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Impact Analysis
Regulating Digital Asset Platforms

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In the spirit of reconciliation, the Treasury acknowledges the Traditional Custodians of country throughout Australia and their connections to land, sea and community. We pay our respect to their Elders past and present and extend that respect to all Aboriginal and Torres Strait Islander peoples.

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Executive Summary

Digital assets already fall within Australia's existing legal and regulatory frameworks. Despite this existing coverage, failures of digital asset intermediaries have caused major losses for consumers, including in Australia. While some of these intermediaries are already regulated, a gap exists when intermediaries hold large volumes of digital assets that are not financial products.

Outside the digital asset space, this 'gap' has not been a major concern, but digital tokens make it far easier to transfer and pool assets at speed and at scale – leading in more than one case, to billions of dollars in client assets being held by a single unregulated intermediary. The consequences for consumers have been clear: frozen withdrawals, insolvency proceedings, commingling with provider funds, undisclosed proprietary trading, weak governance and disclosure, fraud, and cyber theft. These harms are symptomatic of large, unregulated custodial arrangements.

Further, broad financial product definitions have created significant uncertainty about the regulatory status of some digital asset products and services. This lack of clarity has left many participants unsure of how to operate under Australian law, limiting the sector's capacity to innovate and grow.

The government's policy response aims to manage key risks in digital asset markets and address regulatory uncertainty. Treasury has considered three options:

- Option 1: Maintain the status quo
- Option 2: Regulate digital asset platforms
- Option 3: Establish bespoke digital assets framework

Option 2 would extend the existing financial services regulatory framework to target two types of custodial arrangements common in the digital asset space. This would involve defining two new types of financial products: digital asset platforms (DAPs) and tokenised custody platforms (TCPs). Treating DAPs and TCPs as financial products means the full suite of consumer protections and licensing rules automatically apply. This will bring them under the same rules already applied to intermediaries with similar product offerings, such as operators of investor-directed portfolio services.

Option 3 would establish a new, standalone regulatory framework (legislation and licensing regime) tailored to digital assets and separate from the existing financial services laws.

Treasury conducted four consultations to improve how Australia's regulatory system interacts with digital assets. The outcome of the 'Crypto Asset Secondary Service Providers' consultation (2022) indicated that leveraging existing financial services laws was the most appropriate approach. The 'token mapping' paper (2023) identified potential gaps in the financial services laws but recommended against a bespoke 'digital asset' taxonomy. The 'Regulating Digital Asset Platforms' consultation (2023) proposed to regulate digital asset platforms rather than digital assets themselves because platforms were identified as key cause of consumer harms.

These consultations led to Option 2 as the preferred option to implement the government's objectives to mitigate consumer harm and foster responsible innovation in the digital asset sector. This option is expected to deliver the highest net benefit and provide clarity and certainty by reducing reliance on ill-fitting product definitions in relation to key activities in the digital asset space.

Option 2's anticipated economic, industry and consumer benefits are expected to outweigh annual regulatory costs of approximately $28.4 million per annum for regulated businesses over time. Clear, proportionate regulation that is time-tested and understood will unlock significant economic and innovation opportunities for Australia. For example, industry estimates suggest the potential for 700-1,000 new start-ups each year and attracting $15-20 billion in annual investment. This will accelerate innovation adoption across the financial sector and other industries such as agriculture, energy, and the creative sector, further driving productivity.

A bespoke digital assets framework (Option 3) could support innovation, provide some regulatory clarity, and deliver consumer benefits, but the high development and compliance costs (estimated at $60.8 million per year) and potential delays reduce its net benefit compared to Option 2.

Overall, Option 2 is preferrable to both the status quo (Option 1) – where consumer protection gaps and industry uncertainty remain and a bespoke framework (Option 3) where costs are high, and benefits are difficult to realise.

Background

The Australian Government is proposing a regulatory framework to address the risks arising from certain intermediaries in the digital asset space. The target intermediaries operate digital asset platforms (DAPs) and tokenised custody platforms (TCPs). Some (but not all) DAPs and TCPs are already regulated under the financial services laws.

DAPs are arrangements for storing, managing, and facilitating digital token transactions on behalf of consumers. Common examples include trading products, hosted wallet products, and lending and borrowing products. These products are often referred to as 'crypto exchanges' or 'crypto brokerages'. DAPs are the primary method by which Australians access digital assets. The functions performed by DAP operators are analogous to the functions performed by existing providers of financial services.

TCPs are arrangements for storing and managing assets where the ownership of the assets is represented by transferrable digital tokens (i.e. they facilitate the issuance digital assets that represent ownership of assets). Common examples include platforms for creating digital assets backed by 'gold bars' (e.g. tokenised gold) and digital assets backed by other digital assets (e.g. 'wrapped tokens').

Issuers of some digital assets, DAPs and TCPs are already regulated under the financial services laws. The proposal is intended to expand the application of the financial services laws in a targeted manner – to ensure appropriate mitigation of risks for the platform-based business models that perform functions analogous to those of traditional financial service providers. The proposal otherwise relies on the continued application of the financial services laws to digital assets and arrangements that meets existing definitions of financial products and financial services.

What is a digital token?

A digital token is a secure, electronic record that an identifiable individual can control exclusively. It is a digital 'thing' that can be possessed and transferred, similar to how one can 'possess' physical property. Like a physical token, it can be used to represent rights and benefits owed to a token holder.

What is a digital asset?

A 'digital asset' is a broad term that refers to a digital token **and** any entitlements that arise from holding or controlling that token. These entitlements may include legal rights (such as ownership or contractual claims) as well as practical benefits (such as access or usage rights), which may not always be legally defined. Accordingly, a digital asset is not an asset class itself. Rather, the term is used to describe the way an asset is recorded and transferred.

What is meant by 'control' (of an electronic record)?

Control, in the context of an electronic record such as a digital token, refers to a person's actual, practical ability to manage that record. A person is considered to have control if they can both transfer the record to others and prevent others from transferring it without their permission. 'Control' is grounded in what the person can do in practice, rather than what they are legally entitled to do.

What is meant by 'custody' (of a digital token)?

Custody refers to an arrangement in which a service provider holds a digital token on behalf of its owner. While the service provider may exercise 'control' over the token for operational purposes, it does so for the benefit of the token owner, who remains the ultimate beneficiary. This custodial relationship is similar to how financial institutions hold and manage assets on behalf of clients—the institution may handle the asset, but it does not own it.

Digital asset platform (DAP)

A digital asset platform is a service or facility where a person or entity holds and manages digital assets on behalf of others. These platforms often act as intermediaries, providing custodial, transactional, and operational support for users engaging with digital assets.

Tokenised custody platform (TCP)

A tokenised custody platform is a service where an operator holds assets—either physical or digital—on behalf of a client, and issues corresponding digital tokens to represent those assets. Control of the token allows the client to exercise rights or claims over the underlying asset, while the operator maintains custody of the asset itself.

1. What is the policy problem you are trying to solve and what data is available?

Structure and role of DAPs and TCPs

Centralised platforms are at the heart of digital asset markets. DAPs and TCPs involve issuers performing functions identical to issuers of products already regulated under the financial services laws. DAPs often perform multiple functions, including custodial services (holding digital assets), transaction facilitation (enabling trading or transfers), and operational management (maintaining records and systems). This consolidated structure centralises control over user assets and transactions within a single entity. TCPs hold underlying assets (digital or physical) for clients and issue digital tokens representing ownership or rights to those assets. TCP platforms retain custody of the assets, while token holders exercise claims through the tokens.

The policy problem

The problem is evidenced by collapses of DAPs, resulting in consumer losses. The 2022 collapse of FTX, a major DAP, affected approximately 50,000 Australian consumers.[1] Other platform failures around the same time, including Celsius, Voyager Digital, and BlockFi, highlight common issues: commingling of assets, poor governance, liquidity/maturity mismatch, excessive leverage, lack of transparency, interconnectedness with affiliated entities, inadequate risk management and consumer protection.[2] The collapse of Australian DAP ACX.io also left consumers in the creditor queue. The risks that led to the failures of digital asset intermediaries are not unique to digital assets. They are the risks inherently connected to the management of significant values of liquid assets on behalf of clients.[3]

These vulnerabilities that manifested within the digital asset ecosystem are similar to those observed in traditional finance in the past. There are clear analogies in the stress episodes in the digital asset system to the fragilities crystallised in the previous financial system crises. The failures of the platforms could be significant due to the combination of economic activities, their strong interconnections across the entire digital asset ecosystem, and the growing interlinkages with the financial system.

Digital asset platforms can perform a range of activities, centring on holding digital assets and extending a range of products and services connected to that asset holding function. While the nature and magnitude of functions are opaque, many have trading functions. There are clear analogues with these activities in traditional finance, although the functions are often not provided by the same entity or are provided with significant restrictions or controls like governance and risk management frameworks, operational

[1] KordaMentha, 'Token mapping: Response to Treasury consultation paper', March 2023

[2] IOSCO examined and assessed how the existing market and conduct regulatory framework maps to key identified risks in digital asset platforms. *International Organization of Securities Commissions*, *Issues, Risks and Regulatory Considerations Relating to Crypto Asset Trading Platforms* (Final Report, FR02/2020, 28 May 2019), p.3, and *Policy Recommendations for Crypto and Digital Asset Markets* (Final Report, FR11/2023, 16 November 2023). Available at: https://www.iosco.org/library/pubdocs/pdf/IOSCOPD649.pdf and https://www.iosco.org/library/pubdocs/pdf/IOSCOPD747.pdf [Accessed: 20 August 2025].

[3] Financial Stability Board (2023). *The Financial Stability Implications of Multifunction Crypto-asset Intermediaries*. Financial Stability Board. Available at: https://www.fsb.org/uploads/P281123.pdf [Accessed: 20 August 2025].

transparency and disclosure requirements, and measures to manage the negative impacts of concentration and market power.[4]

Traditional finance	Digital asset platforms	Risks and vulnerabilities
• Trading venues and broker-dealers are usually separated • Rules prohibit or limit proprietary trading • Client money obligations apply	• DAPs provide a combination of custody, trading, brokerage, settlement, and record keeping function • DAPs could engage in proprietary trading in digital asset spot and/or derivative markets	• Conflict of interests • Misappropriation of clients' funds • Market manipulation • DAPs trading against or ahead of their customers • Financial stability risk (e.g. excessive leverage, liquidity, interconnection)

Table 1: Comparing risks and vulnerabilities of DAPs (adapted from Annex 1 of FSB's financial stability implications of multifunction crypto-asset intermediaries report[5]).

