



# DFCRC Response to Exposure Draft of Digital Asset Platforms Legislation

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## About the DFCRC

The Digital Finance Cooperative Research Centre (DFCRC) leads a 10-year, \$180 million research program, as a collaboration between industry partners, universities, and the Australian Government through the Cooperative Research Centres Program. DFCRC's mission is to develop and leverage the next transformation in financial markets – the digitisation of assets traded and exchanged directly on digital platforms.

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## Executive summary

The DFCRC appreciates the opportunity to respond to Treasury's Exposure Draft of Digital Asset Platforms Legislation and strongly supports the Government's objectives to establish clear regulatory foundations for digital assets. The DFCRC estimates that digital finance innovation has the potential to unlock around \$19 billion per year in economic and productivity gains for Australia<sup>1</sup> and digital asset regulations that enable this are key.

We welcome many aspects of the draft legislation — such as the public digital token infrastructure exemption and use of the AFSL framework to avoid unnecessary duplication. While we also support the need for safeguards to protect consumers, we note that the current draft legislation remains overwhelmingly shaped by consumer-protection concerns arising from cryptocurrency platform failures, as opposed to focusing on other key areas that could help Australia realise economic gains.

The draft legislation does not address the distinct regulatory and market infrastructure needs of tokenised real-world assets (RWAs) that are financial products — a domain that represents substantially greater economic value and strategic importance for Australia's capital markets, in our assessment.

We also note that the draft legislation does not resolve many of the structural concerns we raised in our 2023 submission.<sup>2</sup> These unresolved issues risk limiting market design innovation and adoption of tokenised RWA markets in Australia and leaving regulatory gaps and uncertainty for digital Financial Market Infrastructure (dFMI).<sup>3</sup>

### Six key recommendations

In this submission we make six key recommendations and respond to other key issues raised in the consultation. Our key recommendation is that the tokenisation of real-world assets, in particular the market infrastructure that enables their exchange and settlement, requires a separate, additional workstream to iteratively resolve a different set of regulatory challenges. This regulatory track would benefit from a close working relationship with industry and experts, grounded in use cases, and prepared to be a longer-horizon, dynamic

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<sup>1</sup> AU \$19 billion per year economic impact could be unlocked through digital finance innovation: new research <https://dfcrc.com.au/2025/06/16/au-19-billion-per-year-economic-impact-could-be-unlocked-through-digital-finance-innovation-new-research/>

<sup>2</sup> See [DFCRC-Response-to-Treasury-Digital-Asset-Platforms-1-Dec-2023.pdf](#)

<sup>3</sup> Digital Financial Market Infrastructures (dFMIs) emerge from a structural change to how financial market functions are organised, using recent technologies including distributed ledgers and smart contracts, to reduce reliance on centralised intermediaries and eliminate counterparty risks in the exchange of assets.

process that allows the regulation to evolve along with the developing area of real-world asset tokenisation.

While some regulation is about risk and harm mitigation, a second important role of regulation is an enabler of economic activity and beneficial innovation. While the draft bill is focused on the former, we encourage as a next step to turn attention to the latter.

### Other recommendations

- 2. Undertake a review of how current licensing frameworks apply to dFMIs, identify areas of misalignment, and as appropriate, design a tailored licensing category or exemption framework for dFMIs.
- 3. Address impediments to tokenisation of securities via direct title, pooled custody arrangements, in addition to 1:1 custodial arrangements.
- 4. Recognise existing custody regulation for RWA custodians and create regulatory interoperability to avoid layering duplicative TCP obligations.
- 5. Ensure like-for-like activities face like-for-like regulation, regardless of whether they are token-based.
- 6. Treasury consider more structured guidance for ministerial exemptions or class-wide relief to exempt DAPs and dFMI from CS facility licensing when settlement is conducted in a non-custodial manner that combines a trade and settlement, without clearing.

## Responses and recommendations

### **1. Cryptocurrency platforms vs tokenisation of existing financial assets are distinct domains, with different issues, at different stages of maturity**

Landscape, problem settings, commercial drivers, and regulatory needs between cryptocurrencies and tokenisation of real-world assets (RWA) are all so fundamentally different that they cannot be united under the same regulatory development effort. This applies notwithstanding the crossover in technology used.

- The policy driver for the draft legislation remains crypto exchange failures and consumer protection. It addresses the gap that exists when intermediaries hold large volumes of digital assets that aren't financial products. We agree that issue needs to be addressed, but it does not help enable tokenised RWA markets in Australia for financial products, which have substantial economic benefit potential but face a separate set of regulatory challenges.<sup>4</sup>
- In the digitisation of existing financial assets, the innovation is in the new transaction flows and marketplaces that this approach facilitates. The key regulatory questions are about the financial infrastructure operational and licensing requirements, primarily in a wholesale context. These issues remain unaddressed in Australia and we encourage these issues to become the next focus area.

<sup>4</sup> Further details can be found in our earlier submissions: [DFCRC-Response-to-Treasury-Digital-Asset-Platforms-1-Dec-2023.pdf](#) and <https://dfcrc.com.au/2025/04/09/dfcrs-response-to-asics-consultation-paper-381/>

- No dedicated regulatory pathway is created by the draft bill for wholesale or institutional RWA tokenisation that involves financial products. Instead, markets or clearing and settlement facilities for such assets are left to fit into the existing legislation, despite the substantial structural and risk differences in how tokenised assets are exchanged.

