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Government attitude and definition

The Commonwealth Government of Australia (**Government**) has taken a generally supportive approach for new and innovative financial services and products in the financial technology (**fintech**) sector.

Clarity regarding the application of Australian regulatory regimes to the blockchain and cryptocurrency sector has been iterative. The Government has shifted from passive observation to proactive reform, focusing on licensing, custodial standards and consumer protection.

There has been a raft of government reviews into the cryptocurrency, fintech, financial services, payments and stored value regimes over the last few years. This has included (among others):

- On 10 December 2024, the *Anti-Money Laundering and Counter-Terrorism Financing Amendment Bill 2024* (**AML/CTF Bill**) received Royal Assent. The AML/CTF Bill made sweeping reforms to the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (Cth) (**AML/CTF Act**) to modernise Australia's AML/CTF regime in line with international standards. The reforms commenced on 31 March 2026 for Tranche 1 entities and on 1 July 2026 for Tranche 2 entities, and expands the scope of value transfer and virtual asset-related designated services.
- On 21 March 2025, the Government released a response to the Board of Taxation's review of the tax treatment of digital assets and transactions in Australia, confirming that existing tax laws are applicable to digital assets and transactions, while also recognising that the Australian Taxation Office (**ATO**) can assist in improving certainty among the digital asset industry by issuing targeted guidance.
- On 21 March 2025, the Government released its Digital Asset Statement outlining the Government's approach to transforming regulation of the digital asset industry. The Statement aims to position Australia as a global leader in the digital asset ecosystem.
- On 30 July 2025, the *Treasury Laws Amendment (Payments System Modernisation) Bill 2025* (Cth) was introduced to Parliament. This bill modernises Australia's payments system regulatory framework to address risks posed by emerging technologies. It expands the definitions of "payment system" and "participant" to bring within scope a broader range of service providers, including Buy Now Pay Later firms, digital wallet passthrough services (e.g., Apple Pay and Google Wallet), cash distribution services, and crypto asset payment facilitators (e.g., stablecoin payment platforms). The bill also

introduces a new ministerial designation power, enabling the Treasurer to subject nationally significant payment services or platforms to enhanced regulatory oversight by appropriate agencies.

- On 30 July 2025, the Australian Prudential Regulation Authority (**APRA**) released a discussion paper proposing changes to the authorised deposit-taking institution (**ADI**) licensing framework to streamline the process and better support new entrants. The proposals include introducing formalised licensing criteria, clearer expectations, and a defined 12-month timeframe for applicants to demonstrate readiness. APRA is also considering whether to discontinue the Restricted ADI pathway, due to limited uptake. Submissions are open until 31 October 2025.
- On 18 September 2025, the Australian Securities and Investments Commission (**ASIC**) granted first-of-its-kind relief through the ASIC Corporations (Stablecoin Distribution Exemption) Instrument 2025/631 (**Instrument 2025/631**), exempting intermediaries engaging in the secondary distribution of a "Named Stablecoin" from holding Australian financial services, Australian market, or clearing and settlement facility licences. On 25 September 2025, ASIC proposed amending Instrument 2025/631 to include another Named Stablecoin.
- On 29 October 2025, ASIC released a class no-action letter alongside an updated Information Sheet 225: Digital Assets: Financial products and services (**INFO 225**). Under the no-action letter, ASIC proposes that it will not take enforcement action for certain contraventions of the *Corporations Act 2001* (Cth) (**Corporations Act**), subject to certain conditions. The updated INFO 225 follows ASIC's December 2024 consultation (CP 381) and provides various worked examples to illustrate how existing Australian financial services concepts apply to digital assets as well as setting out ASIC's operational expectations for licensees. On 25 June 2026, ASIC extended the no-action position to 30 September 2026, and extended the scope of the position to include digital asset businesses operating under or entering into authorised representative or intermediary authorisation arrangements with an Australian financial services licence (**AFSL**) holder.
- On 9 December 2025, ASIC released ASIC Corporations (Stablecoin and Wrapped Token) Instrument 2025/867, following its announcement of proposed relief for distributors of eligible stablecoins and wrapped tokens on 29 October 2025. This finalised instrument closely mirrors the draft instrument released for consultation and grants exemptions from the AFSL, market licensing, clearing and settlement licensing and disclosure requirements for specific digital assets, being eligible stablecoins and wrapped tokens.
- On 12 March 2026, Treasury released Tranche 1 exposure draft legislation, *Treasury Laws Amendment Bill 2026: Payment Systems Modernisation* (**PSP Bill**), which establishes the foundations for the new payments framework under the existing AFSL regime. The exposure draft legislation introduces three new financial products (stored value facilities (**SVFs**), tokenised SVFs and payment instruments) and three new financial services (payment initiation services, payment facilitation services and payment technology and enablement services). The exposure draft legislation also introduces a new prudential framework for major SVFs and a power to make rules for a mandatory and revised ePayments Code.
- On 24 March 2026, the Government passed the *Anti-Money Laundering and Counter-Terrorism Financing Amendment Rules 2026* and *Anti-Money Laundering and Counter-Terrorism Financing (Class Exemptions and Other Matters) Amendment Rules 2026*, following prior consultation on updating the AML/CTF Rules supporting the reform to the AML/CTF Act.
- On 31 March 2026, the *Anti-Money Laundering and Counter-Terrorism Financing Transitional Rules 2026* (Cth) (**Transitional Rules**) commenced, to provide reporting entities with additional time to comply with certain obligations under the new AML/CTF Act and AML/CTF Rules.
- On 1 April 2026, the *Corporations Amendment (Digital Assets Framework) Bill 2025* (**DAF Bill**) was passed by both houses of Parliament. The DAF Bill introduces Digital Asset Platforms (**DAPs**) and

Tokenised Custody Platforms (**TCPs**) as financial products under the Corporations Act, requiring operators of these platforms to hold an AFSL and comply with additional obligations.

