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DRAFT GUIDELINES ON DIGITAL ASSETS

EXPOSURE DRAFT

AUGUST 2024

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1.0 Introduction

Following an extensive internal review of the surging popularity of digital assets like cryptocurrencies such as Bitcoin and Tether (USDT) in Ghana, and engagements with various stakeholders, the Bank of Ghana issues draft guidelines on digital assets. These guidelines are intended to expose the Bank's proposed regulatory measures and solicit feedback from industry and the public. This is in line with the Bank's commitment to continuously evolve a conducive regulatory environment that promotes financial inclusion and enhances financial stability.

Over the past three (3) years, the use of various digital assets by Ghanaians has recorded a significant increase on account of factors such as high mobile money penetration, a tech savvy youth demographic, high internet usage and the rise of online companies offering crypto and virtual asset services, popularly known as Virtual Asset Service Providers (VASPs).

While acknowledging the innovative and beneficial applications of digital assets in cross-border payments, charitable donations, crowdfunding, international remittances, as well as the economic opportunities presented by asset tokenization, the Bank remains vigilant in addressing potential drawbacks. These include risks related money laundering and terrorism financing (ML/TF), fraud, cyber-theft, capital flows and consumer protection concerns.

Furthermore, the Bank has taken note of the guidance and regulatory frameworks issued by prominent International Standard Setting Bodies (SSBs), including the Financial Stability Board (FSB), the Financial Action Task Force (FATF), International Organization of Securities Commissions (IOSCO) as well as the policy approaches of some jurisdictions regarding digital asset regulations.

This proposed regulatory measures in this exposure draft have been crafted with a dual objective: to foster innovation while effectively managing risks associated with digital assets

Notwithstanding this exposure draft, the Bank's notice No. BG/GOV/SEC/2022/23, prohibiting banks and payment service providers (PSPs) from facilitating crypto asset transactions remains effective until formal regulatory guidelines are published.

2.0 Definitions of Key Terms

Digital assets: These refer to any form of electronically stored or encoded content with intrinsic value. They encompass a wide range of assets such as virtual assets (e.g., Bitcoin), tokenized assets representing real-world items, digital documents, and multimedia files.

Virtual assets: As defined by the Financial Action Task Force (FATF) are digital representation of value that can be digitally traded, or transferred, and can be used for payment or investment purposes. Virtual assets are not considered legal tender in most jurisdictions, but they are used for a range of activities, including transactions and investments.

Virtual Asset Service Providers (VASPs): are entities that provide a range of services associated with crypto and virtual assets. These services encompass exchange, wallet, brokerage, custodian, and transfer services, as well as facilitating fundraising through Initial Coin Offering/Security Token Offering (ICOs/STOs) and offering financial advice and management.

Virtual asset exchanges: also known as cryptocurrency exchanges or digital asset exchanges, are platforms that facilitate the buying, selling, and trading of cryptocurrencies and other digital and virtual assets.

Stablecoins: Stablecoins are a type of virtual asset designed to maintain a stable value, typically by being pegged to a stable asset such as a fiat currency (e.g., USD, EUR), commodities (e.g., gold), or a basket of assets. They differ from other cryptocurrencies in that they aim to minimize price volatility.

3.0 The Digital Asset Landscape

The digital asset landscape in Ghana is evolving, with increasing interest and adoption of crypto assets and blockchain technology, supported by a growing number of exchanges and initiatives in the country's financial ecosystem.

This trend has been driven by factors such as high mobile money penetration, tech savvy and youthful population, high internet usage among Ghanaians and the influence of online regional and global companies offering crypto or virtual asset services, particularly the VASPs.

The digital assets ecosystem in Ghana is primarily controlled by entities facilitating the buying, selling, and trading of virtual assets. These platforms provide liquidity and access to cryptocurrencies with stablecoins and Bitcoin being the most widely recognized and utilized. Additionally, Ether (on the Ethereum network) and various alternative crypto assets (altcoins) also hold significant prevalence within the market. Although these transactions have relatively insignificant volumes compared to the broader digital payments, the dynamic growth of digital asset calls for regulatory clarity to ensure adequate financial stability and consumer protection.

Furthermore, some Ghanaian startups and organizations are exploring blockchain technology for solutions in sectors like agriculture, healthcare, and financial services. Such initiatives have been acclaimed to hold great potential at improving transparency, efficiency, and security in various industries.

Regarding regulation, the Bank of Ghana has provided clarity on the regulatory status of virtual assets through notices No. BG/GOV/SEC/2018/02 and BG/GOV/SEC/2022/23 to the public with specific directives to regulated entities. Additionally, the Bank has adopted a cautious "wait-and-see" approach, closely monitoring market developments related to crypto assets, including a limited stakeholder engagement in 2023. This approach is designed

to enhance the Bank's preparedness to maintain financial stability and develop an appropriate regulatory framework in response to evolving trends.

Despite the growing interest, the digital assets landscape in Ghana faces challenges such as regulatory and legal uncertainty, cybersecurity risks, market manipulation and consumer protection concerns.

Overall, Ghana's digital assets landscape has been dynamic, with increasing interest in virtual assets and blockchain technology. However, the Bank of Ghana acknowledges regulatory challenges and is working towards a more structured framework to support safe, responsible, and sustainable growth and innovation in the sector.

