

About Finality

Finality International is creating a new global payments system to enable the development of tokenised markets to serve the wholesale sector. It will be a regulated payment system in each currency it operates in. Transactions will be subject to local laws on settlement finality. In each Finality system, the aggregate balances will correspond to cash held with the central bank which is bankruptcy remote from the Finality entity operating system; a structure which we believe sets us apart from being classified as a global stablecoin. Finality is expressly focusing on the cross-border elements of wholesale, so in time there will be a global nature to its business.

Item	Question	Notes
1	Do you agree with the analysis of the characteristics of stablecoins that distinguish them from other crypto-assets?	<p>We support the view that “same business, same risk, same rules” must be the guiding principal.</p> <p>Definitions are difficult. In our opinion, a key question is: “Is redemption at par guaranteed and by what?”</p>
2	Are there stabilisation mechanisms other than the ones described, including emerging ones, that may have implications on the analysis of risks and vulnerabilities? Please describe and provide further information about such mechanisms.	No
3	Does the FSB properly identify the functions and activities of a stablecoin arrangement? Does the approach taken appropriately deal with the various degrees of decentralisation of stablecoin arrangements?	<p>Yes.</p> <p>The foundational part concerns payments, so the starting point for these arrangements should be for GSCs to be regulated as payment systems, with all the regulatory standards for licensing and on-going supervision.</p> <p>The next step is to distinguish those that are engaged in some form of investment activity to manage the funds entrusted to them.</p> <p>In particular, we agree with the concerns regarding “fully decentralised organisations“ In Annex 2. Where it is not possible to locate a nexus of accountability and organisation, then appropriate regulation may be too difficult, or even impossible, to enforce.. Whilst banning something which has no central nexus is not possible, what is possible is to control & restrict access to the regulated banking system for such schemes / organisations.</p>
4	What criteria or characteristics differentiate GSC arrangements from other stablecoin arrangements?	<p>Potentially caps on balances where required by the regulators.</p> <p>In some schemes, there is a requirement for a participant to hold a local bank account. This may be a factor in determining that a particular arrangement or scheme is not a GSC.</p>

Item	Question	Notes
5	Do you agree with the analysis of potential risks to financial stability arising from GSC arrangements? What other relevant risks should regulators consider?	<p>Overall, we agree. The analysis is very clear on the risks, especially credit risk.</p> <p>We would suggest that the analysis might perhaps be more explicit around LER, Large Exposure, in particular when there is a commercial bank involved as custodian for any assets held as collateral for the issued coins, tokens or balances.</p> <p>The size of the custodian is not the issue, but the size of the holdings with one party relative to the deposit base. If there are cash assets, then there is unsecured exposure. From the investment fund world, we have existing best practice that could be adopted; with caps of variously, 5%, 10% or 20% of a fund's assets being with the same counterpart.</p>
6	Do you agree with the analysis of the vulnerabilities arising from various stablecoin functions and activities (see Annex 2)? What, if any, amendments or alterations would you propose?	<p>Yes.</p> <p>We would call out FX risk in particular. To the extent that redemption might require the scheme's operator to execute FX trades in order to have the redemption proceeds payable in the right currency, then this poses a significant additional liquidity risk and a settlement risk. Same-day settlement is far from the norm and with availability of same-day PvP settlement highly limited, such transactions would most likely incur settlement risk for unit / token holders.</p>
7	Do you have comments on the potential regulatory authorities and tools and international standards applicable to GSC activities presented in Annex 2?	<p>Yes. Large Exposure Regulation needs to be very explicit; there are existing rules from CAD V on LER, and even in the world of funds with UCITS. Where appropriate, they should be applied or re-used.</p> <p>We also see a potential for there to be a conflict between regulatory bodies; is the scheme primarily a security or is a security like function involved. There might be new forms of settlement where the Delivery and Payment of DvP are provided by two different systems, or in the case of PvP by payment systems in two jurisdictions. Clarity in these areas will help encourage innovation.</p> <p>Not expressly mentioned but perhaps implied is KYC and on-going due diligence (Ed. may be included under: 'AML vs FATF')</p>

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8	Do you agree with the characterisation of cross-border issues arising from GSC arrangements?	<p>Yes, there is room for jurisdictional arbitrage. We would agree there is a need for a Lead Overseer, both in cross-border cases and in the case of support for domestic DvP cited above.</p> <p>In addition to the specific issues cited in question 1 regarding decentralised organisations, there is a related issue when a scheme operator takes in currency and makes promises; e.g. a bank in an EME (Emerging Market economy) creates a product where investors deposit USD, but the management is not in the USA or subject to its regulations. In these cases, regulators will need to ensure there are equivalency arrangements in place.</p>
9	<p>Are the proposed recommendations appropriate and proportionate with the risks? Do they promote financial stability, market integrity, and consumer protection without overly constraining beneficial financial and technological innovation?</p> <p>a. Are domestic regulatory, supervisory and oversight issues appropriately identified?</p> <p>b. Are cross-border regulatory, supervisory and oversight issues appropriately identified?</p> <p>c. Do the recommendations adequately anticipate and address potential developments and future innovation in this sector?</p>	<p>We believe there should be a clear obligation is on the correspondents / custodians and their regulators.</p> <p>If you are acting for something that could be construed as a GSC, then as part of the KYC or KYB, know your business, test, those institutions must know whether their potential client is licensed in its home jurisdiction and determine if that is a reputable jurisdiction.</p> <p>It is a concern for us that consumer protection is as targeted with these new schemas as it is with existing investment risk protections, such as the duty under MIFIDE 2 to formally assess risk awareness / risk appetite. If the instrument is classified as a security, i.e. there is issuer risk, then banks would have to meet the whole MiFID2 requirements. But GSC issuers might not. This would create both arbitrage and consumer protection issues.</p>
10	Do you think that the recommendations would be appropriate for stablecoins predominately used for wholesale purposes and other types of crypto-assets?	Generally, yes: "same business, same risk, same rules"

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11	Are there additional recommendations that should be included or recommendations that should be removed?	<p>Disclosure / consumer protection. Certainly in the retail sector, there is the risk of confusing a balance with money. Cf. Lehman, where structured notes with some form of 'capital protection' were sold to retail clients as a substitute for fiduciary deposits.</p> <p>Regulators need to be empowered to close down schemes that operate something that is to all intents and purposes a payment system without having the right kind of approval. There should be no need to wait until a scheme is large enough to be considered systemic.</p>
12	Are there cost-benefit considerations that can and should be addressed at this stage?	<p>Regulators should not be attempting to "pick winners" by allowing some schemes and not others, rather a high bar must be set and diligent enforcement used to police adherence.</p> <p>On the retail side, there is risk of investors / users perceiving offerings as like cash, or a balance at a commercial bank and then being disappointed and unable to obtain liquidity. So, the expectation that "they" should be doing something about it is high.</p> <p>In wholesale, the FIs must make their own choices from amongst approved and regulated schemes. The onus is on the market participants to cooperate in order to maximise the efficiency and effectiveness of the financial market infrastructure.</p> <p>Crypto asset trading makes heavy use of "stablecoins"; see here, but it is not clear if participants understand the risk.</p>