- On 20 April 2026, ASIC released its 18-month roadmap for licensing, supervising and enforcing the new regime governing DAPs and TCPs. The roadmap provides early visibility on the topics ASIC expects to consult on and the sequence in which new standards and guidance will be developed.
- On 25 June 2026, ASIC extended its digital assets-related class no-action letter stating ASIC's intention to not take enforcement action for certain contraventions of the Corporations Act, subject to certain conditions. The new no-action letter generally requires action by industry participants seeking to rely on the letter by 30 September 2026 and expands the scope of the position.

This backdrop of extensive regulatory change has been underpinned by regulators (primarily ASIC) pursuing high-profile enforcement actions against crypto businesses. These actions have focused on alleged unlicensed activities and the nature of associated conduct (e.g., perceived instances of investor and consumer risks with crypto-adjacent businesses) (see "Sales regulation" below).

Cryptocurrency is not recognised as legal tender in Australia and is typically classified as property for legal and tax purposes.

This position currently articulated by the Reserve Bank of Australia (**RBA**) is that cryptocurrency lacks legal tender status and does not currently satisfy the three key functions of money; namely, as a widely accepted means of payment, a stable store of value, and a common unit of account.

By contrast, a central bank digital currency (**CBDC**), if issued, would be a form of digital money backed by the RBA, denominated in Australian dollars, and exchangeable at face value with existing forms of fiat currency. The RBA has confirmed that a CBDC would carry legal tender status and satisfy the legal and economic attributes of money. Although no decision has been made to issue a CBDC, it remains an active area of research and pilot experimentation in Australia.

However, new stored value reform proposals indicate that stablecoins backed 1:1 with fiat currency will be viewed as digital representations of the underlying money, and would fall within the definition of "funds" (being money, a prescribed medium of exchange, or a right to redeem either).

Cryptocurrency regulation

There is no general prohibition on holding or using cryptocurrency in Australia. Cryptocurrency is captured within existing Australian laws and there is now a new regime for DAPs and TCPs (see "Sales regulation" below).

Legislative amendments to accommodate the use of cryptocurrency have predominantly focused on the transactional relationships (e.g., the issuing and exchanging process) and activities involving cryptocurrency rather than different types of cryptocurrency or crypto assets. The Government has been focused on managing risks through regulating centralised entities rather than individual assets or decentralised (or distributed) structures.

In the context of its recent enforcement actions, ASIC reaffirms the view that legislative obligations and regulatory requirements are technology-neutral and apply irrespective of the mode of technology that is being used to provide a regulated service. See "Sales Regulation" below.

ASIC's regulatory guidance in INFO 225 informs businesses of its approach to the legal status of crypto assets. This turns on how they are structured and the rights attached, which ultimately determines the regulations with which an entity must comply. For example:

- Cryptocurrency that is, or forms part of a collective investment product that is, a financial product under the Corporations Act will fall within the scope of Australia's existing financial services regulatory regime. See "Sales regulation" below for further information.

- There has also been a proliferation of cryptocurrency lending activities. Where such activities fall within the scope of the credit activities and services caught under the *National Credit Consumer Protection Act 2009* (Cth) (**NCCP Act**), the relevant entities may need to hold an Australian credit licence or be otherwise exempt from this requirement.

There are currently no specific regulations dealing with blockchain or other distributed ledger technology (**DLT**) in Australia. However, ASIC maintains a public information sheet (*INFO 219: Evaluating distributed ledger technology*) outlining its approach to the regulatory issues that may arise through the implementation of blockchain technology and DLT solutions more generally. Businesses considering operating market infrastructure, or providing financial or consumer credit services using DLT, will remain subject to the compliance requirements that currently exist under the applicable licensing regime. There is a general obligation that entities relying on technology in connection with the provision of a regulated service must have the necessary organisational competence and adequate technological resources and risk management plans in place. While the existing regulatory framework is sufficient to accommodate current implementations of DLT, as the technology matures, additional regulatory considerations will arise.

Various cryptocurrency networks have also implemented "smart" or self-executing contracts. These are permitted in Australia under the *Electronic Transactions Act 1999* (Cth) (**ETA**) and the equivalent Australian state and territory legislation. The ETA provides a legal framework to enable electronic commerce to operate in the same way as paper-based transactions. Under the ETA, self-executing contracts are permitted in Australia, provided they meet all the traditional elements of a legal contract.

Sales regulation

The sale of cryptocurrency and other digital assets is regulated by Australia's existing financial services regulatory regime. Core considerations are outlined below.