While the value of digital asset markets has increased in the recent months, they remain a small portion (less than 1 per cent) compared to the global financial system.[6] That said, the scale of the issue is amplified by the growing adoption of digital assets in Australia and globally. A 2023 survey by the International Organization of Securities Commissions (IOSCO) found that in 15 out of 24 responding countries, between 6 and 10 per cent (or more) of investors owned digital assets. In six of those countries, 10 to 30 per cent (or more) of investors held digital assets.[7]

In Australia, the ASIC 2022 Investor Survey offered a point-in-time snapshot of investor behaviour during a period of surging activity in retail markets and found that of 1,053 retail investors who engaged in at least one investment transaction, 44 per cent held digital assets, making it the second most common product type held after Australian shares (at 73 per cent). The survey indicated moderately experienced investors were more than twice as likely to own digital assets comparing to the most experienced investors.[8] Various industry surveys also indicated growing retail participation with results ranging from 20 to 32 percent of Australians invested or held digital asset in the past 18 months.[9] Swyftx's 2025 Australian Crypto Survey

[4] Ibid, p. 16.
[5] Ibid, p. 24.
[6] Financial Stability Board (FSB) and International Monetary Fund (IMF), 2024. *G20 Cryptoasset Policy Implementation Roadmap: Status report-*, p. 4. Available at: https://www.fsb.org/uploads/P221024-3.pdf [Accessed 18 August 2025]
[7] International Organization of Securities Commissions (IOSCO), 2024. *FR06/2024: Investor Education on Crypto Assets*, p.5. Available at: https://www.iosco.org/library/pubdocs/pdf/IOSCOPD769.pdf [Accessed 31 July 2025].
[8] Australian Securities and Investments Commission (ASIC), 2022. *Retail Investor Research (REP 735*), p. 14. Available at: https://download.asic.gov.au/media/z1nj5m5e/rep735-published-11-august-2022.pdf [Accessed 31 July 2025].
[9] Independent Reserve (2025). Independent Reserve Cryptocurrency Index. Available at: https://www.independentreserve.com/blog/wp-content/uploads/2025/04/IRCI-Australia-2025-web.pdf; Statista (2005). *Share of people who own cryptocurrency in Australia*. Available at: https://www.statista.com/statistics/1244739/australia-cryptocurrency-ownership/; and Swyftx (2025). *Australian Crypto Survey 2024*. Available at: https://swyftx.com/blog/australian-crypto-survey-2024/ [Accessed 20 August 2025].

projected digital assets would overtake shares as the preferred investment choice for Gen Zs and Millennials within two years.[10]

The prominence of digital assets and high and growing retail adoption suggests any loss of confidence in the system could have impacts that exceed the actual magnitude.[11] For example, as digital assets become increasingly interconnected with traditional financial markets, the risk of spillover grows, thus, a loss of confidence by investors in the digital asset market could have consequences in the wider financial system.[12]

Recent announcements from institutions (banks, asset management firms, and other financial institutions) also indicate strong interest and involvement in digital asset markets as they are increasingly exploring and undertaking activities in gaining exposure to digital assets. However, data gaps prevent a comprehensive assessment of the scale of the vulnerabilities and the full scope of digital asset use in the financial system.[13]

Existing regulatory landscape and limitations

Digital assets already fall within Australia's existing legal and regulatory frameworks. They are treated under general frameworks (such as property, insolvency, criminal, family and tax law) in the same way as other assets. Specialised frameworks also apply depending on the asset or activity. For example: ASIC regulates financial products and services involving digital assets, APRA oversees banks, insurers and super funds with digital asset exposure, AUSTRAC regulates certain businesses whose services involve 'digital currencies'[14] and agencies such as the ACCC, ACMA and IP Australia may regulate digital assets activities in their respective domains.

While some of these intermediaries are already regulated, a gap exists when intermediaries hold large volumes of digital assets that are not financial products. Outside the digital asset space, this "gap" has not been a major concern, but digital tokens make it far easier to transfer and pool assets at speed and at scale – leading in more than one case to billions of dollars in client assets being held by a single unregulated intermediary. As outlined above, the consequences for consumers have been clear: frozen withdrawals, insolvency proceedings, commingling with provider funds, undisclosed proprietary trading, weak governance and disclosure, fraud, and cyber theft. [15]These harms are symptomatic of large, unregulated custodial arrangements.

ASIC, as Australia's financial services regulator, oversees the application of the Corporations Act to ensure consumer protection and market integrity. For digital assets, ASIC assesses whether they meet the financial product definition and, if so, requires entities providing service in relation to them hold an AFSL and comply with conduct, disclosure, and governance obligations.

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[10] Swyftx (2025) Australian Crypto Survey 2025. Available at 2025-australian-crypto-survey.pdf [Accessed 30 October 2025].
[11] Financial Stability Board (FSB) 2022, *Assessment of Risks to Financial Stability from Crypto-assets*, p. 1. Available at: https://www.fsb.org/uploads/P160222.pdf [Accessed 19 August 2025].
[12] Ibid, p. 8.
[13] Ibid. p. 18-19 and p.21-24.
[14] As defined in the as defined in the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*. From 31 March 2026, the term 'digital currency' will be replaced with a newly defined term 'virtual asset'.
[15] International Organization of Securities Commissions (IOSCO), 2023, Policy Recommendations for Crypto and Digital Asset Markets Final Report, p. 13. Available at: https://www.iosco.org/library/pubdocs/pdf/IOSCOPD747.pdf. [Accessed 7 November 2025].

To improve clarity, ASIC has taken steps to interpret and explain how existing financial services laws apply to digital assets. In its 2024 consultation paper *Updates to Information sheet 225: Digital Assets: Financial Products and Services* and *Information sheet 225* published in October 2025, ASIC clarified that they believe that many digital assets—based on their structure or rights, such as tokens representing interests in managed investment schemes or derivatives—qualify as financial products. However, applying this framework to digital assets is challenging due to the diverse nature of digital assets.

Australia's financial services laws are designed to manage these exact risks in other custody-based products. However, a business offering 'custody-based' products involving digital assets, is not always subject to the financial services laws. For example, a platform may offer custodial services for non-financial tokens alongside financial product tokens, yet only the latter is subject to ASIC's regulatory oversight.

This means that despite being exposed to identical risk, clients of some digital asset businesses receive the benefit of targeted regulatory risk mitigation inherent in the financial services laws; and clients of other digital asset businesses do *not* receive the targeted regulatory risk mitigation inherent in the financial services laws. The uncertainty has also made it difficult for businesses to operate with confidence.

Beyond the financial services framework, other regulatory mechanisms may apply to digital assets, but they do not address the core custodial risks posed by DAPs and TCPs as they have specific regulatory purposes, limiting their ability to mitigate specific risks like asset commingling or operational failures.

ASIC has, on a best-endeavours basis, estimated that approximately 200 entities will be within the scope of the regime at commencement, requiring a licence application or variation during the transitional period. Many of these entities are already expected to be licensed under the existing financial services framework, subject to ASIC's relief package under their INFO 225 updates. As such, most would only require additional DAP/TCP authorisations, rather than an entirely new AFS licence.

Global competitiveness and risks of inaction

Several jurisdictions have implemented or are developing regulatory frameworks for digital assets. The European Union's Markets in Crypto-Assets (MiCA) regulation, effective June 2023, sets licensing requirements, operational standards, and disclosure obligations for platforms facilitating digital asset trading and custody. Singapore has introduced licensing for digital payment token services under its Payment Services Act. Hong Kong regulates virtual asset service providers with requirements for custody and conduct. The United Kingdom released its draft statutory provisions associated with the new regulated activities for cryptoassets in April 2025. The United States has ongoing legislative proposals for digital asset specific regulation, and the White House issued Executive Order 14178 in January 2025 aiming to strengthen American leadership in digital financial technology.

Global standard-setting bodies have issued guidance on digital asset regulation. In July 2023, the Financial Stability Board (FSB) published its *High-level Recommendations for the Regulation, Supervision and Oversight of Crypto-Asset Activities and Markets*, calling for consistent regulation of entities performing functions like custody, trading, and settlement, regardless of technology. In May 2023, the International Organization of Securities Commissions (IOSCO) released its *Policy Recommendations for Crypto and Digital Asset Markets*, advocating an activities-based approach to regulate digital asset intermediaries, covering conflict of interest management, client asset safeguarding, market manipulation, and operational resilience.

If Australia does not address issues outlined above, several consequences may arise:

- Consumer exposure: Australians engaging with DAPs/TCPs may lack assurances of secure asset custody or recoverability in the event of platform failure, increasing the likelihood of losses, particularly during market volatility. Consumers accessing overseas platforms may face varying levels of protection, resulting in inconsistent safeguards compared to domestic standards.
- Market integrity: the lack of regulatory clarity may reduce trust in Australia's digital asset ecosystem, discouraging institutional investment and limiting the growth of innovative projects. Unregulated platforms may avoid compliance costs, gaining a competitive advantage over responsible operators, which distorts market competition.
- Business costs: DAPs/TCPs seeking to implement strong governance face uncertainty about their obligations, placing them at a disadvantage compared to non-compliant competitors.
- Global competitiveness: Australia may lose investment, talent, and innovation to jurisdictions with clear regulations. This may also happen if the cost of implementing the new domestic regime is excessive or regulation is impracticable to comply. Responsible DAPs may relocate to markets with clear and adaptable regulations, while unregulated operators could target Australian consumers from offshore, potentially exploiting less stringent oversight.
- International influence: Australia may be excluded from cross-border regulatory partnerships or international enforcement cooperation frameworks, limiting its ability to address offshore misconduct or contribute to global digital asset standards.

Data availability and limitations

While digital asset products may offer new data opportunities, the current picture remains opaque—particularly in relation to the newly regulated population of DAPs. The data challenges resulted from limitation of public blockchain data and lack of adequate regulatory data are also highlighted by the IMF and FSB.[16] This analysis draws on a combination of sources, including published research and studies and stakeholder feedback from Treasury's consultation processes. However, limitations remain, particularly in quantifying the number and scale of DAPs and TCPs and the volume of consumer assets held.

