

Policy Recommendations for Crypto and Digital Asset Markets

Final Report

加密货币和数字资产市场的政策建议 最终报告



THE BOARD

OF THE

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理事会

国际证券委员会组织

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The 18 IOSCO policy recommendations for the regulation of crypto and digital assets (Recommendations) included in this Final Report are designed to support greater consistency with respect to regulatory frameworks and oversight in IOSCO member jurisdictions, to address concerns related to market integrity and investor protection arising from crypto-asset activities. The Recommendations have been developed under the stewardship of the IOSCO Board's Fintech Task Force (FTF) in accordance with IOSCO's Crypto-Asset Roadmap published in June 2022.<sup>1</sup>

本《最终报告》中包含的 18 项国际证监会组织关于加密货币和数字资产监管的政策建议（建议）旨在支持提高国际证监会组织成员管辖区监管框架和监督方面的一致性，以解决与加密资产活动引起的市场诚信和投资者保护相关的问题。这些建议是在国际证监会组织理事会金融科技工作组（FTF）的指导下，根据国际证监会组织 2022 年 6 月发布的加密资产路线图制定的。<sup>1</sup>

The Recommendations are principles-based and outcomes-focused and are aimed at the activities performed by crypto-asset service providers (CASPs).<sup>2</sup> They apply IOSCO's widely accepted global standards for securities markets regulation to

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<sup>1</sup> The FTF was established in March 2022 to develop recommendations to the Board of IOSCO and thereafter to oversee the implementation of IOSCO's regulatory agenda for Fintech and crypto-assets. The FTF is prioritizing policy-focused work on crypto-asset markets and activities in its initial 12 to 24 months of operation, while continuing to monitor market developments associated with broader Fintech-related trends and innovation.

FTF 成立于 2022 年 3 月，目的是向国际证监会组织理事会提出建议，并在此后监督国际证监会组织金融科技和加密资产监管议程的实施。在最初 12-24 个月的运作中，FTF 将优先开展以政策为重点的加密资产市场和活动方面的工作，同时继续监测与更广泛的金融科技相关趋势和创新有关的市场发展。

<sup>2</sup> CASPs are service providers that conduct a wide range of activities relating to crypto-assets, including but not limited to, admission to trading, trading (as agent or principal), operating a market, custody, and other activities such as services relating to lending/staking of crypto-assets and the promotion, marketing and distribution of crypto-assets on behalf of others.

CASP 是从事与加密资产有关的各种活动的服务提供商，包括但不限于交易准入、交易（作为代理或委托人）、市场运营、托管和其他活动，例如与加密资产借贷/抵押有关的服务，以及代表他人推广、营销和分销加密资产。



address key issues and risks identified in crypto-asset markets. The Recommendations are activities-based and follow a ‘lifecycle’ approach in addressing the key risks identified in this report. They cover the range of activities in crypto-asset markets that involve CASPs from offering, admission to trading, ongoing trading, settlement, market surveillance and custody as well as marketing and distribution (covering advised and non-advised sales) to retail investors. IOSCO separately consulted on proposed policy recommendations for “decentralized finance” or “DeFi” on 7 September 2023, which will be finalized by the end of 2023.<sup>3</sup> At that time, IOSCO will also publish an umbrella note explaining in more detail the interoperability between the two sets of recommendations.

《建议》以原则为基础，以结果为重点，并主要规制加密资产服务提供商 (CASP) 开展的活动。<sup>2</sup> 它们采用了国际证监会组织广为接受的全球证券市场监管标准，以解决在加密资产市场中发现的关键问题和风险。这些建议以活动为基础，采用 “生命周期” 方法来应对本报告中确定的关键风险。它们涵盖了加密资产市场中涉及 CASP 的一系列活动，包括发售、允许交易、持续交易、结算、市场监督和托管，以及向零售投资者进行营销和分销（涵盖建议销售和非建议销售）。2023 年 9 月 7 日，国际证监会组织分别就 “去中心化金融” 或 “DeFi” 的拟议政策建议进行了磋商，这些建议将于 2023 年底定稿。<sup>3</sup> 届时，国际证监会组织还将发布一份总括说明，更详细地解释两套建议之间的互操作性。

One of IOSCO’s goals is to promote greater consistency with respect to how IOSCO members approach the regulation and oversight of crypto-asset activities, given the cross-border nature of the markets, the risks of regulatory arbitrage and the significant risk of harm to which retail investors continue to be exposed. IOSCO is also seeking to encourage optimal consistency in the way cryptoasset markets and securities markets are regulated within individual IOSCO jurisdictions, in accordance

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<sup>3</sup> <https://www.iosco.org/library/pubdocs/pdf/IOSCOPD744.pdf>.

with the principle of “same activities, same risks, same regulation/regulatory outcomes”.




鉴于市场的跨境性质、监管套利风险以及散户投资者继续面临的重大损害风险，国际证监会组织的目标之一是促进国际证监会组织成员在如何监管和监督加密资产活动方面的一致性。根据“相同活动、相同风险、相同监管/监管结果”的原则，国际证监会组织还在寻求鼓励在国际证监会组织各辖区内对加密资产市场和证券市场的监管方式保持最佳一致性。

The Recommendations also cover the need for enhanced co-operation among regulators. They aim to provide a critical benchmark for IOSCO members to cooperate, coordinate and respond to crossborder challenges in enforcement and supervision, including regulatory arbitrage concerns, that arise from global crypto-asset activities conducted by CASPs that offer their services, often remotely, into multiple jurisdictions.

《建议》还涉及加强监管机构之间合作的必要性。这些建议旨在为国际证监会组织成员提供一个重要的基准，以合作、协调和应对执法和监管方面的跨境挑战，包括监管套利问题，这些问题是由 CASP 开展的全球加密资产活动引起的，这些 CASP 通常远程向多个辖区提供服务。

In line with IOSCO’s established approach for financial market regulation, these Recommendations are addressed to relevant authorities. They look to support jurisdictions seeking to establish compliant markets for the trading of crypto-assets in the most effective way possible.

根据国际证监会组织对金融市场监管的既定方针，这些建议是向有关当局提出的。这些建议旨在支持各辖区以尽可能最有效的方式建立合规的加密资产交易市场。



While the Recommendations are not directly addressed to markets participants, CASPs and all participants in crypto-asset markets are strongly encouraged to carefully consider the expectations and outcomes articulated through the Recommendations and the respective supporting guidance in the conduct of their activities including registered/licensed, and cross-border activities.

虽然《建议》并不直接针对市场参与者，但强烈建议 CASP 和加密资产市场的所有参与者在开展其活动（包括注册/许可和跨境活动）时，仔细考虑《建议》和相关辅助指南所阐述的预期和结果。



IOSCO is issuing these 18 Recommendations to help IOSCO members apply IOSCO's Objectives and Principles for Securities Regulation and relevant supporting IOSCO standards, recommendations, and good practices (hereafter "IOSCO Standards"), as appropriate, to crypto-asset activities within their jurisdictions and, in particular, to respond to widespread concerns regarding market integrity and investor protection within the crypto-asset markets.

国际证监会组织发布这 18 项建议是为了帮助国际证监会组织成员酌情将国际证监会组织的《证券监管目标和原则》以及相关的支持性国际证监会组织标准、建议和良好做法（以下简称 "国际证监会组织标准"）应用于其管辖范围内的加密资产活动，尤其是为了回应人们对加密资产市场内市场诚信和投资者保护的广泛关切。

The 18 Recommendations cover six key areas, consistent with IOSCO Standards:

这 18 项建议涵盖六个关键领域，与国际证监会组织的标准相一致：

1. Conflicts of interest arising from vertical integration of activities and functions,

活动和职能的纵向整合产生的利益冲突、

2. Market manipulation, insider trading and fraud,

市场操纵、内幕交易和欺诈、

3. Cross-border risks and regulatory co-operation,

跨境风险与监管合作、

4. Custody and client asset protection,

保管和客户资产保护、

5. Operational and technological risk, and

运营和技术风险，以及

## 6. Retail access, suitability, and distribution.

零售渠道、适用性和分销。



Acknowledging the definitional and interpretive jurisdictional differences that currently exist, IOSCO has developed the Recommendations by developing a functional, economic approach to mitigate against the risks, rather than attempting to develop a one-size fits all prescriptive taxonomy.

国际证监会组织认识到目前存在定义和解释上的辖区差异，从而制定了《建议》，意图通过制定功能性的经济方法来降低风险，而不是制定一个放之四海而皆准的规范性分类法。

Accordingly, IOSCO has developed an outcomes-focused, principles-based approach across each key area noted above. This approach is informed by a mapping of IOSCO Standards to relevant elements of the infrastructure, and to the services provided by, and the activities of CASPs.

因此，国际证监会组织在上述每个关键领域都制定了以结果为重点、以原则为基础的方法。这一方法的依据是将国际证监会组织的标准与基础设施的相关要素、加密资产服务提供商提供的服务和活动进行映射。

By doing this, IOSCO has been able to examine and assess how its existing policy framework maps to key identified risks in crypto-asset markets, which IOSCO and its members understand from their expertise as securities markets and conduct regulators.

通过这样做，国际证监会组织能够检查和评估其现有政策框架如何与加密资产市场中已确定的主要风险相匹配，国际证监会组织及其成员作为证券市场和行为监管机构，对这些风险具有专业知识。





This Final Report, and the 18 Recommendations contained within, are structured thematically as follows:

本最终报告及其所载的 18 项建议按主题编排如下：

- **INTRODUCTION 导言**

This provides an overview of the key content and structure of the report, along with the broader international regulatory and market context for the development of the Recommendations.

报告概述了报告的主要内容和结构，以及制定《建议》的更广泛的国际监管和市场背景。

## **Chapter 1 – Overarching Recommendation Addressed to All Rrgulators 第 1 章 - 向所有监管机构提出的总体建议**

This Chapter lays down an overarching Recommendation and supporting guidance calling upon all IOSCO members, collectively, to apply or adopt these Recommendations in a consistent, outcomes-focused manner.

本章提出了一项总体建议和辅助指南，呼吁国际证监会组织所有成员以一致、注重成果的方式集体应用或采纳这些建议。

As set out in Recommendation 1 (‘Overarching Recommendation Addressed to All Regulators’), the regulatory frameworks (existing or new) should seek to achieve regulatory outcomes for investor protection and market integrity that are the same as, or





consistent with, those required in traditional financial markets in order to facilitate a level-playing field between crypto-assets and traditional financial markets and help reduce the risk of regulatory arbitrage.

如建议 1 ("向所有监管机构提出的总体建议") 所述, 监管框架 (现有的或新的) 应力求在投资者保护和市场诚信方面取得与传统金融市场相同或一致的监管成果, 以促进加密资产与传统金融市场之间的公平竞争, 并帮助减少监管套利的风险。

Regulators are therefore encouraged to analyze the applicability and adequacy of their regulatory frameworks, and the extent to which (1) crypto-assets are, or behave like substitutes for, regulated financial instruments, and (2) investors have substituted other financial investment activities with crypto-asset investment activities. Accordingly, this report focusses on the economic substance of crypto-assets and their substitutability vis-à-vis traditional financial instruments (notwithstanding a crypto-asset's purported potential use case or purpose as stated in supporting marketing and/or distribution materials).

因此, 鼓励监管机构分析其监管框架的适用性和充分性, 以及(1)加密资产在多大程度上是受监管金融工具的替代品, 以及(2)投资者在多大程度上用加密资产投资活动替代了其他金融投资活动。因此, 本报告的重点是加密资产的经济实质及其相对于传统金融工具的可替代性 (尽管加密资产在支持性营销和/或分销材料中声称其潜在用途或目的)。

In adopting this approach, these Recommendations are designed to apply to all types of crypto-assets, including stablecoins. Where further risks are presented by stablecoins, these are explored by way of the supplementary guidance on stablecoins included in box text under Recommendation 6 and the Custody and Client Assets Recommendations.<sup>4</sup>

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<sup>4</sup> The targeted commentary on stablecoins builds on the findings of the March 2020 IOSCO Report on Global Stablecoin Initiatives.

关于稳定币的针对性评论以 2020 年 3 月国际证监会组织《全球稳定币倡议报告》的结论为基础。



通过采用这种方法，这些建议旨在适用于所有类型的加密资产，包括稳定币。对于稳定币带来的进一步风险，将通过建议 6 下方框文本中关于稳定币的补充指南以及《保管和客户资产建议》进行探讨。 4

Through its preamble (‘Preamble: Intent of the Recommendations’), Chapter 1 further clarifies the intent of the Recommendations. This operative provision, that informs all 18 Recommendations while underscoring the need to promote optimal regulatory consistency across member jurisdictions, also acknowledges, and provides for, appropriate principles, and outcomes-based flexibility in their domestic implementation.<sup>5</sup>

第 1 章通过序言（“序言：《建议书》的意图”）进一步阐明了《建议书》的意图。这一执行条款为所有 18 项建议书提供了依据，同时强调有必要促进各成员管辖区在监管方面的最佳一致性，还承认并规定了适当的原则，以及在国内实施这些建议书时基于结果的灵活性。 5

## **Chapter 2 – Recommendations on Governance and Disclosure of Conflicts 第 2 章--关于治理和冲突披露的建议**

This Chapter includes the Recommendations and supporting guidance to address risks arising, in particular, from vertically integrated CASP business models. Many CASPs typically engage in multiple functions and activities under ‘one roof’ – including exchange trading, brokerage, market-making and other proprietary trading, offering margin trading, custody, settlement, and re-use of assets – whether through a single legal entity or an affiliated group of entities that are part of a wider group structure. Recommendation 2 (‘Organizational

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<sup>5</sup> The Recommendations recognize that some jurisdictions have existing regulatory frameworks that encompass crypto and digital assets, while other jurisdictions are in the process of developing regulatory frameworks. Each jurisdiction should implement the CDA Recommendations, as they deem appropriate, within their existing or developing frameworks.

《建议》认识到，一些辖区现有的监管框架涵盖了加密货币和数字资产，而其他辖区正在制定监管框架。各辖区应在其现有或正在制定的框架内，酌情实施《CDA 建议》。




Governance’) states that CASPs should have effective governance and organizational requirements in place to effectively address and mitigate issues on conflicts of interests arising from vertical integration, including the possible need for measures such as legal segregation of functions and activities, as well as separate registration. Where a CASP engages in different activities and functions in a crypto-asset trading environment, it is important for investors and regulators to understand the precise activities and functions that the CASP is providing, and the capacity in which it is acting, in relation to its clients. Accordingly, Recommendation 3 (‘Disclosure of Role, Capacity and Trading Conflicts’) states that a CASP should accurately disclose each role and capacity in which it is acting at all times.

本章包括《建议》和配套指引，以应对特别是纵向整合的 CASP 业务模式所产生的风险。许多 CASP 通常在“同一屋檐下”从事多种职能和活动--包括交易所交易、经纪、做市和其他自营交易、提供保证金交易、托管、结算和资产再利用--无论是通过单一法律实体还是作为更广泛集团结构一部分的附属实体集团。建议 2（“组织治理”）指出，证券服务提供者应制定有效的治理和组织要求，以有效应对和缓解纵向一体化带来的利益冲突问题，包括可能需要采取的措施，如职能和活动的法律隔离以及单独注册。当 CASP 在加密资产交易环境中从事不同的活动和职能时，投资者和监管机构必须了解 CASP 为客户提供的确切活动和职能，以及 CASP 以何种身份行事。因此，建议 3（“角色、能力和交易冲突的披露”）指出，CASP 应始终准确披露其所担任的每个角色和能力。

### ***Chapter 3 – Recommendations on Order Handling and Trade Disclosures (Trading Intermediaries vs Market Operators)*** 第 3 章 - 关于订单处理和交易披露的建议（交易中介与市场运营商）

This Chapter includes Recommendations and supporting guidance in the areas of Order Handling and Trade Disclosures. Despite common market parlance of referring to CASPs as “exchanges”, a CASP may actually be operating as a trading intermediary (a broker or dealer




or both) instead of a market operator (or trading venue). Recommendation 4 (Client Order Handling) addresses inherent conflicts of interests, where CASPs might front-run clients' orders in favor of their own or engage in related party transactions. CASPs are thus expected to implement systems, policies and procedures that provide for fair, orderly, timely execution that is in the best interest of clients. In the context of a CASP acting as a market operator (or trading venue), it is expected to have resilient systems to effectively support its operation in a fair, orderly and transparent manner. Recommendation 5 ('Market Operation Requirements') sets out transparency requirements in trade disclosures to promote price discovery and competition, which apply to all CASPs and not just those acting as market operators. Transparency requirements and trade disclosure expectations apply to both on-chain and off-chain activity.

本章包括订单处理和交易披露领域的建议和辅助指南。尽管市场普遍将 CASP 称为“交易所”，但 CASP 实际上可能是作为交易中介（经纪人或交易商或两者兼而有之）而非市场运营商（或交易场所）运营。建议 4（“客户订单处理”）涉及固有的利益冲突，即 CASP 可能为了自己的利益提前执行客户订单或参与关联方交易。因此，CASP 应实施系统、政策和程序，提供公平、有序、及时的执行，以符合客户的最佳利益。就作为市场营运商（或交易场所）的 CASP 而言，其应具备弹性系统，以公平、有序和透明的方式有效支持其运作。建议 5（“市场运作要求”）规定了交易披露的透明度要求，以促进价格发现和竞争。透明度要求和交易披露预期适用于链上和链下活动。

#### ***Chapter 4 – Recommendations in Relation to the Listing of Crypto-Assets and Certain Primary Market Activities. 第 4 章 - 关于加密资产上市和某些一级市场活动的建议。***

This Chapter relates to the management of conflicts of interest that may arise from the listing and trading of crypto-assets by CASPs. Many crypto-assets are sold without important disclosures about the crypto-asset and its issuer. There is a lack of accurate and sufficient disclosures to facilitate informed decision-making, a key tenet of traditional financial markets.



There also tends to be little, if any, verifiable continuous information provided about or by the crypto-asset issuer. Recommendation 6 (‘Admission to Trading’) states that CASPs should adopt and disclose substantive and procedural listing and delisting standards pertaining to crypto-assets. The recommendation also specifies the types of disclosures that regulators may consider requiring, including information that may be more relevant to stablecoins. Recommendation 7 (‘Management of Primary Markets Conflicts’) is concerned specifically with the management of conflicts around crypto-assets issued by crypto-asset issuers in which the CASP has a material interest. Conflict mitigants could include prohibitions on the CASP listing/trading such assets.

本章涉及对 CASP 上市和交易加密资产可能产生的利益冲突的管理。许多加密资产在出售时没有披露有关加密资产及其发行人的重要信息。缺乏准确、充分的信息披露，不利于做出知情决策，而这正是传统金融市场的关键原则。此外，关于加密资产发行人或由加密资产发行人提供的可验证的持续信息往往很少，甚至没有。建议 6 (“交易准入”) 指出，CASP 应采用并披露与加密资产有关的实质性和程序性上市和退市标准。该建议还具体说明了监管机构可能考虑要求的披露类型，包括可能与稳定币更相关的信息。建议 7 (“一级市场冲突的管理”) 专门涉及围绕加密资产发行人发行的加密资产的冲突管理，CASP 在这些发行人中拥有重大利益。冲突缓解措施可包括禁止 CASP 上市/交易此类资产。

## ***Chapter 5 – Recommendations to Address Abusive Behaviors 解决滥用行为的建议***

This Chapter provides Recommendations and supporting guidance to address market integrity risks, exacerbated by the fragmented, cross-border nature of the crypto-asset market, such as (1) the lack of effective market surveillance, (2) manipulative market practices (including pyramid and Ponzi schemes, ‘pump and dump’ schemes, wash-trading, and front-running), (3) insider dealing and unlawful disclosure of inside information; and (4) fraudulent, misleading, or insufficient disclosure. To address such behaviors, Recommendations 8 to 10 (‘Fraud and





Market Abuse; Market Surveillance; Management of Non-Public Information’) set out the critical expectation that there should be effective systems and controls to identify and monitor for manipulative market practices and to prevent leakage and misuse of inside information. Consideration is given to the availability of data (‘on-chain’ and ‘off-chain’), consistent reporting standards and the existing tools available to regulatory authorities (e.g., intelligence and co-operation) and market participants (e.g., surveillance systems and controls). Alongside ongoing efforts to improve regulatory reporting, regulators should encourage CASPs and the wider industry ecosystem to promote and adhere to international data standards to help improve market transparency and facilitate effective regulatory reporting and market monitoring.

本章提供了建议和辅助指南，以应对因加密资产市场的分散性和跨境性而加剧的市场诚信风险，例如：(1) 缺乏有效的市场监督；(2) 操纵性市场行为（包括金字塔和庞氏骗局、“抽水和倾销”计划、洗盘交易和前置运行）；(3) 内幕交易和非法披露内幕信息；以及(4) 欺诈性、误导性或披露不充分。针对这些行为，建议 8 至 10（“欺诈与市场滥用；市场监督；非公开信息的管理”）提出了重要的预期，即应建立有效的制度和控制措施，以识别和监督操纵市场的行为，并防止内幕信息的泄露和滥用。考虑因素包括数据的可用性（“链上”和“链下”）、一致的报告标准以及可供监管机构（如情报和合作）和市场参与者（如监督系统和控制）使用的现有工具。在不断努力改进监管报告的同时，监管机构应鼓励 CASP 和更广泛的行业生态系统推广和遵守国际数据标准，以帮助提高市场透明度，促进有效的监管报告和市场监测。

## ***Chapter 6 – Recommendation on Cross-Border Co-operation*** 第 6 章--关于跨境合作的建议

This Chapter and its supporting guidance respond to the cross-border character of crypto-asset trading by setting out a critical recommendation for how IOSCO members should adopt best practices for international co-operation to help ensure effective supervision and enforcement (see Recommendation 11 ‘Enhanced Regulatory Co-operation’), and to reduce the risk of money laundering. Experience has shown that CASPs often present themselves as operating in a borderless manner and tend to take an ambivalent approach to regulatory



compliance. This – in tandem with the global reach of the crypto-asset market, its participants, activities, and some unique characteristics linked to the underlying distributed ledger technology (“DLT”) and cryptography, as well as the scale and scope for cross-border regulatory arbitrage – means that investor protection and market integrity issues will persist without coordinated international regulatory action to address them. IOSCO’s wide memberships in securities and derivatives markets, with market conduct regulatory expertise and existing information-sharing tools for authorization, supervision and enforcement, are well positioned to achieve investor protection and market integrity objectives.

本章及其辅助指南针对加密资产交易的跨境特点，提出了一项重要建议，即国际证监会组织成员应如何采用国际合作的最佳做法，以帮助确保有效的监管和执法（见建议 11 “加强监管合作”），并降低洗钱风险。经验表明，CASPs 往往以无国界方式开展业务，并倾向于对监管合规采取模棱两可的态度。这一点，再加上加密资产市场的全球影响力、其参与者、活动、与底层分布式账本技术（“DLT”）和加密技术相关的一些独特特征，以及跨境监管套利的规模和范围，意味着如果没有协调的国际监管行动来解决这些问题，投资者保护和市场诚信问题将持续存在。国际证监会组织在证券和衍生品市场拥有广泛的成员，具有市场行为监管的专业知识和现有的授权、监督和执法信息共享工具，完全有能力实现投资者保护和市场诚信的目标。

## ***Chapter 7 – Recommendations on Custody of Client Monies and Assets*** 第 7 章 - 关于保管客户款项和资产的建议

This Chapter provides Recommendations and supporting guidance to deal with custody-related risks and the safeguarding of Client Monies and Assets and to provide clients with clear, concise and non-technical disclosures of the associated risks. These risks relate, for example, to the asset segregation, re-use of assets, liability and ownership considerations. The Recommendations address, amongst other things, the controls that should be embedded within regulatory frameworks to help ensure that where Client Monies and Assets are held by CASPs, they are held safely, and transferred securely, and that inappropriate mixing of assets and other potential abuses are avoided. (See Recommendations 12 to 16: ‘Overarching

Custody Recommendation’; ‘Segregation and Handling of Client Monies and Assets’; ‘Disclosure of Custody and Safekeeping Arrangements’; Client Asset Reconciliation and Independent Assurance; Securing Client Money and Assets’).