Licensing

Entities carrying on a financial services business in Australia must hold an AFSL or be exempt. Therefore, persons providing financial services in relation to crypto assets that constitute financial products will trigger the AFSL requirement and associated compliance and disclosure requirements. The definitions of "financial product" and "financial service" under the Corporations Act are broad and ASIC has indicated in INFO 225 that crypto assets or arrangements involving crypto assets with similar features to existing financial products will trigger the relevant regulatory obligations.

On 9 April 2027, the DAF Bill will take effect, introducing two new categories of financial products under the Corporations Act:

- DAPs, being a facility where an operator holds digital tokens (underlying assets), either for themselves or on behalf of someone else.
- TCPs, being a facility where an operator identifies and holds assets other than money, issuing a single digital token for each asset, which grants the holder the right to redeem or direct the delivery of that asset. The operator acts on behalf of the token holder, often as trustee or bailee, and may also manage the asset according to the holder's instructions.

Operators of these platforms must hold an AFSL and comply with accompanying obligations, including certain additional obligations introduced by the DAF Bill, such as compliance with new minimum standards addressing transactional and settlement requirements and asset-holding functions as well as tailored disclosure (e.g., platform guide, platform voting policy and platform rules). ASIC intends to issue new regulatory guidance and set out certain operational standards, and has published its roadmap for implementation targeting consultation from mid-Q1 2027 with a proposed consultation paper in Q4 2026 and publication of final regulatory guides in Q1 2027.

Entities dealing in financial product crypto assets will also need to comply with licensing and regulatory requirements under the Corporations Act, which generally include disclosure, registration and conduct obligations. An entity that facilitates payments by crypto assets may also be required to hold an AFSL and the operator of a crypto asset exchange may be required to hold an Australian market licence if the supported assets are financial products.

Marketing and consumer protection

The marketing of crypto assets is subject to regulation under both the Corporations Act and the Australian Consumer Law set out at Schedule 2 to the *Competition and Consumer Act 2010* (Cth) (**ACL**), depending on whether the crypto asset constitutes a financial product.

Where crypto asset sales involve the offer of financial products, this gives rise to specific disclosure obligations. For example, financial product offers to retail clients (with some exceptions) must be accompanied by a regulated disclosure document (e.g., a product disclosure statement or a prospectus and a financial services guide) that satisfies the content requirements of the Corporations Act and regulatory guidance published by ASIC. Such a disclosure document must set out prescribed information, including benefits and risks of the product, as well as the provider's fee structure, to assist a client in deciding whether to acquire the crypto asset from the provider. In some instances, the marketing activity itself may cause the sale to be an offer of a regulated financial product.

Depending on the investor's status as a wholesale client, an offer of financial products may not require regulated disclosure under the Corporations Act.

Even if a crypto asset sale is not regulated under the Corporations Act, it may remain subject to other regulation and laws, including the ACL. The ACL prohibits misleading or deceptive conduct in a range of circumstances, including in the context of marketing and advertising. Therefore, care must be taken in crypto sale promotional material to ensure that it does not contain false information and that buyers are not misled or deceived. Additionally, promoters and sellers are prohibited from engaging in unconscionable conduct and must ensure that the issued crypto assets are fit for their intended purpose. The protections of the ACL are generally reflected in the ASIC Act, providing substantially similar protection to investors in financial products or services.

ASIC has also received delegated powers from the Australian Competition and Consumer Commission to enable it to take action against misleading or deceptive conduct in marketing or issuing crypto asset sales (regardless of whether it involves a financial product). ASIC has indicated that misleading or deceptive conduct in relation to crypto asset sales may include:

- using social media to create the appearance of greater levels of public interest;
- creating the appearance of greater levels of buying and selling activity for a crypto asset by engaging in (or arranging for others to engage in) certain trading strategies;
- failing to disclose appropriate information about the sale; or
- suggesting that the sale is a regulated product or endorsed by a regulator when it is not.

ASIC has stated that it will use this power to issue further inquiries into crypto asset issuers and their advisors to identify potentially unlicensed and misleading conduct. A range of significant consequences may still apply for failing to comply with the ACL or the ASIC Act, including monetary penalties, injunctions, compensatory damages and costs orders.

Cross-border issues

Carrying on a financial services business in Australia will require a foreign financial service provider (**FFSP**) to hold an AFSL, unless an exemption applies. The Corporations Act may apply to crypto asset sales regardless of whether they are created and offered from Australia or overseas. Following the repeal of ASIC's "passport" or "limited connection" in March 2020, successive governments sought to introduce

replacement legislative exemptions for FFSPs. After the lapse of two earlier bills (in 2022 and 2025), the *Life Insurance Bill* received Royal Assent on 8 April 2026. The *Life Insurance Bill* introduces three replacement licensing exemptions for FFSPs: a "comparable regulator" exemption (exempting FFSPs authorised in a comparable regime from the requirement to be licensed when dealing with wholesale clients); a "professional investor" exemption (exempting FFSPs providing financial services from outside Australia to professional investors); and a "market maker" exemption. These exemptions will replace the current limited connection and sufficient equivalence relief regimes when they commence on 9 April 2027. In the interim, ASIC has extended its transitional relief arrangements on multiple occasions since 2020 to maintain continuity for FFSPs while legislative reform remained pending. Most recently, on 5 December 2025, ASIC extended transitional relief for limited connection and sufficient equivalence relief from 31 March 2026 to 31 March 2027, partly bridging the gap until the new legislative exemptions commence. FFSPs currently relying on an individual relief instrument with an expiry date linked to ASIC Corporations (Repeal and Transitional) Instrument 2016/396 can continue relying on that instrument until 31 March 2027.