[16] For example, FSB detailed data gaps when evaluating financial stability risks from digital assets in its 'Assessment of Risks to Financial Stability from Crypto-assets', pp. 18-19. FSB also outlined data challenges more broadly in its G20 Crypto-asset Policy Implementation Roadmap: Status report.

2. What are the objectives, why is government intervention needed to achieve them, and how will success be measured?

Objectives: what are we trying to achieve?

The objectives define a forward-looking policy vision that prioritises consumer confidence and industry growth by reducing investor risk and addressing failures inherent in the existing framework.

Consumer protection

A core objective of the reform is to ensure that consumers and businesses using digital asset platforms are protected from the risks inherently associated with the custodial management of significant assets on behalf of clients. These protections are intended for the users to have greater clarity and confidence when engaging with digital asset services.

Providing certainty and clarity for innovation

Another key objective is to provide certainty and clarity for industry participants. Consultation feedback has highlighted widespread uncertainty around how existing financial services laws apply to digital assets and service providers.

This certainty would support responsible innovation and promote fair competition between regulated and unregulated entities. It also reduces legal risk for businesses seeking to operate in good faith within the Australian market.

Global competitiveness

An ideal framework should aim to ensure Australia's policy approach aligns with global expectations, drawing on international principles established by the FSB and IOSCO and responds to developments in peer jurisdictions. International consistency supports cross-border trade and investments, helps reduce the risk of regulatory arbitrage and strengthens Australia's credibility in global regulatory discussions.

Why government intervention is necessary

Achieving these objectives requires government action, as market forces and existing laws alone cannot deliver the necessary outcomes. Voluntary industry practices and existing legal frameworks have proven insufficient to address the risks identified at Question 1. Self-regulation is less effective in addressing sector-wide conduct issues.[17] The unique role of government lies in its ability to establish enforceable, consistent regulatory standards and foster a level playing field.

Non-regulatory options such as consumer education or industry self-regulation are insufficient to compel compliance or provide timely protection against misconduct and platform failures. Treasury's 'Crypto asset

[17] Treasury, 2014, Financial System Inquiry – Final Report, p.194

secondary service providers: licensing and custody requirements consultation paper' sought views on an alternative option for the digital assets industry to self-regulate through a code of conduct.[18] Most submissions rejected this option (e.g., NAB, Minter Ellison, Swyftx, Consumer Action Law Centre, The Fold Legal, Australian Custodial Services Association, Gilbert and Tobin, ACCC, AusPayNet, Piper Alderman, Blockchain Australia).[19] Submissions suggested that self-regulation through a code of conduct is unlikely to provide the same level of consumer and investor confidence and protection as the AFSL regime. Voluntary codes of conduct can be seen as ineffective and even self-serving. Further, given the significant risks, rapid innovation and variety of business models in the sector, it will be difficult for the industry to agree to a uniform set of rules. Hence, regulatory measures remain the only viable path to safeguard consumers and support sustainable growth.

Industry self-regulation may also result in inconsistencies between peer jurisdictions worldwide. As shown in FSB's 2025 thematic review on global regulatory framework for crypto-asset activities, most peer jurisdictions have either finalised a regulatory framework or in the process of consulting on or finalising frameworks to be implemented by regulatory authorities. FSB also warned in the implementation report that "uneven implementation creates opportunities for regulatory arbitrage and complicates oversight of the inherently global and evolving crypto-asset market."[20]

Uniform standards beyond market incentives

Voluntary standards or market-driven initiatives have proven insufficient to ensure DAPs and TCPs adopt robust practices for custody, governance, and transparency. Only government can mandate uniform baseline standards that apply across all platforms, ensuring consistent protection and accountability.

Parallels with traditional finance

The risks inherent in digital asset platforms—such as asset loss, mismanagement, or operational failures—mirror those in regulated financial sectors. Decades of experience demonstrate that regulation can effectively mitigate harm by enforcing standards for risk management and consumer safeguards.[21] Government intervention extends these proven principles to digital assets, addressing gaps in the current framework.

International interoperability

A government-led framework facilitates alignment with global standards, enabling cross-border cooperation and enforcement. For example, a regulatory authority is in a better position to coordinate with an overseas regulator on what constitutes a sufficiently equivalent regulatory regime and provide recognition and relief. Consistency with the relevant international standards is one of the key assessment

[18] Treasury, (2022), *Crypto asset secondary service providers: Licensing and custody requirements*, p.21-22.
[19] Submissions to Treasury's 2022 *Crypto asset secondary service providers: Licensing and custody requirements.* Available at: https://treasury.gov.au/consultation/c2022-259046.
[20] Financial Stability Board, (2025), *Thematic Review on FSB Global Regulatory Framework for Crypto-asset Activities.* [Accessed: 16 October 2025]
[21] Treasury, (2014), Financial System Inquiry Final Report, Chapter 5. It is also worth noting recommendations by international bodgies (FSB, IOSCO, IMF) are influenced by established principles for financial regulation, applying widely accepted global standards for market regulation to address key issues and risks identified in digital asset markets.

factors by regulators. By adhering to FSB and IOSCO principles, Australia strengthens its capacity to attract investment, address offshore risks and maintain influence in international regulatory dialogues.

Constraints and challenges to implementation

Regulating for the future without hindering innovation

The digital asset ecosystem is dynamic and technologically complex. Business models and risk profiles evolve quickly, and regulation that is too prescriptive or narrow may soon become outdated. On the other hand, regulation that front-runs innovation by applying rigid rules to emerging activities not yet well understood, risks stifling beneficial development and discouraging new entrants.

Providing legal certainty without overregulation

A key reform objective is to give businesses and investors clear, enforceable expectations. However, overly broad or vague definitions may create legal uncertainty, impose regulatory obligations on low-risk activities, or inadvertently capture unrelated business models. Designing new financial product definitions (e.g. digital asset platforms) and applying licensing obligations will require careful drafting and implementation to strike the right balance.

Ensuring industry and consumer readiness

Compliance with AFSL and governance requirements poses challenges for businesses of all sizes. Low levels of consumer understanding about digital assets may limit the effectiveness of disclosure or transparency requirements. Small firms may lack resources, while medium-to-large operators often struggle with financial governance expertise, particularly in appointing qualified responsible managers, as noted in INFO 225 feedback.

Factors for success and measures of impact

To ensure that the objectives are achieved and that the preferred option delivers tangible benefits for consumers, industry, and the broader economy, the government will assess the success of the intervention against a range of measurable indicators. These indicators are aligned with the stated objectives and will guide ongoing monitoring, post-implementation review, and future policy refinement.

Improved consumer protection

A key measure of success will be a demonstrable reduction in consumer harm associated with digital asset platforms. This includes fewer incidents of asset loss, fraud, or misappropriation, particularly in cases of platform failure or operational disruption. Successful indicators include:

- A decline in consumer complaints and loss events linked to asset-holding arrangements on digital asset platforms.
- An increase in consumers' ability to access dispute resolution mechanisms and recover assets in cases of misconduct or insolvency.
- Strong compliance with custody, governance, and disclosure standards, as evidenced through ASIC reviews or audit outcomes.

Increased consumer engagement

Success can also be illustrated through increased consumer engagement, as it reflects greater trust in a regulated environment. Active and sustained participation implies a sense of security and assurance that the regulatory framework effectively safeguards their interests. Successful indicators include:

- Growth in participation on regulated platforms, with key metrics including increases in verified users and trading volumes.
- A measurable decline in user activity on unregulated or offshore platforms reflects growing consumer trust in services governed by established legal frameworks, thereby supporting the implementation of stronger protections.

3. What policy options are you considering?

3.1 Option 1 – Status quo

This option retains the current regulatory framework, with oversight shared among different regulators. It applies existing laws to DAPs and TCPs operating in Australia, but only to the extent their activities fall within existing definitions. Platforms dealing in non-financial assets remain outside the scope, with no regulation of custody, governance, or operational standards.

If a digital asset is classified as a financial product, it falls under the regulatory oversight of the Corporations Act and the ASIC Act, depending on the rights or entitlements it provides. However, if the asset is not considered a financial product, it may still fall under the Australian Consumer Law, particularly in relation to rules against misleading or deceptive conduct.

ASIC's updates to INFO 225 indicate that many widely traded digital assets are likely to be classified as financial products under existing laws. As a result, these platforms may already need to obtain financial licences, strengthen their compliance frameworks, and adapt their business models to align with greater legal and regulatory requirements. Recognising the businesses will need time to consider the updated guidance and apply for licences, ASIC has granted a sector-wide no-action position until 30 June 2026. The no-action position is subject to conditions, and does not prevent ASIC from acting on egregious conduct.

3.2 Option 2 – Regulate digital asset platforms

This option involves extending the existing financial services regulatory framework to cover digital asset platforms that hold or intermediate digital or token-linked entitlements on behalf of consumers. This option would amend the Corporations Act to introduce two new types of financial products:

- A digital asset platform (DAP) — where entitlements to digital tokens are recorded in an account-based system operated by the platform. The platform performs key functions such as custody, transaction processing, and internal settlement between account holders.
- A tokenised custody platform (TCP) — where entitlements are issued as tokens (token-based system) that circulate outside the platform but are backed by underlying assets held in custody. TCPs involve platforms that hold underlying assets — digital or physical — and issue token-based entitlements that circulate outside the platform.

Term	Meaning
Account-Based System	A system of record for entitlements that accrue to a specific person identified in a record (i.e. an account). It is used in a broad sense to refer to accounts, registries, depositories, lists, etc.
Token-Based System	A system of record for entitlements that accrue directly to any person holding a specific record (i.e. a token).

These new financial products reflect the functional characteristics of services commonly offered in the digital asset ecosystem, such as custody, trading, and staking. Many of these services mirror activities regulated in traditional finance. For example, some lending platforms offer services akin to a traditional loan, despite using smart contracts to automate terms. TCPs, such as those issuing gold-backed tokens (e.g. Tether Gold) parallel managed investment schemes, holding assets for investors. While the underlying technology may differ, the arrangements and risks to consumers including loss of assets, fraud, inadequate governance, and operational failure are similar.