本章提供建议及辅助指引，以处理与保管有关的风险及保障客户款项及资产，并就相关风险向客户作出清晰、简明及非技术性的披露。这些风险涉及资产隔离、资产再利用、责任和所有权等方面的考虑。除其他事项外，《建议》还涉及应纳入监管框架的控制措施，以帮助确保由 CASP 持有的客户资金和资产的安全持有和安全转移，并避免资产的不当混合和其他潜在滥用。（见建议 12 至 16：“总体托管建议”；“客户资金与资产的隔离与处理”；“托管与安全保管安排的披露”；“客户资产对账与独立保证”；“确保客户资金与资产的安全”）。

## ***Chapter 8 – Recommendation to Address Operational and Technological Risks*** 第 8 章 - 应对操作和技术风险的建议

This Chapter provides the Recommendations and supporting guidance to address the broad spectrum of operational risks that can arise because of lax controls at CASPs combined with the risks related to DLT and smart contracts. (See Recommendation 17 ‘Management and Disclosure of Operational and Technological Risks’).

本章提供了建议和支持性指南，以应对因 CASP 控制不严而可能产生的各种操作风险，以及与 DLT 和智能合约相关的风险。（见建议 17 “操作和技术风险的管理与披露”）。

## ***Chapter 9 – Recommendation for Retail Distribution*** 第 9 章 - 关于零售分销的建议

This Chapter provides the recommendation and supporting guidance to address the particular issues not covered elsewhere in this report that arise from CASPs’ promotions to retail investors of activities and services relating to crypto-assets. Recommendation 18 (‘Retail Client Appropriateness and Disclosure’) sets out to help ensure that existing or new





regulations require CASPs to diligently assess and onboard retail investors who are aware of, and deemed suitable to take on, the greater speculative risks inherent in this market, and to use appropriate measures when promoting crypto-assets to this population, including if crypto-assets are promoted on social media. Indeed, retail investors often would not otherwise hold or trade their own investment portfolios but for the marketing efforts by CASPs to onboard them. Therefore, a particularly acute asymmetry of information arises between CASPs and the retail investor, the significance of which is intensified by the weak market discipline arising in part from the relatively low level of participation of institutional and professional investors, and the unregulated or non-compliant distribution channels that are used to distribute crypto-assets to retail investors, often on a cross-border basis.

本章提供建议和辅助指南，以解决本报告其他部分未涵盖的、因 CASP 向散户投资者推广与加密资产相关的活动和服务而产生的特殊问题。建议 18（“零售客户适当性和披露”）旨在帮助确保现有或新的法规要求 CASP 认真评估和吸收了解并适合承担该市场固有的较大投机风险的零售投资者，并在向这部分人群推广加密资产时采用适当的措施，包括在社交媒体上推广加密资产。事实上，散户投资者往往不会持有或交易他们自己的投资组合，除非 CASP 努力向他们推销。因此，CASP 和散户投资者之间出现了特别严重的信息不对称问题，而机构和专业投资者参与程度相对较低导致的市场纪律薄弱，以及用于向散户投资者分销加密资产的不受监管或不合规的分销渠道（通常是跨境分销），又加剧了这种不对称的严重性。

### **Applicability of the Recommendations to Stablecoins 对稳定币建议的适用性**

While each of the Recommendations in this Final Report also apply to stablecoins, <sup>6</sup> specific additional guidance in relation to stablecoin disclosures and the custody of reserve assets is

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<sup>6</sup> As noted in the preamble to Recommendation 1, particular jurisdictions may allocate responsibility for the regulation and oversight of certain kinds of stablecoins to different Regulators that possess discrete and complementary mandates and objectives, to address investor protection and market integrity risks.

如建议 1 的序言所述，特定辖区可能会将监管和监督某些种类稳定币的责任分配给不同的监管机构，这些监管机构拥有不同的互补任务和目标，以应对投资者保护和市场诚信风险。

included in the box text under Recommendation 6 and the Custody of Client Money Asset Recommendations.

虽然本最终报告中的每项建议也适用于稳定币，但建议 6 和客户资金资产保管建议下的方框文本中包含了有关稳定币披露和储备资产保管的具体补充指导。

There are also additional policy recommendations regarding stablecoins, beyond IOSCO's, of which regulators should be cognizant. These include the Financial Stability Board (FSB) Recommendations on the Regulation, Supervision and Oversight of "Global Stablecoin" Arrangements and CPMI-IOSCO's report on stablecoin arrangements, noting potential use cases of stablecoins as a payment instrument.

除国际证监会组织的建议外，监管机构还应了解有关稳定币的其他政策建议。这些建议包括金融稳定委员会（FSB）关于 "全球稳定币 "安排的监管和监督的建议，以及 CPMI-IOSCO 关于稳定币安排的报告，其中指出了稳定币作为支付工具的潜在使用案例。

In applying these Recommendations, regulators should consider any unique issues, risks, and conflicts that CASPs have regarding stablecoin arrangements. The Recommendations regarding conflicts of interest, speculation, and disclosure are particularly important (Recommendations 2, 3, 7, 8). For example, a CASP may be directly involved with a stablecoin issuer in creating and redeeming stablecoins and/or maintaining the stablecoin price peg, which creates conflicts and gives rise to potential misuse of inside information, market manipulation and other misconduct. In addition, risks to crypto-asset trading markets and CASPs are directly affected by the credit risk of the stablecoin issuer.

在应用这些建议时，监管机构应考虑 CASP 在稳定币安排方面的任何独特问题、风险和冲突。关于利益冲突、投机和披露的建议尤其重要（建议 2、3、7、8）。例如，CASP 可能直接参与稳定币发行商创建和兑换稳定币和/或维持稳定币价格挂钩，这就产生了冲突，并导致潜在的滥用内部信息、操纵市场和其他不当行为。此外，加密资产交易市场和 CASP 的风险直接受到稳定币发行商信用风险的影响。

The critical role of stablecoins in crypto-asset markets, and their potential to be used in cross-border activities, highlight the importance of cross-border co-operation (Recommendation 11).

稳定币在加密资产市场中的关键作用及其用于跨境活动的潜力，突显了跨境合作的重要性（建议 11）。

**Annex C** includes a brief overview of stablecoins, their roles and uses in crypto-asset markets, and describes some of their idiosyncratic features and risks.

**附件 C** 简要介绍了稳定币、稳定币在加密资产市场中的作用和用途，并描述了稳定币的一些特性和风险。

## **Stakeholder Engagement 利益相关者的参与**

These Recommendations and guidance take into account feedback from the public consultation, as well as extensive pre-consultation outreach with IOSCO members and external stakeholders. They have also benefited from the advice of IOSCO's Affiliate Member Consultative Committee (AMCC).<sup>7</sup>

这些建议和指导意见考虑了公众咨询的反馈意见，以及咨询前与国际证监会组织成员和外部利益相关方的广泛接触获得的意见。国际证监会组织附属会员咨询委员会（AMCC）<sup>7</sup>的意见也对这些建议和指南有所裨益。

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<sup>7</sup> The AMCC is comprised of 68 IOSCO affiliate members, representing securities and derivatives markets and other market infrastructures, self-regulatory organizations (SROs), investor protection funds and compensation funds, as well as other bodies with appropriate interest in securities regulation. There are currently 32 jurisdictions represented in the AMCC which also includes ten regional or international associations.”

AMCC 由 68 个国际证监会组织附属成员组成，代表证券和衍生品市场及其他市场基础设施、自律组织 (SRO)、投资者保护基金和赔偿基金，以及与证券监管有适当利益关系的其他机构。AMCC 目前有 32 个辖区的代表，其中还包括 10 个区域或国际协会”。

## Interaction with the FSB and the other Standard Setting Bodies 与金融稳定委员会和其他标准制定机构的互动



At a global level, the International Monetary Fund (IMF) and the FSB are calling for more regulation of the crypto-asset market. Acting on IOSCO's investor protection and market integrity mandates, these Recommendations look to complement and support the work of the FSB and the sectoral initiatives of other international Standard Setting Bodies (SSBs). Risks to investors and markets arising from market integrity and investor protection concerns can also have a consequential systemic impact within crypto-asset markets, and potentially also on wider financial stability given the lack of transparency and possible growing linkages to the traditional financial sector.

在全球层面，国际货币基金组织（IMF）和金融稳定委员会（FSB）呼吁加强对加密资产市场的监管。根据国际证监会组织的投资者保护和市场诚信任务，这些建议旨在补充和支持金融稳定委员会的工作以及其他国际标准制定机构（SSB）的部门倡议。市场诚信和投资者保护问题给投资者和市场带来的风险也会对加密资产市场产生系统性影响，而且由于缺乏透明度以及与传统金融部门的联系可能日益密切，还可能对更广泛的金融稳定产生影响。

IOSCO is also pursuing its systemic risk mandate for crypto-asset market activities through its engagement with the FSB's agenda on the financial stability implications of crypto-assets. On 17 July 2023, the FSB published its two final reports on the international regulation, supervision and oversight of crypto-assets activities and markets from a financial stability perspective.<sup>8</sup> These FSB reports set out high-level principles for crypto-asset markets. The IOSCO Recommendations set out more granular regulatory expectations to mitigate the

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<sup>8</sup> See 'High-level Recommendations for the Regulation, Supervision and Oversight of Crypto-Asset Activities and Markets (Final Report)' and 'High-level Recommendations for the Regulation, Supervision and Oversight of Global Stablecoin Arrangement (Final Report)'.

见 "关于加密资产活动和市场的监管、监督和监督的高级别建议（最终报告）" 和 "关于全球稳定币安排的监管、监督和监督的高级别建议（最终报告）"。

market and conduct risks. This helps to ensure alignment and complementarity in the respective regulatory agendas.



国际证监会组织还通过参与金融稳定委员会关于加密资产对金融稳定的影响的议程，履行其对加密资产市场活动的系统性风险进行规范的任务。2023 年 7 月 17 日，金融稳定委员会发布了两份关于从金融稳定角度对加密资产活动和市场进行国际监管、监督和监察的最终报告。<sup>8</sup> 金融稳定委员会的这些报告提出了加密资产市场的高层次原则，而国际证监会组织的建议则提出了更细化的监管预期，以降低市场和行为风险。这有助于确保各自监管议程的一致性和互补性。

Through CPMI-IOSCO,<sup>9</sup> IOSCO also published guidance on the application of the principles for financial market infrastructure (PFMIs) to systemically important stablecoin arrangements used for payments<sup>10</sup> and continues to monitor market developments.

通过 CPMI-IOSCO，<sup>9</sup> 国际证监会组织还发布了关于将金融市场基础设施原则（PFMIs）应用于用于支付的具有系统重要性的稳定币安排的指导<sup>10</sup>，并继续监测市场发展。

The Basel Committee on Banking Supervision (BCBS) has finalized a standard on the prudential treatment of banks' exposure to crypto-assets. Following the publication of the crypto-asset standard, there are various elements of the standard that are subject to close monitoring and review.

巴塞尔银行监管委员会（BCBS）最终确定了一项关于审慎处理银行对加密资产风险敞口的标准。在加密资产标准公布之后，该标准的各项内容都将受到密切监测和审查。

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<sup>9</sup> Committee on Payments and Market Infrastructures 支付与市场基础设施委员会

<sup>10</sup> See Application of the Principles for Financial Market Infrastructures (PFMI) to stablecoin arrangements. 参见《金融市场基础设施原则》（PFMI）在稳定币安排中的应用。



Furthermore, the Financial Action Task Force (FATF) has issued guidance concerning how FATF Anti-Money Laundering (AML) and Counter Terrorist Financing (CTF) obligations apply to virtual assets and virtual asset service providers.<sup>11</sup> For example, the Travel Rule requires virtual asset service providers and other financial institutions to share relevant originator and beneficiary information alongside virtual asset transactions. This, combined with the other work being progressed by global SSBs, illustrates the concerted international effort taking place to develop a coordinated global framework of regulation and supervision for crypto-assets to address the risks associated with crypto-asset activities.

此外，反洗钱金融行动特别工作组 (FATF) 已就 FATF 反洗钱 (AML) 和反恐怖主义融资 (CTF) 义务如何适用于虚拟资产和虚拟资产服务提供商发布了指导意见。<sup>11</sup> 例如，旅行规则要求虚拟资产服务提供商和其他金融机构在进行虚拟资产交易的同时共享相关的发端人和受益人信息。这与全球 SSB 正在推进的其他工作相结合，表明国际社会正在共同努力，为加密资产制定一个协调的全球监管框架，以应对与加密资产活动相关的风险。

### **Market Backdrop informing the Need to Develop a Globally Consistent and Coordinated Approach to Crypto-Asset Regulation 市场背景说明有必要制定全球统一协调的加密资产监管方法**

Given the global nature and certain unique characteristics of the crypto-asset market, the application of robust regulatory standards alongside international regulatory co-operation will be pivotal to help ensure that any useful innovation can occur while minimizing the risk of regulatory arbitrage and maintaining standards of investor protection and market integrity.

鉴于加密资产市场的全球性质和某些独特性，在国际监管合作的同时采用强有力的监管标准将至关重要，这有助于确保任何有益的创新都能发生，同时最大限度地减少监管套利的风险，并保持投资者保护和市场诚信的标准。

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<sup>11</sup> See, e.g., Updated Guidance for a Risk-Based Approach to Virtual Assets and Virtual Asset Service Providers 例如，见《基于风险的虚拟资产和虚拟资产服务提供商方法最新指南》。





Global retail investor exposure to crypto-assets has grown exponentially in recent years, as have retail investor losses due, not only to market conditions, but also regulatory non-compliance, financial crime, fraud, market manipulation, money laundering and other illegal crypto-asset market practices. The fragility and interconnectedness of the crypto-asset market continues to leave entities and investors exposed to significant losses triggered by all too frequent shock events.<sup>12</sup>

近年来，全球散户投资者对加密资产的风险敞口呈指数级增长，散户投资者的损失也呈指数级增长，原因不仅包括市场状况，还包括监管不合规、金融犯罪、欺诈、市场操纵、洗钱和其他非法加密资产市场行为。加密资产市场的脆弱性和相互关联性继续使实体和投资者面临频繁发生的冲击事件引发的重大损失。<sup>12</sup>

Given the speculative nature driving the demand for many crypto-assets, the lack of intrinsic value in the vast majority of crypto-assets, high levels of retail participation, and the history of losses suffered by retail investors, robust investor protection measures are essential. For example, data from the Bank for International Settlements (BIS) examining CASP activity, calculated on a sample of more than 200 crypto-asset trading apps operating in more than 95 countries, from August 2015 – December 2022, shows that a majority of the users of such apps in nearly all economies experienced losses on their bitcoin holdings.<sup>13</sup>

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<sup>12</sup> Examples in 2022 alone include Terra / Luna, Celsius, Voyager, Three Arrows Capital, and FTX

仅 2022 年的例子就包括 Terra / Luna、Celsius、Voyager、Three Arrows Capital 和 FTX。

<sup>13</sup> See BIS Bulletin No. 69: Crypto shocks and retail losses More users trade when the bitcoin price increases...but a large share of users in nearly all economies probably lost money. In nearly all economies in the sample, a majority of investors probably lost money on their bitcoin investment. The median investor would have lost \$431 by December 2022, corresponding to almost half of their total \$900 in funds invested since downloading the app. Notably, this share is even higher in several emerging market economies like Brazil, India, Pakistan, Thailand and Turkey. If investors continued to invest at a monthly frequency, over four fifths of users would have lost money.

见《国际清算银行公报》第 69 期：加密货币冲击与零售损失 当比特币价格上涨时，更多用户进行交易.....但几乎所有经济体的大部分用户都可能亏损。在几乎所有的样本经济体中，大多数投资者的比特币投资都可能亏损。到 2022 年 12 月，中位数投资者将损失 431 美元，几乎相当于他们自下载应用以来所投资金总额 900 美元的一半。值得注意的是，这一比例在巴西、印度、巴基斯坦、泰国和土耳其等新兴市场经济体中甚至更高。如果投资者继续以每月一次的频率进行投资，超过五分之四的用户将血本无归。



鉴于许多加密资产需求的投机性、绝大多数加密资产缺乏的内在价值缺乏性、散户参与程度高以及散户投资者遭受损失的历史，强有力的投资者保护措施将至关重要。例如，国际清算银行（BIS）在 2015 年 8 月至 2022 年 12 月期间对超过 95 个国家运营的 200 多个加密资产交易应用程序进行了抽样调查，对 CASP 活动进行了研究，数据显示，几乎所有经济体的大多数此类应用程序用户都曾因持有比特币而遭受损失。<sup>13</sup>

Many retail investors conduct their trading activities through, and entrust custody of their crypto-assets to, CASPs. There have been many cases where CASPs, including those with the largest market share and highest trading volumes,<sup>14</sup> have demonstrated a lack of willingness to comply with applicable regulatory frameworks that seek to achieve investor protection and market integrity outcomes, and in many cases have structured their operations in a way to evade such frameworks. By not complying with such measures, CASPs profit off retail investors while seeking to avoid the crucial safeguards that come with adherence to regulatory requirements.

许多散户投资者通过 CASP 进行交易活动，并委托 CASP 保管其加密资产。在许多情况下，CASP，包括那些市场份额最大、交易量最高的 CASP，<sup>14</sup> 都表现出不愿意遵守旨在实现投资者保护和市场诚信结果的监管框架，并且在许多情况下以规避此类框架的方式构建其业务。通过不遵守这些措施，CASP 从散户投资者身上获利，同时试图避免遵守监管要求所带来的安全保障。

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<sup>14</sup> According to some data, the three largest CASPs purportedly account for almost three quarters of all trading volume.

一些数据显示，据称最大的三家 CASP 几乎占据了全部交易量的四分之三。





## **CHAPTER 1: OVERARCHING RECOMMENDATION ADDRESSED TO ALL REGULATORS 第1章：向所有监管机构提出的总体建议**

### ***Preamble: Intent of the Recommendations 序言：建议的意图***

The exposure of retail investors across the globe to crypto-assets has grown in recent years, as have retail investor losses amid regulatory non-compliance, financial crime, fraud, market manipulation, money laundering and other illegal crypto-asset market activity. Given the similar economic functions and activities of the crypto-asset market and the traditional financial markets, many existing international policies, standards and jurisdictional regulatory frameworks are applicable to crypto-asset activities.

近年来，全球散户投资者接触加密资产的机会越来越多，散户投资者因监管规定不被遵守、金融犯罪、欺诈、市场操纵、洗钱和其他非法加密资产市场活动而遭受的损失也越来越大。鉴于加密资产市场和传统金融市场具有相似的经济功能和活动，许多现行的国际政策、标准和司法监管框架都适用于加密资产活动。

IOSCO is issuing these Recommendations to help IOSCO members apply relevant existing IOSCO objectives, principles, standards, recommendations and good practices, as appropriate, to crypto-asset activities within their jurisdictions. More specifically, the Recommendations respond to widespread concerns regarding investor protection and market integrity within the crypto-asset markets. The need to address these concerns is evident from repeated instances of market turmoil involving crypto-asset trading, lending and borrowing platforms and other market participants, resulting in significant losses and risks to retail investors due to inadequate protections and safeguards.

国际证监会组织正在发布这些建议，以帮助国际证监会组织成员酌情将国际证监会组织现有的相关目标、原则、标准、建议和良好做法应用于其管辖范围内的加密资产活动。更具体地说，这些建议回应了人们对加密资产市场中投资者保护和市场诚信的广泛关注。由于保护和保障措施的不足，涉及加密资产交易、借贷平台和其他市场参与

者的市场动荡事件屡屡发生，导致散户投资者遭受了重大损失和风险，因此，显然有必要解决这些问题。



Many crypto-asset activities and markets currently operate in non-compliance with applicable regulatory frameworks or are unregulated. These Recommendations recognize that some jurisdictions have existing regulatory frameworks that encompass crypto and digital assets, while some jurisdictions are in the process of developing regulatory frameworks. In addition, in some jurisdictions, the regulatory framework may allocate responsibility for the regulation and oversight of crypto and digital assets to different Regulators that possess discrete and complementary mandates and objectives, to address investor protection and market integrity risks. Each jurisdiction should implement the Recommendations, as they deem appropriate, within their existing or developing frameworks considering each Regulator's role within those existing or developing frameworks, and the outcomes achieved through the operation of the frameworks in each jurisdiction. <sup>15</sup>These Recommendations should be considered by IOSCO members as they apply existing regulatory frameworks, or they are granted new powers and/or develop new requirements (such new powers and/or new requirements, together "New Frameworks"), to crypto and digital assets and related activities in a manner that achieves outcomes across jurisdictions consistent with the IOSCO Objectives and Principles for Securities Regulation.

目前，许多加密资产活动和市场的运作不符合适用的监管框架，或者没有受到监管。这些建议认识到，一些辖区有涵盖加密货币和数字资产的监管框架安排，而一些辖区正在制定监管框架。此外，在一些辖区，监管框架可能会将监管和监督加密货币和数

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<sup>15</sup> Given the diversity of operating landscapes across different jurisdictions, the application and/or implementation of the 18 Recommendations can take into account the context of specific legal structures prevailing in each jurisdiction, as well as the respective mandates of individual regulators where relevant. This can be met where a regulator, through its given mandate and the regulatory frameworks it applies, sets out clear principles-based expectations for a CASP to meet (which can be supported by regulatory guidance, as appropriate), so as to achieve the same regulatory outcomes articulated in this report.

鉴于不同司法管辖区的运作环境各不相同，在应用和/或实施 18 项建议时，可考虑到各司法管辖区普遍存在的具体法律结构背景，以及各监管机构的相关授权。如果监管机构通过其既定任务及其适用的监管框架，为小武器问题解决 方案提出了基于原则的明确期望（可酌情辅之以监管指南），以实现本报告中阐述的相同 监管成果，则可满足上述要求。



字资产的责任分配给不同的监管机构，这些机构拥有互不关联且互为补充的任务和目标，以应对投资者保护和市场诚信风险。各辖区应在其现有或正在制定的框架内，考虑各监管机构在这些现有或正在制定的框架内的作用，以及通过各辖区框架的运作所取得的成果，酌情实施本建议。15 国际证监会组织成员在将现有监管框架应用于加密货币和数字资产及相关活动时，或在被授予新权力和/或制定新要求（此类新权力和/或新要求统称为“新框架”）时，应考虑这些建议，以实现符合国际证监会组织《证券监管目标和原则》的跨辖区成果。

These Recommendations apply to all types of crypto-assets. Accordingly, each of these Recommendations also apply to stablecoins. However, additional guidance in relation to stablecoin disclosures and the custody of reserve assets is included under Recommendation 6 and the Custody and Client Assets Recommendations to clarify how these Recommendations apply additionally to some of the idiosyncratic features or risks presented by stablecoins.

这些建议适用于所有类型的加密资产。因此，每项建议也适用于稳定币。不过，建议6和托管与客户资产建议中包含了有关稳定币披露和储备资产托管的额外指导，以说明这些建议如何额外适用于稳定币的一些特有特征或风险。

### **Recommendation 1 – (Common Standards of Regulatory Outcomes) 建议 1-- (监管成果的共同标准)**

Regulators should use existing frameworks or New Frameworks to regulate and oversee crypto-asset trading, other crypto-asset services, and the issuing, marketing and selling of crypto-assets (including as investments), in a manner consistent with IOSCO Objectives and Principles for Securities Regulation and relevant supporting IOSCO principles, standards, recommendations, and good practices (hereafter “IOSCO Standards”). The regulatory approach should seek to achieve regulatory outcomes for investor protection and market integrity that are the same as, or consistent with, those that are required in traditional financial markets.

**IOSCO Principles supported: 1 – 7.**

监管机构应利用现有框架或新框架，以符合国际证监会组织《证券监管目标和原则》以及相关的支持性国际证监会组织的原则、标准、建议和良好做法（以下简称“国际证监会组织标准”）的方式，监管和监督加密资产交易、其他加密资产服务以及加密资产的发行、营销和销售（包括作为投资）。监管方法应力求在投资者保护和市场诚信方面取得与传统金融市场相同或一致的监管成果。

**支持国际证监会组织原则： 1 - 7.**

The IOSCO Standards apply generally to all crypto-assets, their issuers and the provision of services in relation to primary issuance, secondary trading and services and activities linked thereto.