Foreign companies taken to be carrying on a business in Australia, including by dealing in crypto assets, may be required to either establish a local presence (i.e., register with ASIC and create a branch) or incorporate a subsidiary. Broadly, the greater the level of system, repetition or continuity associated with an entity's business activities in Australia, the greater the likelihood that registration will be required. Generally, a company holding an AFSL will be carrying on a business in Australia and will trigger the requirement.

Marketing financial products to Australian residents from offshore may still trigger licensing and disclosure requirements. Generally, an offshore service provider may respond to requests for information and issue products to an Australian resident if the resident makes the first (unsolicited) approach and there has been no conduct on the part of the issuer designed to induce the investor to make contact, or activities that could be misconstrued as the provider inducing the investor to make contact.

Design and distribution obligations and product intervention powers

Issuers and distributors of financial products must comply with design and distribution obligations (**DDOs**), which may impact the way crypto assets are structured, and the way sales are conducted. Issuers and distributors must implement effective product governance arrangements, which include (among other things) creating and distributing target market determinations (**TMDs**) in relation to retail clients acquiring the relevant financial products. DDOs aim to ensure that financial products are targeted at the correct category of potential customers, and disclosures regarding the adequacy and suitability of the product for the target market are required to be accurate and timely.

ASIC also has product intervention powers where there is a risk of significant consumer detriment, enabling ASIC to address market-wide problems or specific business models and deal with certain "first mover" issues. The power covers financial products under the Corporations Act and *Australian Securities and Investments Commission Act 2001* (Cth) (**ASIC Act**) and credit products under the NCCP Act.

Common law

There has been judicial consideration of the application of financial services laws to crypto-related products and services following increased regulatory attention from ASIC. Notably:

- On 25 October 2022, ASIC commenced proceedings against BPS Financial Pty Ltd (**BPS**) for allegedly making false, misleading or deceptive representations and engaging in unlicensed conduct in relation to a regulated payment facility involving a crypto asset token called Qoin. On 3 May 2024, the Federal Court found that BPS engaged in unlicensed conduct when offering the "Qoin Wallet". On 18 June 2024, ASIC appealed part of the judgment where the Court held that BPS was exempt from the requirement to be licensed. On 30 May 2025, the Court found that BPS was not appropriately authorised when issuing the "Qoin Wallet".

- On 23 November 2022, ASIC commenced proceedings against Web3 Ventures Pty Ltd (**Block Earner**) alleging that it provided unlicensed financial services in relation to its crypto asset-based products and that it operated an unregistered managed investment scheme. On 9 February 2024, the Federal Court held that Block Earner's fixed yield product required Block Earner to be licensed and the product registered. The Court found that Block Earner's variable yield product, which provided access to decentralised finance (**DeFi**) protocols, did not require Block Earner to be licensed. On 4 June 2024, the Federal Court relieved Block Earner from liability to pay a penalty. On 18 June 2024, ASIC appealed the Federal Court's decision to relieve Block Earner from liability to pay a penalty. On 9 July 2024, Block Earner cross-appealed the Court's finding regarding its fixed yield product. On 22 April 2025, the Full Federal Court unanimously dismissed ASIC's appeal and allowed Block Earner's cross-appeal and, in consequence, set aside all declarations of contravention and dismissed the proceeding with costs. ASIC sought leave to appeal to the High Court of Australia, which was granted. On 17 June 2026, the High Court of Australia held that the fixed yield product is a facility through which a person makes a financial investment and a derivative, i.e., a financial product for which Block Earner was required to hold an AFSL. The matter has been remitted to the Full Federal Court to hear ASIC's appeal on penalty.
- On 15 December 2022, ASIC commenced proceedings against Finder Wallet Pty Ltd (**Finder**) for allegedly providing unlicensed financial services, breaching product disclosure requirements and failing to comply with DDOs in relation to its crypto asset-related product Finder Earn. On 14 March 2024, the Federal Court dismissed the proceedings. On 14 April 2024, ASIC appealed the decision. On 24 July 2025, the Full Federal Court unanimously dismissed ASIC's appeal and upheld the original decision of the Federal Court, which found that Finder did not offer a debenture and was not required to comply with DDOs. It is currently unknown whether ASIC will seek leave to appeal to the High Court of Australia.
- On 20 September 2023, ASIC commenced proceedings against Bit Trade Pty Ltd (**Kraken**) for allegedly failing to comply with DDOs in connection with its margin extension product. Kraken would extend margin to a consumer in either digital assets or fiat, and the consumer was required to repay Kraken in the same form (i.e., digital assets or fiat). ASIC alleged that the margin extension product constituted a debt that is a credit facility, such that the design and distribution laws applied. The Federal Court found that Kraken's product was a credit facility on the basis that the product involved an extension of margin in a national currency (AUD), which created a deferred debt and therefore failed to comply with its DDOs. Notably, the Federal Court decided that, on the assumption that digital assets are property and not a sum of money, there was no obligation on a consumer to repay a sum of money for a loan of digital assets.