Establishing new financial products within the financial services laws

Under this option, the Corporations Act would be amended to add DAPs and TCPs as new financial products. This would bring platform providers and intermediaries within the scope of the Australian Financial Services Licence regime, ensuring they are subject to core obligations including:

- Licensing and disclosure, including the provision of clear information about how assets are held and entitlements work;
- Governance and conduct standards, including organisational competence and the requirement to act efficiently, honestly and fairly; and
- Dispute resolution and consumer redress, providing customers with accessible channels for complaints and appropriate remedies in the event of platform failure or misconduct.

In effect, this option extends the principle of 'same activity, same risk, same regulatory outcome' to digital asset platforms. By treating platforms that perform financial-like functions in the same way as traditional financial service providers.

Tailored features to reflect risk

While DAPs and TCPs would be regulated under the existing AFSL framework, their obligations would be tailored to reflect the unique structure and risk profile of digital asset platforms. The design reflects the overarching approach of aligning regulatory obligations with the scale, complexity, and risks of the arrangements being performed/offered. This ensures that compliance burdens are proportionate while maintaining market integrity, investor protection, and confidence in the regulatory framework.

Key tailored features include:

- Low value exemption: Entities that issue DAP entitlements below a defined monetary threshold may be exempt from licensing requirements, provided their activities are limited in scale and scope. This is intended to support proportionate regulation.
- Non-discretionary facility design: Platforms must operate under pre-agreed and transparent terms, ensuring that customer entitlements are exercised in a predictable, rules-based manner.
- Technology-neutral standards: Obligations will focus on outcomes — such as ensuring asset recoverability and risk disclosure — rather than prescribing how a platform must be built.

Fit-for-purpose regulation

This option will introduce a regulatory regime tailored to the main risks that arise in the digital asset space. The focus of the framework is intermediaries that hold assets on behalf of clients, regardless of whether the digital assets they handle qualify as financial products under the *Corporations Act 2001*. The framework

is designed to apply proportionate obligations to different activities and business models. For example, minimum standards for transaction and settlement functions will only apply to DAPs that undertake those activities.

Futureproofing with flexibility

The framework is designed with mechanisms that allow obligations to be adjusted, expanded or narrowed, giving regulator and operator the tools to strengthen safeguards when new risks arise and the space to adapt as technologies and services develop. Using outcome-based and proportionate minimum standards and platform rules, they can apply across different platforms without creating unnecessary barriers for smaller or innovative operators. Through targeted ministerial powers, regulation can be 'right-sized' in either direction – tightened where new risks emerge or eased where obligations are disproportionate or inconsistent with technological innovation – without the need for new legislation or regulations.

Implementation and regulatory oversight

The proposed framework would be administered by ASIC, using its existing powers to grant licences, monitor compliance, and take enforcement action where necessary. ASIC would issue guidance to assist digital asset service providers in understanding and meeting their obligations and may use class orders or regulatory relief to smooth the transition to the new regime.

The proposed use of the AFSL framework — and the introduction of new financial products that reflect the structure and risk profile of digital asset platforms — gives effect to these international recommendations in a way that is tailored to the Australian legal context.

3.3 Option 3 – Bespoke digital assets framework

This option proposes the creation of a completely new regulatory framework tailored specifically to digital assets, separate from the existing AFSL regime. Unlike Option 2, which builds on the current Corporations Act, this approach would establish a standalone 'Digital Asset Regulation Act'. This framework is comparable to the European Union's Markets in Crypto-Assets (MiCA) Regulation, which introduced a regime for crypto-asset licensing, consumer protection, and market integrity across EU member states. Under this option, a digital asset licence would be introduced with compliance obligations specifically designed for blockchain-based operations.

The Digital Asset Regulation Act would be a standalone law, administered by ASIC or a new digital asset authority. Key components could include:

- White paper requirements: Issuers must publish a detailed white paper, akin to MiCA's disclosure mandates, outlining the asset's features, risks, and governance.
- Custody and asset segregation: Operators must segregate client assets from company funds, using on-chain or off-chain solutions, and undergo regular audits to verify reserves.
  Blockchain-specific standards: Smart contracts must be audited for security, and platforms must ensure interoperability with major protocols (e.g., Ethereum, Solana) and resilience against network disruptions.

4. What is the likely net benefit of each option?

This section evaluates the costs, benefits, and net impact of three policy options for regulating DAPs, focusing on stakeholders identified in consultations: industry participants, financial/legal professionals, consumer groups, regulators, and international counterparts. Due to data limitations in the emerging digital asset sector, the analysis uses placeholder estimates and qualitative assessments, drawing on industry trends and stakeholder feedback.

4.1 Option 1 – Status quo

Unclear digital asset classifications, regulatory creep and inconsistent interpretations are likely to increase costs. Without reforms, these challenges will intensify, leading to rising net costs that undermine consumer protection and stifle innovation.

Recent draft updates to ASIC's INFO 225 have sparked industry debate. The consultation paper refers to ASIC's updated guidance on digital assets and related products. Some have expressed concerns that the proposed guidance could be seen as a shift toward a more restrictive interpretation of current law, potentially creating additional challenges for businesses in meeting regulatory expectations. Many industry participants reported that the framework remains vague, misaligned with industry needs, and out of step with global regulatory trends. FinTech Australia, for example, argues in their submission to the consultation paper that a proportionate regulatory approach is essential to not "deter investment, stifle innovation and drive market participants offshore to jurisdictions with clearer, more targeted regulatory settings."[22] Furthermore, the Digital Economy Council of Australia (DECA) has criticised the updated guidance for being "impractical and misaligned with how digital assets operate."[23] In response to the submissions, ASIC reaffirmed its position that many widely traded digital assets are financial products under current law but issued a class no-action letter to support the licensing transition for digital asset businesses and proposed to provide temporary relief for intermediaries in relation to certain stablecoins and wrapped tokens.[24]

Consumer protection needed

A key concern under the status quo is the growing risk of consumer harm. The FSB warns that as consumer participation in digital asset increases, the lack of effective regulation could pose risks to financial stability due to growing interconnectedness with the broader financial system.[25] Retail investment platforms in Australia are regulated by ASIC and must meet strict requirements, including holding an AFSL, providing transparent product disclosures, maintaining segregated client funds, meeting capital adequacy standards,

[22] FinTech Australia, 2025, *Re: Updates to INFO 225: Digital Assets: Financial Products and Services – Consultation Paper*. Available at: https://download.asic.gov.au/media/fouiw0hl/fintech-australia.pdf. [Accessed: 30 October 2025]
[23] Digital Economy Council of Australia, 2025, *Submission to Australian Securities and Investments commission*. Available at: https://download.asic.gov.au/media/nt5hmwy5/deca_redacted.pdf. [Accessed: 30 October 2025]
[24] ASIC, Updates to INFO 225: Digital assets: Financial products and services. Available at: CP 381 Updates to INFO 225: Digital assets: Financial products and services | ASIC [Accessed: 30 October 2025]
[25] Financial Stability Board (2022) *Assessment of Risks to Financial Stability from Cryptoassets*, p. -1. Available at: https://www.fsb.org/uploads/P160222.pdf [Accessed: 21 August 2025].

and undergoing independent audits. This comparison underscores the urgent need for a regulatory system that ensures adequate consumer protection. Without intervention, consumers will remain vulnerable, and the risk of further financial harm will grow as digital asset markets expand.

Without a clear regulatory framework for governing DAPs/TCPs and protecting consumers from platform collapses and mismanagement, exposure to financial loss will only increase. Prime examples are the collapses of DAPs where consumer assets were lost and were forced to be in the creditor queue. The FTX collapse demonstrates that while some consumers were fortunate to recover claims due to a rise in asset prices, this outcome was largely a matter of chance. Had digital asset values not rebounded, the financial impact on consumers would have been far greater. As the digital asset market continues to expand, the risk of consumers bearing significant losses by becoming unsecured creditors increases. This underscores the urgent need for robust regulations to protect consumers and prevent such outcomes.

Innovation at risk

The status quo is also stifling innovation. A 2025 report by Elliptic (a blockchain intelligence firm) found that 96 per cent of compliance and risk leaders believe well-defined regulatory frameworks are urgently needed for their organisations to advance their digital asset strategies.[26] They point to a wide range of benefits, including more responsible and trustworthy innovation, greater clarity, increased investment and new opportunities for growth.

The digital asset sector is at the forefront of technological development, with blockchain and other related advancements offering significant potential for economic growth. However, the current uncertainty surrounding regulatory expectations is holding back progress. Businesses are left navigating a shifting and inconsistent regulatory landscape, which creates a barrier to innovation. In the absence of a clear regulatory framework, Australia risks being left behind in the rapidly evolving global digital asset market. As other jurisdictions move forward with greater clarity and direction, Australia's inaction creates uncertainty for industry participants and reduces its potential to lead in this emerging sector.

Globally, the regulatory landscape is evolving rapidly, with both FSB and IOSCO advocating for clear frameworks for the digital asset space. Peer jurisdictions (United States, United Kingdom, European Union, Singapore, Hong Kong) have all passed relevant legislations or in the process of consulting legislative and regulatory proposals. Furthermore, the IMF and FSB has developed a policy framework for crypto assets that aligns with the FSB's recommendations, focusing on macroeconomic stability, financial stability, consumer protection, and market integrity.[27] While there is currently limited quantifiable data on the direct impact of regulatory alignment, it is widely recognised that harmonising regulatory approaches across jurisdictions can significantly reduce opportunities for regulatory arbitrage and reducing overall compliance costs, thereby mitigating systemic risks and building long-term trust in the sector. While on the other hand,

26 Elliptic (2025) State of Crypto 2025: The readiness of the digital asset ecosystem. Available at: https://www.elliptic.co/hubfs/State%20of%20crypto%202025/Elliptic_Report_State_of_Crypto_2025.pdf, p.11. [Accessed: 21 August 2025].

