

BY EMAIL ONLY: fmisar.stablecoin@hmtreasury.gov.uk

Resolution Policy Unit
HM Treasury
1 Horse Guards Road
London
SW1A 2HQ

1 August 2022.

Managing the failure of systemic digital settlement asset (including stablecoin) firms.

Dear HM Treasury,

Binance understands the responsibility we, and every other major platform, have in collaborating with policymakers and regulators to contribute to the development of a regulatory framework with consumer protection and market integrity at its heart.

Binance currently holds a number of regulatory permissions, including in France, Italy and Spain (EU), and the United Arab Emirates and Bahrain (MENA). We operate a world leading crypto market infrastructure spanning a whole ecosystem. This includes one of the world's largest stablecoins, BUSD, a 1:1 secure and compliant USD-backed stablecoin issued by Paxos¹, approved by the New York State Department of Financial Services (NYDFS), and supported by the Binance cryptocurrency exchange.

We hope you find our response to the consultation helpful. We are keen to continue the discussion on this important issue, and look forward to discussing our response in further detail.

Thank you for taking the time to engage with us.

Yours faithfully,
Steven McWhirter,
Director of Regulatory Policy, Global.

¹ <https://paxos.com/stablecoin-and-payments/#>

Q1. Do you have any comments on the intention to appoint the FMI SAR as the primary regime for systemic DSA firms (as defined at para 1.8) which aren't banks?

Financial market infrastructure is vitally important to the proper functioning of the UK's financial ecosystem and the wider economy and greater regulatory clarity relating to the treatment of stablecoins and their providers is welcome.

The proposal applies the Financial Market Infrastructure Special Administration Regime (FMI SAR), and combines it with an additional objective "covering the return or transfer of funds and custody assets which may only be considered when the FMI SAR is applied in relation to systemic DSA firms". In the absence of an existing bespoke legal framework, and to ensure proportionate and effective application of the proposed regime, we welcome further clarification on:

- The definition and designation of a "systemic digital settlement asset firm".
- The proposed alignment of forthcoming UK 'stablecoin' regimes and definitions helpful to achieving the intent behind these proposals.

Q2. Do you have any comments on the intention to establish an additional objective for the FMI SAR focused on the return or transfer of customer funds, similar to that found in the PESAR, to apply solely to systemic DSA firms?

We would appreciate clarification on the following:

- Whether the intent is to bring systemic digital asset 'stablecoins', used in cryptoasset exchanges for settlement alongside payment stablecoins, into scope of this new objective?
- Whether the new regime is being applied to traditional payment systems, we assume not?
- Whether banks, who may issue systemic stablecoins will be subject to these proposals? This leaves open the question of whether, if banks start issuing stablecoins or similar cryptoassets, changes to the existing resolution/insolvency regimes will be required and how will they be treated under paragraph 2.5?
- How this new objective will interact with the statutory order of priority, in particular whether the return of funds to holders will take priority to the expenses of the insolvency.

Q3. Do you have any comments on the intention to provide the Bank of England with the power to direct administrators, and to introduce further regulations in support of the FMI SAR to ensure the additional objective can be effectively managed, or what further regulation may be required?

The FCA currently supervises how cryptoasset businesses manage the risk of money laundering and counter-terrorist financing, with all firms required to register with the FCA prior to undertaking business. The FCA was further designated to establish a new authorisation and supervision regime for stablecoins and their use as a means of payment in HMT's consultation response published on 4th April 2022. The FCA also currently has powers to direct administrators under PESAR.

The application of such regimes requires time critical, informed and effective responses. Given the FCA's existing oversight responsibilities and objectives it may be more appropriate for the FCA to have the power to direct administrators of DSA firms. In particular, the FCA will have unique knowledge and experience of how these firms operate, their key staff, as well as data and intelligence on each firm individually.

Q4. Do you have any comments on the intention to require the Bank of England to consult with the Financial Conduct Authority prior to seeking an administration order or directing administrators where regulatory overlaps may occur?

This is welcome. However, as per Q3, we suggest that the FCA may be better placed to direct administrators in the first instance as it currently does for traditional payment and electronic money institutions.