Taxation

The taxation of cryptocurrency in Australia is an area of much debate. For income tax purposes, the ATO views cryptocurrency as an asset that is held or traded (rather than as money or a foreign currency). Australia's tax legislation clarifies that cryptocurrencies are not foreign currencies for income tax purposes.

The tax implications for holders of cryptocurrency depend on the purpose for which the cryptocurrency is acquired or held. The summary below applies to holders who are Australian residents for tax purposes.

Sale or exchange of cryptocurrency in the ordinary course of business

If a holder of cryptocurrency is carrying on a business that involves sale or exchange of the cryptocurrency in the ordinary course of that business, the cryptocurrency will be treated as trading stock. Gains on the sale of the cryptocurrency will be assessable and losses will be deductible (subject to integrity measures and "non-commercial loss" rules).

Whether or not a taxpayer's activities amount to carrying on a business is a question of fact and degree, and is ultimately determined by weighing up the taxpayer's individual facts and circumstances. Generally (but not exclusively), where the activities are undertaken for a profit-making purpose, are repetitious, involve ongoing effort, and include business documentation, the activities would amount to the carrying on of a business.

Isolated transactions

Even if a holder of cryptocurrency did not invest or acquire the cryptocurrency in the ordinary course of carrying on a business, profits or gains from an "isolated transaction" involving the sale or disposal of cryptocurrency may still be assessable where the transaction was entered into with a purpose or intention of making a profit, and the transaction was part of a business operation or commercial transaction.

Cryptocurrency investments

If cryptocurrency is not acquired or held in the course of carrying on a business, or as part of an isolated transaction with a profit-making intention, a profit on sale or disposal should be treated as a capital gain. In this regard, the ATO has indicated that cryptocurrency is a capital gains tax (**CGT**) asset.

Currently, capital gains may be discounted under the CGT discount provisions, so long as the taxpayer satisfies the conditions for the discount (for example, the cryptocurrency is held for at least 12 months before it is disposed of). However, from 1 July 2027, the 50% CGT discount for individuals, trusts and partnerships will be replaced by cost base indexation, and a 30% minimum tax on net capital gains will apply to individuals. Transitional arrangements will preserve the 50% CGT discount for gains accrued before that date.

Although cryptocurrency may be a CGT asset, a capital gain arising on its disposal may be disregarded if the cryptocurrency is a "personal use asset" and it was acquired for A$10,000 or less. Capital losses made on cryptocurrencies that are personal use assets are also disregarded. Cryptocurrency is more likely to be a personal use asset if it was acquired and used within a short period of time for personal use or consumption (that is, to buy goods or services).

Note that the ATO's view on the income tax implications of transactions involving cryptocurrencies is in a state of flux due to the rapid evolution of both cryptocurrency technology and its uses. On 21 March 2025, the Government announced the publication of the tax treatment of digital assets and transactions report conducted by the Board of Taxation. Importantly, the Board of Taxation generally found that Australia's current taxation laws are "fit for purpose" to deal with transactions involving cryptocurrencies, and new legislation specifically for cryptocurrencies should not be introduced at this time. The Government agreed that no crypto-specific taxation legislation should be introduced at the current time. The ATO's Crypto Industry Working Group is now conducting targeted, phased consultation on proposed public advice and guidance for crypto issues raised in the Board's report, with consultation expected to be completed in December 2026.

Other transactions involving cryptocurrency

Other transactions involving cryptocurrency that may have taxation implications include the following:

- Staking – An entity may stake their cryptocurrency to facilitate the validation and verification of transactions on a blockchain. The entity may be rewarded with additional tokens for its role in this process. The market value of the additional tokens at the time they are received will be ordinary income, which the entity will be taxed on at marginal tax rates.
- DeFi – An entity may lend their cryptocurrency via DeFi apps protocols or platforms. Any "interest" that the entity receives in the form of tokens should be assessable as ordinary income. However, it is important to note that entering into the DeFi arrangement may trigger a capital gain or loss. This is because the DeFi arrangement may result in a disposal of the cryptocurrency to the borrower. The

key question is whether the entity, as a lender, maintains beneficial ownership of the cryptocurrency that has been lent. If there is a change in beneficial ownership, this will constitute a disposal for CGT purposes.

- Airdrops – The monetary value of an established token received by airdrop is generally ordinary income when received. By contrast, an entity that receives a distribution of tokens from an initial allocation airdrop does not derive income or make a capital gain at the time it receives them. To be an eligible initial allocation, there cannot have been prior trading in the tokens.

Australian goods and services tax (GST)

The normal GST rules apply to using or receiving digital currency to pay for goods and services as if the digital currency is money, but the remittance of GST to the ATO must be in Australian currency.

However, supplies of digital currency in exchange for money or digital currency (i.e., trading in digital currency) are not subject to GST on the basis that the supplies will be:

- input-taxed financial supplies, if supplied to another Australian resident located in Australia; or
- GST-free supplies, if supplied to a non-resident who is not located in Australia.

Consequently, such suppliers of digital currency will not be required to pay to the ATO GST on these supplies. However, the suppliers of digital currency may be charged GST on costs that relate to their sale of the digital currency (i.e., a transaction fee charged by a digital currency exchange (**DCE**) platform), and may be restricted from claiming input tax credits for such costs.