27 International Monetary Fund and Financial Stability Board, (2023), IMF-FSB Synthesis Paper: Policies for Crypto-assets. Available at IMF-FSB Synthesis Paper: Policies for Crypto-Assets. [Accessed: 24 August 2025].

gaps and inconsistencies in implementing a global framework could pose financial stability risks and hinder the development of a resilient digital asset ecosystem. [28]

Digital asset sector decline

A 2024 KPMG report revealed a 14 per cent[29] decline in the number of blockchain companies in Australia, double the rate observed in the broader fintech sector. While this represents only 12 companies, it raises broader concerns about the future of the industry if the current regulatory uncertainty persists. Without clear guardrails, this trend is likely to continue, putting mounting pressure on the remaining businesses, many of whom are more likely to struggle with attracting investment, maintaining operations and achieving scale. Furthermore, this could hinder the growth of new startups in the digital asset space and increase pressure on the approximately 700 fintech firms operating in Australia, limiting their ability to capitalise on renewed sector interest and risking billions in potential institutional investment.

4.2 Option 2 – Regulate digital asset platforms

This option would deliver the digital asset regulatory reforms by leveraging the existing financial services laws and licensing regimes in the Corporations Act. It would require DAPs and TCPs to obtain an AFS licence and comply with existing and bespoke obligations. As outlined previously, in financial services, asset holders are regulated to mitigate risks resulting from holding assets for consumers. These risks include conflict of interest, fraud and technology risks.[30] Under the proposal, holding significant values of digital assets, or assets backing digital assets, would be a regulated activity. These arrangements would have to meet the minimum standards that apply to existing financial products and services that involve an asset holding arrangement. This approach adopts the "similar activity, similar risk, same regulatory outcome" principle to ensure consistent and technology-neutral regulation across the financial services industry.

It is expected to generate a net benefit to the Australian community by addressing key consumer protection risks, improving transparency, aligning with international regulatory norms, and providing greater clarity for digital asset service providers. The reform is also likely to support long-term growth in digital asset innovation, while preventing or mitigating the costs associated with future platform failures.

In the absence of reforms, consumers will continue to face significant risks from platform failures or misconduct. Failure of the platforms have demonstrated how the absence of clear regulatory oversight can lead to consumer losses ranging from hundreds of millions to billions of dollars.[31] Considering the scale of

[28] Financial Stability Board, (2025), *Thematic Review on FSB Global Regulatory Framework for Crypto-asset Activities.* [Accessed: 16 October 2025]
[29] KPMG Australia (2024) *Australian fintech landscape 2024*. Available at: https://kpmg.com/au/en/insights/industry/australian-fintech-landscape.html [Accessed: 18 August 2025].
[30] See ASIC RG 133 Funds management and custodial services: holding assets for an example of how Australian financial services licence obligations apply to asset holders and minimum standards that apply to mitigate risks. These rules apply to ensure client assets 'are not exposed to unnecessary risks because of the way assets are held' and 'efficient operational arrangements exist for holding and dealing with client assets.'
[31] For example, approximate total (global) value of bankruptcy claims at the time of collapse were: FTX (USD 9 billion), Genesis (USD 3.4 billion), BlockFi (USD 1.3 billion), Voyager Digital (USD 1.3 billion), Celsius (USD 1.2 billion), Babel Finance (USD 280 million), Hodlnaut (USD 193 million).

past failures and the value of protecting consumer assets and innovation, the benefits in reduced financial risks and enhanced market stability are projected to outweigh the associated regulatory burden. Due to the complexity of these emerging products and data limitations, the analysis draws on quantitative estimates where feasible, mainly supported by qualitative assessments of significant policy impacts.

Regulatory certainty will empower Australian start-ups to build next-generation financial infrastructure, including decentralised finance platforms, asset tokenisation services and blockchain-based services without the friction of legal ambiguity holding them back. This will enable home-grown companies to compete globally and scale new business models with confidence.

With the right policy settings, Australia's digital asset sector could support 700–1,000 new start-ups, attract $15–20 billion in investment, and generate $10–15 billion in tax revenue by 2030, according to a 2022 Tech Council of Australia and Accenture report. Beyond direct economic impact, digital assets offer the potential to modernise financial infrastructure, expand access to capital, and strengthen Australia's competitiveness.[32]

The Digital Finance Co-operative Research Centre (CRC) estimates that approximately $19 billion could be unlocked annually through tokenisation in existing markets and cross-border payments through improving efficiency, reducing transaction costs, and increasing liquidity. A multiple to this impact could be added through additional downstream benefits and facilitation of new markets. In addition to productivity uplift, digital assets also open doors to competition in both traditional financial and non-financial markets. However, they consider that only a fraction (about $1.8 billion per annum) of this potential is expected to be realised by 2030, emphasising the urgent need for regulatory and policy reforms to accelerate adoption.[33] [34]

Beyond fintech, clear digital asset regulation will allow traditional industries such as agriculture, energy, and real estate to explore and adopt tokenised asset models that improve liquidity, transparency, and access to capital. This includes innovations like carbon and biodiversity credit markets, fractional ownership of farmland, or tokenised renewable energy projects, bringing new efficiencies and financing pathways to sectors critical to Australia's economy.

Creative industries such as gaming, entertainment, and media also stand to benefit. With regulated secondary markets, creators and developers can confidently issue tradable digital assets, such as in-game items, music rights, or event tickets, knowing that ownership can be verified and exchanged in compliant, transparent markets. In short, a robust regulatory foundation will act as a catalyst for innovation across the economy, bridging the gap between emerging technologies and real-world applications, while safeguarding consumer trust and market integrity.

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[32] Tech Council of Australia and Accenture, 2022. *Digital Assets in Australia: Final report 2022*. Tech Council of Australia: commissioned report, p. 3.
[33] Digital Finance CRC (2024) *Key policy reforms to support tokenisation of real world assets in Australia*. Available at Key Policy Reforms to Support Tokenisation of Real World Assets in Australia A4. [Accessed: 24 August 2025].
[34] Digital Finance CRC (2025) *AU $19 billion per year economic impact could be unlocked through digital finance innovation: new research* media release. [Accessed 24 August 2025].

Compliance costs and regulatory burden

Businesses

The requirement to obtain an AFSL and meet associated obligations (e.g. governance, disclosure, custody standards) will increase compliance costs for DAPs. Costs are likely to include legal and consulting fees, staffing for compliance roles, IT upgrades for asset tracking, and capital adequacy requirements. These costs will be most acute for small-to-medium or early-stage businesses that lack existing compliance infrastructure. For smaller firms, this may pose a barrier to entry. To help mitigate this, a low-value exemption for DAPs is proposed to minimise the regulatory burden on smaller or early-stage businesses engaging in limited-scale activities. However, for those subject to full licensing, the new requirements are expected to improve internal governance over time. Businesses will also undergo greater regulatory scrutiny, which will involve burdens but can help build long-term credibility.

Table 2 shows the estimated total regulatory burden on businesses under Option 2, which amounts to an average $28.4 million per annum. The estimated regulatory impact comprises three key components: the transition costs for existing licensees adapting to the new framework, the costs associated with the entry of new licensees within the regulatory scope, and the compliance costs arising from regulatory obligations.

Customers

Some platforms may pass on a portion of compliance costs to users through higher fees or reduced product offerings. Retail investors could experience a temporary reduction in platform diversity, particularly where providers opt not to comply or exit the market. However, the reforms also reduce the likelihood of catastrophic platform failures by extending and customising obligations that commonly applied in regulating traditional asset custodians (such as investor-directed portfolio services, managed discretionary accounts, and registered scheme) on entities that hold digital asset on behalf of others, meaning short-term costs may be outweighed by reduced risk for consumers.

Australian economy

In the short term, some consolidation or market exits may reduce competition, but the medium to long-term impact is anticipated to be positive as the quality of market participants improves and additional participants and investments enter the market.

Consumer protection and reduced risk of loss

Businesses

Firms that comply with the framework will likely face fewer legal disputes, complaints, and reputational damage. The introduction of clear entitlement rules and custody obligations will reduce uncertainty and protect legitimate operators from the contagion effects of bad actors. However, this will require stronger risk management systems and more robust governance arrangements, especially for platforms offering complex or financialised functions like staking and tokenisation.

Customers

Consumers will benefit significantly through stronger safeguards against fraud, loss, and mismanagement. The reforms apply the same core protections that have successfully prevented comparable collapses among

traditional asset custodians such as investor-directed portfolio services and managed investment schemes. For example, under the proposed framework:

- **segregation of client assets** – Platforms would be required to hold client assets on trust and separate them from operational funds, preventing the commingling and misuse of customer assets that contributed to the collapse of unregulated exchanges such as FTX,
- **minimum financial and custodial standards** – Capital adequacy, audit, and custody requirements would ensure that client withdrawals can be met even during market stress, avoiding liquidity shortfalls that triggered failures like Celsius and Voyager,
- **governance and disclosure obligations** – Mandatory governance, reporting, and related-party transaction controls would deter the opaque and conflicted management practices observed in past collapses.

These controls have long been applied in protecting consumers in the traditional financial services sector. Their extension to digital asset platforms means similar collapses would have been unlikely under this framework. As a result, consumers will have clearer ownership rights, enforceable platform obligations, and greater transparency, leading to fewer insolvencies, reduced losses, and higher confidence in participating in digital asset markets.

Australian economy

Stronger consumer protections build trust in digital asset markets, encouraging broader participation from more risk-averse individuals and institutions. This shift supports stable financial innovation and minimises the potential for systemic reputational harm following high-profile platform collapses. Digital asset adoption will also be likely to increase as lack of regulation is considered as one of the main barriers to market entry for investors.[35] The long-term benefit may be a more resilient and inclusive digital economy.

Support for innovation and regulatory clarity

Businesses

The framework removes legal 'grey areas' for Digital Asset Platforms (DAPs) by clearly defining DAPs as financial products and specifying when a platform must be licensed. This clarity reduces legal risk and enables businesses to design compliant products from the outset.

While these reforms are not intended to remove all uncertainty, they do provide clarity and certainty by reducing reliance on ill-fitting product definitions in relation to key activities in the digital asset space, including clarifying the regulatory treatment for wrapped tokens, participants of the public digital token infrastructure and those acting as an intermediary to a client's staking activities.

Customers

[35] Fidelity Digital Asset Research, (2024), *Institutional Investor Digital Assets Study: Key Findings*, p.19.
EY and Coinbase, (2025), Increasing Allocations in a Maturing Market, p.29. [Accessed on 7 November 2025].

A more transparent and accountable marketplace will empower customers to make informed decisions. Users will be able to choose between regulated products with adequate disclosures—improving market maturity and user experience.

