

Mills Oakley

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Questions on Notice – public hearing 11 February 2021**

In terms of questions on notice, I note that the Chair, Senator Bragg, had asked after recommendations in relation to a digital asset policy framework but I was unable to contribute during the hearing due to the audio quality. In this regard, I refer to Recommendation 3 of my submission which sets out a proposed Digital Assets Framework and is extracted below for ease of reference. I would be pleased to provide further assistance in relation to the development of a Digital Assets Framework should it assist the Chair and Committee in their preparation of the Final Report.

2.2 Digital Assets Framework

Recommendation #3

The Australian Government consider leading the preparation and release of a multi-agency working taxonomy of Digital Assets to support Australian legal and tax applications, with input from multiple Australian regulators.

A taxonomy that we use regularly in our Blockchain & Digital Assets practice, which deals with legal and tax issues across a number of legal practice areas, covers:

- (a) Cryptocurrency (other terms include payment tokens, exchange tokens), which is used like money (often with merchants that accept cryptocurrency as payment) and as a speculative asset (often when traded on digital currency exchanges).
- (b) Crypto-assets (other terms include virtual assets, digital assets), which comprise:
 - (i) Utility tokens (with and without restrictions)
 - (ii) Tokenised securities (where the equity or debt instrument is registered with the traditional legal system and the interest is tokenised)
 - (iii) Security tokens (the interest only exists digitally by virtue of the token holding and includes governance tokens whether voting rights are delegated or not, Liquidity Provider tokens and certain Non-Fungible Tokens)
 - (iv) Stablecoins (fiat-, crypto-, algorithmic-, hybrid-collateralised).
- (c) Sovereign Digital Currencies, including CBDCs and government-issued or government-mandated cryptocurrencies.
- (d) Privacy coins, which seek to conceal the sender and / or recipient details to a transaction.
- (e) Multi-characteristic tokens which include features from one or more categories above, where there may be multiple concurrent intentions and uses of the token and where the legal characterisation and taxation event is more appropriately determined upon disposal or use rather than upon by reference to the issuing entity and time of issue.
- (f) Multi-tiered token economies which may include at least a governance token and a cryptocurrency for the network to function.
- (g) Data and media assets including online account logins, digital twins, branding and as consumers can control more of their data, identification vaults and curated data vaults.