国际证监会组织标准普遍适用于所有加密资产、其发行人以及与一级发行、二级交易和相关服务及活动。

As crypto-assets markets and market participants have grown significantly, with market participants often acting in non-compliance with existing laws or regulations, in consideration of the identified risks in the crypto-asset market and significant ongoing harm to investors, regulators are encouraged to analyze the applicability and adequacy of their regulatory frameworks, and the extent to which:

随着加密资产市场和市场参与者的大幅增长，以及市场参与者的行为往往不符合现行法律或法规，并考虑到加密资产市场已查明的风险和对投资者的重大持续伤害，我们应鼓励监管机构分析其监管框架的适用性和充分性，以及在多大程度上适用：



(1) crypto-assets are, or behave like substitutes for, regulated financial instruments,<sup>16</sup> and

加密资产是被监管金融工具的替代品，或者表现的像是被监管金融工具的替代品，和

(2) investors have substituted other financial instrument investment activities with crypto-asset trading activities.

投资者用加密资产交易活动取代了其他金融工具投资活动。

Accordingly, these Recommendations focus on the economic substance of a crypto-asset and its substitutability vis-à-vis traditional financial instruments (notwithstanding the crypto-asset's purported potential use case or purpose as stated in supporting marketing and/or distribution materials). Regulators are therefore encouraged to evaluate whether specific requirements address or are needed to address the investor protection and market integrity risks associated with crypto and digital asset activities or certain types of crypto-assets and use existing regulatory and/or New Frameworks to regulate the services and activities.<sup>17</sup>

因此，这些建议侧重于加密资产的经济实质及其相对于传统金融工具的可替代性（尽管加密资产在支持性营销和/或分销材料中声称有潜在的用例或目的）。因此，鼓励监管机构评估是否有具体要求或需要解决与加密货币和数字资产活动或某些类型的加密资产相关的投资者保护和市场诚信风险，并利用现有的监管和/或新框架来监管这些服务和活动。<sup>17</sup>

Application of IOSCO Standards, supported by these Recommendations, will facilitate more effective supervision, enforcement and international co-operation regarding CASPs, with the goal of promoting regulatory compliance. In addition, co-operation and coordination among


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<sup>16</sup> For these purposes, financial instruments include securities and derivative instruments thereof as well as traded commodity derivatives. Depending on the jurisdiction it would also include traded commodities.

为此，金融工具包括证券及其衍生工具，以及交易商品衍生工具。根据不同的司法管辖区，金融工具还包括交易商品。

<sup>17</sup> As stated in IOSCO Principle 7, the Regulator should have or contribute to a process to review the perimeter of regulation regularly.

如国际证监会组织原则 7 所述，监管机构应制定或参与定期审查监管范围的程序。



international bodies such as the FSB and the BIS, and between the SSBs (such as IOSCO, CPMI-IOSCO, the BCBS and FATF) on crypto-assets and crypto-asset regulation are important to achieve greater regulatory harmonization and minimize regulatory arbitrage. This should help facilitate a level playing field between crypto-assets and traditional financial markets and help reduce the risk of regulatory arbitrage arising from any differences in how rules apply to, and are enforced with respect to, crypto-assets and traditional financial markets.

在这些建议的支持下，国际证监会组织标准的应用将促进有关 CASPs 的更有效的监督、执法和国际合作，从而达到促进监管合规的目的。此外，金融稳定委员会和国际清算银行等国际机构之间，以及监管机构（如国际证监会组织、CPMI-IOSCO、巴塞尔银行委员会和反洗钱金融行动特别工作组）之间在加密资产和加密资产监管方面的合作与协调，对于加强监管协调和最大限度地减少监管套利非常重要。这应有助于促进加密资产和传统金融市场之间的公平竞争，并有助于减少因加密资产和传统金融市场在规则适用和执行方面的差异而产生的监管套利风险。

IOSCO as a global membership organization<sup>18</sup> with deep capital markets regulatory expertise is well positioned to achieve these objectives.

国际证监会组织作为一个全球性成员组织，拥有深厚的资本市场监管专业知识，完全有能力实现这些目标。

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<sup>18</sup> The IOSCO membership regulates more than 95% of the world's securities markets in more than 130 jurisdictions: securities regulators in emerging markets account for 75% of its ordinary membership.

国际证监会组织成员监管着全球 130 多个司法管辖区 95% 以上的证券市场：新兴市场的证券监管机构占其普通成员的 75%。



## **CHAPTER 2: RECOMMENDATIONS ON GOVERNANCE AND DISCLOSURE OF CONFLICTS** 第2章：关于治理和披露冲突的建议

### **Recommendation 2 – (Organizational Governance) 建议 2--（组织治理）**

Regulators should require a CASP to have effective governance and organizational arrangements, commensurate to its activities, including systems, policies and procedures that would, amongst other things, address conflicts of interest, including those arising from different activities conducted, and services provided, by a CASP or its affiliated entities. These conflicts should be effectively identified, managed and mitigated.

监管机构应要求 CASP 制定与其活动相匹配的有效治理和组织安排，包括制度、政策和程序，以解决利益冲突问题，包括 CASP 或其附属实体开展的不同活动和提供的服务所产生的利益冲突。这些冲突应得到有效识别、管理和缓解。

A regulator should consider whether certain conflicts are sufficiently acute that they cannot be effectively mitigated, including through effective systems and controls, disclosure, or prohibited actions, and may require more robust measures such as legal segregation of functions and activities, as well as separate registration and regulation of certain activities and functions to address this Recommendation.

监管机构应考虑某些冲突是否严重到无法有效缓解的地步，包括需要通过有效的制度和控制、披露或禁止行动，并可能要求采取更有力的措施来解决，如法律上职能和活动的分离，以及对某些活动和职能进行单独注册和监管，以解决本建议的问题。

**IOSCO Principles supported: 8, 23, 31, 33, 34 支持国际证监会组织原则： 8, 23, 31, 33, 34**

Although often presenting themselves as “exchanges”, many CASPs typically engage in multiple functions and activities under ‘one roof’ – including exchange services operating a trading venue, brokerage, market-making and other proprietary trading, offering margin



trading, custody, clearing, settlement, and services relating to lending and/or staking – whether through a single legal entity or a closely affiliated group of legal entities that are part of a wider group structure.

尽管许多 CASP 通常以 "交易所 "自居，但它们通常在 "同一屋檐下 "从事多种功能和活动，包括经营交易场所的交易所服务、经纪、做市商和其他自营交易、提供保证金交易、托管、清算、结算以及与借贷和/或押注有关的服务，无论是它的表现形式是单一法律实体还是作为更广泛集团结构一部分的密切关联法律实体集团。

Conflicts arise from engaging in these activities and functions in a vertically integrated manner. For example, a CASP that operates an order-matching service has a conflict with its users if it is also making markets or otherwise trading as principal against other users in that market. A CASP that allows margin trading may have an incentive to offer margin to an affiliate on terms better than it offers to other users.

以纵向一体化的方式从事这些活动和职能会产生冲突。例如，经营订单配对服务的 CASP 如果也做市或以其他方式作为委托人与该市场的其他用户进行交易，那么它将会与其用户产生冲突。允许保证金交易的 CASP 可能有动力以优于提供给其他用户的条件向关联公司提供保证金。

Regulators should evaluate whether permitting a CASP to continue to engage in multiple activities in a vertically integrated manner gives rise to conflicts of interest that are not capable of being mitigated and for which disclosure is ineffective to protect markets and investors, in which case they should consider requiring legal segregation of functions and activities. For example, where a CASP engages in proprietary trading alongside the operation of a trading platform, regulators should consider whether the conflicts of interests presented are unmanageable within the CASP, and address them through requiring legal segregation of these functions and activities, especially where these services are offered to retail clients. This would involve splitting particular CASP functions into separate legal entities, with separate



board and management teams, in addition to operating as distinct functions within a given entity.



监管机构应评估，允许 CASP 继续以纵向一体化的方式从事多种活动，是否会导致无法缓解的利益冲突，以及在披露要求对保护市场和投资者无效的情况下，监管机构应否考虑在法律上分离其职能和活动。例如，当 CASP 在经营交易平台的同时还从事自营交易时，监管机构应考虑所产生的利益冲突在 CASP 内部是否无法控制，并通过要求在法律上分离这些职能和活动来解决这些问题，特别是当这些服务是提供给零售客户时。这将涉及把 CASP 的特定职能分拆为独立的法律实体，除了作为特定实体内的不同职能运作外，还应设立独立的董事会和管理团队。

In addition, if considering New Frameworks, regulators should further consider taking steps to require CASPs to establish effective conflicts of interest policies, procedures and controls and provide public disclosure and reporting, as well as annual effectiveness reviews in light of any new activities or services offered. Regulators may also consider imposing additional independence requirements or de-coupling of functions.

此外，如果考虑新框架，监管机构应进一步考虑采取措施，要求 CASPs 制定有效的利益冲突政策、程序和控制措施，并提供公开披露和报告，以及根据所提供的任何新活动或服务进行年度有效性审查。监管机构还可考虑规定额外的独立性要求或职能脱钩。

### **Recommendation 3 – (Disclosure of Role, Capacity and Trading conflicts) 建议 3--（披露角色、能力和交易冲突）**

Regulators should require a CASP to have accurately disclosed each role and capacity in which it is acting at all times. These disclosures should be made in plain, concise, non-technical language, as relevant to the CASP’s clients, prospective clients, the general public, and regulators in all jurisdictions where the CASP operates, and into which it provides services. Relevant disclosures should take place prior to entering into an agreement with a prospective client to provide services, and at any point thereafter when such position changes (e.g., if and when the CASP takes on a new, or different, role or capacity)

监管机构应要求 CASP 在任何时候都准确披露其担任的每个角色和身份。这些披露应以平实、简洁、非技术性的语言进行，并与 CASP 的客户、潜在客户、公众以及 CASP 开展业务和提供服务的所有辖区的监管机构相关。相关披露应在与潜在客户签订提供服务的协议之前进行，其后情况发生变化时亦同。（例如，当 CASP 承担新的或不同的角色或职能时）。

**IOSCO Principles Supported: 31, 34, 35 and 37 支持国际证监会组织原则： 31、34、35 和 37**

If a CASP is engaging in different activities and functions in a crypto-asset trading environment, it is important for investors and regulators to understand the precise activities and functions that the CASP is providing, and in what capacity it is acting, in relation to its clients.

如果 CASP 在加密资产交易环境中从事不同的活动和职能，投资者和监管机构就必须了解 CASP 为客户提供的确切活动和职能，以及 CASP 以何种身份行事。

The vertical integration and aggregation of different activities and roles of CASPs makes this issue more acute. Recent events have shown that clients do not understand the differing conflicting activities and roles that CASPs are playing in a vertically integrated organization and operational structure. For example, it may not be clear to the client of a CASP the capacity in which the CASP is acting, particularly if the CASP combines multiple functions, within itself and/or through a group of affiliated entities.

CASPs 不同活动和角色的纵向整合和聚合使这一问题更加尖锐。最近发生的事件表明，客户并不了解 CASPs 在纵向一体化的组织和业务结构中开展的不同活动和扮演的不同角色。例如，CASP 的客户可能不清楚 CASP 以何种身份行事，特别是如果 CASP 在其内部和/或通过一组附属实体将多种职能结合在一起的情况下。



The type of disclosure by a CASP that may be important includes –

CASP 披露的可能重要的信息类型包括：

- The specific legal entity with whom the client is contracting;

与客户签订合同的具体法律实体；

- The specific services and activities that are being provided by the CASP and the relevant terms and conditions, and the role of the CASP when handling or executing clients' orders (e.g., whether as a principal or agent) and when holding in custody, moving, or making any use of Client Assets; and

CASP 提供的具体服务和活动及相关条款和条件，以及 CASP 在处理或执行客户指令（如作为委托人或代理人）和保管、转移或使用客户资产时的角色；以及

- If the CASP is effecting transactions in crypto-assets on behalf of its clients, the activities that the CASP engages in to effect the transactions, including whether the CASP, or its affiliates, are engaging in market-making activities, whether any client trades will be made with the CASP or its affiliates on a principal basis, and how the CASP protects clients against front running trades;

如果 CASP 代表其客户进行加密资产交易，CASP 为进行交易而从事的活动，包括 CASP 或其关联公司是否正在从事做市活动，是否有任何客户交易将以委托人身份与 CASP 或其关联公司进行，以及 CASP 如何保护客户免受前置交易的影响；

If permitted to perform multiple functions in a vertically integrated manner (to the extent the regulator permits this combination of activities and functions), a CASP should identify and disclose the conflicts that the CASP has when acting in multiple capacities, the policies and procedures to prevent or mitigate such conflicts, and the risks to clients arising from the vertically integrated operations (including a lack of protection from 'self-dealing' by the CASP, among others).



如果允许以纵向一体化的方式履行多种职能（在监管机构允许这种活动和职能组合的范围内），CASP 应确定并披露 CASP 以多种身份行事时的冲突、防止或减轻这种冲突的政策和程序，以及纵向一体化业务给客户带来的风险（包括缺乏对 CASP "自我交易" 的保护等）。

### **CHAPTER 3: RECOMMENDATIONS ON ORDER HANDLING AND TRADE DISCLOSURES (TRADING INTERMEDIARIES VS MARKET OPERATORS) 第 3 章：关于订单处理和交易披露的建议（交易中介与市场运营商）**

#### **RECOMMENDATION FOR TRADING INTERMEDIARIES 对交易中介的建议**

##### **Recommendation 4 – (Client Order Handling) 建议 4--（客户订单处理）**

Regulators should require a CASP, when acting as an agent, to handle all client orders fairly and equitably. Regulators should require a CASP to have systems, policies and procedures to provide for fair and expeditious execution of client orders, and restrictions on front-running client orders. Regulators should require that a CASP discloses these systems, policies and procedures to clients and prospective clients, as relevant.

监管机构应要求 CASP 在作为代理时公平公正地处理所有客户指令。监管机构应要求 CASP 建立制度、政策和程序，要求其公平、迅速地执行客户指令，并限制其提前执行客户指令。监管机构应要求 CASP 向客户和潜在客户披露这些相关制度、政策和程序。

Orders should be handled promptly and accurately recorded.

应及时处理订单并准确记录。

**IOSCO Principles Supported: 29, 31 支持国际证监会组织原则： 29, 31**



Despite common market parlance of collectively referring to CASPs as “exchanges” or “trading platforms”, a CASP may not in fact be an exchange (or what is commonly known as a market operator). It may instead operate as an intermediary such as a broker or dealer, or both. On the basis of “same activity, same risk and same regulation/regulatory outcomes”, specific Recommendations should apply to CASPs based on the role that they undertake.

尽管市场常用的说法，是将 CASP 统称为“交易所”或“交易平台”，但 CASP 实际上可能并非交易所（或俗称的市场营运商）。它可以作为中间商，如经纪人或交易商，或两者兼而有之。在“同样的活动、同样的风险和同样的监管/监管结果”的基础上，具体建议的适用应根据 CASP 承担的角色而定。

Information asymmetries and the lack of client disclosures arise due to a number of factors, including a lack of transparency by the CASP, and/or non-compliance with existing requirements concerning the role and capacity in which it is acting (particularly if it combines multiple activities and functions as described in the previous sections).

信息不对称和缺乏客户披露是由多种因素造成的，包括 CASP 缺乏透明度，和/或不遵守有关其作用和能力的现有要求（特别是在前几节所述的兼具多种活动和职能的情况下）。

Clients may not understand that the CASP is trading against them and therefore is not acting in the clients’ best interests. Clients also may not understand that the CASP may be front-running client trades, or that it may not be providing the best price or execution for the client’s trade. These inherent conflicts can give rise to significant investor harm.

客户可能并不了解他们与 CASP 的交易会与其期望背道而驰，从而并不符合客户的最佳利益。客户也可能不了解 CASP 可能会提前进行客户交易，或可能不会为客户的交易提供最佳价格或执行。这些内在冲突可能会对投资者造成重大损害。



To the extent not already addressed in regulation, regulators should require a CASP to implement systems, policies and procedures that provide for a fair, orderly and timely execution of client orders. Such systems, policies and procedures should be aligned with existing relevant securities and other regulations (e.g., requirements with respect to precedence of client orders and prohibition of front-running). When executing client orders, CASPs should take sufficient steps to obtain the best possible result for their clients taking into account all relevant execution factors such as price, costs (both the explicit and implicit market impact costs), speed, likelihood of execution and settlement, size, nature or any other consideration relevant to the execution of the order.

在法规尚未涉及的情况下，监管机构应要求 CASP 实施能公平、有序和及时执行客户指令的系统、政策和程序。这些制度、政策和程序应与现有的相关证券法规和其他法规保持一致（例如，有关客户订单优先权和禁止前置运行的要求）。在执行客户指令时，证券服务提供者应采取充分措施，在考虑所有相关执行因素，如价格、成本（包括显性和隐性市场影响成本）、速度、执行和结算的可能性、规模、性质或任何其他与执行指令相关的考虑因素后，尽可能为客户取得最佳结果。

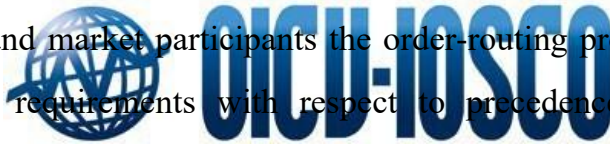
When requiring disclosure of such policies and procedures, to the extent not already addressed in regulation, regulators may consider requiring the CASP to perform the following in accordance with the regulators' authority:

在要求披露此类政策和程序时，如果监管机构尚未在条例中述及，监管机构可考虑要求 CASP 根据监管机构的授权开展以下工作：

- When entering an agreement to provide order execution services to clients, disclose how the execution services will be done (e.g., executed on a principal or agency basis);

在签订向客户提供订单执行服务的协议时，披露执行服务的方式（例如，以委托人或代理机构的方式执行）；





- Disclose to regulators and market participants the order-routing procedures and how these are applied fairly (e.g., requirements with respect to precedence of client orders and prohibitions on front-running);

向监管机构和市场参与者披露订单分配程序，以及如何公平应用这些程序（例如，有关客户订单优先顺序和禁止前置运行的要求）；

- Disclose any arrangements in place with third parties for routing of client orders, including arrangements concerning payment for order flow (PFOF), or any other forms of inducements;

披露与第三方就客户订单达成的任何安排，包括有关订单流量付款（PFOF）的安排或任何其他形式的诱导；

- Take reasonable steps to deliver best execution for clients;<sup>19</sup> and

采取合理措施，为客户提供最佳执行；<sup>19</sup> 和

- Disclose any significant differences from order handling rules applied to the trading of financial instruments on public markets in the jurisdiction of the client.

披露与客户所在的司法管辖区的公共市场金融工具交易订单处理规则之间的任何重大差异。

## **RECOMMENDATION FOR MARKET OPERATORS 对市场经营者的建议**

### **Recommendation 5 – (Market Operation Requirements) 建议 5--（市场运作要求）**

Regulators should require a CASP that operates a market or acts as an intermediary (directly or indirectly on behalf of a client) to provide pre- and post-trade disclosures in a form and manner that are the same as, or that achieve similar regulatory outcomes consistent with, those that are required in traditional financial markets.

#### **IOSCO Principles Supported: 33, 34, 35**

jurisdictions where regulatory best execution of orders may not be required, to comprise, at a minimum, the ‘fair and expeditious’ execution of the order by a CASP.

就这些目的而言，最佳执行一词的理解应符合司法管辖区的要求，在可能不要求对指令的最佳执行进行监管的司法管辖区，该词至少包括由 CASP “公平、迅速”地执行指令。



监管机构应要求经营市场或作为中介（直接或间接代表客户）的 CASP 以与传统金融市场所要求的相同的形式和方式提供交易前和交易后披露，或实现与传统金融市场所要求的一致类似监管结果。

**支持国际证监会组织原则： 33, 34, 35**

In many jurisdictions, organized exchanges and trading venues are required to provide public trade transparency, for example, by displaying current bid and offer prices and the depth of trading interest.

在许多司法管辖区，有组织的交易所和交易场所必须提供公开的交易透明度，例如，显示当前的买入价和卖出价以及交易深度。

Many CASPs are currently operating in non-compliance or in a manner inconsistent with existing regulations that apply to exchanges. This impedes critical trade transparency for transactions occurring on a CASP trading platform. This lack of information gives rise to a non-transparent market, not only with respect to pricing but also trading activities.

许多 CASP 目前的运营方式不符合适用于交易所的现行法规。这妨碍了 CASP 交易平台上发生的交易的重要交易透明度。这种信息的缺乏导致了市场的不透明，不仅在定价方面如此，在交易活动方面也是如此。

Regulators should require a CASP acting as a market operator to provide market participants/investors with access to an appropriate level of pre-trade and post-trade information to promote transparency, price discovery, and competition. Regulators should consider how to provide investors with useful pre-trade information, including the bids and offers available on the CASP to enable crypto-asset investors to know, with a reasonable degree of certainty, whether and at what prices they can trade the crypto-assets.



监管机构应要求作为市场运营商的 CASP 向市场参与者/投资者提供适当水平的交易前和交易后信息，以促进透明度、价格发现和竞争。监管机构应考虑如何向投资者提供有用的交易前信息，包括 CASP 上提供的出价和要价，以使加密资产投资者能够在合理程度上确定地知道他们是否可以交易加密资产以及可以以什么价格进行交易。

Post-trade information on the prices, trade time and the volume of all individual transactions occurring on a CASP should be made publicly and freely available to the fullest extent practicable.

应以切实可行的方式在最大程度上公开和免费提供关于在 CASP 上进行的所有个别交易的价格、交易时间和交易量的交易后信息。

#### **CHAPTER 4: RECOMMENDATIONS IN RELATION TO LISTING OF CRYPTO-ASSETS AND CERTAIN PRIMARY MARKET ACTIVITIES** 第 4 章：关于加密资产上市和某些一级市场活动的建议

##### **Recommendation 6 – (Admission to Trading) 建议 6--（允许交易）**

Regulators should require a CASP to establish, maintain and appropriately disclose to the public their standards— including systems, policies and procedures— for listing / admitting crypto assets to trading on its market, as well as those for removing cryptoassets from trading. These standards should include the substantive and procedural standards for making such determinations.

监管机构应要求 CASP 建立、维护并向公众适当披露其上市/允许加密资产在其市场上交易的标准（包括系统、政策和程序），以及将加密资产从交易中移除的标准。这些标准应包括做出此类决定的实质性和程序性标准。

**IOSCO Principles Supported: 16, 17 支持国际证监会组织原则： 16, 17**



Substantive and procedural listing standards play a key role in investor and market protections in traditional markets. These standards for crypto-assets are just as important, as is the public disclosure of these standards.

在传统市场中，实质性和程序性上市标准在投资者和市场保护方面发挥着关键作用。加密资产的这些标准以及这些标准的公开披露同样重要。

As with traditional financial markets, the availability of ongoing information about the financial instrument (in this case, the crypto-asset) and about the issuer is key to informed decision-making and pricing in any trading market.

与传统金融市场一样，在任何交易市场中，持续提供有关金融工具（这里指加密资产）和发行人的信息是做出明智决策和定价的关键。

In the crypto-asset market today, many crypto-assets are sold without important disclosures about the crypto-asset, its main features, the associated risks, and its issuer. Further, there tends to be little, if any, verifiable continuous information provided about or by the crypto-asset issuer. For those jurisdictions where existing rules apply already to crypto-asset issuers, including those relating to disclosures and protections against fraudulent statements, the crypto-assets are being sold in non-compliance with the law.