The term "digital currency" is defined under the *A New Tax System (Goods and Services Tax) Act 1999* as a digital unit of value that has all of the following characteristics:

- it is fungible and can be provided as consideration for a supply;
- it is generally available to the public without any substantial restrictions on their use as consideration;
- it is not denominated in any country's currency, or it is denominated in a currency that is not issued by, or under the authority of, an Australian government agency or a foreign government agency;
- its value is not derived from or dependent on the value of anything else;
- it does not give an entitlement to receive, or to direct the supply of, anything unless the entitlement is incidental to holding the digital currency or using it as consideration; and
- if supplied, it would not be an input-taxed financial supply for a reason other than being a supply of a digital currency or money.

The classification of crypto assets for GST purposes depends on their specific features and underlying rights. Where a crypto asset does not meet the definition of "digital currency", its GST treatment will depend on whether it is a financial supply, a derivative, or another type of asset.

In relation to a holder carrying on an enterprise of cryptocurrency mining, whether or not GST is payable by the miner on its supply of new cryptocurrency depends on a number of factors, including its specific features, whether the miner is registered (or required to register) for GST, and whether the supply is made in the course or furtherance of the miner's enterprise.

For example, if the miner supplies mining services, i.e., to a mining pool operator in Australia, the supply of mining services may be taxable if the supply is made in the course or furtherance of an enterprise that is registered for GST.

A miner would generally be required to register for GST if, over a 12-month period, the miner has a GST turnover (i.e., gross income from all businesses minus GST, excluding the value of any input-taxed supplies of digital currencies and other input-taxed supplies) of A$75,000 or more. A miner who is not required to register for GST may nevertheless elect to register for GST in order to claim input tax credits from the ATO for certain GST costs related to its supplies of mining services.

A miner will carry on an enterprise where the miner conducts the activity, or a series of activities, in the form of business or in the form of an adventure or concern in the nature of trade. However, this does not include activities conducted for a private recreational pursuit, a hobby, activities carried on as an employee or office holder, or activities carried on by individuals or partnerships without a reasonable expectation of profit. The scope of carrying on an "enterprise" can be broader than carrying on a "business" and some miners may unintentionally be carrying on an "enterprise" for GST purposes.

Enforcement

The ATO has created a specialist task force to tackle cryptocurrency tax evasion. The ATO also collects bulk records from Australian cryptocurrency designated service providers to conduct data matching to ensure that cryptocurrency users are paying the right amount of tax. With the broader regulatory trend around the globe moving from guidance to enforcement, it is likely that the ATO will also continue to tighten its scrutiny of cryptocurrency.

Money transmission laws and anti-money laundering requirements

Virtual asset service providers (**VASPs**) are required to register and enrol with the Australian Transaction Reports and Analysis Centre (**AUSTRAC**) as a reporting entity under the AML/CTF Act.

On 29 November 2024, Parliament passed the AML/CTF Bill, amending the AML/CTF Act. The bill received Royal Assent on 10 December 2024 and became the *AML/CTF Amendment Act 2024* (**Amendment Act**). The Amendment Act implements significant reforms to Australia's AML/CTF framework and expands virtual asset-related designated services to cover the following "registrable virtual asset services":

1. exchanges of a virtual asset for another virtual asset;
2. transfers of virtual assets on behalf of a customer;
3. safekeeping or administration of virtual assets; and
4. participation in and provision of financial services related to an issuer's offer and/or sale of a virtual asset.

Existing "remittance" designated services have also been expanded to "value transfer" designated services, and this now includes transfers of virtual assets.

The reforms also broaden the definition of "virtual asset" to capture a wider range of tokenised assets (e.g., NFTs, stablecoins, governance tokens) and remove the prior limitation that the asset be "generally available to the public without restriction", addressing a regulatory gap created by the emergence of stablecoins minted on public blockchains, where the issuer only intends for it to be used by a subset of the public.

From 31 March 2026, businesses providing virtual asset or value transfer designated services must register with AUSTRAC (where the geographical link is met) and implement an AML/CTF programme. This includes a risk-based money laundering and terrorism financing (**ML/TF**) assessment, documented AML/CTF policies (replacing the former Part A and B structure), customer due diligence at onboarding and on an ongoing basis, periodic updates to AML/CTF policies, and compliance with reporting and record-keeping obligations (including suspicious matter reports, threshold transaction reports, and annual compliance reports). Businesses will also need to engage an onshore AML/CTF Compliance Officer. VASPs must renew their registration every three years.

Additionally, updated travel rule obligations will apply to all entities providing value transfer designated services, including virtual asset transfers, replacing the existing Electronic Funds Transfer Instruction framework. Consistent with Financial Action Task Force (**FATF**) Recommendations 15 and 16, the reforms expand obligations beyond financial institutions to remittance providers and VASPs, covering both domestic and cross-border transfers. Entities involved in the value transfer chain, namely ordering,

intermediary and beneficiary institutions, must collect and verify payer information. While the current focus remains on payer data, AUSTRAC has been granted rule-making powers to prescribe required information. The reforms also recognise technical limitations in legacy systems and introduce limited obligations for transfers involving self-hosted wallets, where gathering travel rule information is not technically feasible due to the decentralised nature of such transfers.

The reforms also replace the International Funds Transfer Instruction reporting framework with a new International Value Transfer Services (**IVTS**) regime, which applies to cross-border transfers of value, including virtual assets. The reporting obligation will now lie with the reporting entity closest to the Australian customer. The IVTS regime will also apply to unverified self-hosted wallet transfers.

