



1 December 2023

Director, Crypto Policy Unit
Financial System Division
Treasury
Langton Cres
Parkes ACT 2600

Email: crypto@treasury.gov.au

Dear Sir/Madam,

SMSF ASSOCIATION SUBMISSION – REGULATING DIGITAL ASSET PLATFORMS (PROPOSAL PAPER)

The SMSF Association welcomes the opportunity to provide this submission in response to the Government's proposal paper, Regulating Digital Asset Platforms. The emergence of digital assets has seen some self managed superannuation fund (SMSF) trustees include these assets as part of their investment strategies. We would like to take the opportunity in this submission, to highlight some of the key issues arising from the lack of regulation. We expect that these issues will extend to other investors, not just SMSFs.

Issues arise due to the lack of certainty on the existence, title, and valuation of these investments. These are critical elements not only for the completion of the annual SMSF audit, but also for SMSF investors more generally. Where reports are made available to investors, these are generally in the form of an excel spreadsheet or CSV data file. They lack crucial details, certainty, substance and are unreliable.

Lack of regulation leaves investors exposed to an increased risk of fraud and no avenue to address complaints and inappropriate behaviour or to seek redress. These products are heavily marketed to retail clients who would ordinarily be afforded prescribed protections under the law.

Of concern is the emergence of inappropriate selling practices involving digital assets. Some of this activity has included the recommendation to invest via a SMSF. The current lack of regulation enables this type of activity to occur unfettered and unchecked. The targeting of retail clients in this manner is concerning, as many will not have the level of knowledge or sophistication required to fully understand their exposure and the risks associated with these unregulated investments.

Despite the strong retail client exposure, clients are often unable to obtain financial advice from a qualified professional. The current regulatory environment sees many financial advisers unable to provide advice to clients. This includes advice on the disposal of such investments. The barrier to advice arises for a variety of reasons including licensee prohibitions, the lack of cover, and exclusions in professional indemnity insurance policies.



Whilst we support innovation and development of new financial products, this must be balanced alongside an appropriate level of regulation. We would therefore welcome measures that seek to build an appropriate regulatory framework to improve market integrity, protect investors from inappropriate activity, and allow them to obtain independent professional financial advice.

If you have any questions about our submission, please do not hesitate to contact us, and we thank you again for the opportunity to provide this submission.

Yours sincerely,

Tracey Scotchbrook
Head of Policy and Advocacy

ABOUT THE SMSF ASSOCIATION

The SMSF Association is the peak body representing the self-managed superannuation fund (SMSF) sector which is comprised of over 1.1 million SMSF members and a diverse range of financial professionals. The SMSF Association continues to build integrity through professional and education standards for practitioners who service the SMSF sector. The SMSF Association consists of professional members, principally accountants, auditors, lawyers, financial advisers, tax professionals and actuaries. Additionally, the SMSF Association represents SMSF trustee members and provides them with access to independent education materials to assist them in the running of their SMSF.