在当今的加密资产市场上，许多加密资产在出售时都没有披露有关信息，如其主要特征、相关风险及其发行人。此外，关于加密资产发行人或由加密资产发行人提供的可验证的持续信息往往很少（如果有的话）。对于那些现有规则已经适用于加密资产发行人的辖区，包括那些与披露和防范欺诈性声明有关的辖区，销售加密资产并不符合法律规定。

However, as crypto-asset trading activities implicate the same concerns as traditional financial markets, initial and ongoing information about crypto-assets and crypto-asset issuers

is essential to avoid information asymmetries, to help protect against fraud, and to provide transparency to investors trading crypto-assets.



然而，由于加密资产交易活动涉及与传统金融市场相同的问题，关于加密资产和加密资产发行人的初始和持续信息对于避免信息不对称、帮助防范欺诈以及为交易加密资产的投资者提供透明度至关重要。

To address these issues from the trading platform standpoint, regulators should require a CASP to adopt substantive and procedural listing standards relating to crypto-assets and their issuers and describe the quantitative and/or qualitative standards that the CASP uses to assess a crypto-asset when approving the admission to trading, permitting it to continue to be admitted to trading, and standards for when its listing may be removed. The disclosures, as relevant, should also include the procedures used to make those assessments.

为了从交易平台的角度解决这些问题，监管机构应要求 CASP 采用与加密资产及其发行人有关的实质性和程序性上市标准，并说明 CASP 在批准加密资产进入交易市场、允许其继续进入交易市场时用于评估加密资产的定量和/或定性标准，以及何时可取消其上市地位的标准。相关披露还应包括用于进行这些评估的程序。

In connection with the type of information that should be made available initially, and on an ongoing basis, about the crypto-asset, regulators may consider requiring the types of disclosures that apply when listing any financial instrument for trading on a traditional exchange.

关于最初和持续提供的加密资产信息类型，监管机构可以考虑要求披露在传统交易所上市交易的任何金融工具所适用的信息类型。

This information would typically include, for example (but is not limited to), a comprehensive description of the crypto-asset, information about ownership and control of

the crypto-asset, as well as full information about the issuer and its business, including audited financial statements, and information about the issuer's management team.

这些信息通常包括（但不限于）加密资产的全面描述、有关加密资产所有权和控制权的信息，以及发行人及其业务的全部信息，包括经审计的财务报表和发行人管理团队的信息。

Regulators should require a CASP to also adequately disclose relevant information, including (but not limited to):

监管机构应要求 CASP 充分披露相关信息，包括（但不限于）：

- The risks associated with the crypto-asset;
- Trading history of the crypto-asset, including volumes and prices;

加密资产的相关风险； - 加密资产的交易历史，包括交易量和价格；

- Operational description of the crypto-asset, including any incidents of manipulation or security failures;

加密资产的运行描述，包括任何操纵或安全故障事件；

- Token ownership concentration and any options and/or lock-ups for insiders and affiliates;

代币所有权集中度以及内部人员和关联公司的任何期权和/或锁定；

- Protocols for transfers; and

转让协议；以及

- The CASP's treatment of the client crypto-assets and their respective rights and entitlements when events such as, but not limited to, hard forks and airdrops occur.

当发生硬分叉和空投等事件（但不限于此）时，CASP 对客户加密资产及其各自权利和权益的处理。

These disclosures should apply and are important, even where there is no clearly identifiable entity issuing a crypto-asset.



即使在无法明确识别的实体发行加密资产的情况下，这些披露也应适用，而且意义重大。

### **CASP Disclosures about Stablecoins CASP 关于稳定币的披露**

CASPs that list stablecoins should consider additional information that should be disclosed to customers. To address this, **Recommendation 6** should be read with the following guidance in relation to stablecoins. Regulators should consider requiring a CASP to disclose, as relevant:

列出稳定币的 CASP 应考虑应向客户披露的其他信息。为解决这一问题，**建议 6** 应与以下有关稳定币的指导一并解读。监管机构应考虑要求 CASP 披露相关信息：

#### **1. The terms of the stablecoin including: 1. 稳定币的条款，包括**

(a) what the stablecoin represents, including the reserve assets, how the stablecoin is pegged and the reference asset for the peg (e.g., to a single fiat currency, a basket of currencies, etc.);

(a) 稳定币代表什么，包括储备资产、如何与稳定币挂钩以及挂钩的参考资产（如与单一法定货币、一篮子货币等）；

(b) the mechanism to support the peg, including whether the stablecoin is fully backed or supported by a reserve of assets or specific types of assets;

(b) 支持挂钩的机制，包括稳定币是完全支持还是由资产储备或特定类型的资产支持；

(c) the mechanisms for creating and redeeming the stablecoin;

(c) 创建和兑换稳定币的机制



(d) the rights of any and all stablecoin holders to present the stablecoin for redemption to the issuer, to the CASP or to other third parties, and any potential or existing claims against the stablecoin issuer and/or against the reserve assets;

(d) 任何及所有稳定币持有者向发行方、CASP 或其他第三方提交稳定币赎回的权利，以及对稳定币发行方和/或储备资产的任何潜在或现有索赔；

(e) whether a stablecoin holder has an enforceable direct claim against the issuer of the stablecoin and/or its reserve assets; and

(e) 稳定币持有人是否对稳定币发行人和/或其储备资产拥有可强制执行的直接债权；以及

(f) whether and how the stablecoin holder can exchange their stablecoin, in a timely manner, for underlying fiat currency, and any fees that may be levied in respect of this.

(f) 稳定币持有者是否以及如何及时将其稳定币兑换为基础法定货币，以及为此可能收取的任何费用。

## **2. Risks relating to the stablecoin and stablecoin issuer including:**

与稳定币和稳定币发行商有关的风险，包括

(a) whether there is segregation of reserve assets from the stablecoin issuer's own assets, protecting the stablecoin holder in event of the issuer's insolvency or bankruptcy;

(a) 储备资产是否与稳定币发行人自身资产分离，在发行人无力偿债或破产时保护稳定币持有人；

(b) how the reserve assets are safeguarded, who is holding the reserve assets and in what capacity, whether reserve assets are invested in other assets and the investment policy, along with other disclosures set out in Recommendation 14;

(b) 如何保护储备资产，谁以何种身份持有储备资产，储备资产是否投资于其他资产和投资政策，以及建议 14 中规定的其他披露内容；

(c) what potential or actual conflicts of interest exist between the CASP and the stablecoin issuer and how those conflicts of interest are addressed;

(c) CASP 与稳定币发行方之间存在哪些潜在或实际利益冲突，以及如何解决这些利益冲突；

(d) the regulatory status of the stablecoin in jurisdictions in which it is used;

(d) 稳定币在被使用辖区的监管地位；

(e) public transparency about the stablecoin issuer's reserve; and

(e) 稳定币发行人准备金的公开透明度；以及

(f) whether the issuer has provided an independently audited and complete set of financial statements that includes the reserve assets.

(f) 发行人是否提供了一套经独立审计的完整财务报表，其中包括储备资产。

## Recommendation 7 – (Management of Primary Markets Conflicts)

### 建议 7--（一级市场冲突的管理）



Regulators should require a CASP to manage and mitigate conflicts of interest surrounding the issuance, trading and listing of crypto-assets.

监管机构应要求 CASP 管理和减少围绕加密资产发行、交易和上市的利益冲突。

This should include appropriate disclosure requirements and may necessitate a prohibition on a CASP listing and / or facilitating trading in, its own proprietary crypto-assets, or any crypto-assets in which the CASP, or an affiliated entity, may have a material interest.

这应包括适当的披露要求，并可能需要禁止 CASP 上市和/或禁止其促进自有加密资产交易或者与 CASP 上的加密资产以及其附属实体拥有的加密资产进行交易，这可能具有重大利益。

**IOSCO Principles Supported: 29, 31, 33, 34 支持国际证监会组织原则： 29, 31, 33,**

Currently, CASPs engage in a multitude of activities in a vertically integrated manner, many of which are being done in non-compliance with applicable law. Among the activities that CASPs currently engage in are listing and trading crypto-assets that they issue or those of crypto-asset issuers in which they have, or acquire, a material interest. In these cases, CASPs have both a strong incentive and opportunity to influence the price discovery process, particularly when also acting as a market maker in the relevant crypto-asset. Such activities pose significant conflicts of interest and can give rise to significant investor harm.

目前，CASP 以垂直整合的方式从事多种活动，其中许多活动都是在不遵守法律的情况下进行的。CASP 目前从事的上述活动包括上市和交易其发行的加密资产或其拥有或获得重大利益的加密资产发行人的加密资产。在这些情况下，CASP 有强烈的动机和机会影响价格发现过程，特别是在同时充当相关加密资产做市商的情况下。此类活动会造成重大利益冲突，并可能对投资者造成重大损害。



A CASP engaging in these activities can have a significant economic interest in the success of the trading and related activities involving the crypto-asset. A CASP or an affiliate that has invested in a prospective enterprise and owns and trades the crypto-assets issued by that enterprise could have access to material non-public information and could have an incentive to use this information when engaging in trading activities. Even absent the misuse of any material inside information, the CASP may have an incentive to promote trading of the crypto-asset even if doing so might not be suitable for or in the best interests of its clients.

从事这些活动的 CASP 可能在涉及加密资产的成功交易和活动中拥有重大经济利益。投资潜在企业并持有和交易该企业发行的加密资产的 CASP 或关联公司可能会获得重要的非公开信息，并有动机在从事交易活动时使用这些信息。即使没有滥用任何重要的内部信息，CASP 也可能有动机促进加密资产的交易，即使这样做可能不适合或不符合其客户的最佳利益。

Regulators should consider requirements designed to mitigate these effects. The approach could include, for example, prohibitions on the CASP listing and/or trading crypto-assets in which the CASP has a material interest.

监管机构应考虑旨在减轻这些影响的要求。例如，这种方法可以包括禁止 CASP 上市和/或交易 CASP 拥有重大利益的加密资产。



**Recommendation 8 – (Fraud and Market Abuse) 建议 8--（欺诈和市场滥用）**

Regulators should bring enforcement actions against offences involving fraud and market abuse in crypto-asset markets, taking into consideration the extent to which they are not already covered by existing regulatory frameworks. These offences should cover all relevant fraudulent and abusive practices such as market manipulation, insider dealing and unlawful disclosure of inside information; money laundering / terrorist financing; issuing false and misleading statements; and misappropriation of funds.

考虑到现有监管框架尚未涵盖这些罪行的程度，监管机构应针对加密资产市场中涉及欺诈和市场滥用的罪行采取执法行动。这些罪行应涵盖所有相关的欺诈和滥用行为，如操纵市场、内幕交易和非法披露内部信息；洗钱/资助恐怖主义；发布虚假和误导性声明；以及挪用资金。

IOSCO Principles Supported: 31, 33, 34, 35, 36 支持 IOSCO 原则： 31, 33, 34, 35, 36

Regulation of traditional financial markets prohibits abusive practices that undermine market integrity. Three commonly observed types of abusive practices include (but are not necessarily limited to):

传统金融市场的监管禁止破坏市场诚信的滥用行为。常见的三类滥用行为包括（但不一定限于）：

i. Unlawful disclosure of material, non-public information – Disclosing or ‘tipping’ inside information, except where strictly necessary and under appropriate conditions, allows those individuals to profit from this information and gives certain market participants an unfair advantage over others.



i. 非法披露重要的非公开信息--除非在绝对必要和适当的条件下，否则披露或 "通风报信 "内部信息会让这些人从这些信息中获利，并使某些市场参与者获得对他人不公平的优势。

ii. Insider dealing – Trading based on ‘inside’ or material non-public information creates an unfair advantage due to the insiders privileged position at the expense of others.

ii. 内幕交易--基于 "内部 "或重要的非公开信息进行的交易，由于内幕交易者的特权地位而造成不公平的优势，从而损害其他人的利益。

iii. Market manipulation – Behaviors that create a false or misleading signal as to the supply, demand or price of a financial asset or otherwise impacts trading in the asset through any other form of deception or contrivance.

iii. 操纵市场 - 在金融资产的供应、需求或价格方面制造虚假或误导性信号，或通过任何其他形式的欺骗或阴谋影响资产交易的行为。

Crypto-asset markets should be regulated in a manner consistent with the aim of preventing the same (as well as any idiosyncratic) types of fraudulent and manipulative practices that exist in traditional financial markets. In some jurisdictions, these types of fraudulent and abusive practices in crypto-asset markets may already be covered by existing regulatory frameworks. New Frameworks should explore ways to impose such prohibitions, seeking alignment and consistency of outcomes when tackling market abuse in both traditional financial markets and crypto-asset markets.

加密资产市场的监管应与传统金融市场防止相同（以及任何特殊）类型的欺诈和操纵做法的监管相一致。在某些法域，加密资产市场中的这类欺诈和操纵行为可能已经被现有监管框架所涵盖。新框架应探索实施此类禁令的方法，在处理传统金融市场和加密资产市场中的市场滥用行为时，寻求结果的一致性。



Regulators should review their offence provisions and apply them as needed to deal with any potential gaps and new market developments.<sup>20</sup>



监管机构应审查其犯罪规定，并根据需要适用这些规定，以处理任何潜在的漏洞和新的市场发展情况。<sup>20</sup>

### **Recommendation 9 (Market Surveillance) 建议 9（市场监督）**

Regulators should have market surveillance requirements applying to each CASP, so that market abuse risks are effectively mitigated.

监管机构应制定适用于每个 CASP 的市场监督要求，以有效降低市场滥用风险。

IOSCO Principles Supported: 31, 33, 34, 36 支持国际证监会组织原则： 31, 33, 34, 36

Market surveillance is an important tool for deterring and detecting fraudulent or manipulative activity in traditional financial markets, and market surveillance for crypto-asset markets should provide a similar level of protection.

市场监督是阻止和发现传统金融市场中欺诈或操纵活动的重要工具，加密资产市场的市场监督也应提供类似程度的保护。

As with traditional financial markets, regulators should consider – to the extent that existing frameworks do not already apply – the following when evaluating market surveillance tools, systems and controls that should apply to CASPs:

与传统金融市场一样，监管机构在评估适用于 CASPs 的市场监督工具、系统和控制措施时，应在现有框架尚未适用的情况下考虑以下几点：

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<sup>20</sup> It is worth noting here that while offence provisions will apply to CASPs, social media personalities or so-called ‘finfluencers’ and those providing investment recommendations will generally also come within the scope of relevant market manipulation provisions and therefore potentially be liable, both civilly and criminally, when engaging in these types of abusive practices.

在此值得注意的是，虽然犯罪条款适用于 CASP，但社交媒体人物或所谓的“金融影响者”以及提供投资建议的人通常也属于相关市场操纵条款的范围，因此在从事此类滥用行为时可能要承担民事和刑事责任。



- ♣ The timeliness of surveillance of transactions and orders to deter and detect market abuse.

及时监控交易和订单，以阻止和发现市场滥用行为。

- ♣ Controls to take prompt remedial actions upon discovery of market abuse on their platform (e.g., suspension of trading).

在发现其平台上存在市场滥用行为时，控制平台迅速采取补救措施（如暂停交易）。

- ♣ Systems for sharing information related to suspected market abuse between relevant crypto-asset markets.

相关加密资产市场之间共享涉嫌市场滥用信息的系统。

- ♣ Systems to detect and report suspicious transactions and orders to the relevant body.

检测可疑交易和订单并向相关机构报告的系统。

- ♣ Systems to identify malicious actors from a cyber, financial crime and market integrity standpoint.

从网络、金融犯罪和市场诚信角度识别恶意行为者的系统。

- ♣ Requirements, in line with FATF recommendations for AML-CTF, including (amongst other things) Customer Due Diligence Requirements.

根据反洗钱金融行动特别工作组（FATF）关于反洗钱-打击跨国有组织犯罪的建议，包括（除其他外）客户尽职调查要求。

Regulators should consider requiring proportionate additional systems and controls, based on the nature, scale and complexity of the CASP's business. This could, for example, include the development of appropriate systems by CASPs to effectively monitor media (including social media) for manipulative practices (i.e., information sharing on prospective listings on telegram, signal, etc.). As appropriate, regulatory authorities should also consider monitoring relevant media, including social media.

监管机构应根据 CASP 业务的性质、规模和复杂程度，考虑要求建立相称的额外系统和控制措施。例如，这可包括由 CASP 开发适当的系统，以有效监控媒体（包括社交

媒体）的操纵行为（即在电报、信号等上共享有关潜在上市的信息）。监管当局也应酌情考虑监控相关媒体，包括社交媒体。



In evaluating whether market surveillance tools are effective, regulators should consider how to assure, amongst other things, oversight and verification of on-chain and off-chain transactions, including those transactions occurring directly on a CASP through the internal recordkeeping of ownership changes in omnibus accounts.<sup>21</sup> Regulators should evaluate different ways to engage in such oversight and verification, including requiring the detailed reporting of so-called ‘off-chain activity’ or settling of transactions on the internal books and records of the CASP, not reflected on the public ledger or blockchain.

在评估市场监督工具是否有效时，监管机构应考虑如何确保监督和核实链上和链下交易，包括直接在 CASP 上发生的交易。<sup>21</sup> 监管机构应评估参与此类监督和核查的不同方式，包括要求详细报告所谓的“链外活动”，或在 CASP 的内部账簿和记录上进行交易结算，而不是反映在公共分类账或区块链上。

Moreover, effective market surveillance requires greater oversight of on-chain and off-chain data across platforms. Regulators should make efforts to improve cross-market data transparency and regulatory reporting, supported by high-quality and comparable data, similar to the data that is now available in traditional financial markets.<sup>22</sup> As this is currently a continuing challenge in crypto-asset markets, regulators should consider how to address this issue, which may include market-led solutions and/or regulatory requirements placed on CASPs to report relevant data. In addition, IOSCO intends to (1) conduct work amongst its

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<sup>21</sup> For the avoidance of doubt, this should apply to transactions arranged or executed by CASPs that provide custodial wallets as well as to those that do not.

为避免疑问，这应适用于由提供托管钱包的 CASP 和不提供托管钱包的 CASP 安排或执行的交易。

<sup>22</sup> For example, the same pre- and post- trade price transparency, where appropriate, transaction reporting data, number of accounts, value of the crypto-assets held in the accounts.

例如，交易前和交易后的价格透明度、交易报告数据、账户数量、账户中持有的加密资产价值。



members going forward to promote the development of data standards that could help to improve the availability, and improved access to better and more homogenized international data sets,<sup>23</sup> and alongside this (2) encourage its members to develop appropriate solutions within their jurisdictions to help further these objectives.

此外，有效的市场监管需要加强对跨平台链上和链下数据的监督。监管机构应努力改善跨市场数据透明度和监管报告质量，并辅之以高质量和可比数据，类似于传统金融市场现有的数据。<sup>22</sup> 由于这是加密资产市场目前持续面临的挑战，监管机构应考虑如何解决这一问题，其中可能包括市场主导的解决方案和/或对 CASP 报告相关数据的监管要求。此外，国际证监会组织打算：(1) 在其成员中开展工作，促进数据标准的制定，以帮助改善更好和更统一的国际数据集的可用性和可获取性，<sup>23</sup> 同时(2) 鼓励其成员在其管辖范围内制定适当的解决方案，以帮助推进这些目标。

### **Recommendation 10 (Management of Material Non-Public Information) 建议 10（重大非公开信息的管理）**

Regulators should require a CASP to put in place systems, policies and procedures around the management of material non-public information, including, where relevant, information related to whether a crypto-asset will be admitted or listed for trading on its platform and information related to client orders, trade execution, and personally identifying information.

监管机构应要求 CASP 围绕重大非公开信息的管理制定制度、政策和程序，包括（在相关情况下）与加密资产是否将被允许在其平台上交易或上市相关的信息，以及与客户订单、交易执行和个人身份信息相关的信息。

**IOSCO Principles Supported: 31, 34, 36 支持 IOSCO 原则： 31, 34, 36**

<sup>23</sup> Consideration could be given to existing approaches like the efforts of LEI and IOSCO, FSB, LEI ROC, and CPMI IOSCO post financial crisis that aimed at data standardization in traditional financial markets.

可以考虑现有的方法，如 LEI 和 IOSCO、FSB、LEI ROC 以及 CPMI IOSCO 在金融危机后为实现传统金融市场数据标准化所做的努力。



As in traditional financial markets, a lack of controls on material non-public and market sensitive information, and a lack of restrictions on inappropriate use of such information, may result in manipulative market practices or insider trading.

与传统金融市场一样，缺乏对重大非公开和市场敏感信息的控制，以及缺乏对不当使用此类信息的限制，可能会导致操纵市场行为或内幕交易。

This may be exacerbated by the cross-border nature of the crypto-asset market, for example, where a particular crypto-asset may be admitted on several trading platforms across jurisdictions, heightening the risk of regulatory arbitrage.

加密资产市场的跨境性质可能会加剧这种情况，例如，特定的加密资产可能会在不同司法辖区的多个交易平台上进行交易，从而增加监管套利的风险。

Regulators should thus require a CASP to put in place systems, policies and procedures around the management of material non-public information and to restrict inappropriate use of such information.

因此，监管机构应要求 CASP 围绕重大非公开信息的管理制定制度、政策和程序，并限制对此类信息的不当使用。

These could include the following: 这可能包括以下内容

- A process for the CASP to identify and classify information that is material non-public and market sensitive. Examples include, but are not limited to, information regarding the CASP's client orders and the planned listing of a particular crypto-asset;

CASP 识别和分类重大非公开和市场敏感信息的程序。例子包括但不限于 CASP 的客户订单信息和特定加密资产的上市计划；



- System and controls to restrict the access of material non-public and market sensitive information to a controlled list of persons on a ‘need-to-know’ basis, for example, via the use of ethical walls or information barriers;

系统和控制措施，以“有必要知道”为基础，限制受控人员名单上的人员获取重大非公开和市场敏感信息，例如，通过使用道德墙或信息屏障；

- Periodic review of the list of persons who have access to material non-public and market sensitive information;

定期审查可获取重大非公开信息和市场敏感信息的人员名单；

- Restrictions against the sharing and the use of material non-public and market sensitive information by the CASP and list of persons;

对 CASP 和受控人员共享和使用重大非公开信息和市场敏感信息的限制；

- Processes for monitoring for potential breach of the CASP’s systems, policies and procedures policies regarding material non-public and market sensitive information, including, processes to facilitate whistleblowing and the reporting of potential breaches to the relevant authorities.

对可能违反 CASP 有关重大非公开和市场敏感信息的系统、政策和程序政策的行为进行监控的程序，包括促进向有关当局举报和报告可能的违规行为的程序。





## **CHAPTER 6: RECOMMENDATION ON CROSS-BORDER CO-OPERATION 第 6**

### **章：关于跨境合作的建议**

#### **Recommendation 11 – (Enhanced Regulatory Co-operation) 建议 11--（加强监管合作）**

Regulators, in recognition of the cross-border nature of crypto-asset issuance, trading, and other activities, should have the ability to share information and cooperate with regulators and relevant authorities in other jurisdictions with respect to such activities.

监管机构应认识到加密资产发行、交易和其他活动的跨境性质，并应当有能力与其他辖区的监管机构和相关当局就此类活动共享信息并开展合作。

This includes having available co-operation arrangements and/or other mechanisms to engage with regulators and relevant authorities in other jurisdictions. These should accommodate the authorization and on-going supervision of regulated CASPs, and enable broad assistance in enforcement investigations and related proceedings.

这包括与其他司法管辖区的监管机构和相关当局达成合作安排和/或其他机制。这些机制应包括对受监管的 CASPs 的授权和持续监管，并能在执法调查和相关诉讼中提供广泛协助。

**IOSCO Principles Supported: 13, 14, 15 支持 IOSCO 原则： 13, 14, 15**

Many CASPs offer services from offshore financial centers. CASPs often structure and present themselves as having little or no visible substantive presence within any jurisdiction, thus exacerbating supervisory and enforcement challenges that may arise. The provision of services into a jurisdiction by a CASP may nevertheless implicate that jurisdiction's laws.<sup>24</sup>

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<sup>24</sup> It is recognized that the issues of international co-operation between regulators in view of the cross-border provision of crypto-asset services overlaps with issues being addressed in the separate proposal for a 20th anniversary review of the effectiveness of the IOSCO MMOU and the IOSCO Retail Market Conduct Task Force recommendations for further work on unauthorised provision of financial services. 我们认识到，监管机构之间在跨境提供加密资产服务方面的国际合作问题，与关于国际证监会组织《货币和金融资



许多 CASP 从离岸金融中心提供服务。在任何辖区内，CASP 经常以几乎或者没有明显实体的方式组织和变现自己，从而加剧了可能出现的监管和执法挑战。CASP 向某一辖区提供服务可能会涉及该辖区的法律。<sup>24</sup>

The differing approaches as well as the attempt by CASPs to avoid regulation or operate in non-compliance with existing regulation raise significant issues. These issues significantly increase the risk of regulatory arbitrage, reduce the ability of jurisdictions to enforce their laws, and depending on the laws of particular jurisdictions, potentially raise the prospect of jurisdictional borders hindering the effectiveness of the authorization and supervision process. They also enable money laundering risks and facilitate financial crime, and reduce the ability of regulators to effectively detect and enforce against these activities.