Australian economy

A predictable regulatory environment supports the growth of a competitive digital assets sector over the long term. By introducing a fit-for-purpose framework for DAPs, the Government is laying essential groundwork for a modern financial infrastructure built on blockchain technology, tokenisation, and decentralised systems.

A clear and predictable regulatory environment will enhance Australia's attractiveness to institutional investors, many of whom require compliance-grade infrastructure and licensing certainty before deploying capital into digital asset markets. It will also support the emergence of secondary markets for tokenised assets, improving capital efficiency and expanding liquidity across previously illiquid sectors. These efficiencies, in turn, support the development of new and innovative business models across the financial services sector.

By strengthening the regulatory foundations of the sector, the reforms enhance economic resilience, diversify Australia's financial services ecosystem, and build export-ready digital capabilities.

International alignment and market credibility

Businesses

Firms operating under an AFS licence will be better positioned to expand internationally. Alignment with IOSCO and FSB principles makes it easier for firms to be recognised in other jurisdictions, facilitating investment and global market access. Australian businesses may also benefit from mutual recognition or simplified licensing in the future.

Customers

Consumers are more likely to engage with platforms that meet international best practice standards. It also reduces the chance of unknowingly dealing with high-risk or disreputable offshore providers by lifting the credibility and availability of trustworthy licensed and regulated alternatives.

Australian economy

Improved global standing supports Australia's ambition to be a leader in responsible digital finance. It ensures local markets are not isolated from global capital flows, reduces regulatory arbitrage, and fosters better cooperation in systemic failures. Over time, these reputational gains are expected to contribute to sustained digital economic growth.

Market consolidation and competitive dynamics

Businesses

The introduction of a formal licensing regime may lead to market exits, particularly by small or fringe platforms unable or unwilling to meet the new obligations. This could reduce short-term competition but

will likely improve overall quality, consumer investment and safety. Incumbent players may increase market share, although low-value exemptions are expected to preserve space for smaller innovators.

Customers

Consumers may initially have fewer platform choices as the market adjusts. However, remaining platforms will be better capitalised, more transparent, and subject to enforcement. Over time, users are expected to benefit from improved service quality, risk management, and competition, even if variety is reduced in the short term.

Australian economy

While consolidation may temporarily reduce competition, the reform encourages efficient and compliant market participation, which is likely to support a healthier, more trusted ecosystem. Over time, the policy balances innovation with safeguards, allowing for competitive re-entry as more firms adapt to the standards.

Table 2 - Average annual regulatory costs (see Attachment for assumptions)

Change in Costs $m	Business	Total
Total by sector	28.4	28.4

As outlined above, clear digital asset regulation will unlock significant economic and innovation opportunities for Australia. With the foundations established by this proposal and effective policy settings, the benefits estimated by industry (e.g., the potential for 700-1,000 new start-ups each year and $15-20 billion in annual investment) are expected to outweigh these costs significantly over time. Regulatory certainty will accelerate tokenisation adoption, further driving efficiency gains, improving liquidity, and supporting innovation not only within the digital asset sector but also across industries such as agriculture, energy, and the creative sector.

4.3 Option 3 – Bespoke digital assets framework

Option 3 proposes the creation of a standalone *Digital Asset Regulation Act* to establish a regulatory framework for digital assets. This bespoke framework would introduce specific licensing requirements, blockchain-focused standards and governance obligations, administered by ASIC or a new dedicated authority. This section evaluates the likely costs and benefits of Option 3 for key stakeholders: industry participants, consumers, and the Australian economy (including regulators and international competitiveness).

Compliance costs and regulatory burden

Businesses

DAPs and TCPs would face significant compliance costs under a bespoke framework due to the need to adapt to a new regulatory regime. Estimated costs total $60.8 million annually (Table 3), reflecting expenses for licensing, system overhauls, and ongoing compliance. Initial costs include developing blockchain-specific governance structures, which require specialised expertise. Ongoing costs involve

annual audits, detailed reporting, and adherence to tailored standards, posing a challenge for small-to-medium enterprises. Businesses would also continue to comply with other applicable laws.

Consumers

Consumers would receive protections offered by the bespoke framework. However, they may face higher fees as platforms pass on compliance costs, estimated to increase transaction or custody fees. The absence of exemptions for smaller platforms could reduce service diversity, limiting consumer choice in the short term. However, standardised disclosures (e.g., white papers) may improve transparency, though their complexity could overwhelm retail investors with limited digital asset knowledge.

Australian economy

Establishing a new regulatory framework requires significant government investment, including legislative drafting and regulator resourcing. Transitional disruptions may occur as platforms adapt, potentially causing temporary market slowdowns. The economy may face delayed benefits due to the extended implementation timeline, risking Australia's competitiveness if other jurisdictions act faster.

Consumer protection and reduced risk of loss

Businesses

The bespoke framework reduces legal risks by providing clear, blockchain-specific rules, potentially lowering litigation costs related to custody failures or fraud. However, the complexity of compliance may strain smaller operators, increasing the risk of non-compliance penalties. Businesses may face higher administrative burdens due to new licensing requirements.

Consumers

Consumers benefit from enhanced protections tailored to digital assets, such as mandatory asset segregation and audited blockchain protocols. However, protections may be less immediate than under Option 2 due to implementation delays, and more complex disclosure requirements compared to Option 2 may not fully address information asymmetry for retail investors.

Australian economy

Stronger consumer protections could build trust in the digital asset ecosystem, encouraging participation. However, the delayed implementation may limit the short-term impact compared to Option 2, as consumer harm persists during the transition. The framework's focus on blockchain-specific risks supports long-term stability but may not address immediate systemic risks as effectively as Option 2's faster deployment.

Support for Innovation and Regulatory Clarity

Businesses

The bespoke framework provides clarity for blockchain-based operations, enabling firms to develop innovative products with tailored compliance paths. However, the lack of alignment with existing financial services laws may create uncertainty for firms operating across both traditional and digital markets, unlike

Option 2's integrated approach. High compliance costs could deter small businesses, potentially stifling innovation.

Consumers

Consumers gain access to a more transparent market with standardised disclosures, but the technical nature of white papers may limit their effectiveness for retail investors. Unlike Option 2, which leverages familiar AFSL disclosures, this option risks overwhelming consumers with unfamiliar terminology, reducing practical clarity.

Australian economy

The framework supports innovation by addressing blockchain-specific risks, potentially attracting niche fintech startups. Australia's innovation potential may be constrained by slower adoption.

International alignment and market credibility

Businesses

Alignment with global standards (e.g., FSB, IOSCO) enhances credibility, facilitating international expansion. However, the bespoke nature may require additional harmonisation efforts, increasing costs for firms seeking cross-border recognition.

Consumers

Consumers benefit from platforms meeting international standards, reducing risks from offshore providers. However, the unique framework may create inconsistencies with jurisdictions using financial services-based models, potentially confusing consumers accessing global platforms.

Australian economy

A bespoke framework positions Australia as a leader in digital asset regulation, but the high development costs and delays may reduce its global competitiveness compared to Option 2. Alignment with MiCA could support potential trade ties with Europe, but this would be offset against the lack of mutual recognition with AFSL-type jurisdictions.

Table 2 shows the estimated total regulatory burden on businesses under Option 3, which amounts to $60.8 million. This estimated regulatory impact includes the costs for both new and existing licensees transitioning to the new bespoke framework, as well as the effects of new regulatory obligations.

Table 3 - Average annual regulatory costs (See Attachment for assumptions)

Change in Costs $m	Business	Total
Total by sector	60.8	60.8

A bespoke digital assets framework would support innovation and bring some regulatory clarity, and deliver consumer benefits, but the high development and compliance costs and greater potential for delays and negative impact on early-stage business reduces its net benefit in comparison to Option 2.

5. Who did you consult and how did you incorporate their feedback?

The development of the regulating digital asset platforms proposal involved extensive consultation with diverse stakeholders to ensure the policy options and draft legislation reflect industry, consumer, and regulatory perspectives. Feedback was gathered through multiple channels and shaped the proposed framework for DAPs and TCPs.

Stakeholders consulted

Consultations engaged a wide range of stakeholders affected by the proposed regulation:

- Industry participants: Digital asset platform providers, blockchain startups, and technology developers, including exchanges and custodians, provided insights into operational and compliance needs. Organisations like Digital Economy Council of Australia, FinTech Australia and Tech Council of Australia represented industry views.
- Financial and legal professionals: Traditional financial service providers and legal firms specialising in financial services and law offered expertise on regulatory integration.
- Regulatory bodies: ASIC, RBA, AUSTRAC and ACCC provided regulatory perspectives.
- International counterparts: Regulators and policy advisors from jurisdictions like United Kingdom, United States, Japan, Singapore, and Hong Kong provided perspectives from their jurisdictions.

Consultation methods

Four key consultation processes, led by Treasury and supported by targeted engagements, captured stakeholder input:

- Crypto Asset Secondary Service Providers Consultation Paper (March 2022): Treasury's consultation paper sought feedback on three regulatory options: a bespoke framework, leveraging the existing financial services framework, or industry self-regulation. It received 110 submissions, including 11 confidential responses, from industry, legal, and consumer stakeholders.

- Token Mapping Consultation (February 2023): Treasury's token mapping paper analysed the application of financial services laws to digital assets, identifying regulatory gaps. It received 91 submissions, including 8 confidential responses, primarily from industry and legal professionals.

- Regulating Digital Asset Platforms proposal paper (October 2023): This paper proposed regulating DAPs and TCPs rather than redefining digital assets as financial products, seeking feedback on exemptions, thresholds, standards, and enforcement. Treasury held two stakeholder meetings to clarify proposals and three roundtables with platform providers, legal professionals, developers, and ASIC representatives to discuss implementation. It received 89 submissions, including 17 confidential responses.

- Exposure draft consultation (September-October 2025): Treasury released draft legislation to implement the preferred regulatory approach (leveraging the AFSL framework). Treasury held 8 industry briefing sessions and roundtables to provide further opportunity to clarify policy intent and provide platform for stakeholders to ask questions and test their thinking. Stakeholders reviewed the draft to assess its practical impact on their businesses and alignment with the proposed policy. As of 2 November 2025, the consultation received 55 submissions, including 9 confidential responses.

