Monetary Authority of Singapore (MAS)
10 Shenton Way
MAS Building
Singapore 079117

21 December 2022

Proposed Regulatory Measures for Digital Payment Token Services: P008 - 2022

Dear Sir/Madam,

Binance understands the responsibility we, and every other major platform, have in collaborating with policymakers and regulators to contribute to the development of a regulatory framework with consumer protection and market integrity at its heart.

We hope you find our response to the consultation helpful. We are keen to continue the discussion on this important issue, and look forward to discussing our response in further detail.

Thank you for taking the time to engage with us.

Yours faithfully,

Binance.
1. MAS seeks comments on the proposed scope of “retail customer” for consumer access measures.

We agree with MAS’s sentiment at 2.10 of the consultation document that “regulation does not shield consumers from the risk of their cryptocurrency holdings losing value, or if DPT service providers collapse due to unsustainable business models, fraud or excessive risk taking. As with all financial decisions, consumers must take primary responsibility to understand the choices they wish to make, obtain the needed information, and exercise utmost caution before deciding where to put their money.” In this context, the existing MAS guidelines issued in January 2022 on “provision of digital payment token services to the public” provides targeted and proportionate safeguards to prevent casual access by the public to either the promotion or provision of digital payment tokens, as well as payment token derivatives.

As regulation matures globally, and crypto service providers better understand the regulatory standards expected of them, we expect that speculation and volatility observed in some markets should reduce. We also agree with MAS’s sentiment at 2.12 of the consultation document that “to facilitate innovation in digital assets, regulations need to be clear and proportionate to the risks posed. These regulations should be periodically reviewed to ensure that they remain relevant, given the pace of innovation.” Current regulatory concerns may change as a result of reduced volatility and flexibility should exist to allow appropriate access so that the wider opportunities of crypto innovation can occur, proportionate to the overall benefits and risk the industry presents to MAS and Singapore.

We agree that the existing distinction between general retail consumers and accredited investors and institutional investors could be used as this is understood by consumers and industry. However, we believe that imposing a maximum cap of S$200,000 is unnecessarily prohibitive towards sophisticated crypto investors who prefer to retain the majority of their assets in crypto. We propose a cap of S$1 million of personal DPT holdings should count towards the AI threshold of S$2 million to match the “primary residence cap”. This should also help strike a balance between the periodic assessment of customers as Accredited Investors (“AI”) and the additional implementation and monitoring costs and effort this brings relative to achieving the policy outcome. It may also make it easier for certain DPTSP to value crypto assets when using average trading prices over an agreed period of time.

2. MAS seeks comments on the options for the treatment of DPT holdings for the purpose of determining a customer’s eligibility as an Accredited Investor (AI).

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3. **MAS seeks comments on the proposal to assess the retail customer’s knowledge of the risks of DPT services, as well as the risks to be covered by the assessment.** MAS also seeks comments on possible next steps for DPTSPs, should the retail customer be assessed not to have sufficient knowledge of the risks of DPT services.

Any assessment of customer knowledge should aim to be proportionate to the nature, scale, and complexity of the risks posed. To achieve the outcome required the knowledge assessment should be operated by industry and be flexible enough to reflect the individual services and activities being accessed by each customer. To ensure consistency in approach, and a fair and reasonable assessment of customer knowledge, an industry working group with representatives from MAS should agree the principles expected, including desired outcomes to be achieved. Industry should then design solutions to assess knowledge based on this framework to enable the right balance to be struck between the responsibilities of the regulator, regulated and retail customer. This should help ensure that knowledge tests are practical and fair, in support of the policy objective, whilst allowing retail customers to exercise individual choice in respect of crypto.

Where a retail customer does not have the required standard of knowledge this should be based on an assessment specific to the service or activity being accessed. Customers should be allowed to take the knowledge test again and be provided with support and materials to support them. Any interim restrictions applied to individual services or activities, based on the customer’s lack of knowledge, should be flexible and consistent with this approach.

