



Electronic Money Association

68 Square Marie-Louise

Brussels 1000

Belgium

www.e-ma.org

Devid Mazzonetto
Policy Advisor
Emerging Regulatory Issues
IOSCO

C/

Oquendo

12

28006

Madrid

SPAIN

19 October 2023

Dear Devid

**Re: EMA response to [IOSCO Policy Recommendations for Decentralized Finance \(DeFi\)](#)
[- Consultation Report](#)**

We welcome the opportunity to provide input on IOSCO's proposed 'Policy Recommendations for Decentralized Finance (DeFi)'. The EMA represents payments, crypto asset and FinTech firms, engaging in the provision of innovative payment services, including the issuance of e-money, stable coins, open banking payment services, and crypto-asset-related services. A full list of our members is provided in the appendix to this document.

The EMA was established some 20 years ago and has a wealth of experience in regulatory policy relating to payments, electronic money and more recently crypto-assets.

I would be grateful for your consideration of our comments and proposals.

Yours sincerely,

Dr Thaer Sabri
Chief Executive Officer
Electronic Money Association

EMA response

True DeFi vs quasi-DeFi propositions

We welcome the in-depth analysis of existing DeFi models in the IOSCO consultation paper. We agree that many so-called DeFi propositions that are today offered in the market are not truly decentralized and we refer to these propositions hereinafter as quasi-DeFi models. DeFi in its truest sense relates to the creation of a truly decentralised and internet-native financial services ecosystem where no intermediation is required because the inherent function of the DeFi ecosystem replaces the need for traditional trusted intermediaries and transfer mechanisms.

In our view it is likely that truly decentralised DeFi protocols will emerge in the future. Such a proposition will bear greater likeness to an infrastructure, such as a communications protocol, than a commercial banking or payment service as currently seen in the regulated space. We are concerned that the proposed principles do not adequately account for such a development. In our view it would be appropriate for IOSCO and assist the development of regulatory policy at the jurisdictional level to explicitly carve out any genuinely decentralised DeFi model from the scope of the proposed principles.

That said, we would assume that the concept of “responsible person” proposed by IOSCO as a key element of its regulatory approach implies for truly decentralized DeFi models that in the absence of any “responsible person” or any other centralised governance aspects the IOSCO principles would not apply anyhow.

Concept of Responsible person

For the analysis of, and the development of a regulatory approach to, quasi-DeFi models the concept of “responsible person” is surely helpful. Drawing on the concept for the development of a regulatory approach to quasi-DeFi models is, however, problematic. It remains unclear to us how IOSCO expects the proposed principles as built upon the concept of “responsible person”, the analysis of associated risks and the related regulatory concerns could be translated into:

- an appropriate and clearly drawn regulatory perimeter, and, within that perimeter,
- financial sector regulation, be it as part of an existing or a new framework, that is applicable to identified regulated activities and to natural and/or legal persons engaging in such activities and therefore subject to authorisation and ongoing supervision.

The overall picture is all the more compounded given the complex nature of quasi-DeFi models and the various underlying functions. As set out in the IOSCO consultation paper quasi-DeFi models combine elements of financial and non-financial services including in particular, important operational aspects, which, we fully acknowledge, could expose these models to potentially significant operational risks. However, whether and, if so, how to apply financial sector regulation to these non-financial aspects of quasi-DeFi models and the extent to which traditional regulatory approaches (e. g. in relation to outsourcing by financial institutions) could be drawn upon remains unclear. Therefore, we believe it is important for

IOSCO to pursue its work and develop a proportionate and risk-adjusted regulatory approach addressing those aspects of DeFi models that are of non-financial nature and therefore fall outside the perimeter of financial sector regulation.

