



3 June 2016

Division Head
Individuals and Indirect Tax Division
The Treasury
Langton Crescent
PARKES ACT 2600

Attention: **Chris Lyon**

Via email: **digitalcurrency@treasury.gov.au**

Dear Chris,

**GST Treatment of Digital Currency
Discussion Paper**

The Australian Financial Markets Association (AFMA) represents the interests of over 130 participants in Australia's wholesale banking and financial markets. Our members include Australian and foreign-owned banks, securities companies, treasury corporations, traders across a wide range of markets and industry service providers. Our members are the major providers of services to Australian businesses and retail investors who use the financial markets.

We welcome the opportunity to provide feedback to the Treasury Discussion Paper titled "GST treatment of digital currency" (**the Discussion Paper**).

Policy Position

AFMA is supportive of the stated policy intention of the reform options canvassed in the Discussion Paper, that is, the elimination of double taxation from a GST perspective arising from the delivery of digital currency.

We also advocate, to the extent possible, consistency in the Government's policy approach to digital currencies and the technologies that underpin them. We are aware of a number of regulatory and taxation areas that are currently considering how best to treat digital currencies, including those set out in the report of the Senate Economics Committee. As technology evolves and innovation gives rise to changes in both transaction structures and the technology that underpins such transactions, it is appropriate that policy responses reflect a holistic position adopted by Government as to how digital currencies and associated developments ought to be regulated.

Identifying Digital Currencies

Acknowledging the difficulties articulated in the Discussion Paper in terms of defining “digital currency,” and the potentially unintended consequences from adopting a definition that was sufficiently broad so as to give rise to unintended consequences from a policy perspective, AFMA supports a mechanism for identifying digital currencies which couples a broad legislative definition with a registration mechanism that confers upon an appropriate authority the power to declare or deny certain digital currencies as being compliant with the requirements of being a “digital currency” for GST purposes.

In terms of legislative construction, given the pace of innovation in relation to “fintech” technology and the stated Government intention to actively support innovation and development in this area, it is appropriate in our view that a broad, principles-based definition of “digital currency” be adopted. In this regard, we agree with the criteria as set out in paragraph 33 of the Discussion Paper as appropriately representing criteria that could be used to support such a definition.

In order to mitigate unintended consequences, and to provide commercial certainty for both users and recipients of digital currencies, a principles-based definition could be augmented with a registration/approval mechanism being vested in the appropriate body to declare that certain currencies are eligible for the refined GST treatment. Our view is that producers of new digital currencies will be appropriately incentivised to make application for approval at an early stage, and that this process will be more efficient than a regulation making power being vested in the Parliament. This approval power would also have a right of veto, and may be backed by a Gazettal, such as the process that currently occurs for the registration of Offshore Banking Units (**OBUs**).

Addressing Double Taxation

In terms of alleviating the current double taxation associated with making a supply of digital currency, the Discussion Paper puts forward two broad options; making the supply of digital currency an input taxed financial supply or treating digital currency as “money” for GST purposes. AFMA supports the latter to ensure that the GST treatment of digital currency is akin to fiat currencies through the lack of denial of input tax credits.

Many AFMA members either receive or expect in the future to receive digital currency in the course of business operations, and in turn will either seek to convert that digital currency to fiat currency or pay for goods and services using the digital currency received. It would be expected that the members will be above the financial acquisitions threshold in respect of such transactions and hence the difference between input tax treatment and treatment as money, as articulated in paragraph 47.2, is most likely to arise for most AFMA members.

Ultimately, from a policy perspective, there should be indifference between the receipt of fiat currency and digital currency and such a position should assist in future-proofing the GST legislation in light of continued financial innovation. We support the characterisation of digital currency as money for GST purposes, notwithstanding the additional compliance burden and enhanced changes required to the GST architecture to give effect to this characterisation.

In this regard, it is noted that the definition of “money” for GST purposes is already expansive, insofar as it includes bills of exchange, promissory notes and money orders, and hence such a characterisation for GST purposes should not automatically result in an inference that digital currency is money for other purposes.

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We appreciate the opportunity to make a submission to the Discussion Paper. Please contact me if you would like to discuss further.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Rob Colquhoun', written in a cursive style.

Rob Colquhoun
Director, Policy