4.0 Policy Thinking

The use cases of virtual assets cut across payments, banking, and securities trading, with all but the last category falling under the regulatory mandate of the Bank. Also, the increasing rate of cross-transactions between virtual assets and fiat money (Ghana Cedi and US Dollar, for example) otherwise known as on-ramping and off-ramping, as well as rising demand for foreign currency to engage in crypto asset transactions calls for an enhancement of the Bank's monitoring and regulatory scope on these activities to safeguard the integrity of the financial sector.

The Bank also takes notice of the amendment of FATF Recommendation 15, which requires countries to assess and mitigate the risks associated with virtual assets (VAs) and Virtual Assets Service Providers (VASPs); license or register providers and subject them to supervision or monitoring by competent national authorities.

5.0 Regulatory Objectives

The main objectives of the proposed regulatory framework are as follows:

1. Ensure integrity and stability of the financial sector;
2. Protect consumers and Investors;

3. Guard against Financial Crime (AML/CFT);
4. Foster innovation and market integrity;
5. Promote domestic coordination in managing risks posed by crypto asset service providers;
6. Promote international cooperation in combating financial crime; and
7. Address cyber security risks.

6.0 Scope of Proposed Regulation

In line with its regulatory mandate, the Bank's regulatory framework may target exchanges and other platforms offering buying, selling, trading, and custody services of virtual assets. The framework will specify which asset types are covered and address interactions between regulated financial institutions and VASPs. The Bank will collaborate with other regulatory agencies, such as the SEC, to develop and implement complementary frameworks aligned with each institution's regulatory mandate. This approach will ensure a comprehensive regulatory framework to effectively address the diverse use cases of virtual assets.

7.0 Proposed Regulatory Approach

In response to the need for regulatory clarity on digital asset activities, and subject to a satisfactory sandbox testing process involving a limited number of VASPs, the Bank of Ghana intends to evolve a comprehensive regulatory framework in collaboration with other relevant regulatory bodies in a structured manner. The proposed framework may feature the following and other proposed measures:

- a. Regulation of virtual Asset Service Providers (VASPs), within a defined set of services, for money laundering (ML) and terrorism financing (TF), consumer protection and any other measures the Bank may deem appropriate. This means VASPs would be required to perform customer due diligence and transaction monitoring, and report suspicious transactions to the Financial Intelligence Centre (FIC);

- b. VASPs including exchanges would be required to conduct comprehensive risk assessments and implement a risk-based approach in preventing and reporting financial crime, aligning with global best practices. Furthermore, compliance with FATF's Travel Rule would be required. This rule necessitates the sharing of information on originators and beneficiaries of transactions.
- c. The Bank would collaborate with the Securities and Exchange Commission (SEC) to develop distinct complementary regulatory frameworks that encompass various applications or use cases of digital assets. These frameworks would be informed by the specific mandates of both the BOG and SEC;
- d. Enhanced Payment Service Providers (EPSPs) may be permitted to process virtual asset transactions, exclusively for registered VASPs (i.e, when a registration framework is established), subject to prior authorization from the Bank. However, EPSPs would be prohibited from operating exchanges or engaging in any other virtual asset-related businesses, owning, or holding virtual assets, or providing custodial services. Shareholders may establish separate entities for virtual asset activities, provided that funding for such ventures is not sourced from the EPSP. The Bank would supervise to ensure compliance with these regulations.
- e. Commercial banks would be permitted to offer banking, payment, and settlement services exclusively for **registered** VASPs, subject to the same set of conditions outlined for EPSPs above.
- f. Once a regulatory framework or guidance is established, all Virtual Asset Service Providers (VASPs) currently operating in or intending to operate in Ghana would be required to apply for authorization from either the Bank of Ghana or SEC, depending on their specific product offerings. VASPs that do not register within the specified timeline will be considered to be operating illegally in the country;

- g. Potential registration requirements to operate within the proposed framework may include a detailed company profile, including governance and ownership structure, and the latest audited or projected financials. Applicants must demonstrate a satisfactory internal control and risk management framework, as well as evidence of registration and an office address in Ghana. Additionally, a comprehensive description of the technology stack, asset storage and access control procedures, consumer protection measures, cybersecurity practices, and data privacy policies, all in alignment with existing regulations, may be required. Prospective applicants may also need to meet specified minimum capital and solvency requirements;
- h. Virtual asset service providers to be required to ensure adequate education and risk disclosures such that users are well informed about the risks of dealing in such transactions.

Furthermore, the Bank together, with stakeholders, would continue to investigate the potential of blockchain in a quest to transform financial service delivery, exploring synergies with its digitalization and inclusion initiatives such as the eCedi, and assessing the economic opportunities presented by tokenization.

8.0 Consultation Process

The Bank values the perspectives and recommendations of industry players, experts, and the public regarding the proposed regulatory measures outlined in this document. This inclusive approach aims to ensure that the regulations for digital assets are effective, balanced, and conducive to sustainable development and innovation, while also promoting financial stability. The Bank will consider these inputs in determining the next steps forward. Kindly therefore send responses and or/ recommendations regarding the proposed measures to the Bank of Ghana by or before August 31, 2024. Submissions should be sent to FinTech@bog.gov.gh.

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