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The Board

International Organisation of Securities Commissions (IOSCO)

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Sent electronically to cryptoassetsconsultation@iosco.org

PUBLIC COMMENT ON IOSCO's CONSULTATION REPORT ON POLICY RECOMMENDATIONS FOR CRYPTO & DIGITAL ASSET MARKETS.

BTC Markets Pty Ltd (BTCM) are an Australian-based digital asset exchange. This year marks our tenth in operation. We have over 325,000 Australian clients who have traded more than US$15bn dollars. Our sister company, BTCM Payments, holds an Australian Financial Services License for non-cash payments and general advice. We also hold ISO 27001 certification and are working towards SOC II certification. This reflects our commitment to operating at the highest standards and mirror international best practices.

IOSCO stated objectives are the protection of clients; ensuring markets are fair, efficient, and transparent; and reducing systemic risk.

It is the position of BTC Markets that there is a need for appropriate, proportionate industry regulation. We agree that exchanges need to operate in a fair, efficient and transparent manner. Likewise, we agree with the requirement for industry standards to confer safety and quality. Also, for the need for guardrails to encourage or discourage certain activities.

The IOSCO approach is to regulate the actions and activities of crypto asset service providers or CASPs. This functional rather than prescriptive approach is sensible given the bespoke nature of individual regulatory regimes. However, the core desired outcomes of market integrity and investor protections stay consistent across all jurisdictions.

Recommendation 1 supports the regulation of crypto asset services in a manner consistent with IOSCO standards. BTCM broadly agrees. In our home jurisdiction of Australia however, there are elements of a market license that do not and cannot apply. For example, the need for third party settlement. Instant ledger settlement on exchanges or in 10 minutes on the Bitcoin blockchain for on-chain transactions are crypto trading norms. This advantage ensures the IOSCO objective of fairness and efficiency. It also dramatically reduces settlement and counterparty risk. It would be counterintuitive to remove this benefit and increase the risk in order to retrofit to earlier regulations. We would suggest this is reviewed, with the creation of a third 'tier' of market licenses in Australia.

IOSCO would like greater consistency in regulation. Standardisation of basic exchange requirements worldwide will even out the playing field and reduce regulatory arbitrage. Improving standards will generate greater investor confidence to come in to crypto. Particularly if regulated in a similar fashion as traditional finance. This equivalence will transform crypto from being on the edges of our financial system, to being at its heart.

The IOSCO standards apply to all issuers of crypto. This ensures that one party is not advantaged over another. There is a question in practice of how it can be workable against anonymous protocols such as Bitcoin. It also remains to be seen how this would work in the world of decentralized finance, given the need for a level playing field.

BTCM agrees that potential conflicts of interest should be addressed. Recommendation 3 proposes that CASPs accurately disclose each role and capacity in which it is acting at all times. We also agree that for retail users, these disclosures need to be in plain language. It needs to be clear how and why this may affect the trade or investor. In addition, the activities that qualify an operation to be an 'exchange' (vs. a broker) needs to clearly be applied. Some broker platforms posture as exchanges, giving an incorrect Impression to retail investors. This is relevant to matters such as custody or spread where a retail investor may lack knowledge on what is good practice.

In our case, BTCM does not have a proprietary trading operation. Our business model is predicated on providing clients with a safe, secure and technically robust trading platform. Our priorities mirror their own. This limits our conflicts of interest.

We can learn from the examples of history, in this case vertical integration in traditional finance. The establishment of separate business entities with distinct management and operations; Chinese Walls between areas of the business e.g., between a proprietary trading desk and exchange listing decisions. These operational structures are not overly burdensome, regardless of the business size.

Recommendations 4 & 5 focus on ensuring that market participants and clients are treated fairly. As an exchange we currently either meet these recommendations or can make minor adjustments to be compliant. Greater transparency from others will level the playing field and weed out poor behaviours. Guardrails as suggested should be adequate to separate activities between a market operator and trading intermediary. In the same vein as separation within traditional finance.

Likewise with off-chain transactions. Well-run exchanges or brokers should have no issue meeting these requirements.

BTCM freely provides off-chain trade information with pricing charts dating back 5 years; current market depth per asset; the last 50 trades executed on the platform; and the up to date top 50 buy and sell orders. This data is visible on our platform without needing an account or to be logged in. We believe this fulfils the suggestion in question 8.

