



FSCA

Financial Sector
Conduct Authority

eNewsletter

On the Regulatory Front



Draft Declaration of crypto assets as a financial product under the Financial Advisory and Intermediary Services Act

The increased risk of harm to consumers purchasing or investing in crypto assets coupled with the exponential increase in the provision and use of crypto assets in South Africa has given further urgency to the need to start regulating the selling or intermediating of crypto assets in South Africa. The Financial Sector Conduct Authority (FSCA) recently published a Draft declaration that defines crypto assets as a financial product under the Financial Advisory and Intermediary Services (FAIS) Act.

The regulation of crypto assets has been under consideration by the National Treasury (NT) and relevant authorities for a number of years. In a significant development, the Intergovernmental Fintech Working Group (IFWG) was established in

2016, comprising members from NT, SARB, FSCA and FIC, with the National Credit Regulator (NCR) and SARS joining in 2019, in order to develop a common understanding among regulators and policymakers of financial technology (fintech) developments as well as the regulatory and policy implications for the financial sector and the economy. Following the establishment of the IFWG, the Crypto Assets Regulatory Working Group (CAR WG) was formed under the auspices of the IFWG.

The main objective of the CAR WG was to formulate a coherent and comprehensive policy stance on crypto assets, while ensuring the continued integrity and efficient functioning of financial markets, maintaining financial stability, protecting the rights and interests of customers and investors, and combating illegitimate cross-border financial flows, money laundering and terrorist financing.

Following its establishment, the CAR WG published the following documents:

- A Consultation Paper on Crypto Assets in 2019;4 and
- A Position Paper on Crypto Assets that was published in 2020 (Position Paper).

The Position Paper was the culmination of the CAR WG's work focussing on crypto assets. The Position Paper sets out in detail the problem statements that informed its work and recommendations and the risks related to crypto assets.

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