securities or other financial instruments. However, a certain number of jurisdictions have established, or are in the process of establishing, a specific framework for CTPs, either by creating a new regime or by adapting the existing one through exemptions or tailoring certain obligations and requirements.

Some jurisdictions do not consider crypto-assets as financial instruments, while others, such as Japan, apply the legal framework provided for payment services. Finally, trading of crypto-assets is completely banned in China.

The fact that these platforms perform functions that are not usually performed by typical trading platforms means that regulatory authorities need to analyse the operating models of each of them, considering a series of questions such as:

1. Who can access the CTP?
2. How does the trading system operate, and what are the rules of that system?
3. Which crypto-assets are eligible for trading?
4. How are crypto-assets priced on the CTP?
5. What degree of transparency of trading is provided?
6. How does the CTP seek to prevent market abuse?
7. What clearance and settlement processes exist?
8. How are participant assets held?
9. What possible conflicts of interest exist?
10. What cyber security and system resiliency controls are in place?

The key considerations that regulatory authorities need to take into account when assessing CTPs are as follows:

1. How access is provided to CTPs and if they provide non-intermediated access to investors, who is responsible for the on-boarding process and how is it being performed.
2. Where a platform holds participant assets, how such assets are held and safeguarded, including what arrangements are in place in the event of a loss, including a loss due to theft from, or bankruptcy of, the platform.
3. Where a platform holds participant assets, whether prudential mechanisms are in place to support the operations of the CTP.
4. The extent to which conflicts of interest exist due to the internal structure and organisation of a CTP and, if so, how they are managed.
5. Due to the prevalence of non-intermediated access to the platforms, authorities should assess the extent to which information about how CTPs operate is available to their participants.
6. They should also consider the applicability of existing rules relating to market abuse and the capacity of CTPs to prevent and/or detect market abuse.

7. Authorities should consider how efficient price discovery is supported on the platform.
8. Authorities should also consider the mechanisms used by the platform to facilitate resiliency, integrity and reliability of critical systems.

Finally, the report refers to the need to establish systems for efficient and reliable clearing and settlement and the need for cross-border information sharing among regulators as crucial aspects for investor protection, market efficiency and financial stability.

On establishing clearing and settlement systems, the Committee on Payments and Market Infrastructures and IOSCO (CPMI-IOSCO) Joint Working Group on Digital Innovations has examined whether initiatives using DLT in clearing and settlement pose challenges for the application of the Principles for Financial Market Infrastructures (PFMI). However, the IOSCO Secondary Markets Committee will monitor the work performed by CPMI-IOSCO.

With regard to cooperation, the report highlights IOSCO's Multilateral Memorandum of Understanding Concerning Consultation and Cooperation and the Exchange of Information (IOSCO MMoU) and the Enhanced Multilateral Memorandum of Understanding Concerning Consultation and Cooperation and the Exchange of Information (EMMoU), which allow securities market supervisors to share information for effective oversight and inspection in this area, as well as the bilateral agreements entered into between regulatory authorities.

Links of interest:

[Consultation Report: Issues, Risks and Regulatory Considerations Relating to Crypto-Asset Trading Platforms](#)

[Methodology: For Assessing Implementation of the IOSCO Objectives and Principles of Securities Regulation](#)