To assist with compliance, the Government has released the Transitional Rules, which provide an extended period of time for reporting entities to update their systems and processes. Among other matters, the Transitional Rules generally defers IVTS reporting and reporting transfers of value involving unverified self-hosted virtual asset wallets to 31 March 2029.

Promotion and testing

Regulators in Australia have sought to improve their understanding of, and engagement with, new technology (including blockchain and cryptocurrency) and businesses using such technology by regularly consulting with industry on proposed regulatory changes. Both ASIC and AUSTRAC have established Innovation Hubs designed to assist new market entrants (including those operating in the blockchain and cryptocurrency sectors) more broadly in understanding their obligations under Australian law. ASIC has also entered into a number of cooperation agreements with overseas regulators, which aim to further understand the regulatory approach and product offerings in other jurisdictions.

ASIC Innovation Hub

The ASIC Innovation Hub is designed to foster innovation that could benefit consumers by helping Australian start-ups (including those operating in the blockchain and cryptocurrency sectors) navigate the Australian regulatory system. The Innovation Hub provides tailored information and access to informal assistance intended to streamline the AFSL process for innovative fintech start-ups, which could include cryptocurrency-related businesses.

In 2016, ASIC established the fintech regulatory sandbox, which included a fintech licensing exemption to allow businesses to test certain financial services, financial products and credit activities without holding an AFSL or Australian credit licence. In 2020, the Government passed regulation to enhance this regulatory sandbox (the "enhanced regulatory sandbox"), which expanded the scope of the sandbox to test a broader range of financial services and credit activities for up to 24 months. Relevant financial services and credit activities include life insurance, superannuation products, crowd-sourced equities and the issuance of payment facilities. Applicants must limit individual retail client exposure to A$10,000 for certain products and total customer exposure must not exceed A$5 million.

Uptake of the regime has been limited. In line with legislative requirements, the Government initiated a review into the enhanced regulatory sandbox to consider its design, operation and effectiveness. On 1 July 2026, the Government tabled the findings, noting the review made six recommendations around releasing a financial innovation strategy, having industry-led regulatory understanding, implementing reform on the general sandbox for greater flexibility, integrating any sandbox with ASIC functions, considering thematic sandboxes and establishing a public-private financial innovation committee.

The Government published its response on 7 September 2026 and has agreed or agreed in principle to recommendations directed to government and supports recommendations directed to industry and regulators.

Cross-border business

ASIC engages with regulators overseas to deepen its understanding of innovation in financial services, including in relation to cryptocurrencies. In particular, ASIC's enhanced cooperation agreement with the United Kingdom's Financial Conduct Authority remains on foot, which allows the two regulators to, among other things, information-share, refer innovative businesses to each regulator's respective regulatory sandbox, and conduct joint policy work. ASIC also currently has either information-sharing or cooperation agreements with regulators in jurisdictions such as Austria, Brazil, Canada, China, Germany, Hong Kong, Indonesia, Israel, Italy, Japan, Kenya, Luxembourg, New Zealand, Singapore, Switzerland and the United States of America. These arrangements facilitate the cross-sharing of information on a range of market trends, many encouraging referrals of new market entrants (including those in the blockchain and cryptocurrency sector), and share insights from proofs of concepts and innovation competitions.

ASIC is also a signatory to the IOSCO Multilateral Memorandum of Understanding, which commits regulators to mutually assist and cooperate with each other, particularly in relation to the enforcement of securities laws.

ASIC has committed to supporting financial innovation in the interests of consumers by joining the Global Financial Innovation Network, which is an international network of financial regulators and related organisations dedicated to facilitating regulatory collaboration in a cross-border context and providing more efficient means for innovative businesses to interact with regulators.

AUSTRAC Fintel Alliance

AUSTRAC's Fintel Alliance is a private-public partnership seeking to adopt innovative approaches to combatting financial crime, including by adopting new technology and ways of working with government and industry. Key developments include the launch of the Collaborative Analytics Hub, which is a key data-driven initiative to improve how data is shared, analysed and operationalised in the context of detecting and disrupting criminal activity. The Virtual Assets Working Group remains active, with a focus on awareness and prevention of cryptocurrency-related scams and combatting child exploitation where cryptocurrency is used.

Ownership and licensing requirements

At the time of writing, there are no explicit restrictions on owning cryptocurrency for investment purposes. However, any person providing financial services in connection with cryptocurrency deemed to be "financial products" will be subject to the AFSL regime.

For example, investment managers providing investment advice on financial product crypto assets will be providing financial product advice and must hold an AFSL or otherwise be exempt from this requirement. ASIC has provided significant guidance in relation to complying with the relevant advice, conduct and disclosure obligations, as well as the conflicted remuneration provisions under the Corporations Act. Further, investment managers may be required to hold an AFSL with a custodial or depository authorisation or be exempt from this requirement if they wish to custody financial product crypto assets on behalf of clients. In relation to crypto assets that form the underlying assets of exchange-traded products (**ETPs**), investment managers will need to consider ASIC's expectations in INFO 230 regarding the appropriateness of such assets within the overall profile of the ETP.