4. **MAS seeks comments on the proposal to restrict DPTSPs from offering incentives to retail customers.**

We consider that the existing MAS guidelines on “provision of digital payment token services to the public”, already provides sufficient targeted and proportionate safeguards relevant to this topic. Additionally, substantive policy proposals, such as Q1 - Q3 that consult on the scope and assessment of “retail customer” for consumer access measures, should be finalised before other policy decisions affecting this group such as Q4 are considered. In the context of current relevant guidance, and assuming Q1 - Q3 is implemented as consulted, we would recommend that MAS carry out a post-implementation review before finalising their policy for Q4.
5. MAS seeks comments on the proposed restrictions on debt-financed and leveraged DPT transactions.

As per Q4, Q1 - Q3 should be finalised before other policy decisions affecting this group are considered. For example, whether access to credit or leverage by retail customers in Q5 should be determined once the policy outcomes of Q1 - Q3 are known. Assuming Q1 - Q3 is implemented as consulted, we would recommend that MAS carry out a post-implementation review before finalising their policy for Q5.

6. MAS seeks comments on the proposed segregation measures relating to customers’ assets.

Binance is supportive of MAS’s consultation proposals to inform customers of the arrangements and risks involved in having their assets held by DPTSPs.

7. MAS seeks comments on whether DPTSPs should be required to appoint an independent custodian to hold customers’ assets. MAS also seeks comments on other control measures that would help to minimise the risk of loss or misuse of customers’ DPTs.

The Financial Stability Board’s recent consultation on “Regulation, Supervision and Oversight of Crypto-Asset Activities and Markets” identified in its Annex 1 “Essential functions, risks and relevant international standards” that Function 2: Wallets and custody are operational risks (please refer to Annex I).

Through consultations such as those published by the FSB and MAS we expect that the regulation of crypto will introduce robust governance, effective risk procedures and adequate internal control mechanisms proportionate to the nature, scale and complexity of the risks inherent in the business model and the firm's activities. This will include disclosures relating to the risks and arrangements in customers having their assets held by DPTSPs, and the effective management of conflicts of interests by e.g. appropriate asset segregation, supported by internal systems and controls and external audit.

Due to the inherent characteristics of crypto exchange businesses, and the underlying technology used, as compared with traditional financial services, it may be necessary to

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3 (1) Operational risks: cyber security risks leading to unavailability or unauthorised outflow of customers' crypto-assets; This includes technical vulnerabilities including wallet software design and cyber security measures, and operational vulnerabilities such as loss or mismanagement of private keys. Misconduct risk from, e.g., loss of funds due to negligence, fraud/theft, poor administration, inadequate record keeping, or co-mingling of assets.
regulate them on a more bespoke basis. For example, depending on the business or customers of the DPTSP:

- it may not always be operationally feasible and may in fact increase security risk where a third party custodian is required to hold customers’ assets,
- they may list a wide range of tokens, some of which third party custodians may not be capable of holding, and;
- involving a third party custodian may require on-chain transfers which may compromise security, timeliness of transfer and increase cost to users.

Binance proposes that, within regulatory guardrails, there should be flexibility to enable different risks to be managed appropriately by the DPTSP.

In the context of the above, Binance seeks further clarification on what MAS envisages would fall within the definition of an independent custodian. In our view, the definition of independent custodian should encompass an independent corporate entity within the group structure of the DPTSP with appropriate insolvency ring fencing measures for wallets in order to safeguard users’ assets.

8. **MAS seeks comments on whether the proposed disclosure and reconciliation measures are appropriate and adequate, and whether any other disclosures would be useful.**

For firms licensed as DPTSP, Binance agrees that timely reconciliation of customers’ assets, together with the ability to make customer account information available to the customer is sensible. We suggest that for DPTSP best practice for customer reconciliation is ‘real time’.

Operationally, including for security reasons, we would like to suggest that as long as the information required is available to the customer, on at least a monthly basis, the DPTSP should not be mandated to send the information to the customer uninitiated. Where the DPTSP’s functionality enables the customer to log-in and self-serve to access the information in their account directly, and in which there is a log of all their transaction data enabling them to view a statement of their account, then this should suffice in meeting the reconciliation and disclosure requirements proposed.