不同的方法以及 CASP 试图规避监管或在不遵守现有监管的情况下开展业务的做法引起了重大问题。这些问题大大增加了监管套利的风险，削弱了司法管辖区执行其法律的能力，而且根据特定辖区的法律，有可能会出现辖区边界妨碍授权和监管程序有效性的状况。它们还可能带来洗钱风险，助长金融犯罪，削弱监管机构有效侦查和打击这些活动的能力。

IOSCO is already active in tackling issues related to day-to-day cross-border co-operation between authorities. Crypto-asset related information requests are already captured by IOSCO's Multilateral Memorandum of Understanding (MMoU) and Enhanced Multilateral Memorandum of Understanding (EMMoU), premised on the underlying principle of "same activity, same risk, same regulation/regulatory outcomes". In tandem with the overarching MMoU and EMMoU, regulators should take proactive steps, bilateral or multilateral, to enable sharing of information for effective supervision and enforcement.

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产谅解备忘录》20 周年有效性审查的单独提案以及国际证监会组织零售市场行为特别工作组关于进一步开展未经授权提供金融服务工作的建议所涉及的问题相重叠。



国际证监会组织已经在积极处理与机构间日常跨境合作有关的问题。国际证监会组织的《多边谅解备忘录》（MMoU）和《强化多边谅解备忘录》（EMMoU）已经涵盖了与加密资产相关的信息请求，其前提是“相同活动、相同风险、相同监管/监管结果”的基本原则。与《多边谅解备忘录》和《强化多边谅解备忘录》相配合，监管机构应采取积极主动的双边或多边措施，为有效监督和执法共享信息。

Beyond the MMoU and EMMoU, regulators should also share information with one another and, where relevant, with law enforcement authorities, and work together to stop abusive and criminal behaviors, including financial crime and money laundering, and to mitigate risks to investors.

除了《多边谅解备忘录》和《强化多边谅解备忘录》之外，监管机构还应相互分享信息，并在相关情况下与执法机关分享信息，共同制止滥用职权和犯罪行为，包括金融犯罪和洗钱，并降低投资者面临的风险。

In addition, amongst wider measures to enhance cross-border supervision of the market, regulators should consider bilateral and/or multilateral co-operation arrangements beyond the enforcement context, as appropriate, such as supervisory colleges<sup>25</sup> or networks,<sup>26</sup> or regional arrangements,<sup>27</sup> or other forms of cross-jurisdictional co-operation, to support rigorous and

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<sup>25</sup> For example, IOSCO has mentioned potential consideration of supervisory colleges in connection with cryptoasset platforms. See: Lessons Learned from the Use of Global Supervisory Colleges, Final Report, IOSCO (January 2022), pp. 28-30, available at <https://www.iosco.org/library/pubdocs/pdf/IOSCOPD696.pdf>.

例如，国际证监会组织曾提到可能考虑设立与加密资产平台有关的监管学院。见 从使用全球监管学院中汲取的经验教训，最终报告，国际证监会组织（2022 年 1 月），第 28-30 页，见 <https://www.iosco.org/library/pubdocs/pdf/IOSCOPD696.pdf>。

<sup>26</sup> See: Principles Regarding Cross-Border Supervisory Co-operation, Final Report, IOSCO (May 2010), pp. 31, 36-37, available at <https://www.iosco.org/library/pubdocs/pdf/IOSCOPD322.pdf>.

See: 见：《关于跨境监管合作的原则》，最终报告，国际证监会组织（2010 年 5 月），第 31、36-37 页，见 <https://www.iosco.org/library/pubdocs/pdf/IOSCOPD322.pdf>。

<sup>27</sup> For example, IOSCO APRC (Asia-Pacific Regional Committee) established the APRC Supervisory MMoU, which is the first IOSCO framework undertaken as part of efforts to strengthen supervisory co-operation in the AsiaPacific region. The APRC

effective ongoing supervision of CASPs operating across multiple jurisdictions.

此外，在加强市场跨境监管的更广泛措施中，监管机构应酌情考虑执法范围以外的双边和/或多边合作安排，如监管学院 25 或网络 26 或区域安排 27 或其他形式的跨司法管辖区合作，以支持对在多个司法管辖区运营的 CASP 进行严格有效的持续监管。

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Supervisory MMoU enables signatories to exchange broader supervisory information than under the MMoU, that is enforcement-focussed.

例如，国际证监会组织亚太区域委员会（APRC）制定了《亚太区域委员会监管多边谅解备忘录》，这是国际证监会组织为加强亚太地区监管合作而制定的第一个框架。与《多边谅解备忘录》相比，《亚太区域委员会监管多边谅解备忘录》使签署国能够交流更广泛的监管信息，即以执法为重点的信息。



## **CHAPTER 7: RECOMMENDATIONS ON CUSTODY OF CLIENT MONIES AND ASSETS** 第 7 章：关于保管客户资金和资产的建议

### **Recommendation 12 – (Overarching Custody Recommendation) 建议 12--（总体监管建议）**

Regulators should apply the IOSCO Recommendations Regarding the Protection of Client Assets when considering the application of existing frameworks, or New Frameworks, covering CASPs that hold or safeguard Client Assets.

监管机构在考虑适用涵盖持有或保护客户资产的 CASP 的现有框架或新框架时，应采用国际证监会组织《关于保护客户资产的建议》。

The proper custody of Client Assets<sup>28</sup> is reliant on the strength of a service provider's systems, policies and procedures as well as the legal arrangements governing the custody relationship. Regulators should require a CASP to ensure that Client Assets are adequately protected at all times, including when placed with a third party chosen by the CASP, specifically aiming to minimize the risk of loss or misuse.


客户资产<sup>28</sup>的妥善保管有赖于服务提供商的系统、政策和程序的作用，以及管辖保管关系的法律安排。监管机构应要求 CASP 确保客户资产在任何时候都得到充分保护，包括在交由 CASP 选择的第三方保管时，特别要将损失或滥用风险降至最低。

As is the case with traditional financial assets, regulators should set out expectations that the CASP maintain accurate and up-to-date records and accounts of Client Assets that readily establish the precise nature, amount, location and ownership status of Client Assets and the clients for whom the assets are held. The records should also be maintained in such a way that they may be used as an audit trail.

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<sup>28</sup> For these purpose, “Client Assets” cover both money and crypto-assets held for, and on behalf of, a client.

为此，“客户资产”包括为客户持有或代表客户持有的资金和加密资产。



与传统金融资产的情况一样，监管机构应提出期望，要求 CASP 保持准确和最新的客户资产记录和账目，以便随时确定客户资产的确切性质、数额、地点和所有权状况以及为其持有资产的客户。记录的保存也应使其可用作审计线索的方式进行。

A number of different methods and structures can be used by a CASP to hold Client Assets taking into account risk management, liquidity and efficiency considerations and trade-offs.

考虑到风险管理、流动性和效率方面的因素和权衡，CASP 可以采用多种不同的方法和结构来持有客户资产。

IOSCO is not prescribing specific expectations or thresholds regarding, for example, the holding of crypto-asset private keys in “hot” vs “cold” vs “warm” wallets.<sup>29</sup> When considering the maintenance of private keys, safety of Client Assets should be prioritized. For the purposes of this Recommendation, non-custodial wallets are not considered.

例如，IOSCO 并未就加密资产私钥在“热”钱包与“冷”钱包与“暖”钱包中的持有情况规定具体的预期或阈值。<sup>29</sup> 在考虑保管私人密钥时，应优先考虑客户资产的安全。就本建议书而言，不考虑非托管钱包。

Ultimately, sufficient, reliable and clear information should be made available to clients and any third parties (for example insolvency practitioners, regulators and the courts) to enable them to understand the rights to any Client Assets, including the ability for clients to receive their Client Assets back, or an equivalent value thereof, should they suffer losses, for instance, due to the CASP entering an insolvency process.<sup>30</sup>

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<sup>29</sup> Further operational and technological considerations are set out under Recommendation 17.

建议 17 提出了进一步的操作和技术考虑因素。

<sup>30</sup> The outcomes for clients’ rights to their assets depend on jurisdictional application of custody and trust arrangements; a CASP should therefore provide its clients with appropriate and accurate disclosure on their respective rights upon the CASP entering into an insolvency process.



最终，应向客户和任何第三方（例如破产从业人员、监管机构和法院）提供充分、可靠和明确的信息，使他们能够了解对任何客户资产的权利，包括客户在遭受损失（例如由于 CASP 进入破产程序）时取回其客户资产或等值资产的能力。<sup>30</sup>

**Recommendation 13 – (Segregation and Handling of Client Monies and Assets) 建议 13-  
-（客户资金和资产的隔离与处理）**

Regulators should require a CASP to place Client Assets in trust, or to otherwise segregate them from the CASP’s proprietary assets.

监管机构应要求 CASP 将客户资产托管，或以其他方式将其与 CASP 的自有资产隔离。

**IOSCO Principles Supported: 31, 32, 38 支持 IOSCO 原则： 31, 32, 38**

Taking into account the technological means by which crypto-assets are created and held, laws and court decisions, and jurisprudence in certain jurisdictions might not yet have evolved in ways that provide CASP clients with legal certainty regarding protection of their crypto-assets.

考虑到创建和持有加密资产的技术手段，某些司法管辖区的法律和法院判决以及判例可能尚未发展到能够为 CASP 客户提供加密资产保护方面的法律确定性。

Regulators should nonetheless require a CASP to segregate Client Assets from their proprietary assets, as well as the assets of any affiliate or service provider held by the CASPs, and place Client Assets in trust or in segregated bankruptcy remote accounts (or provide equivalent protection through legal or accounting mechanisms recognized in the relevant jurisdiction), so that they are separate and distinct from the CASP’s own assets/estate.

客户对其资产的权利的结果取决于托管和信托安排在法域中的适用情况；因此，当 CASP 进入破产程序时，CASP 应向其客户提供关于其各自权利的适当而准确的披露。



然而，监管机构应要求 CASP 将客户资产与其自有资产以及 CASP 持有的任何关联公司或服务提供商的资产分离，并将客户资产置于信托或分离的破产远程账户中（或通过相关司法管辖区认可的法律或会计机制提供同等保护），使其与 CASP 的自有资产/财产分离和区分开来。

Regulators should require a CASP to specify how Client Assets are protected against loss or misuse and how such assets are segregated as Client Assets that are not subject to the claims of the CASP's creditors.

监管机构应要求 CASP 明确说明如何保护客户资产免遭损失或滥用，以及如何将此类资产分离为不受 CASP 债权人索偿的客户资产。

Where the CASP expressly takes legal and/or beneficial title to Client Assets (for purposes, e.g., of lending, re-use or re-hypothecation of the crypto-assets), the CASP will cease to hold those Client Assets in trust for the client. The CASP should obtain the client's explicit prior consent to such arrangements. The CASP should provide clear, concise and non-technical disclosure of these arrangements, sufficient for the client to understand that Client Assets are not held in custody and might not be returned should the CASP enter insolvency.

如果 CASP 明确取得客户资产的法定和/或受益所有权（例如，出于借贷、重新使用或重新抵押加密资产的目的），那么 CASP 将不再是以信托方式为客户持有这些客户资产。CASP 应事先征得客户对此类安排的明确同意。CASP 应就这些安排提供清晰、简明和非技术性的披露，足以让客户了解客户资产并非托管，并且在 CASP 破产时可能无法归还。

Regulators should impose specific measures in situations where the CASP takes legal and/or beneficial ownership of Client Assets. These requirements should include, for example:

监管机构应在 CASP 拥有客户资产的法定和/或实际所有权的情况下采取具体措施。这些要求应包括，例如



- receiving prior explicit consent from the client for the assets, for example, to be lent out, re-used or re-hypothecated;

事先征得客户明确同意，将资产借出、再使用或再抵押；

- providing clients with clear, concise and non-technical, prior disclosure about the risks of these types of activities, including the potential loss of their entire crypto-asset holdings;

向客户提供清晰、简明和非技术性的事先披露，说明这类活动的风险，包括可能损失其持有的全部加密资产；

In all cases, whether a CASP is acting as a custodian holding Client Assets in trust, or in another segregated arrangement, regulators should consider requiring CASPs to:

在所有情况下，无论 CASP 是作为托管人以信托方式持有客户资产，还是以其他隔离安排持有客户资产，监管机构都应考虑要求 CASP

- maintain accurate and up-to-date records and accounts of Client Assets at all times that readily establish the precise nature, amount, location and ownership status of the assets, and identify the clients for whom they are held; and

始终保持准确和最新的客户资产记录和账目，以便随时确定资产的确切性质、数额、地点和所有权状况，并确定其代持资产的客户；以及

- maintain records and accounts that enable it, on a frequent and regular basis, to specify each client's rights and the CASP's obligations to each client with respect to Client Assets.

保存记录和账目，使其能够经常和定期地明确每个客户在客户资产方面的权利和 CASP 对每个客户的义务。

**Recommendation 14 – (Disclosure of Custody and Safekeeping Arrangements) 建议 14--**  
**(披露托管和安全保管安排)**

Regulators should require a CASP to disclose, as relevant, in clear, concise and non-technical language to clients:

监管机构应要求 CASP 以清晰、简明和非技术性的语言向客户披露相关信息：

i. How Client Assets are held, and the arrangements for safeguarding these assets and/or their private keys:

如何持有客户资产，以及保护这些资产和/或其私人密钥的安排：

ii. the use (if any) of an independent custodian, sub-custodian or related party custodian;

使用独立托管人、分托管人或关联方托管人（如有）；

iii. the extent to which Client Assets are aggregated or pooled within omnibus client accounts, the rights of individual clients with respect to the aggregated or pooled assets, and the risks of loss arising from any pooling or aggregating activities;

客户资产在总括客户账户内的汇总或集中程度、个人客户对汇总或集中资产的权利，以及任何集中或汇总活动产生的损失风险；

iv. Risks arising from the CASP's handling or moving of Client Assets, whether directly or indirectly, such as through a cross-chain bridge; and

因 CASP 直接或间接（如通过跨链桥梁）处理或转移客户资产而产生的风险；以及

v. Full and accurate information on the obligations and responsibilities of a CASP with respect to the use of Client Assets, as well as private keys, including the terms for their restitution, and on the risks involved.

关于 CASP 在使用客户资产和私人密钥方面的义务和责任（包括归还条件）以及所涉风险的全面准确信息。

**IOSCO Principles Supported: 31, 32, 38 支持 IOSCO 原则： 31, 32, 38**



Where a CASP is providing custody services to a client, regulators should require the CASP to clearly disclose, as relevant, all terms and conditions attached to the custodial activity being provided, such as the safeguards in place to provide for adequate protection of Client Assets from losses or insolvency of the CASP.<sup>31</sup> Regulators also should require the CASP to identify how the CASP protects the Client Assets, including from the claims of the CASP's creditors.

在 CASP 向客户提供托管服务的情况下，监管机构应要求 CASP 明确披露其所提供托管活动的所有相关条款和条件，例如为充分保护客户资产免受 CASP 损失或破产影响而采取的保障措施。<sup>31</sup> 监管机构还应要求 CASP 明确如何保护客户资产，包括免受 CASP 债权人的索偿。

Where the CASP enters into a sub-custody arrangement with a third party, the disclosure should also detail the terms of these contractual arrangements and any additional risks that these might create for the client, as relevant.

如果 CASP 与第三方达成分托管安排，披露还应详细说明这些合同安排的条款以及可能给客户带来的任何相关额外风险。

For example, the regulator should require the CASP to disclose to its clients whenever Client Assets are to be held or placed in a foreign jurisdiction, as well as the name of such jurisdiction, and thus may become subject to the client asset protections and/or insolvency regimes of that foreign jurisdiction.

例如，监管机构应要求 CASP 向其客户披露客户资产何时将在外国司法管辖区持有或存放，以及该司法管辖区的名称，从而可能受该外国司法管辖区的客户资产保护和/或破产制度的约束。

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<sup>31</sup> With respect to this recommendation, regulators should carefully consider how to ensure that the disclosure requirements do not require a CASP to reveal technical information that exposes it to heightened cybersecurity risks.

关于这项建议，监管机构应认真考虑如何确保披露要求不会要求 CASP 披露使其面临更高的网络安全风险的技术信息。

## **Custody for reserve assets of stablecoins 稳定币储备资产托管**

How reserve assets are held by the stablecoin issuer or others is of paramount importance, as is the fact that these reserve assets remain sufficient at all times to cover redemption of all outstanding stablecoins. The custody and client asset Recommendations should therefore be read, as relevant, as referring to custody of reserve assets backing stablecoins, in addition to Client Assets. Given that a large part of the market for stablecoins is conducted through CASPs, the disclosures set out above in **Recommendation 14**, as relevant, should be included in any disclosures to clients by CASPs.

稳定币发行方或其他方如何持有储备资产至关重要，因为这些储备资产在任何时候都足以赎回所有未兑换的稳定币。因此，托管和客户资产建议应理解为，除客户资产外，还指支持稳定币的储备资产的托管。鉴于稳定币市场的很大一部分是通过 CASP 进行的，CASP 向客户披露的信息应包括**建议 14**中提到的应披露信息。

## **Recommendation 15 – (Client Asset Reconciliation and Independent Assurance) 建议 15--（客户资产对账和独立保证）**

Regulators should require a CASP to have systems, policies, and procedures to conduct regular and frequent reconciliations of Client Assets subject to appropriate independent assurance.

监管机构应要求 CASP 制定系统、政策和程序，在适当的独立保证下定期、频繁地对客户资产进行对账。

**IOSCO Principles Supported: 31, 32, 38 支持 IOSCO 原则： 31, 32, 38**





To support Recommendation 13 on the segregation and handling of Client Assets, a CASP should maintain appropriate books and records to track and record transactions and ownership of Client Assets. The CASP should conduct regular and frequent reconciliation of Client Assets on a client-by-client basis, to identify and resolve any discrepancies in a timely manner. In doing so, CASPs should also take into account both relevant off-chain and on-chain records.

为支持建议 13 “客户资产的隔离和处理”，CASP 应保存适当的账簿和记录，以跟踪和记录客户资产的交易和所有权。CASP 应定期和频繁地逐一核对客户资产，及时发现并解决任何差异。在此过程中，CASP 还应考虑到相关的链外和链上记录。

Regulators should require that each CASP implement measures to support reconciliations of 37 Client Assets, which may include (but not be limited to):

监管机构应要求每个 CASP 采取措施，支持对 37 项客户资产进行对账，其中可能包括（但不限于）：

- policies and procedures governing the process and controls for Client Asset reconciliation;

客户资产核对过程和控制的政策和程序；

- conducting reconciliations on a regular and frequent basis;

定期和经常进行对账；

- procedures to reconcile off-chain and on-chain records;

核对链外和链上记录的程序；

- providing clients with a statement of account, comprising information on their Client Assets and transactions;

向客户提供账户报表，包括客户资产和交易信息；

• engaging an independent auditor, on an annual basis,<sup>32</sup> to:

每年聘请一名独立审计员<sup>32</sup>，以便



o conduct an independent audit of the CASP's Client Asset environment; and

对 CASP 的客户资产环境进行独立审计；以及

o issue an internal control report, including an opinion as to whether the CASP's controls related to custodial services—including the systems, processes and procedures for safeguarding of Client Assets—are designed and operating effectively; and

出具内部控制报告，包括对 CASP 有关托管服务的控制（包括保护客户资产的系统、流程和程序）的设计和运行是否有效的意见；以及

o conduct an independent review of the adequacy of CASPs' policies and procedures.

对 CASP 的政策和程序是否适当进行独立审查。

Regulators should have procedures to evaluate audits and independent reviews, investigate instances where these reviews contain qualifications and/or adverse findings, and take such action as they deem appropriate.

监管机构应制定评估审计和独立审查的程序，调查这些审查是否包含保留意见和/或负面结论，并采取其认为适当的行动。

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<sup>32</sup> These engagements should be performed by an independent auditor to obtain reasonable assurance about whether the subject matter information is free from material misstatement (e.g., with respect to the audit), or whether the CASP complied with the specified requirements, in all material respects (e.g., with respect to the internal control report).

这些审计工作应由独立审计员进行，以合理确定有关主题信息是否不存在重大错报（如审计方面），或 CASP 是否在所有重大方面遵守了指定要求（如内部控制报告方面）。

**Recommendation 16: (Securing client money and assets) 建议 16: (确保客户资金和资产的安全)**



Regulators should require a CASP to adopt appropriate systems, policies and procedures to mitigate the risk of loss, theft or inaccessibility of Client Assets.

监管机构应要求 CASP 采用适当的系统、政策和程序，以降低客户资产丢失、被盗或无法访问的风险。

**IOSCO Principles Supported: 31, 32, 38 支持 IOSCO 原则: 31, 32, 38**

Where a CASP does not have appropriate arrangements to safeguard Client Assets, this can increase the risk of loss, misuse, and delay in returning Client Assets, particularly in the case of an insolvency.

如果 CASP 没有适当的安排来保护客户资产，这可能会增加损失、滥用和延迟归还客户资产的风险，特别是在破产的情况下。

CASPs ostensibly operating as custodians have been hacked in the past and/or have lost the means to access Client Assets they were responsible for safeguarding. In particular, loss of a private key or wallet could mean that recovery of the corresponding Client Assets becomes extremely difficult, if not impossible.

表面上作为保管人运作的 CASP 过去曾遭到黑客攻击和/或失去访问其负责保管的客户资产的手段。特别是，丢失私人密钥或钱包可能意味着收回相应的客户资产变得极其困难，甚至不可能。

Proper custody of Client Assets is reliant on the strength of a CASP's policies, procedures and controls, including the means of access (such as private keys and wallets). However, a



CASP is holding Client Assets, it should maintain adequate policies, procedures and arrangements to minimize risk of loss, theft or inaccessibility to Client Assets.

妥善保管客户资产有赖于 CASP 的政策、程序和控制，包括访问手段（如私人密钥和钱包）。然而，CASP 在保管客户资产时，应保持适当的政策、程序和安排，以尽量减少客户资产丢失、被盗或无法访问的风险。

These policies and procedures should recognize the risks associated with different wallet types (e.g., hot, warm and cold).

这些政策和程序应认识到不同类型钱包（如热钱包、暖钱包和冷钱包）的相关风险。

Regulators should consider whether and how a CASP can compensate its clients under applicable law, in the event of theft or loss of Client Assets. Depending on the jurisdiction, this could include requiring a CASP to hold sufficient assets to compensate clients (e.g., additional own funds and/or guarantee).

监管机构应考虑在客户资产被盗或丢失的情况下，CASP 是否以及如何根据法律对客户进行赔偿。根据不同的司法管辖区，这可能包括要求 CASP 持有足够的资产来补偿客户（如额外的自有资金和/或担保）。



## **CHAPTER 8: RECOMMENDATION TO ADDRESS OPERATIONAL AND TECHNOLOGICAL RISKS 第 8 章：应对业务和技术风险的建议**

### **Recommendation 17 – (Management and disclosure of Operational and Technological Risks)**

#### **建议 17--（业务和技术风险的管理与披露）**

Regulators should require a CASP to comply with requirements pertaining to operational and technology risk and resilience in accordance with IOSCO's Recommendations and Standards. Regulators should require a CASP to disclose in a clear, concise and non-technical manner, all material sources of operational and technological risks and have appropriate risk management frameworks (e.g., people, processes, systems and controls) in place to manage and mitigate such risks.