Australia has also seen expansion in robo-advice or digital advice models (including algorithmic or automated financial product advice without a human advisor). For investment or fund businesses seeking to operate in Australia by providing digital or hybrid advice (including with respect to investing in cryptocurrencies), there are licensing requirements under the Corporations Act. ASIC guidance contained in *Regulatory Guide 255: Providing digital financial product advice to retail clients* details issues that digital advice providers need to consider generally, during the AFSL application stage and when providing

digital financial product advice to retail clients, and complements ASIC's existing guidance on providing financial product advice, including *Regulatory Guide 36: Licensing: Financial product advice and dealing*. On 8 February 2023, the Government publicly released the Quality of Advice Final Report, which made 22 recommendations regarding, among other matters, the regulation of financial advice (including digital advice). The report confirmed that the same licensing requirements apply to fintech digital advisors as other financial service providers in their provision of financial advice (i.e., they still need an AFSL or to rely on an exemption).

Mining

At the time of writing, there are no prohibitions on mining cryptocurrency in Australia.

Cryptocurrency mining taxation

As above, the taxation of cryptocurrency and associated activities in Australia has been an area of much debate, and this has extended to taxation relating to mining cryptocurrency. See "Taxation" above for further information.

Cybersecurity

With the rise of cloud-based Bitcoin mining enterprises in Australia, mining businesses should carefully consider cybersecurity issues in relation to mining activities.

Following a number of prominent cyber breaches in Australia, legislators and regulators have prioritised industry awareness and action with respect to cyber resilience and enhanced investment in digital infrastructure to prevent data breaches, technology failures and system outages.

ASIC has released regulatory guidance to help firms improve their cyber resilience, including reports, articles and practice guides. ASIC's recent reports, *Report 776 Spotlight on cyber: Findings and insights from the cyber pulse survey 2023* and *Report 716 Cyber resilience of firms in Australia's financial markets: 2020–21*, identify key trends in cyber resilience practices and highlights existing good practices and areas for improvement. Most recently, ASIC has called on all licensees and market participants to urgently strengthen their cyber resilience measures in the context of artificial intelligence (**AI**). In an open letter published on 8 May 2026, ASIC emphasised the need for urgent, focused action to uplift cybersecurity fundamentals to ensure that systems can withstand AI-accelerated threats.

In 2025, ASIC commenced Federal Court proceedings against FIIG Securities Limited (**FIIG**) for alleged cybersecurity-related failings. On 9 February 2026, FIIG was ordered to pay A$2.5million in pecuniary penalties as well as A$500,000 towards ASIC's costs. FIIG was also ordered to undertake a compliance programme involving the engagement of an independent expert to ensure its cybersecurity and cyber resilience systems are reasonably managed. ASIC has noted that it does not prescribe technical standards or provide expert guidance on operational aspects of cybersecurity; however, it expects businesses to address cyber risk as part of their broader AFSL obligations, including risk management.

Border restrictions and declaration

There are currently no border restrictions or obligations to declare cryptocurrency holdings when entering or leaving Australia.

The AML/CTF Act mandates that both individuals and businesses must submit reports where physical currency in excess of A$10,000 (or foreign currency equivalent) is brought into or taken out of Australia. This requirement is restricted to "physical currency", which AUSTRAC has defined as being any coin or printed note of Australia or a foreign country that is designated as legal tender, and is circulated, customarily used and accepted as a medium of exchange in the country of issue.

Reporting requirements

The AML/CTF Act imposes obligations on entities that provide certain "designated services" with an Australian connection. Generally, the AML/CTF Act applies to any entity that engages in financial services or credit (consumer or business) activities in Australia, including the provision of VASP services. These obligations include record-keeping and reporting requirements.

For example, AML/CTF legislation outlines reportable details for matters including, but not limited to, threshold transaction reports (**TTRs**). TTRs are required to be submitted where a transfer of physical currency of A$10,000 or more (or the foreign currency equivalent) has occurred.

The rules associated with the AML/CTF Act set out specific details to be reported by VASP providers (such as digital currency type, value, description and relevant wallet addresses) in connection with TTRs.

The travel rule and IVTS reporting has also been extended to capture VASP providers – see "Money transmission laws and anti-money laundering requirements" above.

Estate planning and testamentary succession

To date, Australian succession law has not expressly addressed cryptocurrency. Generally, if estate plans do not cater for the specific nature of cryptocurrency and steps are not taken to ensure that executors can access a deceased's cryptocurrency (e.g., by accessing the private key), it may not pass to the beneficiaries.

A will should be drafted to give the executor authority to deal with digital assets. It may be helpful to select an executor with some knowledge of or familiarity with cryptocurrencies. As cryptocurrencies are generally held anonymously, a will should also establish the existence of the cryptocurrency (e.g., by identifying and cataloguing the relevant cryptocurrency) as an asset to be distributed to beneficiaries. A method must also be established to ensure that passwords to digital wallets and external drives storing cryptocurrency are accessible by a trusted representative. Unlike a bank account, which can be frozen or have access restrictions placed upon death, anyone can access a digital wallet, so care should be taken to ensure that external drives and passwords are not easily accessible on the face of the will. This may include providing a memorandum of passwords and accounts to the executor to be placed in a safe custody facility that remains unopened until a will is called upon.

There may also be tax implications arising for the beneficiaries of cryptocurrencies, which are similar to the tax implications for cryptocurrency holders. See "Taxation" above for further details.



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