9. **MAS seeks comments on the proposed risk management controls for customers’ DPTs. MAS also seeks comments on any other measures to safeguard the private keys and storage of customers’ DPTs.**

In principle, Binance agrees on the proposed control measures to safeguard the private keys and storage of customers’ DPTs. However, we would like to suggest the following:
That the proportion and mix of DPTs in hot and cold wallets is dependent on the DPTSP’s business model and should be managed in line with, for example, its liquidity risk management policy and processes to ensure good operational resilience. This proportion and mix should be managed operationally and not mandated by MAS. For example, mandating a small upper limit on the overall volume of DPTs that are able to be stored in a DPTSP’s hot wallet (e.g. 10 percent) could (i) impact the speed at which customer withdrawals can take place; (ii) compromise security systems of the DPTSP as it will require more sweeping from the cold to the hot wallet.

In addition to having risk management controls for the storage of private keys, having such controls for the key generation process is also critical to safeguard private keys. As highlighted by MAS, private keys may be subjected to single points of failure, as well as internal or external threats. As such, we want to suggest the use of Multi Party Computation (MPC) in key generation, which is a mechanism to generate and split the private key into multiple pieces distributing them in multiple places and storing them securely so that no one person will have full access to the private key. This methodology, in our view, has superior risk controls against the traditional method of creating private keys.

Binance considers user protection a top priority. We have instigated our own self-insurance fund (SAFU) as part of our commitment to users and investors who place a significant amount of trust in centralised crypto exchanges. We are supportive of disclosing the process for compensating customers in the event of loss as a result of security breach. However, the compensation amount / magnitude could depend on various contributing factors, such as the DPTSP’s ability to procure sufficient insurance in the open market, and therefore should be left to the market and not be mandated.

10.MAS seeks comments on the proposed restriction on DPTSPs not to lend out retail customers’ DPTs. MAS also seeks comments on any other measures to protect customers’ DPTs from the risks of unregulated borrowing and lending by DPTSPs.

Our answer to Q5 is relevant to this question.

Additionally, it may be helpful to consider the different aspects of the crypto ecosystem to ensure that services and activities can be made available to retail customers proportionate to the overall benefits and risk the industry presents to MAS and Singapore. For example, activities such as yield farming, staking and saving have different characteristics, risk profiles and utility within the crypto ecosystem and should be considered separately. The levels of risk and reward, complexity and impermanent loss also differs across the activities with saving and staking simpler than higher risk yield farming.

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4 https://www.binance.com/en/blog/community/topping-up-safu-to-$1b-8460049926432191856
In particular, staking is the process of supporting a blockchain network and participating in transaction validation by committing crypto assets to that network on-chain. It is used by blockchain networks which use the proof of stake consensus mechanism and is integral to the functioning of the blockchain network.

Through appropriate regulation, including the use of disclosure and customer consent, it is feasible that simple, lower risk, saving and lending activities can be made available to retail consumers safely. Importantly, this should include staking products that support the blockchain network.

11. **MAS seeks comments on the proposed measures to identify and mitigate conflicts of interests.** MAS also seeks comments on any other measures to identify and mitigate conflicts of interest.

Binance agrees with the proposed measures from MAS with the exception of the restriction on proprietary trading for DPT platform operators. We believe proper safeguards can be put in place, including appropriate segregation to mitigate the risk of conflicts, as happens in the traditional financial services sector.

12. **MAS seeks comments on the proposal for DPT trading platform operators to publish its policies and procedures on the process for selecting, listing, and reviewing DPTs, as well as the relevant governance policies.** MAS also seeks comments on any other measures or disclosures to enhance market discipline on DPT trading platform operators, with regard to DPTs traded on their trading platforms.

Binance is supportive of the proposal that DPT trading platform operators publish criteria for selecting, listing and reviewing DPTs. This should be limited to a publication of the due diligence template, or list of factors which form any listing and delisting assessment, necessary to achieve the policy outcome. Company policies and procedures are internal documents which govern how the digital asset listing team should operate/function and usually contain company sensitive information which may not be appropriate for the public domain. They are also subject to frequent review and update which would make publishing them impractical.