监管机构应要求 CASP 按照 IOSCO 的建议和标准，遵守与运营和技术风险及恢复能力有关的要求。监管机构应要求 CASP 以清晰、简明和非技术性的方式披露所有重要的运营和技术风险来源，并建立适当的风险管理框架（如人员、流程、系统和控制）以管理和降低此类风险。

**IOSCO Principles Supported: 31, 32, 33, 34, 38 支持 IOSCO 原则： 31, 32, 33, 34, 38**

A CASP faces operational and technological risks similar to those faced by traditional financial institutions.<sup>33</sup>

CASP 面临着与传统金融机构类似的运营和技术风险。<sup>33</sup>

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<sup>33</sup> For example, see IOSCO (2019), Cyber Task Force Final Report and see CPMI-IOSCO (2016), Guidance on cyber resilience for financial market infrastructures (FMI).

例如，参见 IOSCO (2019)，《网络工作组最终报告》，以及 CPMI-IOSCO (2016)，《金融市场基础设施 (FMI) 网络复原力指南》。



However, crypto-asset activities may introduce some unique and additional operational and technological risks, including those arising from the underlying DLT used for the issuance, trading and provision of services related to crypto-assets and the deployment of smart contracts, forks and use of cross-chain bridges. The disclosures contemplated by this Recommendation should address these risks, which are idiosyncratic to CASPs.<sup>34</sup> Regulators should require a CASP to put in place sufficient measures to address cyber and system resiliency. These measures should be reviewed at least annually and updated to help ensure that they remain strong and robust. Such measures could include:

然而，加密资产活动可能会带来一些独特和额外的运营和技术风险，包括发行、交易和提供加密资产相关服务所使用的底层 DLT 以及部署智能合约、分叉和使用跨链桥接所产生的风险。<sup>34</sup> 监管机构应要求 CASP 采取足够的措施解决网络和系统弹性问题。应至少每年对这些措施进行审查和更新，以帮助确保其保持稳定和稳健。这些措施可包括：

- identifying the relevant operational and technological risks which the CASP faces and requiring the CASP to adopt appropriate processes and procedures to address such risks.

确定 CASP 所面临的相关业务和技术风险，并要求 CASP 采用适当的程序和步骤来应对这些风险。

- implementing operational and technology risk management framework and conducting at least an annual independent audit from a reputable third party.

实施业务和技术风险管理框架，并至少每年由信誉良好的第三方进行一次独立审计。

- implementing frequent, rigorous code audits to mitigate cyber security risks.

实施频繁、严格的代码审计，以降低网络安全风险。

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<sup>34</sup> With respect to this recommendation, regulators should carefully consider how to ensure that the disclosure requirements do not require a CASP to reveal technical information that exposes it to heightened cybersecurity risks.

关于这项建议，监管机构应认真考虑如何确保披露要求不会要求 CASP 披露使其面临更高的网络安全风险的技术信息。





**Recommendation 18 – (Retail Client Appropriateness and Disclosure) 建议 18--（零售客户的适当性与披露）**

Regulators should require a CASP to operate in a manner consistent with IOSCO's Standards regarding interactions and dealings with retail clients.

监管机构应要求 CASP 以符合 IOSCO 关于与零售客户互动和交易的标准的方式运作。

Regulators should require, or work with other relevant authorities to require, that all promotions and marketing of crypto-assets to retail clients accurately and sufficiently disclose the product and service provided as well as the associated risks in a manner that is fair, clear, and not misleading.

监管机构应要求，或与其他相关机构共同要求：所有针对零售客户的加密资产宣传和营销活动都必须以公平、清晰、不误导的方式准确、充分地披露所提供的产品和服务以及相关风险。

Regulators should require a CASP to implement adequate systems, policies and procedures, including for providing disclosures, in relation to onboarding new clients, and as part of its ongoing services to existing clients. This should include assessing the appropriateness and/or suitability of particular crypto-asset products and services offered to each retail client.

监管机构应要求 CASP 采取适当的系统、政策和程序，包括提供与新客户有关的披露，并将其作为向现有客户提供的持续服务的一部分。这应包括评估向每位零售客户提供的特定加密资产产品和服务的适当性和/或适宜性。

**IOSCO Principles Supported: 16, 17, 23 支持 IOSCO 原则： 16, 17, 23**



Crypto-asset markets differ significantly from traditional financial markets in having a high proportion of retail participants directly accessing CASP trading platforms. Many crypto-assets and CASPs are operating in non-compliance with applicable law in some jurisdictions, where important retail client protections already exist.

加密资产市场与传统金融市场有很大不同，因为有很大比例的零售参与者直接访问 CASP 交易平台。许多加密资产和 CASP 的运营不符合某些司法管辖区的法律，这些司法管辖区存在重要的零售客户保护措施。

Notwithstanding the applicability of existing regulatory frameworks – considering the cross-border nature of these activities and direct access business models – there are significant additional risks of mis-selling and exposure to fraud in crypto-asset markets, including difficulty in seeking recourse against CASPs and other market participants.


尽管现有监管框架已被适用--考虑到这些活动的跨境性质和直接访问业务模式--但在加密资产市场中，仍不当销售和欺诈的重大额外风险，包括难以对 CASP 和其他市场参与者进行追索。

In developing New Frameworks, regulators should ensure, where within their remit, that promotions of crypto-assets are appropriate for retail clients. Similarly, where within their remit, they should impose requirements on CASPs covering suitability/appropriateness assessments of clients and potential clients.<sup>35</sup> Further, regulators should consider how to evaluate CASP marketing materials and advertising about crypto-asset trading generally or for particular crypto-assets.

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<sup>35</sup> If a prospective client does not demonstrate sufficient knowledge, the CASP should not permit trading of crypto- assets

如果潜在客户无法证明其具备足够的知识，则 CASP 不应允许其进行加密资产交易。



在制定新框架时，监管机构应在其职权范围内确保加密资产的促销适合零售客户。<sup>35</sup> 此外，监管机构应考虑如何评估 CASP 有关加密资产交易或特定加密资产的营销材料和广告。

Promotions to retail clients, where allowed, must not be misleading when relating to the crypto-asset or service being promoted, and any statement made about the crypto-asset or service must be accurate and verified by the CASP. Promotions should be designed to promote a clear understanding by retail clients of what they are buying, such as the key facts and relevant risks around the crypto-asset or service provided (including, for example, the rate of return, or the mechanism for maintaining stability in the case of a stablecoin). This should apply irrespective of how, or on which platform, the promotion is made, which includes traditional, online and social media, as well as digital engagement practices used for targeted marketings, gamification and digital nudging.

在允许的情况下，对零售客户的促销不得采用会使客户对所促销的加密资产或服务产生误导的方式进行，任何有关加密资产或服务的声明必须准确无误并经 CASP 核实。促销的目的应是促进零售客户清楚地了解他们正在购买什么，例如所提供的加密资产或服务的主要事实和相关风险（例如，包括回报率，或在稳定币的情况下保持稳定的机制）。这应适用于任何促销方式或平台，包括传统媒体、网络媒体和社交媒体，以及用于定向营销、游戏化和数字提示的数字参与做法。

If suitability/appropriateness assessments are used by a CASP, regulators should require that the assessments are well constructed and robust. In particular, such assessment should not mislead clients into believing that they sufficiently understand the operations of crypto-asset markets and the related risks.

如果 CASP 使用适合性/适当性评估，监管机构应要求评估结构合理、稳健。特别是，此类评估不应误导客户，使其相信自己充分了解加密资产市场的运作和相关风险。



In addition to clear, concise, non-technical and accurate disclosures that should be provided on the key features and risks related to the crypto-assets and services offered by a CASP, any fee, commission or incentive, directly or indirectly charged to the client, should also be clearly disclosed.

除了应清晰、简明、非技术性和准确地披露 CASP 提供的加密资产和服务的主要特征和相关风险外，还应明确披露直接或间接向客户收取的任何费用、佣金或奖励。

Regulators should consider requiring CASPs to disclose any commercial arrangements with legal or natural persons providing investment advice on crypto-assets admitted to trading on their platform or in which they have a material interest. This extends to any individuals who may be commissioned to recommend investment in particular crypto-assets on media (including social media). In some jurisdictions, the investment advice frameworks apply to recommendations made by service providers, including so-called ‘finfluencers’ and other intermediaries.

监管机构应考虑要求 CASP 披露与法人或自然人之间的任何商业安排，这些法人或自然人就其平台上允许交易的加密资产提供投资建议，或在其中拥有重大利益。这也包括任何可能受托在媒体（包括社交媒体）上推荐特定加密资产投资的个人。在某些司法管辖区，投资建议框架适用于服务提供商（包括所谓的“金融影响者”和其他中介机构）所做的建议。

Regulators should require CASPs to have an efficient and effective mechanism to address client complaints. Regulators should also take steps to tackle the risks posed to retail investors by the prevalence of poor marketing practices. This should be done directly where a particular IOSCO member has that mandate, or otherwise in coordination with other domestic regulators who are responsible for issues related to media and advertising (such as advertising standard setters and consumer watchdogs).



监管机构应要求 CASP 建立有效率和有效力的机制来处理客户投诉。监管机构还应采取措施，应对不良营销行为的盛行给散户投资者带来的风险。如果国际证监会组织的某一成员有此职责，则应直接开展这项工作，或者与负责媒体和广告相关问题的其他国内监管机构（如广告标准制定机构和消费者监督机构）协调开展这项工作。

## Annex A – Glossary of Relevant Terms and Definitions 附件 A--相关术语和定义 词汇表



*This Glossary applies to this report only. It uses technical, non-legal definitions included in the body of this report and (other relevant IOSCO publications). For a small sub-set of terms (not defined in IOSCO publications), the Glossary definitions of other Standard Setting Bodies have been employed for consistency. The Glossary is of limited scope and in no way attempts to set out legal definitions that could create opportunities for regulatory arbitrage, and which remain matters for individual jurisdictions to decide upon.*

本术语表仅适用于本报告。它采用了本报告正文和（国际证监会组织其他相关出版物）中的技术性、非法律性定义。对于一小部分术语（IOSCO 出版物中没有定义），为了保持一致，采用了其他标准制定机构的术语表定义。本术语表的范围有限，绝不试图列出可能造成监管套利机会的法律定义，这些定义仍由各管辖区自行决定。

### **Blockchain 区块链**

A form of distributed ledger in which details of transactions are held in the ledger in the form of blocks of information. A block of new information is attached into the chain of pre-existing blocks via a computerized process by which transactions are validated.

分布式分类账的一种形式，交易详情以信息块的形式保存在分类账中。新信息块通过一个计算机化的交易验证过程被附加到先前存在的信息块链中。

### **Crypto-asset 加密资产**

An asset, sometimes called a “digital asset,” that is issued and/or transferred using distributed ledger or blockchain technology. Crypto-assets include, but are not limited to, so-called “virtual currencies,” “coins,” and “tokens.” To the extent digital assets rely on cryptographic protocols, these types of assets are commonly referred to as “crypto-assets.”

利用分布式账本或区块链技术发行和/或转移的资产，有时也称为“数字资产”。加密资产包括但不限于所谓的“虚拟货币”、“硬币”和“代币”。在数字资产依赖加密协议的情况下，这些类型的资产通常被称为“加密资产”。





## **Crypto-Asset Service Provider (CASP) 加密资产服务提供商 (CASP)**

A service provider that conducts a wide range of activities relating to crypto-assets, including but not limited to, admission to trading, trading (as agent or principal), operating a market, custody, and other activities such as services relating to lending/staking of crypto-assets and the promotion and distribution of crypto-assets on behalf of others.

开展与加密资产有关的各种活动的服务提供商，包括但不限于交易准入、交易（作为代理或委托人）、市场运营、托管以及其他活动，例如与加密资产借贷/认购有关的服务以及代表他人推广和分销加密资产。

## **Smart Contract 智能合约**

Code deployed in a distributed ledger technology environment that is self-executing and can be used to carry out certain “if/then” type computations. The execution of a smart contract is triggered when that smart contract is “called” by a transaction on the blockchain.

部署在分布式账本技术环境中的代码，可自动执行，并可用于执行某些“如果/那么”类型的计算。当智能合约被区块链上的交易“调用”时，就会触发智能合约的执行。

## **Stablecoin 稳定币**

A crypto-asset that aims to maintain a stable value relative to a specified asset, or a pool or basket of assets.

一种加密资产，旨在保持相对于特定资产、资产池或一篮子资产的稳定价值。

## **Wallet 钱包**

An application or device for storing the cryptographic keys providing access to crypto-assets. A hot wallet is connected to the internet and usually takes the form of software for the user, while a cold wallet is a hardware that is not connected to the internet and stores the cryptographic keys.

用于存储加密密钥、提供加密资产访问权限的应用程序或设备。热钱包与互联网连接，通常以软件的形式提供给用户，而冷钱包是一种不与互联网连接的硬件，用于存储加密密钥。

## **Custodial wallet 保管钱包**



A crypto-asset service where a user's crypto-assets and/or means of access (e.g., private keys or a shard of a private key) are kept under custody by a service provider on behalf of the user. The user interacts with the service provider, rather than the blockchain, to manage its crypto-assets. A custodial wallet is also known as a “hosted wallet”.

一种加密资产服务，用户的加密资产和/或访问手段（如私钥或私钥碎片）由服务提供商代为保管。用户与服务提供商而不是区块链进行交互，以管理其加密资产。托管钱包也被称为“托管钱包”。

## **Non-custodial wallet 非保管钱包**

Software or hardware that stores cryptographic keys for a user, making the user's crypto-assets accessible only to the user, and allowing the user to interact directly with the blockchain and the blockchain-based finance applications. A non-custodial wallet is also known as an “unhosted wallet”.

为用户存储加密密钥的软件或硬件，使用户的加密资产只对用户开放，并允许用户直接与区块链和基于区块链的金融应用进行交互。非托管钱包也被称为“非托管钱包”。

## Annex B – Feedback Statement 附件 B - 反馈声明



On 23 May 2023, IOSCO consulted on a set of 18 policy recommendations. The feedback period closed on 31 July 2023, with a total of 80 responses received from a range of stakeholders falling into these broad categories:

2023 年 5 月 23 日，国际证监会组织就 18 项政策建议进行了磋商。反馈期于 2023 年 7 月 31 日结束，共收到来自各利益相关方的 80 份答复，这些答复属于以下几大类：

1. Industry Association (28) 行业协会 (28)
2. CASP (11) CASP (11)
3. Regulatory Authority (9) 监管机构 (9)
4. Traditional Finance Entity (8) 传统金融实体 (8)
5. Blockchain Analytics and Intelligence (7) 区块链分析和智能 (7)
6. Blockchain Governance (5) 区块链治理 (5)
7. Think Tank (4) 智囊团 (4)
8. SRO (3) 自律性组织 (3)
9. Natural Person (2) 自然人 (2)
10. Payments Provider (2) 支付提供商 (2)
11. Legal Advisor (1) 法律顾问 (1)

The IOSCO Board is grateful for the responses and took them into consideration when preparing the Final Report with Policy Recommendations for Crypto and Digital Asset (CDA) Markets (Final Report). The rest of this section summarizes the replies received on the consultation questions.

国际证监会组织理事会对这些答复表示感谢，并在编写《加密货币和数字资产（CDA）市场政策建议最终报告》（以下简称《最终报告》）时予以考虑。本节其余部分概述了收到的有关咨询问题的答复。



Chapter 1 – Overarching Recommendation Addressed to All Regulators 第 1 章 - 向所有监管机构提出的总体建议

**Recommendation 1 (Common Standards of Regulatory Outcomes):** Regulators should use existing frameworks or New Frameworks to regulate and oversee crypto-asset trading, other crypto-asset services, and the issuing, marketing and selling of crypto-assets (including as investments), in a manner consistent with IOSCO Objectives and Principles for Securities Regulation and relevant supporting IOSCO standards, Recommendations, and good practices (hereafter “IOSCO Standards”). The regulatory approach should seek to achieve regulatory outcomes for investor protection and market integrity that are the same as, or consistent with, those that are required in traditional financial markets.

建议 1（监管结果的共同标准）：监管机构应利用现有框架或新框架，以符合国际证监会组织《证券监管目标和原则》以及相关的支持性国际证监会组织标准、建议和良好做法（以下简称“国际证监会组织标准”）的方式，监管和监督加密资产交易、其他加密资产服务以及加密资产的发行、营销和销售（包括作为投资）。监管方法应力求在投资者保护和市场诚信方面取得与传统金融市场相同或一致的监管成果。

## **Risk based classification and scope - Taxonomy 基于风险的分类和范围--分类标准**

There is a general consensus from respondents that taking an outcomes-focused approach is appropriate when applying or developing regulatory frameworks for CASPs.

答复者普遍认为，在适用或制定 CASP 规范框架时，采取注重成果的方法是适当的。

Several respondents suggested that IOSCO should consider adopting a globally consistent taxonomy for crypto-assets to provide clarity as to the legal character of such assets and a differentiated treatment of a crypto-asset according to its token classification and risk profile.

一些答复者建议，国际证监会组织应考虑采用全球统一的加密资产分类法，以明确此类资产的法律性质，并根据代币分类和风险状况区别对待加密资产。

Respondents highlighted the need for IOSCO to clarify the outer limits of activities that IOSCO principles should be applied to. Suggestions regarding outer limits of activities included clarifying which DLT-based financial products and services are specifically covered by the separate DeFi consultation report, and taking account of the distinction between tokenized securities and other instruments that are subject to existing legal frameworks.

答复者强调，国际证监会组织需要明确国际证监会组织原则应适用的活动的外部界限。关于活动外部界限的建议包括：澄清单独的 DeFi 咨询报告具体涵盖哪些基于 DLT 的金融产品和服务，并考虑到代币化证券与受现有法律框架约束的其他工具之间的区别。

Several respondents asked for clarification on the scope of “ancillary services and other activities” and whether the provision of investment, portfolio management, NFTs and crypto-asset transfer are covered. Several respondents highlighted the need for including additional activities.

一些答复者要求澄清“辅助服务和其他活动”的范围，以及其是否包括提供投资、投资组合管理、非全额现金转移和加密资产转移。一些答复者强调有必要纳入其他活动。

**IOSCO's response:** 国际证监会组织的答复：

## Substance over form 实质重于形式

Sufficient clarification is already set out covering the applicability of the Recommendations and how they apply. The application of the Recommendations is predicated on economic substitutability and a substance-over-form approach as clearly laid out in the explanatory guidance to Recommendation 1. In applying or developing regimes to cover crypto-assets, IOSCO members should arrive at consistent regulatory outcomes with those expected in traditional finance. However, IOSCO does not regulate the use of particular crypto-asset market acronyms (ICOs, IEOs, NFTs, DAOs, etc.) or particular labels or naming conventions (so-called “exchanges” or so-called “stablecoins”) which may be seeking to portray legitimacy and compliance with traditional finance regulations. Instead, the approach focuses on economic substance and substitutability as outlined above. This allows the regulatory approach to adapt and apply to future developments. To strengthen this message further, some additional draft has been added to the preamble of Chapter 1 to further emphasise that the report focusses on the economic substance of crypto-assets and their substitutability vis-à-vis traditional financial instruments (notwithstanding a crypto-asset’s purported potential use case or purpose as stated in its supporting marketing and/or distribution materials).

已经对《建议书》的适用性及其如何适用作了充分的说明。正如建议 1 的解释性指南所明确规定的，《建议书》的适用以经济可替代性和实质重于形式的方法为前提。在适用或制定涵盖加密资产的制度时，国际证监会组织成员应达成与传统金融预期一致的监管结果。不过，国际证监会组织并不监管特定加密资产市场缩略语（ICO、IEO、NFT、DAO 等）或特定标签或命名惯例（所谓的“交易所”或所谓的“稳定币”）的使用，因为这些缩略语或命名惯例可能是为了刻画合法性和遵守传统金融监管。相反，该方法侧重于上述经济实质和可替代性。这使得监管方法能够适应和适用于未来的发展。为进一步强化这一信息，在第 1 章序言中增加了一些草案，以进一步强调本报告侧重于加密资产的经济实质及其相对于传统金融工具的可替代性（尽管加密资产在其辅助营销和/或分销材料中声称有潜在的用例或目的）。



In addition, a short glossary providing generic definitions to aid interpretation of common terms used in the CDA Recommendations has been included by way of Annex A to the draft Final Report. This Glossary uses technical, non-legal definitions that were included in the body of the CDA consultation report (and other IOSCO publications). Annex A includes a clear disclaimer that the Glossary is of limited scope and in no way attempts to set out legal definitions that could create opportunities for regulatory arbitrage, and which remain matters for individual jurisdictions to decide upon.

此外，《最后报告》草案附件 A 中还包括一份简短的词汇表，提供了通用定义，以帮助解释 CDA 中的常用术语。该术语表使用的是 CDA 咨询报告（以及国际证监会组织的其他出版物）正文中包含的技术性、非法律性定义。附件 A 包括一项明确的免责声明，即该术语表的范围有限，绝不试图列出可能造成监管套利机会的法律定义，这些定义仍由各管辖区自行决定。

In relation to the respective scope and interaction between the CDA and DeFi Recommendations, IOSCO will publish an umbrella note explaining in more detail the interoperability between the two sets of Recommendations

关于 CDA 建议和 DeFi 建议各自的范围和相互作用，国际证监会组织将发布一份总括说明，更详细地解释这两套建议之间的相互操作性。

## 2. Chapter 2 – Recommendations on Governance and Disclosure of Conflicts 2. 第 2 章-- 关于治理和冲突披露的建议

**Recommendation 2 (Organizational Governance):** Regulators should require a CASP to have effective governance and organizational arrangements, commensurate to its activities, including systems, policies and procedures that would, amongst other things, address conflicts of interest, including those arising from different activities conducted, and services provided by a CASP or its affiliated entities. These conflicts should be effectively identified, managed and mitigated.

建议 2（组织治理）：监管机构应要求 CASP 有与其活动相称的有效治理和组织安排，包括处理利益冲突的制度、政策和程序，包括 CASP 或其附属实体开展的不同活动和提供的服务所产生的利益冲突。这些冲突应得到有效识别、管理和缓解。

A regulator should consider whether certain conflicts are sufficiently acute that they cannot be effectively mitigated, including through effective systems and controls, disclosure, or prohibited actions, and may require more robust measures such as legal segregation of functions and activities, as well as separate registration and regulation of certain activities and functions to address this Recommendation.

监管机构应考虑某些冲突是否严重到无法有效缓解的地步，包括通过有效的制度和控制、披露或禁止的行动，并可能要求采取更有力的措施，如在法律上分离职能和活动，以及对某些活动和职能进行单独注册和监管，以解决本建议的问题。

### **Recommendation 3 – (Disclosure of Role, Capacity and Trading conflicts):**

Regulators should require a CASP to have accurately disclosed each role and capacity in which it is acting at all times. These disclosures should be made, in plain, concise, non-technical language, as relevant to the CASP's clients, prospective clients, the general public, and regulators in all jurisdictions where the CASP operates, and into which it provides services. Relevant disclosures should take place prior to entering into an agreement with a prospective client to provide services, and at any point thereafter when such position changes (e.g., if and when the CASP takes on a new, or different, role or capacity).

建议 3--（披露角色、能力和交易冲突）：监管机构应要求 CASP 在任何时候都准确披露其所扮演的每个角色和身份。这些披露应以平实、简洁、非技术性的语言，向 CASP 的客户、潜在客户、公众以及 CASP 开展业务和提供服务的所有辖区的监管机构进行。相关披露应在与潜在客户签订提供服务的协议之前进行，此后情况发生变化时亦同（例如，如果和当 CASP 承担新的或不同的角色或能力时）。

### **Addressing specific conflicts of interests - Functional Segregation 解决具体的利益冲突 - 职能分离**

Most respondents were supportive of Recommendation 2 and of the view that Chapter 2 covered adequately the types of conflicts of interest that should be covered.