Protection and promotion of technological innovation - Open-Source Software (“OSS”) development

At the same time, we urge IOSCO to steer away from formulating any principles or specific regulatory requirements that would hinder the running or future design of genuinely decentralised DeFi models. In this regard we believe it is particularly important to protect OSS development. As key drivers of technological innovation, OSS developers have been and are instrumental to many innovations in the internet space. They were integral to the development of what we know today as the Internet and continue to create innovative solutions that enhance our everyday lives well beyond the provision of financial services. Typically, commercial software applications draw heavily on OSS developments as core components of software designs. In the majority of instances, end-consumers are unaware of the high reliance on OSS in products they purchase. In the vast majority of cases, OSS developers are not involved in any way in the re-purposing of source code for such commercial applications. In this respect, the software development community operates much like a supply chain where OSS developers take the role of raw material producers and consumer-facing technology companies act as retail product manufacturers. We would firmly oppose classification of OSS developers in a DeFi or quasi-DeFi environment as “responsible persons” subject to regulation.

In the interest of protecting and, as much as possible, assisting the ongoing most beneficial technological innovation in financial markets and by OSS developers, IOSCO should not interfere with or in any way hinder OSS developers from underpinning and further developing existing and future decentralised frameworks. OSS development must, including through the IOSCO principles, be encouraged, given the broad array of benefits it can bring to many sectors, including but not limited to financial services. There is a high risk that excessively prescriptive or narrow IOSCO principles if applied to OSS developers will make it difficult for true innovation to emerge in this space and could endanger the ability of OSS - used in many far broader applications than financial services - to emerge.

Members of the EMA, as of October 2023

[AAVE LIMITED](#)
[Airbnb Inc](#)
[Airwallex \(UK\) Limited](#)
[Allegro Group](#)
[Amazon](#)
[American Express](#)
[ArcaPay UAB](#)
[Banked](#)
[Bitstamp](#)
[BlaBla Connect UK Ltd](#)
[Blackhawk Network EMEA Limited](#)
[Boku Inc](#)
[Booking Holdings Financial Services International Limited](#)
[BVNK](#)
[CashFlows](#)
[Checkout Ltd](#)
[Circle](#)
[Citadel Commerce UK Ltd](#)
[Contis](#)
[Corner Banca SA](#)
[Crypto.com](#)
[eBay Sarl](#)
[ECOMMPAY Limited](#)
[Em@ney Plc](#)
[emerchantpay Group Ltd](#)
[Etsy Ireland UC](#)
[Euronet Worldwide Inc](#)
[Facebook Payments International Ltd](#)
[Financial House Limited](#)
[First Rate Exchange Services](#)
[Flex-e-card](#)
[Flywire](#)
[Gemini](#)
[Globepay Limited](#)
[GoCardless Ltd](#)
[Google Payment Ltd](#)
[HUBUC](#)
[IDT Financial Services Limited](#)
[Imagor SA](#)
[Ixaris Systems Ltd](#)
[J. P. Morgan Mobility Payments Solutions S. A.](#)
[Modulr Finance Limited](#)
[MONAVATE](#)
[MONETLEY LTD](#)
[Moneyhub Financial Technology Ltd](#)
[Moorwand](#)
[MuchBetter](#)
[myPOS Payments Ltd](#)
[Nuvei Financial Services Ltd](#)
[OFX](#)
[OKG Payment Services Ltd](#)
[OKTO](#)
[One Money Mail Ltd](#)
[OpenPayd](#)
[Own.Solutions](#)
[Park Card Services Limited](#)
[Paymentsense Limited](#)
[Paynt](#)
[Payoneer Europe Limited](#)
[PayPal Europe Ltd](#)
[Paysafe Group](#)
[Paysend EU DAC](#)
[Plaid](#)
[PPRO Financial Ltd](#)
[PPS](#)
[Ramp Swaps Ltd](#)
[Remitly](#)
[Revolut](#)
[Ripple](#)
[Securiclick Limited](#)
[Segpay](#)
[Skrill Limited](#)
[Soldo Financial Services Ireland DAC](#)
[Square](#)
[Stripe](#)
[SumUp Limited](#)
[Swile Payment](#)
[Syspay Ltd](#)
[Transact Payments Limited](#)
[TransferMate Global Payments](#)
[TrueLayer Limited](#)

[Trustly Group AB](#)
[Uber BV](#)
[VallettaPay](#)
[Vitesse PSP Ltd](#)
[Viva Payments SA](#)
[Weavr Limited](#)

[WEX Europe UK Limited](#)
[Wise](#)
[WorldFirst](#)
[Worldpay](#)
[Yapily Ltd](#)