13. **MAS seeks comments on the proposed complaints handling policies and procedures.** MAS also seeks comments on any other measures or disclosures to ensure that customer complaints are dealt with in a fair and timely manner.

Binance has established complaints handling policies and procedures and we are supportive of the proposals from MAS.
14. MAS seeks comments on the proposed requirements for DPTSPs to establish a high level of availability and recoverability of critical IT systems that they use to support their business and services. MAS also seeks comments on the proposed incident reporting and customer information protection requirements.

Binance is supportive of high IT security standards designed to safeguard its platform and users. Binance utilises commonly accepted international standards (e.g. externally audited and certified ISO27000, SOC2 TypeI/II) relevant to the provision of IT services, including in its approach to business resilience, data and cyber security and customer information protection. This includes designing, implementing and operating the platform with built-in high availability across different availability zones, and data durability with a greater than 99.99% service level agreement (SLA). Business resilience standard operating procedures and SLAs have been clearly defined for the failure of critical system components with regular revisits and failover practices. Data security and customer information protection includes classifying and managing data based on sensitivity. All internal and external facing systems have clearly defined permission and role based access controls. We also monitor critical system components, user devices and endpoints for potential hacking or exposures to security vulnerabilities.

15. MAS seeks comments on effective systems, procedures and arrangements that DPT trading platform operators should implement, in order to promote fair, orderly, transparent trading of DPTs offered for sale on their trading platform.

DPTSPs should have comprehensive "market misconduct" regimes in respect of DPTs. This is fundamental to consumer protection and market integrity. In addition to the market surveillance and transparent trading measures referred to in Q16, this should include policies and procedures specific to insider trading and (DPT) token listings.

For DPT listings this should include:
  ● information submitted by a DPT issuer for admission to trading e.g. “whitepaper”;
  ● suitability for admission to trading with regard to due diligence undertaken by the exchange in respect of key risks such as the background of the issuer of the DPT, product roadmap, tokenomics, finances, code design and infrastructure security; and
  ● processes for the orderly delisting of a DPT.

Licensed virtual asset exchanges should be primarily responsible for determining whether a DPT is admitted to trading. It is also important to ensure appropriate regulatory oversight of the admission process to trading DPTs on exchanges and this could be achieved in different ways e.g:

Self-certification: Under this route, the exchange would, prior to admitting a new DPT to trading, self-certify to the relevant competent regulator that the virtual asset it intends to list is a DPT within the relevant definition, and that the DPT has met the exchange’s requirements for listing. The regulator would then have an opportunity to stay the listing within a prescribed time period.
Review and approval: Under this route, an exchange may instead request the relevant regulator review and approve a particular DPT for admission to trading rather than the exchange undertaking a self-certification process.

Regulators could also publish a list of all DPTs submitted to it under either route. The publication of such a list would provide certainty to the industry as to which products are DPTs. This would be of particular assistance to new or developing exchanges and would provide users with additional comfort that the DPTs they are buying or selling are regulated products.

16. **MAS seeks comments on effective measures, including the implementation of market surveillance mechanisms, to detect and deter unfair trading practices.**

Binance agrees that DPTSPs should implement effective systems, procedures and arrangements to facilitate fair, orderly and transparent trading. This will reduce the probability of users engaging in unfair trading practices as the MAS has described.

Binance agrees that there must be implementation of market surveillance mechanisms to detect and deter unfair trading practices. Unfair trading typology investigations usually involve analysis of user trading patterns, which is typically post-trade in nature. Due to the fast moving nature of crypto markets, Binance also agrees that real time market surveillance by DPTSPs, where practical and possible, could help.

17. **MAS seeks comments on the proposed transition period of 6-9 months. MAS also seeks other comments to facilitate the transition towards the implementation of the regulatory measures.**

Subject to a presumption that the final policy is consistent with the consultation proposals and does not change in any material way we believe that 6 - 9 months is an acceptable transition period for firms.

We highlight, for consideration, the need to factor in time to develop and agree a knowledge test with industry, as referred to at Q3, as well as any additional policy work considered necessary based on responses e.g. Q4, Q5 and Q10.

18. **MAS seeks comments on any other matters related to the consultation paper.**

No further comments.