大多数答复者支持建议 2，并认为第 2 章充分涵盖了应涵盖的利益冲突类型。

However, for the purposes of legal certainty, a couple of respondents requested further details and guidance regarding which activities are permissible or potentially problematic.

然而，为了法律的确定性，有几个答复者要求提供进一步的细节和指导，说明哪些活动是允许的，哪些活动可能有问题。

One respondent asserted that vertically integrated CASPs' activities should be prohibited to combat unmanageable conflicts of interest within CASPs, or alternatively, CASPs should be required to set aside a certain level of capital to ensure the protection of investors in cases of conflicts of interest.

一个答复者称，应禁止纵向一体化的 CASP 的活动，以打击 CASP 内部不可控制的利益冲突，或者，应要求 CASP 预留一定水平的资本，以确保在出现利益冲突时保护投资者。

Another respondent requested further guidance specifically on acute conflicts of interest that cannot be mitigated solely by disclosures, and what kinds of conflicts of interest would require more robust measures to mitigate.

另一个答复者要求提供进一步指导，具体说明仅靠披露无法缓解的严重利益冲突，以及哪些利益冲突需要采取更有力的措施来缓解。

Some respondents mentioned the following other types of conflicts of interest that they think should be covered by a CASP's conflicts of interest arrangements (e.g. commingling of funds, Prohibition on CASPs issuing so-called native or platform tokens, etc.).

一些受访者提到，他们认为 CASP 的利益冲突安排应涵盖以下其他类型（如混合资金、禁止 CASP 发行所谓的本地或平台代币等）。

One respondent suggested including additional detail in the recommendations on activities/products/services which CASPs, particularly vertically integrated CASPs, must not offer under the same legal entity to avoid conflict of interest.

一个答复者建议在建议中增加关于 CASP，特别是纵向一体化的 CASP 不得在同一法律实体下提供的活动/产品/服务的细节，以避免利益冲突。

Some respondents were of the view that it was preferable to leave CASPs the option to manage conflicts of interest through governance, and internal and external control mechanisms and not necessarily to impose more stringent rules such as legal segregation.

一些答复者认为，最好让 CASP 选择通过治理以及内部和外部控制机制来管理利益冲突，而不一定要实施更严格的规则，如法律隔离。

Some respondents stressed that while good disclosure was vital, it cannot be the sole measure to address conflicts of interest.

一些答复者强调，虽然良好的信息披露至关重要，但它不能成为解决利益冲突的唯一措施。


Some respondents recommended introducing disclosure requirements to enhance transparency and mitigate risks, such as implementing robust transaction reporting, establishing a regulatory framework for off-chain transactions, enhancing security and privacy measures, and requiring proportionate obligations for CASPs.

一些答复者建议引入披露要求，以提高透明度和降低风险，例如实施强有力的交易报告，建立链外交易监管框架，加强安全和隐私措施，并要求 CASP 承担相称的义务。

**IOSCO's response:** 国际证监会组织的答复：

**The guidance will be strengthened and tied back to the language in Recommendation 2.**

指导意见将得到加强，并与建议 2 中的措辞联系起来。



The guidance highlights certain combinations of activities (i.e., acting as market operator and trading intermediary) as an example of a conflict. In order to strengthen the guidance and tie back to the language in Recommendation 2, the guidance now explains that regulators should consider whether the conflicts of interests presented are unmanageable within CASPs and address them through requiring legal separation of these activities, especially where these services are offered to retail clients. This new guidance retains some flexibility for regulators to require appropriate mitigants for CASPs to manage conflicts, while providing a stronger message around an area of acute potential conduct risk (particularly where retail clients are involved), as illustrated by high-profile firm failures such as FTX. Minor further adjustments have been made to the guidance to further reflect that a jurisdiction can evaluate whether the prohibition on unmanageable conflicts should be instituted in situations where these conflicts cannot be effectively managed by other available conflict management measures (i.e., in a manner that minimizes harm to investors and/or markets to an acceptable level).

指导意见强调，某些活动组合（即作为市场运营商和交易中介）是冲突的一个例子。为了加强指导并与建议 2 中的措辞保持一致，指导意见现在解释说，监管机构应考虑所提出的利益冲突在 CASP 内是否无法控制，并通过要求在法律上分离这些活动来解决这些问题，特别是在向零售客户提供这些服务的情况下。这一新指南为监管机构保留了一定的灵活性，使其能够要求 CASP 采取适当的缓解措施来管理冲突，同时围绕有潜在的严重行为的风险领域（尤其是涉及零售客户时）发出了更强有力的信息，FTX 等备受瞩目的公司倒闭事件就说明了这一点。对指南进行了小幅调整，以进一步反映司法管辖区可评估是否应在其他可用的冲突管理措施无法有效管理这些冲突的情况下（即对投资者和/或市场的损害降至可接受水平的情况下）对无法管理的冲突实施禁令。



Specific disclosures regarding any commercial relationships between CASPs and third parties have been included in the Recommendation 18 setting out that CASPs should also disclose any commercial arrangements with legal or natural persons providing investment advice on crypto-assets admitted to trading on their platform or in which they have a material interest. This extends to any individuals who may be commissioned to recommend investment in particular crypto-assets on media (including social media). In some jurisdictions, the investment advice frameworks apply to Recommendations made by service providers, including so-called ‘finfluencers’ and other intermediaries.

监管机构应考虑要求 CASP 披露与法人或自然人之间的任何商业安排，这些法人或自然人就其平台上允许交易的加密资产提供投资建议，或在其中拥有重大利益。这也包括任何可能受托在媒体（包括社交媒体）上推荐特定加密资产投资的个人。在某些司法管辖区，投资建议框架适用于服务提供商（包括所谓的“金融影响者”和其他中介机构）所做的建议。



### 3. Chapter 3 – Recommendations on Order Handling and Trade Disclosures (Trading Intermediaries Vs Market Operators)关于订单处理和交易披露的建议（交易中介和市场经营者）

**Recommendation 4 (Client Order Handling):** Regulators should require a CASP, when acting as an agent, to handle all client orders fairly and equitably. Regulators should require a CASP to have systems, policies and procedures to provide for fair and expeditious execution of client orders, and restrictions on front-running client orders. Regulators should require that a CASP discloses these systems, policies and procedures to clients and prospective clients, as relevant. Orders should be handled promptly and accurately recorded.

建议 4（客户订单处理）：监管机构应要求 CASP 在作为代理时公平公正地处理所有客户订单。监管机构应要求 CASP 建立制度、政策和程序，规定公平、迅速地执行客户指令，并限制提前执行客户指令。监管机构应要求 CASP 视情况向客户和潜在客户披露这些制度、政策和程序。应及时处理并准确记录订单。

**Recommendation 5 (Market Operation Requirements):** Regulators should require a CASP that operates a market or acts as an intermediary (directly or indirectly on behalf of a client) to provide pre- and post-trade disclosures in a form and manner that are the same as, or that achieve similar regulatory outcomes consistent with, those that are required in traditional financial markets.

建议 5（市场运作要求）：监管机构应要求经营市场或作为中介（直接或间接代表客户）的 CASP 以与传统金融场所要求的相同的形式和方式提供交易前和交易后披露，或实现与传统金融场所要求的一致类似监管结果。

## **Best execution and disclosure 最佳执行和披露**

Respondents agreed that the same standards should be applied to the crypto-asset market as that applied to traditional financial markets, including around best execution and disclosure.

答复者一致认为，加密资产市场应采用与传统金融市场相同的标准，包括最佳执行和信息披露方面的标准。

Several Traditional Finance Entities and Industry Associations believed that Recommendations 4 and 5 would have a positive impact on price discovery, market integrity, transparency in the market, the management of conflicts of interest, and improved fairness which would then help investors to make informed decisions.

一些传统金融实体和行业协会认为，建议 4 和 5 将对价格发现、市场诚信、市场透明度、利益冲突管理和改善公平性产生积极影响，从而有助于投资者做出知情决定。

## **Nuances between market operators and intermediaries 市场运营商和中介机构之间的细微差别**

Several respondents also suggested that attention should be paid to the nuances between market operators and intermediaries that act as principal or act as agent due to the fact there are differences in the way they operate and the obligations that they are subject to in traditional financial markets.

一些答复者还建议，应注意市场经营者与作为委托人或代理人的中介机构之间的细微差别，因为在传统金融市场中，它们的经营方式和所承担的义务是不同的。

Respondents were broadly in favor of CASPs engaging in both roles (i.e., as a market operator and trading intermediary), however, not without limitations in place to manage potential conflicts of interest.

受访者普遍赞成 CASP 同时扮演两种角色（即市场运营商和交易中介），但也需要有一些限制，以管理潜在的利益冲突。

Respondents suggested that CASPs performing both roles should be subject to appropriate controls to ensure effective management of potential conflicts of interest, as is the case in traditional financial markets. This could include implementing best execution and disclosure obligations as well as adhering to robust governance standards and being subject to regulatory oversight.

答复者建议，与传统金融市场的情况一样，履行这两种职责的 CASP 应受到适当的控制，以确保有效管理潜在的利益冲突。这可能包括履行最佳执行和披露义务，以及遵守健全的治理标准和接受监管监督。

Furthermore, an Industry Association noted that market participants in traditional finance can engage in dual roles when subject to effective regulation and oversight, therefore, the same regulatory principle should apply to CASPs.

此外，一个行业协会指出，传统金融的市场参与者在接受有效监管和监督时可以扮演双重角色，因此，同样的监管原则也应适用于 CASP。

Two Traditional Finance Entities expressed skepticism around CASPs engaging in both roles i.e., acting as both a market operator and trading intermediary.

两家传统金融实体对 CASP 同时扮演两种角色（即既是市场运营商又是交易中介）表示怀疑。

## **Data Availability, Reporting and Information Sharing 数据提供、报告和信息共享**

Respondents agreed with the importance of introducing disclosure requirements regarding off-chain transactions as doing so would improve transparency and market integrity.

受访者认同引入链外交易披露要求的重要性，因为这样做可以提高透明度和市场诚信度。

Respondents provided several suggestions regarding how CASPs could identify and disclose data related to off-chain transactions. Ranging from the creation of an event notification message system, the real-time logging of order book activity, the mirroring of traditional finance practices to internal record keeping.

答复者就 CASP 如何识别和披露与链外交易有关的数据提出了若干建议。包括创建事件通知消息系统、实时记录订单簿活动、反映传统金融实践以及保存内部记录。

However, a Think Tank stated that Recommendation 5 should not prescribe a particular method or procedure for identifying and disclosing pre- and post-trade transaction data for transactions that occur off-chain due to ongoing technological developments in this space.

不过，一个智囊团指出，由于链外交易领域的技术不断发展，建议 5 不应针对识别和披露链外交易的交易前和交易后数据规定特定的方法或程序。

Some feedback items are about the importance of bringing transparency to off-chain transactions, impediments to data collection on a cross-jurisdictional basis arising from different data protection standards, disclosure and regulatory reporting by CASPs to relevant authorities, acknowledgement of key concepts and mechanisms for international co-operation (e.g. bilateral mechanisms).

一些反馈意见涉及提高链外交易透明度的重要性、不同数据保护标准导致的跨司法管辖区数据收集障碍、CASP 向相关机构的披露和监管报告、对关键概念和国际合作机制（如双边机制）的认可。

**IOSCO's response:** 国际证监会组织的答复：

#### **Additional guidance under Recommendation 4 建议 4 的补充指导**

With respect to calls for further clarity on how to deliver best, or fair and expeditious, execution, we are including additional guidance under Recommendation 4 on the best execution factors that jurisdictions may require CASPs to take into account (i.e., the execution factors to be assessed and the costs to be considered when executing orders, such as explicit trading costs and implicit market impact costs).

关于进一步明确如何提供最佳或公平、迅速的执行的要求，我们在建议 4 中纳入了关于司法管辖区可能要求 CASP 考虑的最佳执行因素的额外指导（即在执行订单时需要评估的执行因素和需要考虑的成本，如显性交易成本和隐性市场影响成本）。

#### **Certain combinations of activities already highlighted. 已经强调了某些活动的组合。**

As currently drafted, the guidance highlights certain combinations of activities (i.e. acting as market operator and trading intermediary) as an example of an inherent conflict.

按照目前的措辞，该指南强调某些活动组合（即充当市场运营商和交易中介）是内在冲突的一个例示。

Recommendations 4 and 5 set out the expectation that CASPs provide post-trade disclosures or transaction reporting of off-chain transactions and an obligation for intermediaries to ensure best execution. These types of disclosures and obligations are likely to provide more information to clients regarding the impact conflicts of interests may have on their order execution. However, conflict disclosure is not a substitute for public price disclosures or for obligations of CASPs to their customers to give the best price on trades. Data transparency and regulatory reporting is integral to effective market surveillance. The Guidance to Recommendation 9 has been expanded in this regard acknowledging the importance of homogenizing data standards.

建议 4 和 5 提出了对 CASP 提供交易后披露或链外交易报告的期望，以及中介机构确保最佳执行的义务。这些类型的披露和义务有可能为客户提供更多信息，使其了解利益冲突可能对订单执行产生的影响。然而，冲突披露并不能替代公开价格披露，也不能替代 CASP 对其客户在交易中提供最佳价格的义务。数据透明度和监管报告对有效的市场监督不可或缺。建议 9 的指导意见在这方面有所扩展，承认了统一数据标准的重要性。





#### 4. Chapter 4 – Recommendations in Relation to Listing of Crypto-Assets and Certain Primary Market Activities 4. 第 4 章 - 关于加密资产上市和某些一级市场活动的建议

**Recommendation 6 (Admission to Trading):** Regulators should require a CASP to establish, maintain and appropriately disclose to the public their standards—including systems, policies and procedures—for listing/admitting crypto assets to trading on its market, as well as those for removing crypto-assets from trading. These standards should include the substantive and procedural standards for making such determinations.

建议 6（允许交易）：监管机构应要求 CASP 建立、维护并向公众适当披露其上市/允许加密资产在其市场上交易的标准（包括系统、政策和程序），以及从交易中删除加密资产的标准。这些标准应包括做出此类决定的实质性和程序性标准。

**Recommendation 7 (Management of Primary Markets Conflicts):** Regulators should require a CASP to manage and mitigate conflicts of interest surrounding the issuance, trading and listing of crypto-assets.

建议 7（一级市场冲突的管理）：监管机构应要求 CASP 管理和缓解围绕加密资产发行、交易和上市的利益冲突。

This should include appropriate disclosure requirements and may necessitate a prohibition on a CASP listing and/or facilitating trading in, its own proprietary crypto-assets, or any crypto-assets in which the CASP, or an affiliated entity, may have a material interest.

这应包括适当的披露要求，并可能需要禁止 CASP 上市和/或禁止其促进自有加密资产交易或者与 CASP 上的加密资产以及其附属实体拥有的加密资产进行交易，这可能具有重大利益。

## **Expectations surrounding trading admission processes 对交易准入程序的期望**

Respondents generally supported Recommendation 6 on listing and de-listing crypto assets.

答复者普遍支持规定关于加密资产上市和除名的建议 6。

Many respondents provided suggestions for further detailed guidance relating to the systems, procedures, policies and disclosures to be put in place by CASPs.

许多答复者建议就 CASP 应实施的制度、程序、政策和披露提供进一步的详细指导。

However, some respondents were concerned that it may be challenging, onerous, or irrelevant for CASPs to disclose issuer-related information relating to crypto-assets where are decentralized or which do not have a clearly identifiable issuer.

然而，一些答复者担心，对于去中心化或无法明确识别的发行人的加密资产，披露与发行人相关的信息可能具有挑战性、繁琐或无关紧要。

Some expectations surrounding trading admission processes are conducting due diligence on prospective listing of crypto-assets CASPs to examine the smart contract of any prospective token for malicious code and make certain assurances.

围绕交易准入流程，人们预期对潜在上市的 CASP 进行尽职调查，以检查任何潜在代币的智能合约是否存在恶意代码，并做出某些保证。

Several respondents (predominantly CASPs) did not support prohibitions on a CASP listing and/or trading any crypto-assets in which they or their affiliates have a material interest.

一些答复者（主要是 CASP）不支持禁止 CASP 上市和/或交易其或其关联公司拥有重大利益的任何加密资产。

These respondents commented that there are effective mitigants, such as governance arrangements, policies and disclosures, without needing to enact prohibitions.

这些答复者认为，有一些有效的缓解措施，如治理安排、政策和披露，无需颁布禁令。

**IOSCO's response: 国际证监会组织的答复：**

There were calls for further guidance regarding the systems, procedures and policies that CASPs should have. This would, to a certain extent, depend on the relevant jurisdictional framework. Therefore, IOSCO will not provide further elaboration on this point.

有人要求就 CASP 应具备的制度、程序和政策提供进一步指导。但这在一定程度上取决于相关的管辖框架。因此，国际证监会组织将不对这一点作进一步阐述。

A question arises as to whether CASPs should be permitted to admit to trading crypto-assets in which they have a material interest. This could involve requiring further disclosures around admission practices and stronger measures around taking proprietary positions in the crypto-assets. After consideration, it was decided that Recommendation 7 (Management of Primary Market Conflicts) is sufficiently robust as drafted, and that additional IOSCO guidance is not needed at this juncture.

由此产生的一个问题是，是否应允许 CASP 参与其拥有重大利益的加密资产交易。这可能需要进一步披露准入行为，并采取更有力的措施，防止在加密资产中持有自营头寸。经过审议，决定建议 7（一级市场冲突管理）目前的措辞已经足够有力，目前不需要国际证监会组织提供额外的指导。



**Recommendation 8 (Fraud and Market Abuse):** Regulators should bring enforcement actions against offences involving fraud and market abuse in crypto-asset markets, taking into consideration the extent to which they are not already covered by existing regulatory frameworks. These offences should cover all relevant fraudulent and abusive practices such as market manipulation, insider dealing and unlawful disclosure of inside information; money laundering/terrorist financing; issuing false and misleading statements; and misappropriation of funds.

**建议 8（欺诈和市场滥用）：** 监管机构应针对加密资产市场中涉及欺诈和市场滥用的罪行采取执法行动，同时考虑到现有监管框架尚未涵盖这些罪行的程度。这些罪行应涵盖所有相关的欺诈和滥用行为，如操纵市场、内幕交易和非法披露内部信息；洗钱/资助恐怖主义；发布虚假和误导性声明；以及挪用资金。

**Recommendation 9 (Market Surveillance):** Regulators should have market surveillance requirements applying to each CASP, so that market abuse risks are effectively mitigated.

**建议 9（市场监督）：** 监管机构应制定适用于每个 CASP 的市场监督要求，以有效降低市场滥用风险。

**Recommendation 10 (Management of Material Non-Public Information):** Regulators should require a CASP to put in place systems, policies and procedures around the management of material non-public information, including, where relevant, information related to whether a crypto-asset will be admitted or listed for trading on its platform and information related to client orders, trade execution, and personally identifying information.

**建议 10（重大非公开信息的管理）：** 监管机构应要求 CASP 围绕重大非公开信息的管理制定制度、政策和程序，包括（在相关情况下）与加密资产是否将被允许在其平台上交易或上市相关的信息，以及与客户订单、交易执行和个人身份信息相关的信息。

## **Capturing abusive practices and offences 捕捉滥用权力的做法和罪行**

Overall support from respondents who considered that the draft Recommendations and supporting guidance capture most of the offences occurring in crypto-asset markets. Nevertheless, respondents indicated that specificities of crypto-markets (e.g. on-chain and off-chain data, market fragmentation, direct retail access, etc.) should be taken into account in order to effectively prevent and mitigate market abuse risks. To that end, respondents highlighted some of the novel offences that are bespoke to crypto assets (e.g. private key theft, 51% attacks, MEV, etc.) and then provided a few specific examples of fraudulent behaviors that can be or have been observed in crypto markets.

答复者总体上表示支持，认为建议草案和辅助指南涵盖了加密资产市场上发生的大多数犯罪。不过，答复者表示，应考虑到加密市场的特殊性（如链上和链下数据、市场分散、直接零售准入等），以有效预防和减轻市场滥用风险。为此，受访者强调了一些专门针对加密资产的新型犯罪（如私钥盗窃、51%攻击、MEV等），然后提供了一些在加密市场上可以或已经观察到的欺诈行为的具体实例。

While some respondents seem to encourage regulators not to perceive the crypto-asset ecosystem as inherently riskier than traditional finance, other respondents provided evidence of rates of insider dealing occurring ahead of crypto-assets listing which are significantly higher than those observed for traditional financial instruments.

一些受访者似乎鼓励监管机构不要认为加密资产生态系统的内在风险高于传统金融，但其他受访者提供的证据表明，加密资产上市前的内幕交易率明显高于传统金融工具的内幕交易率。

Separately, respondents suggested that the definition of inside information and market manipulation can be broader than in traditional markets and it may need to be adapted to take into account abusive practices that may not yet currently exist in traditional markets. Finally, as abusive behaviors often take place via social media platforms, a couple of respondents suggested covering influencer marketing practices in the Recommendations to ensure that any communication and advertising of crypto assets is not misleading.

另外，答复者提出，内部信息和市场操纵的定义可能比传统市场更宽泛，可能需要加以调整，以顾及到传统市场目前可能还不存在的滥用行为。最后，由于滥用行为经常通过社交媒体平台发生，一些受访者建议在《建议》中涵盖有影响力的营销行为，以确保加密资产的任何传播和广告不具有误导性。

Overall support from respondents who considered that market surveillance is a critical element to mitigate market abuse risks within the crypto ecosystem. There was also support for placing increased responsibility on CASPs for preventing, detecting and combating market abuse on their own trading platforms.

受访者总体上表示支持，认为市场监督是降低加密货币生态系统中市场滥用风险的关键因素。还有人支持让 CASP 承担更多责任，防止、检测和打击其自身交易平台上的市场滥用行为。

However, respondents suggested considering several additional elements to supplement Recommendation 9 as to address risks specific to crypto-asset markets, including adequate monitoring of illicit activities (such as sanction violations, money laundering and terrorism financing), integration of off-chain and on-chain data for market surveillance purposes, development of systems to analyze data contained in news releases and social media posts, improved collaboration among regulators, as well as the adaption of the market surveillance approach depending on the CASP/crypto-activities conducted.

不过，答复者建议考虑补充建议 9 的若干其他要素，以应对加密资产市场特有的风险，包括充分监测非法活动（如违反制裁、洗钱和资助恐怖主义），为市场监管目的整合链外和链上数据，开发分析新闻稿和社交媒体帖子中所含数据的系统，改善监管机构之间的合作，以及根据所开展的 CASP/加密活动调整市场监管方法。

In addition, respondents generally suggested that market surveillance requirements must be updated and amended on a regular basis to address novel risks and trends, also considering that continuous monitoring of market developments, supported by future-proofed regulatory principles, is required to ensure that detection methods remain successful.



此外，答复者普遍认为，必须定期更新和修订市场监督要求，以应对新的风险和趋势，他们还认为需要在面向未来的监管原则的支持下持续监测市场发展，以确保检测方法保持成功。

**IOSCO's response:** 国际证监会组织的答复：

**Additional details about monitoring social media has been included.** 还包括有关监控社交媒体的更多详细信息。

The categorization of abusive practices such as fraud, market manipulation and market abuse are arguably broad enough to also capture these ‘bespoke’ detrimental market integrity practices on display in crypto-asset markets.


可以说，欺诈、市场操纵和市场滥用等滥用行为的分类范围很广，足以涵盖加密资产市场上出现的这些 "定制的 "有损市场诚信的行为。

Additional detail by way of a footnote has been included in the guidance to Recommendation 8 to identify expectations on CASPs to monitor media (including social media) for manipulative practices (i.e., information sharing on prospective listings on telegram, signal, etc.). Feedback suggested that the guidance could also call on regulatory authorities to build appropriate expertise and consider conducting social media monitoring.