Recommendation 6 relates to the systems, policies and procedures for listing and delisting assets. These standards should include the substantive and procedural conventions for making such determinations. BTCM holds no issue with the principle of disclosure requirements. Our practice begins with a legal review to ensure it does not meet the definition of a security under Australian law. Concurrently risk and compliance conduct due diligence on the project which is also reviewed by our technology team. Furthermore. projects are assessed for client demand. We do not request or accept inducements when listing projects. Exchanges around the world list similar assets (e.g., bitcoin.) Therefore, it would require a standardisation of the information required, to avoid information asymmetry.

Regarding question 10, BTCM does not have an exchange token and our staff are paid in fiat currency. However, the wording of question 10 re: "a material interest" could capture all digital assets held in corporate treasury. If there are to be limitations, the purpose and outcome would need to be tightly clarified. If it pertains to insider trading of exchange tokens for example, trading blackout periods for all staff can apply along with disclosures by senior managers and their family members.

Question 12 looks to address market abuse and surveillance. Issues seen thus far with crypto exchanges largely resemble those seen in traditional markets. Fundamentally, problems around human behaviour which proper licensing, oversight and audits can mitigate. Important to include broker requirements alongside exchanges. The earlier recommendations on listing requirements will overlap with material non-public information. The other consideration here may be to include specifics relating to exchange tokens e.g., CRO or BNB.

On custody, recommendation 14 "require a CASP to disclose… how Client Assets are held, and the arrangements for safeguarding these assets and/or their private keys." There are limitations in how much information is safe for exchanges to disclose. In our structure, client crypto assets are held in an omnibus wallet. The vast majority of client crypto assets are held in cold storage. The small remaining balance sits between the warm and hot wallets i.e., available for withdrawal from the exchange on demand. It would be possible to provide a blanket statement describing the omnibus account structure and percentages held between cold, warm and hot wallets. However, as assets are fungible, it would not be possible to isolate between clients. Similar to bank accounts. Further specifics or details for public consumption would jeopardize the security of the process.

Self-custody is an option for crypto investors. Given the fresh security risks, will there be an applicable set of recommendations and practices for the providers of personal wallets? Lastly on the custody of assets and the location of private keys, the ability to return client assets is vital. It is our stance that if the client is based in Australia for example, the person controlling the private keys should also be based in Australia. This is to prevent the issues we've seen where FTX Australia client assets were held outside the jurisdiction and therefore, limited in ability to regain their assets.

BTCM segregates client assets from the company. Challenge for exchanges in Australia is that we can't access mainstream banking services. As a result, it is highly challenging to access Trust accounts for AUD. Accessing trust accounts should also then mean CASPs can access the rest of the mainstream banking system.

Recommendation 15 relates to independent assurance. Fiat audits can be conducted without issue in Australia at present. However, there is a lack of auditors with appropriate crypto experience to run a complete audit. External audits on custody controls also creates third party security concerns. How much information can be disclosed to be effective, what manner of data storage is then used on that information? From our engagement with firms locally, there are also concerns about professional indemnity insurance for auditors. For example, we were informed that Lloyds of London pulled professional indemnity cover on crypto work after the collapse of FTX. This limited the availability of firms to work with our industry. BTCM has responded by retaining ISO 27001 for external oversight on core IT functions alongside financial and AML/KYC external audits.

Question 18 centres on the communication of risks to retail investors. A key risk relates to the concept of "not your keys, not your coins." This links directly to the issues we outlined the custody section. Specifically, the need for onsite custody of private keys. As a counterweight, there is a need to consider other risks that are mitigated by using on- or off- chain settlement. A clear reduction in counterparty and settlement risk for example.

Finally, questions 19 & 20 refer to point of sale and advertising safeguards. Australia's financial services regulator has issued specific regulations along with financial industry guidance on retail disclosures and separately on advertising. These rules have broad applicability to crypto which can be cross referenced for relevance or additional requirements.

As an organisation, we are committed to supporting the growth of digital finance in Australia and around the world. BTCM would welcome the opportunity to discuss any of the points raised in more detail.

Yours sincerely,

Caroline Bowler
CEO, BTC Markets.