

The Fold Legal prepares submission on the future of crypto regulation

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The Fold Legal is delighted to have made a submission to the Treasury Consultation Paper on Crypto asset secondary service providers: Licensing and custody requirements, which is looking at how the industry will be regulated in the future.

The regulation of the crypto industry is an important step for both the local and global crypto industry. As we have seen with other industries, most notably new energy, uncertainty stifles innovation and a clear pathway to regulation provides the strongest foundation for true innovation, growth, consumer protection and a competitive market. The scope of regulatory reform outlined in the Consultation Paper is centred on the following key principles:

- ensuring that regulation is fit for purpose, technology neutral and risk-focused
- creating a predictable, light touch, consistent and simple legal framework
- avoiding undue restrictions
- recognising the unique nature of digital assets, and
- harnessing the power of the private sector.

The Consultation Paper presents an opportunity to build a regulatory framework for the future that is technologically agnostic, fit for purpose, has in-built flexibility and strikes an appropriate balance between regulation, consumer protection and innovation. Embarking on legislative change of this nature is no small task and it is critical that we take the opportunity to ensure that the regulatory framework meets the intended objectives and provides the industry with a clear and appropriate transition pathway.

Our submission proposes a regime within the Corporations Act that utilises the existing licensing framework and includes additional obligations for advisory and brokering services undertaken by licensees. In our view, this approach provides:

- the greatest flexibility for current crypto providers to expand their business into traditional markets and for traditional businesses to expand into crypto-assets
- reflects the realities of the provision of services in relation to crypto-assets
- delineates between financial products and crypto-assets
- imposes obligations commensurate with the risks
- mitigates licensing and regulatory duplication
- promotes regulatory certainty, and
- provides appropriate consumer protections.

The Fold Legal is deeply steeped in the fintech space since early 2013 and has been actively involved in the crypto industry since 2015. We are technical specialists that have a broad and deep understanding of blockchain technology, crypto assets, exchanges, DAOs, alternate platforms and crypto product and service offerings. Our crypto knowledge combined with our financial services expertise is market leading. We use our industry knowledge and expertise to deliver practical, compliant and innovative solutions for our clients. We have worked with a range of clients including crypto exchanges, miners, crypto payment businesses, crypto platforms, DAOs and crypto token issuers.