Bilateral meetings with key industry players, consumer groups, and regulators supplemented these processes, while ASIC's digital assets industry roundtables provided additional regulatory context.

Feedback and incorporation

Support for AFSL framework and preference for platform regulation

The 2022 Crypto Asset Secondary Service Providers consultation revealed majority support among industry, legal, and consumer stakeholders for Option 2, which proposes leveraging the existing AFSL framework, in preference to a bespoke regulatory regime or self-regulation.

The subsequent token mapping consultation submissions revealed broad consensus against creating a new 'digital asset' financial product taxonomy, citing complexity and overlap with existing laws. Instead, stakeholders supported regulating platforms, as DAPs was identified as the primary source of consumer harm (e.g., custody failures). This led to the focus on platforms in options, rather than asset reclassification.

In October 2023, Treasury released the Regulating Digital Asset Platforms proposal paper. It proposed regulating the operators of target digital asset platforms and tokenised custody platforms, rather than expanding the definition of 'financial products' to include digital assets directly. This was designed to ensure a proportionate, risk-based approach that targets harmful business models without overextending regulation. The existing financial services laws would then apply to the target operators in the same way they apply to operators of other similar financial products — with minor modifications to ensure fit-for-purpose outcomes. It forms the foundation of the recommended option.

Existing digital asset platforms (e.g., Kraken, Binance, Swyftx) indicated support for this approach which brings them within the existing AFSL regime, as they appear to recognise the importance of applying clear consumer protections and financial safeguards (e.g. custody, governance, disclosure).

The legal industry (e.g. Norton Rose Fulbright, Hamilton Locke, Gilbert & Tobin, Minter Ellison, Clifford Chance, Ashurst, and Stirling and Rose) also generally expressed support for the proposed approach to leverage the existing financial services laws for the digital asset industry by regulating platforms. They highlighted the benefits of legal familiarity and coherence with existing frameworks. Legal industries bodies too supported the proposed approach; however, they also expressed concerns that applying existing law to trading, staking and fundraising in the manner proposed may introduce regulatory complexity. One law firm agreed with leveraging the financial services laws but argued that the particulars of the proposed approach made it unworkable. These concerns were addressed in the exposure draft legislation through more targeted drafting.

Academics (e.g., Duffy, Buckley, van Romburg, and RMIT) indicated broad support for using the financial services law to ensure consistency and avoid fragmentation. Most favour adapting existing laws over creating a bespoke regime. Some note the trade-off between regulatory familiarity and the AFSL regime's administrative burden.

Financial industry bodies (Australian Financial Markets Association, Australian Banking Association, Australian Custodial Services Association, Customer Owned Banking Association, Australian Payment Network, and Financial Services Council) were supportive of leveraging existing financial services regulation, including the AFSL regime. They saw this approach as appropriately risk-based, flexible, and consistent with broader financial markets. Several note it as a positive step for global alignment and long-term scalability.

Existing financial service providers (eToro, Commonwealth Bank of Australia, and KPMG) were generally supportive of applying the AFSL framework to digital asset platforms. They indicated it was an appropriate way to extend proven protections. They flagged the need for greater clarity on certain definitions and specific requirements.

Support for 'custody-focus'

The focus on the asset-holding arrangement was well received by stakeholders. They agree that the proposed regulation should focus on centralised digital asset intermediaries engaging in custodial arrangements. The legal industry was particularly supportive of this approach, noting that it strikes an appropriate balance between regulatory oversight and the need to foster innovation.

However, a small number of stakeholders expressed the view that the proposed approach should adopt either a narrower or broader regulatory focus. Stakeholders advocating a narrower approach argued that this approach essentially 'captures all' and imposes undue restrictions. Hence, by capturing smaller projects, stifling growth and innovation within the digital asset sector. Whilst stakeholders advocating for a broader regulatory focus fear that the regulatory scope of the proposed reforms lack adequate coverage of the risk presented by the market, leading to potential ongoing consumer harm and systemic risk concerns.

Support for global alignment

International regulators and stakeholders emphasised interoperability with international frameworks. This influenced Option 2's alignment with FSB/IOSCO standards. The majority praised the proposed approach for being outcomes-focused aligning with those international standards recommended by IOSCO and broadly consistent with peer jurisdictions. The consultation process ensured stakeholder perspectives shaped a balanced regulatory approach, with Option 2 reflecting broad support for leveraging existing laws.

Feedback from the exposure draft legislation

Treasury undertook consultation on the exposure draft of legislation that implements the digital asset platforms reform. To inform analysis of the regulatory impacts of Option 2, the consultation materials included the following question to the stakeholders.[36]

"Compliance with the draft framework is expected to involve additional costs and resources (beyond those already incurred by businesses).

> What additional costs (expressed in dollar terms, if possible) would you expect to incur in order to comply with the framework contained in the draft Bill? What would be the breakdown of these costs, distinguishing between upfront and ongoing impacts, in relation to:
>
> – uplift in administrative processes (including staff capacity building)
>
> – change management and education support
>
> – governance costs
>
> – technology uplift
>
> – any other compliance impacts."

We received limited responses on the direct costs. Qualitative feedback indicates that complying with the AFSL will require investments across legal, compliance, governance, operational and technology functions. The variation in the estimates received supports our assumption that the DAP/TCP reforms will capture a broad range and varied business models. A couple submissions included high-cost estimates. We consider these cost estimates include significant technical costs, in addition to licensing application and ongoing costs. The high cost estimates received represent the upper bounds for compliance in the largest cases, which we do not consider representative.

Overall, most submissions reinforced the support for a framework that leverages existing financial services laws to mitigate consumer harm while fostering responsible innovation in the digital asset sector. Submissions also acknowledged significant drafting complexity to achieve policy objectives while remaining technology-neutral, flexible yet targeted. A range of drafting suggestions were also submitted on core concepts for "digital token", "digital asset", "digital asset platform" and "tokenised asset platform". Stakeholders also expressed views to clarify priority rules and safe harbour test, disclosure requirements, and exemptions. Some stakeholders expressed concerns for the scope of ministerial and ASIC powers, considering it is too broad. Others consider the transitional period is too short, making the implementation challenging.

Table 4. Impact Analysis (IA) at each major decision point

Decision point	Timeframe due	Status of the IA
Digital asset platform consultation	October 2023	Undeveloped

[36] Treasury, Regulating digital asset platforms – exposure draft legislation, Consultation questions, p.6

Statement on developing an innovative Australian digital asset industry	March 2025	Undeveloped
Office of Impact Assessment (OIA) authority	April 2025	OIA agreement to prepare an Early Assessment Impact Assessment for the Government decision
Consultation on exposure draft legislation	September – October 2024	Questions related to legislation design and regulatory impacts outlined in the consultation package.
OIA 1st pass final assessment	November 2025	First pass assessment IA completed and presented to OIA
OIA 2nd pass final assessment	November 2025	Second pass assessment IA completed and presented to OIA
Final policy decision to proceed with proposal	November 2025	To be informed by an IA that had been through a final assessment by OIA

6. What is the best option from those you have considered and how will it be implemented?

By addressing the current custodial risks inherent in the status quo and preventing the demanding challenges of a tailored regulatory framework, the Government has concluded that the best path forward for Australia's effective integration into the digital asset space is to regulate DAPs/TCPs by building on existing financial services frameworks (Option 2). This approach places asset custody at the centre of regulatory focus, recognising that the most significant risks to consumers arise when platforms hold and manage user assets on their behalf.

Option 2 strikes an optimal balance between meeting the reform objectives and avoiding excessive regulatory burden and complexity, thereby confirming it as the preferred option.

Closing regulatory gaps

Unlike the status quo, which offers minimal oversight and leaves consumers exposed to platform failures and poor practices, this approach directly addresses the regulatory gaps that put consumers at risk. It moves beyond reliance on self-regulation or fragmented enforcement, introducing clear standards for how platforms should operate, manage risk, and protect consumer assets.

Challenges of a bespoke framework

While a bespoke regulatory framework could offer a tailored solution, it comes with significant drawbacks. Developing an entirely new model would be time-consuming, resource-intensive, and potentially disruptive. It would require new legal definitions and compliance structures − efforts that could delay implementation, create uncertainty, and burden the industry with additional complexity. The industry will also continue to operate under existing financial service laws, and without reforms, uncertainty will persist. Pursuing this path risks stalling innovation during a critical phase of industry growth.

Leveraging existing frameworks

In contrast, regulating DAPs/TCPs through the existing AFSL framework offers a more timely and effective solution. It leverages well-established regulatory infrastructure offering a combination of rigor and flexibility, providing continuity and clarity for businesses, consumers, and regulators alike. Minimum operational and custodial standards can be introduced without reinventing the wheel, delivering robust protections while maintain the flexibility to adapt as the market evolves.

Crucially, only the DAP/TCP reforms directly address the core issues identified by the government, particularly the lack of regulatory oversight for platform-based business models that fall outside the current financial services perimeter. Many of these platforms hold and manage consumer assets but are not currently subject to enforceable rules on safeguarding, risk management, or user entitlements. The DAP/TCP reforms fill this gap by requiring all platforms with custody responsibilities to meet clear, enforceable standards.

In summary, integrating DAPs/TCPs into existing frameworks strikes the right balance between strong consumer protection, regulatory efficiency, and market adaptability. It is the only approach that

meaningfully addresses the risks of unregulated custody and positions Australia to lead in the responsible development of the digital asset sector.

ASIC's regulatory role

ASIC will be responsible for implementing the new regulatory framework. Its existing infrastructure and experience in financial markets position it well to take on this expanded role, ensuring the sector develops in a safe, transparent, and innovative manner.

A transitional period is proposed, during which ASIC will manage the integration of these changes. Leveraging its existing powers, ASIC will apply the AFSL framework to DAPs/TCPs and enforce minimum standards. These include:

- Assessing licence applications to ensure providers meet financial, governance, and operational standards.
- Monitoring ongoing compliance and enforcing existing laws where obligations are unmet.
- Rejecting or deregistering entities that fail to meet regulatory requirements.

Australia's financial services laws are well-established and widely understood, making the integration of DAPs/TCPs into the existing regulatory framework both logical and efficient. This approach allows both government and industry to avoid the significant costs and delays associated with building a standalone regulatory system, as the necessary infrastructure for licensing and oversight is already in place.