**Recommendation:** Treasury should establish a parallel regulatory workstream for RWA tokenisation, focused on market infrastructure enablement, not just consumer harm mitigation. Tokenised RWA markets are in early but fast-moving institutional adoption, unlike the more established crypto markets. A static framework is not well-suited to govern this evolution and therefore the workstream should consider establishing a formal iterative regulatory workstream/sandbox for RWA tokenisation, engaging Treasury, ASIC, RBA, industry to align regulatory settings with real-world pilots and innovation.

## 2. Non-custodial infrastructure and dFMI remain insufficiently addressed

We welcome the public digital token infrastructure exemption, which provides some clarity for blockchain base layers.

However:

- Although the draft legislation provides limited flexibility through ministerial exemption powers, it does not establish a dedicated, risk-proportionate framework for non-custodial market infrastructure, such as self-custodial atomic settlement venues or decentralised exchange protocols, which can be caught as financial markets or Clearing and Settlement (CS) facilities.
- The draft bill does not address the issue that dFMIs differ substantially in structure and risk compared to traditional FMIs, because under the draft bill, Digital Asset Platforms (DAPs) that meet the definition of a financial market or a CS facility will still be treated as such and subject to existing legislation.
- We note that ASIC's INFO 225 provided guidance for digital *assets*, but no such guidance has been provided for digital *market infrastructure*. In our view, undertaking a structured process to provide regulatory guidance for a few of the most relevant and distinct digital market models (different implementations of dFMI components) would bring regulatory clarity for some models, but also highlight the licensing misalignment and regulatory gaps to resolve.

**Recommendation:** Undertake a review of how current licensing frameworks apply to dFMIs (e.g., using Project Acacia use cases, or other actual dFMI models), identify areas of misalignment, and as appropriate, design a tailored licensing category or exemption framework for dFMIs including non-custodial atomic settlement infrastructure, proportional to the actual risks involved. This process may be facilitated through a regulatory relief mechanism to enable interim operation of dFMIs under appropriate controls and scale limits, allowing a fit-for-purpose framework to be tailored to real-world tokenised RWA markets (similar to the UK Digital Securities Sandbox).

### 3. Insufficient consideration of alternative tokenisation models and impediments

The legislation focuses on tokenisation arrangements that involve a 1:1 custody model as the archetype of tokenisation. And within this archetype, it focuses on providing safeguards for custody risks, rather than addressing impediments. It does not adequately address:

- Direct title models (where the token is the legal title — no custody), where issues such as prohibitions of bearer securities in the Corporation Act and other impediments including registry migration and recognition of title apply.
- Collateralised models where backing is indirect or pooled, and the issues that arise in such models (and 1:1 backing models) such as the tokenisation arrangement resulting in a reclassification of the asset type that may not be appropriate in some cases, and where rights/title carries through to the token.

**Recommendation:** Undertake a review and address impediments to tokenisation of securities via direct title, pooled custody arrangements, in addition to 1:1 custodial arrangements. Additionally, ensure direct-title models do not face TCP licensing simply because they use token-based registries.

### 4. Custody of RWAs vs custody of crypto assets

The legislation treats custody of RWAs and custody of crypto assets as equivalent for regulatory purposes, imposing TCP obligations in both cases.

- This ignores the fact that RWA custody is already regulated and involves different legal and operational risk profiles to crypto-asset custody.
- The result is duplicative and potentially inconsistent obligations for existing regulated custodians.

**Recommendation:** Recognise existing custody regulation for RWA custodians and create regulatory interoperability to avoid layering duplicative TCP obligations.

### 5. Lack of technology-neutral treatment

The DAP/TCP framework financialises some tokenised non-financial products (e.g., commodities, collectibles, under certain conditions) and subjects platforms to AFSL obligations, even where equivalent account-based arrangements are not regulated.

This creates:

- Regulatory asymmetry between tokenised and non-tokenised infrastructure.
- A disincentive to use tokenisation technology for otherwise unregulated activities.

**Recommendation:** Ensure like-for-like activities face like-for-like regulation, regardless of whether they are token-based.

## 6. Ministerial exemptions

We welcome the idea of embedding flexibility in the regime to handle exceptions via Ministerial exemptions. However, its intended application is framed in broad and non-prescriptive terms, which may make it uncertain or slow to apply in practice. More structured guidance or class relief mechanisms may be necessary.

**Recommendation:** Treasury consider more structured guidance for ministerial exemptions or class-wide relief to exempt DAPs and dFMI from CS facility licensing when settlement is conducted in a non-custodial manner that combines a trade and settlement, without clearing

## Conclusion

The draft legislation takes a meaningful step forward in closing gaps around custodial cryptocurrency platforms. However, addressing the regulatory and licensing issues for tokenised financial market infrastructure (dFMI) will require a separate, iterative workstream.

Adding such a dedicated workstream as a priority in the Government's Digital Asset Roadmap can ensure:

- Australia capitalises on a strategic economic opportunity to modernise its market infrastructure at scale
- Institutional tokenisation activity in Australia does not move offshore and instead keeps pace with jurisdictions that are proactively evolving regulation for dFMI.