ASIC's track record of approving between 1,000 and 1,400 new AFSLs annually demonstrates its deep experience in supervising financial service providers.[37] This expertise positions ASIC well to extend its oversight to DAPs/TCPs.

Integrating DAPs/TCPs this way offers a cost-effective and timely regulatory pathway, enabling ASIC to avoid major system changes while mitigating the risk of fragmented or duplicative oversight.

Implementation challenges ahead

However, implementing this regulatory framework within existing laws presents several challenges. These include adapting current systems to the unique nature of digital assets, ensuring adequate compliance and enforcement capacity as the sector grows, and providing clear guidance to market participants. ASIC will also need to address consumer protection concerns, manage the transition from self-regulation to formal oversight, and ensure its staff has the necessary digital asset expertise. Evolving market dynamics, technological complexity, and the need for international regulatory coordination further complicate implementation. The evolving nature of these challenges are likely to present ASIC with ongoing hurdles, potentially leading to delays in approval timelines and placing additional administrative demands on both the regulator and applicants.

[37]Deborah O'Neill (2023). *Chapter 2 - Transfers and sales of ASIC licences*. Parliament of Australia. Available at: https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Corporations_and_Financial_Services/OversightofASIC/Report_on_ASIC_licence_transfers/Chapter_2_-_Transfers_and_sales_of_ASIC_licences

Despite these challenges, ASIC's established infrastructure and experience position it well to oversee DAPs/TCPs effectively, provided it can navigate these obstacles and remain adaptable as the sector evolves.

7. How will you evaluate your chosen option against the success metrics?

Treasury, in consultation with key agencies such as ASIC, will develop an evaluation framework for the preferred option (Option 2), with timing subject to commencement of the licensing regime that integrates DAPs and TCPs into the AFSL framework under the Corporations Act. This section outlines key elements to be considered in the development of the evaluation framework. This includes considering what is fit-for-purpose, feasible and within available resources, consistent with the Commonwealth Evaluation Policy.[38]

Evaluation objectives

The objectives of the evaluation should align with the overall policy objectives for the proposal – how implementation improves consumer protection and certainty for digital asset businesses.

Success metrics and indicators

The evaluation may employ a combination of quantitative and qualitative metrics for the evaluation of outcomes and implementation processes.

Consumer protection

This objective may be measured by:

- the number and resolution rate of consumer complaints lodged with DAPs/TCPs (possible source: Australian Financial Complaints Authority (AFCA);
- increased consumer financial literacy in relation to engaging with digital asset businesses; and
- the use of regulated Australian platforms and the number of fraud and scams linked to the platforms.

Business certainty

This objective may be measured by:

- industry satisfaction with regulatory clarity and proportionality, with success defined as the percentage of DAP/TCP operators reporting improved clarity compared to the status quo; and
- the growth of the digital asset sector by monitoring the number of firms, jobs and patents created.

Implementation process

The framework may evaluate how the regulator is implementing the reforms by tracking:

[38] Australian Centre for Evaluation, *Commonwealth Evaluation Policy*, available at: https://evaluation.treasury.gov.au/about/commonwealth-evaluation-policy.

- ASIC processing timeframes (i.e., measuring how long it takes on average for ASIC to make licensing decisions); and
- accuracy in assessing applications through how many applications are subject to review.

Data collection methods

During the development of the evaluation framework, consideration may be given to leverage existing assessment infrastructure and data collection processes (e.g. ASIC annual reporting and licensing application processes and AFCA complaints tracking) to minimise the reporting burden.

The quality of the evidence and data will improve over time, noting the fast-moving and emerging nature of the digital assets sector. For example, the implementation of the preferred option (Option 2) will require the regulated population (DAPs and TCPs) to submit reports to ASIC. This will help address data gaps. Stakeholder forums with consumers, businesses, and regulators can gather qualitative feedback on implementation challenges and unintended consequences, ensuring responsiveness to industry and consumer concerns raised during consultations.

Attachment - Regulatory costing assumptions for digital asset platform reforms

The assumptions underpinning this analysis draw on input from industry, ASIC, and Treasury. Options 2 and 3 introduce expanded scope to the regulatory perimeter due to transitional compliance obligations introduced under the DAP/TCP reforms. Due to the scale and nature of these changes, and the limitations of the input received, we have attempted to model our assumptions as accurately as possible despite ongoing challenges around data availability and evidence.

Transition and onboarding period

There are a range of costs associated with applying and maintaining an AFSL. In addition to an AFSL application fee, the AFSL framework for both new and existing licences encompasses a wide range of additional cost components, including resourcing, legal and compliance expenses, staff training, professional indemnity insurance, and consulting services. These costs are based on ASIC and industry estimates. We have not costed financial requirements for licensees and technology uplifts, which will be subject to minimum standards set by ASIC and will highly depend on individual business circumstances.

ASIC has, on a best-endeavours basis, estimated that approximately 200 entities will require a licence with DAP and/or TCP authorisations at commencement. This number captures the entities that will be processed during the transition/onboarding period and excludes an estimate of ongoing growth after the initial transition period. However, it is difficult to assess these numbers with confidence given ongoing challenges around data quality and availability for this sector. The applicant group is expected to consist of:

- A portion of the estimated 400 existing Digital Currency Exchanges (DCEs) registered under the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* at the time of the estimation.
- International entities that may immediately decide to expand into Australia following the settling of the regime.
- Digital asset service providers currently operating that do not require a DCE designation.
- Existing Australian financial services licensees that are not currently DCEs that may seek to add DAP and/or TCP authorisations for new products or services.

Exempt business

Small businesses (total market value of transactions across all its platforms does not exceed $10 million over a 12-month period) will be exempt from the licensing requirements given the proposed low-value exemption.

Marginal costings

Options 2 and 3 represent marginal costings built upon the foundation established in Option 1 (status quo). These options reflect the relevant incremental increases, which include an expanded scope to cover the 200 entities expected to receive DAP/TCP authorisation.

Assessment complexity

DAP licence applications are expected to be more complex than standard AFSL applications, due to:

- The evolving nature of many DAP/TCP business models.
- Limited prior regulatory engagement from some applicants.
- The developing nature of the regulatory framework for digital assets.

Medium-sized businesses as primary applicants

It is assumed that large businesses are more likely to already hold an AFSL or operate within existing regulatory frameworks. Consequently, large businesses typically only need to amend or expand their existing AFSLs to incorporate DAP/TCP reforms. In contrast, medium-sized firms, often operating outside the formal regulatory perimeter, are now seeking alignment with Australia's regulatory framework as they scale. As a result, we estimate approximately 75 per cent of businesses seeking an AFSL for DAP/TCP reforms are projected to be medium-sized. While some large businesses may still need to apply for an AFSL, the majority of applications are expected to come from medium-sized firms. There is also potential for large technology companies, previously unregulated under financial services laws, to begin offering digital asset products and services.

Option 1 status quo assumptions

Under Option 1 (status quo), no dedicated licensing regime will be introduced for DAPs or TCPs. Following the updated release of ASIC INFO 225, a greater number of entities are now expected to be licensed under the existing framework already.

As such, we now assume of the 200 entities initially seeking licensing, 150-175 entities are expected to already be licensed under the existing framework. This reflects the current status quo, where the majority of these entities will need to obtain an AFSL ahead of any DAP/TCP licensing frameworks coming into effect.

Option 2 costing assumptions

Under the DAP/TCP reforms, only 25-50 entities, primarily new market entrants and entities providing custodial services over non-financial product digital assets, will need to apply for an AFSL, as most existing entities are already licensed as described above. The primary regulatory cost for licensed entities will therefore relate to obtaining new DAP/TCP authorisations. Upfront costs are annualised over a 10-year period to provide a weighted estimate of the regulatory burden.[39] The same approach has also been applied to option 3.

We have applied a 10 per cent premium to the cost of obtaining an AFSL for new licensees. This reflects the complexity and novelty of the proposed regulatory framework for both medium and large sized firms, a premium agreed upon with our consultation with ASIC. AFSL application costs generally fall into two components: internal costs related to staff time and resource allocation, and external costs, which may include legal advice, compliance consulting, and documentation support. Larger firms are more likely to offer a broader suite of products and services, which in turn exposes them to more extensive compliance

[39] This is based on the methodology included in the Regulatory Burden Measurement Framework developed by the Office of Impact Analysis. Upfront costs are averaged over 10 years in order to calculate the average annual regulatory cost.

obligations and increased regulatory scrutiny. Estimates of ongoing compliance costs are informed by the projected number of FTE staff needed to meet regulatory obligations.

For existing licence holders, additional costs reflect only DAP/TCP authorisations, without the need to prepare a new AFSL application from scratch. Instead, costs will relate primarily to updating authorisations and providing the relevant supporting documentation. The regulatory burden is therefore limited to the additional authorisation process, with a 25 per cent burden adjustment applied to existing licensees for both up-front and ongoing costs.

The costs presented under option 2 represent the marginal costs relative to the status quo, reflecting only the additional expenditure required to meet new or enhanced regulatory obligations.

Option 3 costing assumptions

A bespoke regulatory framework is expected to substantially increase the costs associated with obtaining and maintaining an AFSL. ASIC has previously indicated that the upfront costs associated with implementing a bespoke regulatory framework (IT infrastructure, regulatory guides, legislative instruments) could double compared to Option 2. ASIC believes the industry would face similar cost pressures in adapting to a bespoke framework. These pressures may include developing new policies and procedures, potentially submitting multiple licence applications, and increased reliance on legal and compliance advisors, who also need to adjust for a bespoke framework. To reflect these adaptations, we have applied a 50 per cent premium to new licensees based on Option 2 estimates.

These higher incremental costs are driven by the added complexity and specificity of the tailored regulatory approach. For example, the need to engage specialised expertise and adapt systems to align with bespoke requirements. Costs for existing licensees are also expected to remain elevated relative to Option 2, reflecting the sustained obligations involved in maintaining compliance with a more complex framework, evident in our 50 per cent burden adjustment for existing licensees for both up-front and ongoing costs.

Overall, option 3 introduces substantial cost implications for both initial implementation and ongoing compliance, reflecting the burdens of a customised and evolving regulatory environment.