在建议 8 的指导意见中以脚注的形式增加了一些细节，以确定对 CASP 的期望，即监测媒体（包括社交媒体）是否存在操纵行为（即在电报、信号等上共享有关潜在上市的信息）。反馈意见建议，指导意见还可呼吁监管当局建立适当的专业知识，并考虑开展社交媒体监测。

**Further commentary on data has been included.** 还包括对数据的进一步评论。

Data transparency and regulatory reporting is integral to effective market surveillance. The Guidance to Recommendation 9 has been expanded in this regard acknowledging the importance of homogenizing data standards. As part of this, consideration has been given to whether the data standards should be the same as in traditional markets, such that they could support the same pre- and post-trade price transparency obligations (where appropriate) and the ability of jurisdictions to surveil and examine markets for pricing information. Notwithstanding the fact that the non-compliance of CASPs is a contributing



factor to these data challenges for regulators, it must nonetheless be acknowledged that the market itself is still teething its way through some of these data challenges. Accordingly, the explanatory guidance to Recommendation 9 has been supplemented to note that IOSCO and its members intends to (1) conduct work amongst its members going forward to promote the development of data standards that could help to improve the availability, and improved access to better and more homogenized international data sets, and alongside this (2) encourages its members to develop appropriate solutions within their jurisdictions to help further these objectives.

数据透明度和监管报告是有效市场监督不可或缺的一部分。建议 9 的指导意见在这方面有所扩展，承认了统一数据标准的重要性。作为其中的一部分，考虑了数据标准是否应与传统市场相同，从而支持相同的交易前和交易后价格透明度义务（在适当情况下）以及辖区调查和审查市场定价信息的能力。尽管对监管机构来说，CASP 的不合规是造成这些数据挑战的一个因素，但必须承认的是，市场本身仍在逐步克服其中的一些数据挑战。因此，对建议 9 的解释性指南进行了补充，指出国际证监会组织及其成员打算：(1) 继续在其成员中开展工作，促进数据标准的制定，以帮助改善更好和更统一的国际数据集的可用性和获取性，同时(2) 鼓励其成员在其管辖范围内制定适当的解决方案，以帮助推进这些目标的实现。



**Recommendation 11 (Enhanced Regulatory Co-operation):** Regulators, in recognition of the cross-border nature of crypto-asset issuance, trading, and other activities, should have the ability to share information and cooperate with regulators and relevant authorities in other jurisdictions with respect to such activities.

建议 11（加强监管合作）：监管机构应认识到加密资产发行、交易和其他活动的跨境性质，有能力就此类活动与其他辖区的监管机构和相关部門共享信息并开展合作。

This includes having available co-operation arrangements and/or other mechanisms to engage with regulators and relevant authorities in other jurisdictions. These should accommodate the authorization and on-going supervision of regulated CASPs and enable broad assistance in enforcement investigations and related proceedings.

这包括现有的合作安排和/或其他机制，以便与其他辖区的监管机构和相关部門进行接触。这些机制应包括对受监管的 CASP 的授权和持续监管，并能在执法调查和相关诉讼中提供广泛协助。

### **Concepts and Mechanisms for International Co-operation 国际合作的观念和机制**

Comments overwhelmingly agree that international co-operation is critical to the goals of cross-border co-operation.

绝大多数意见都认为，国际合作对于实现跨境合作的目标至关重要。

The various concepts in approaching international co-operation include comments referencing a harmonized regulatory approach, others to global or cross-border alignment, equivalence regimes, substituted compliance regimes, passporting, notification requirements, and still others, a focus on regulatory outcomes.

国际合作方面的各种概念包括提及统一监管方法的评论意见、提及全球或跨境协

A number of responses urge focusing on, leveraging, and using the full power of, the mechanisms of international co-operation, including the IOSCO MMoU and EMMoU, as well as the other mechanism set forth in the consultation report, such as bilateral or

一些评论意见担心数据保密性，希望国际合作中的数据共享仅限于监管目的，而另一条评论意见则认为，应根据需要共享数据，以维护公平有序和透明的市场，无论数据位于何处，当局都应能够为监督和监管目的获取相关数据。

On balance, respondents recommended targeted approaches regarding data sharing for international co-operation purposes, with regulators working to identify the data that is the most meaningful from a supervisory perspective, take an incremental approach to avoid the risks of data overcollection, and collect and process data that is needed for defined purposes and that the various information sharing mechanisms set forth in the consultation report could be used to share data as needed.

总的来说，答复者建议在为国际合作目的共享数据方面采取有针对性的方法，监管机构应努力确定从监管角度来看最有意义的的数据，采取渐进的方法以避免过度收集数据的风险，并收集和处理为明确目的所需的数据，咨询报告中提出的各种信息共享机制可用于在需要时共享数据。

#### **IOSCO's response: 国际证监会组织的答复:**

**The Recommendations promote international co-operation.** 这些建议促进了国际合作。

IOSCO agrees with the benefits of international co-operation as many of the respondents have set forth. The need for international co-operation is immediate. The IOSCO Recommendations promote international co-operation and provide jurisdictions with a broad range of mechanisms by which international co-operation can be achieved. Acknowledging the importance of homogenizing data standards, additional supplementary text has been included under Recommendation 9.

国际证监会组织同意许多答复者提出的国际合作的好处。国际合作的需求是迫切的。国际证监会组织的建议促进了国际合作，并为各管辖区提供了实现国际合作的广泛机制。考虑到统一数据标准的重要性，国际证监会组织在建议 9 中增加了补充内容。



**Recommendation 12 (Overarching Custody Recommendation):** Regulators should apply the IOSCO Recommendations Regarding the Protection of Client Assets when considering the application of existing frameworks, or New Frameworks, covering CASPs that hold or safeguard Client Assets.

**建议 12（总体监管建议）：** 监管机构在考虑适用涵盖持有或保护客户资产的 CASP 的现有框架或新框架时，应采用国际证监会组织《关于保护客户资产的建议》。

**Recommendation 13 (Segregation and Handling of Client Monies and Assets):** Regulators should require a CASP to place Client Assets in trust, or to otherwise segregate them from the CASP's proprietary assets.

**建议 13（客户资金和资产的隔离与处理）：** 监管机构应要求 CASP 将客户资产托管，或以其他方式将其与 CASP 自有资产隔离。

**Recommendation 14 (Disclosure of Custody and Safekeeping Arrangements):** Regulators should require a CASP to disclose, as relevant, in clear, concise and non-technical language to clients:

**建议 14（披露托管和安全保管安排）：** 监管机构应要求 CASP 以清晰、简明和非技术性的语言向客户披露相关信息：

1. How Client Assets are held, and the arrangements for safeguarding these assets and/or their private keys;

1. 如何持有客户资产，以及保护这些资产和/或其私人密钥的安排；

2. the use (if any) of an independent custodian, sub-custodian or related party custodian;

2. 使用独立托管人、分托管人或关联方托管人（如有）；

3. the extent to which Client Assets are aggregated or pooled within omnibus client accounts, the rights of individual clients with respect to the aggregated or pooled assets, and the risks of loss arising from any pooling or aggregating activities;

3. 客户资产在总括客户账户内被汇总或集中的程度，个人客户对汇总或集中资产的权利，以及任何集中或汇总活动所产生的损失风险；

4. Risks arising from the CASP's handling or moving of Client Assets, whether directly or indirectly, such as through a cross-chain bridge; and

4. 因 CASP 直接或间接（如通过跨链桥梁）处理或转移客户资产而产生的风险；以及

Full and accurate information on the obligations and responsibilities of a CASP with respect to the use of Client Assets, as well as private keys, including the terms for their restitution, and on the risks involved.

关于 CASP 在使用客户资产和私人密钥方面的义务和责任（包括归还条件）以及所涉风险的全面准确信息。

**Recommendation 15 (Client Asset Reconciliation and Independent Assurance):**

Regulators should require a CASP to have systems, policies, and procedures to conduct regular and frequent reconciliations of Client Assets subject to appropriate independent assurance.

建议 15（客户资产对账和独立保证）：监管机构应要求 CASP 制定系统、政策和程序，在适当的独立保证下定期、频繁地对客户资产进行对账。

**Recommendation 16 (Securing client money and assets):** Regulators should require a CASP to adopt appropriate systems, policies and procedures to mitigate the risk of loss, theft or inaccessibility of Client Assets.

建议 16（确保客户资金和资产的安全）：监管机构应要求 CASP 采用适当的系统、政策和程序，以降低客户资产丢失、被盗或无法访问的风险。

## **Minimum requirements and risk management 最低要求和风险管理**

Respondents generally agreed that the recommendations provide adequate protection of customer crypto-assets held in custody by CASPs.

答复者普遍认为，这些建议为由 CASP 保管的客户的加密资产提供了充分的保护。

There was also consensus for the intended outcomes proposed in Chapter 7.

对第 7 章提出的预期成果也达成了共识。

Respondents agreed with using traditional finance requirements as a starting point, but one industry association strongly felt that new custody laws were required due to the profound differences between traditional finance asset holdings and the holding of private keys. Although the response did not offer specific policy recommendations or solutions.

受访者同意以传统金融要求为起点，但一个行业协会强烈认为，由于传统金融资产持有与私人密钥持有之间的巨大差异，需要制定新的保管法。尽管答复没有提出具体的政策建议或解决方案。

Respondents sought clarification on the proportion of crypto-assets which could be held in hot/warm/cold wallets.

答复者要求澄清可在热钱包/温钱包/冷钱包中持有的加密资产比例。

Several respondents commented that CASPs should be required to disclose their proof of reserves/liabilities to clients (in a manner which could be independently verified) on a periodic basis. As part of the process/procedures, CASPs should include robust risk management tools, particularly for credit and liquidity risks.

一些答复者认为，应要求 CASP（以可独立核实的方式）定期向客户披露其储备金/负债证明。作为流程/程序的一部分，CASP 应具有健全的风险管理工具，特别是针对信用和流动性风险的工具。



Several respondents felt that legal separation of client assets and proprietary assets should be mandatory, however others felt this suggestion would be impractical, especially in instances such as when the mixing of assets arises from a collection of fees or is beneficial for technological execution efficiencies.

一些答复者认为，应强制要求在法律上将客户资产和自有资产分开，但其他答复者则认为这一建议不切实际，特别是在混合资产是为了收取费用或有利于提高技术执行效率的情况下。

A number of respondents referred to MICA as a benchmark for defining minimum requirements and highlighted specific provisions which could be incorporated, for instance, Articles 70 ('Safekeeping of clients' crypto-assets and funds) and 75 ('Providing custody and administration of crypto-assets on behalf of clients').

一些答复者提到《国际商事仲裁示范法》是确定最低要求的基准，并指出了可以纳入的具体条款，例如第 70 条（"客户加密资产和资金的安全保管"）和第 75 条（"代表客户提供加密资产的保管和管理"）。

Respondents emphasized their desire that recommendations remain technologically neutral.

答复者强调，他们希望建议保持技术中立。

An industry association sought acknowledgment CASPs already subject to custody regulation would not have additional requirements imposed on them. There was a split between respondents who felt that IOSCO should keep their recommendations principle based to allow for new technology to come into scope as developments happen, and respondents who sought to have specific recommendations included.

一个行业协会要求承认，已经受到监管的 CASP 不会被强加额外的要求。一些答复者认为，国际证监会组织的建议应以原则为基础，以便随着技术的发展将新技术纳入监管范围，而另一些答复者则希望将具体建议纳入其中。

A traditional finance entity suggested that the term 'custodian' be clearly defined in the recommendations as there is a variation of understanding of this term outside of traditional finance. They felt a clear definition would ensure that requirements are drafted and applied as consistently as possible.

一个传统金融实体建议在建议中明确定义 "保管人 "一词，因为在传统金融之外对该词的理解存在差异。他们认为，一个明确的定义将确保各项要求的起草和应用尽可能一致。

An industry association requested that the recommendations outline specific prudential, governance and operational resilience requirements, and insolvency policies to strengthen the resilience of custodial activity and protect investors.

一个行业协会要求在建议中概述具体的审慎、治理和业务复原力要求以及破产政策，以加强托管活动的复原力并保护投资者。

### **IOSCO's response: 国际证监会组织的答复:**

We welcome the strong agreement from the respondents with Recommendations 13 (Segregation and Handling of Client Monies and Assets) and 15 (Client Asset Reconciliation and Independent Assurance).

我们欢迎答复者对建议 13（客户资金和资产的隔离与处理）和建议 15（客户资产对账和 独立保证）的强烈赞同。

The responses have highlighted some challenges, for example, lack of skilled providers for audits, but note that the industry is continually developing and maturing and should overcome these challenges.

答复强调了一些挑战，例如缺乏熟练的审计提供者，但指出该行业正在不断发展和成熟，应该能够克服这些挑战。

In relation to limits placed on hot/warm/cold wallets, we note the feedback received and consider that any limits should be within the remit of regulators within the relevant jurisdictions. We do consider that customers should be aware of the respective risks of the different types of wallets and choose the right service for them.

关于对热钱包/温钱包/冷钱包的限制，我们注意到收到的反馈意见，并认为任何限制都应属于相关辖区内监管机构的职权范围。我们确实认为，客户应了解不同类型钱包各自的风险，并选择适合自己的服务。



**Recommendation 17 (Management and disclosure of Operational and Technological Risks):** Regulators should require a CASP to comply with requirements pertaining to operational and technology risk and resilience in accordance with IOSCO’s Recommendations and Standards.

**建议 17（业务和技术风险的管理与披露）：** 监管机构应要求 CASP 按照国际证监会组织的建议和标准，遵守与业务和技术风险及复原力有关的要求。

Regulators should require a CASP to disclose in a clear, concise and non-technical manner, all material sources of operational and technological risks and have appropriate risk management frameworks (e.g. people, processes, systems and controls) in place to manage and mitigate such risks.

监管机构应要求 CASP 以清晰、简明和非技术性的方式披露运营和技术风险的所有重要来源，并制定适当的风险管理框架（如人员、流程、系统和控制措施）以管理和降低这些风险。

#### **Additional or unique technology/cyber/operational risks T 额外或独特的技术/网络/操作风险**

The additional and unique risks mentioned are mostly technological and cybersecurity risks that are native to crypto-assets and their underlying technology, which include the use of DLT and smart contracts, forks in the protocol, storage and safekeeping of the crypto-asset, as well as cross-chain bridges.

提到的其他独特风险主要是加密资产及其底层技术所固有的技术和网络安全风险，其中包括使用 DLT 和智能合约、协议分叉、加密资产的存储和保管以及跨链桥接。

## **Disclosure of risks 风险披露**

Several respondents commented on what should be disclosed, mainly information related to crypto-asset trading decisions, as well as technical, cyber and operational risks.

一些答复者就应披露的内容发表了意见，主要是与加密资产交易决策有关的信息，以及技术、网络和操作风险。

Others pointed to the disclosure of the CASPs' risk management framework, the results of risk assessments, and the results of external audits

还有人指出，应披露 CASP 的风险管理框架、风险评估结果和外部审计结果。

Some respondents pointed to the need for investor education, taking into account that a certain level of knowledge is required to understand the information disclosed.

一些答复者指出，考虑到理解所披露的信息需要一定的知识水平，有必要开展投资者教育。

Some respondents mentioned methods of communication with retail investors, with the majority calling for transparent and clear disclosure in non-technical language.

一些答复者提到了与散户投资者沟通的方法，大多数答复者呼吁以非技术性语言进行透明、清晰的披露。

### **IOSCO's response: 国际证监会组织的答复：**

It is not proposed to make any changes to Recommendation 17.

不建议对建议 17 做任何修改。



**Recommendation 18 (Retail Client Appropriateness and Disclosure):** Regulators should require a CASP to operate in a manner consistent with IOSCO’s Standards regarding interactions and dealings with retail clients. Regulators should require, or work with other relevant authorities to require, that all promotions and marketing of crypto-assets to retail clients accurately and sufficiently disclose the product and service provided as well as the associated risks in a manner that is fair, clear, and not misleading.

**建议 18（零售客户适当性与披露）：** 监管机构应要求 CASP 以符合 IOSCO 关于与零售客户互动和交易的标准的方式运营。监管机构应要求，或与其他相关机构共同要求所有针对零售客户的加密资产推广和营销活动都必须以公平、清晰、不误导的方式准确、充分地披露所提供的产品和服务以及与之相关的风险。

Regulators should require a CASP to implement adequate systems, policies and procedures, including for providing disclosures in relation to onboarding new clients, and as part of its ongoing services to existing clients. This should include assessing the appropriateness and/or suitability of particular crypto-asset products and services offered to each retail client.

监管机构应要求 CASP 实施适当的系统、政策和程序，包括提供与新客户有关的披露，并将其作为为现有客户提供的持续服务的一部分。这应包括评估向每位零售客户提供的特定加密资产产品和服务的适当性和/或适宜性。

#### **Having clear disclosure requirements 有明确的披露要求**

Respondents generally supported Recommendation 18 and agreed that IOSCO’s Standards and regulatory measures used in the financial markets broadly continued to be relevant to the context of CASPs and crypto-asset activities.

答复者普遍支持建议 18，并同意国际证监会组织的标准和金融市场广泛使用的监管措施仍然适用于 CASP 以及加密资产活动。

Many respondents highlighted that a key regulatory measure would be disclosure requirements by CASPs to ensure that retail clients have clear and accurate information to make informed decisions.

许多答复者强调，一项关键的监管措施是要求 CASP 披露信息，以确保零售客户获得清晰准确的信息，从而做出知情决定。

On requiring CASPs to assess the appropriateness and/or suitability of crypto-assets products and services offered to each retail customer, several respondents were of the view that such requirements were not necessary and that customers (retail or otherwise) should be given access to crypto-asset products and services.

关于要求 CASP 评估向每名零售客户提供的加密资产产品和服务是否适当和/或适合的问题，一些答复者认为没有必要作出这种规定，客户（零售或其他客户）应当有机会获得加密资产产品和服务。

#### **Not banning or prohibiting advertisements/promotions 不禁止或禁止广告/促销活动**

Respondents were against the outright prohibition of advertising or endorsements of crypto-asset but agreed that regulatory safeguards were needed given widespread instances of consumer harm.

答复者反对完全禁止为加密资产做广告或背书，但一致认为，鉴于损害消费者利益的事例比比皆是，有必要采取监管保障措施。

The safeguards should be in line with current safeguards that were applicable to traditional financial services on a “same activity, same risk, same regulation/regulatory outcome” basis.

这些保障措施应与传统金融服务保障措施保持一致，遵循 "相同活动、相同风险、相同监管/监管结果 "的原则。

The guidance note would be enhanced to include the additional regulatory safeguards suggested in the feedback.

指导说明将得到完善，以纳入反馈意见中建议的其他监管保障措施。

Several respondents have made reference to the need for greater accountability by parties other than CASPs (such as social media personalities and “finfluencers”).

一些答复者提到，需要加强 CASP 以外的各方（如社交媒体名人和 “金融影响者”）的问责。

IOSCO’s response: 国际证监会组织的答复：

Additional text has been added to Recommendation 18 setting out that regulators should require, or work with other relevant authorities to require, that all promotions of crypto-assets to retail clients accurately and sufficiently disclose the product and service provided as well as the associated risks in a manner that is fair, clear, not misleading.

在建议 18 中增加了新的内容，规定监管机构应要求或与其他相关机构合作，要求所有向零售客户推销加密资产的活动都必须以公平、清晰、不误导的方式准确、充分地披露所提供的产品和服务以及相关风险。

Additional guidance has been included under Recommendation 18 setting out that CASPs should also disclose any commercial arrangements with (legal or natural) persons providing investment advice on crypto-assets admitted to trading on their platform or in which they have a material interest. This extends to any individuals who may be commissioned to recommend investment in particular crypto-assets on media (including social media). In some jurisdictions, the investment advice frameworks apply to recommendations made by service providers including so-called ‘finfluencers’ and other intermediaries.

建议 18 中包含了额外的指导，规定 CASP 还应披露与（法人或自然人）就其平台上允许交易的加密资产提供投资建议或拥有重大利益的人之间的任何商业安排。这也包括可能受托在媒体（包括社交媒体）上推荐特定加密资产投资的任何个人。在某些司法管辖区，投资建议框架适用于服务提供商（包括所谓的 “金融影响者” 和其他中介机构）所做的建议。



Additional detail by way of a footnote has been included in the guidance to Recommendation 8 to identify expectations on CASPs to monitor media (including social media) for manipulative practices (i.e., information sharing on prospective listings on telegram, signal, etc.). Feedback suggested that the guidance could also call on regulatory authorities to build appropriate expertise and consider conducting social media monitoring.

在建议 8 的指导意见中以脚注的形式增加了一些细节，以确定对 CASP 的期望，即监测媒体（包括社交媒体）是否存在操纵行为（即在电报、信号等上共享有关潜在上市的信息）。反馈意见建议，指导意见还可呼吁监管当局建立适当的专业知识，并考虑开展社交媒体监测。

Guidance has been incorporated setting out that Regulators should require CASPs to have an efficient and effective mechanism to address client complaints. Regulators should also take steps to tackle the risks posed to retail investors by the prevalence of poor marketing practices. This should be done directly where IOSCO members have the mandate or in coordination with other domestic regulators who are responsible for issues related to media and advertising (such as advertising standard setting and consumer watchdogs).

指导意见规定，监管机构应要求 CASP 具备高效率、高成效的机制，以处理客户投诉。监管机构还应采取措施，应对不良营销手法盛行给散户投资者带来的风险。在国际证监会组织成员有授权的情况下，应直接开展这项工作，或与负责媒体和广告相关问题的其他国内监管机构（如广告标准制定和消费者监督机构）协调开展这项工作。

**Stablecoins' different use cases as a store of value, medium of exchange or bridge**

稳定币作为价值储存、交易媒介或桥梁的不同用途

Referring to the potential use case of stablecoins as a medium of exchange and taking note of FSB publications, certain respondents suggested that Stablecoins are more suited to prescriptive prudential regulations and IOSCO principles, unless binding, may open the way to regulatory arbitrage.

一些答复者提到稳定币作为交易媒介的潜在用途，并注意到金融稳定委员会的出版物，认为稳定币更适合规范性的审慎监管，而国际证监会组织的原则除非具有约束力，否则可能为监管套利开辟道路。

Certain respondents, especially Blockchain Industry Associations, advocated for self-regulation or a bespoke regulatory regime, suggesting that the recommendations are burdensome on issuers or the CASP.

某些答复者，特别是区块链行业协会，主张自我监管或定制监管制度，认为这些建议给发行人或 CASP 带来了负担。

Some respondents provided specific modifications to the framework proposed in the consultation paper. These range from adjustments to the definition of a stablecoin, clarification on interaction with other frameworks (notably FSB Recommendations and European Markets in Crypto-Assets Regulation or "MICA"), additional clarification on custody arrangements and counterparty risks, to enhancing reporting requirements.

一些答复者对咨询文件中建议的框架提出了具体的修改意见。这些修改包括调整稳定币的定义、澄清与其他框架（特别是金融稳定委员会建议和欧洲加密资产市场监管或 "MICA"）的互动、进一步澄清托管安排和交易对手风险，以及加强报告要求。

Some respondents also suggested considering the risk profile of the asset and related activity to calibrate regulatory requirements and distinguish stablecoins from other non-referenced assets.

Quite a few commenters invited IOSCO and its members to continue collaborating in this area as use cases emerge and to coordinate efforts with prudential authorities, central banks, and other relevant entities in each jurisdiction.

许多评论者请国际证监会组织及其成员随着用例的出现继续在这一领域开展合作，并与审慎监管机构、中央银行和各辖区的其他相关实体协调努力。

**IOSCO's response: 国际证监会组织的答复：**

The Recommendations apply to all crypto-assets including so-called stablecoins in seeking to deliver regulatory outcomes of investor protection and market integrity. The unique characteristics and idiosyncratic considerations presented by stablecoins are sufficiently addressed in the proposals and these have been maintained without amendment.

《建议》适用于所有加密资产，包括所谓的稳定币，旨在实现投资者保护和市场诚信的监管成果。《建议》充分考虑到了稳定币的独特性和特殊性，因此未作任何修改。



## What is a Stablecoin? 什么是稳定币？

As defined by the FSB<sup>36</sup>, a stablecoin is “a crypto-asset that aims to maintain a stable value relative to a specified asset, or a pool or basket of assets”.

根据金融稳定委员会的定义<sup>36</sup>，稳定币是“一种加密资产，其目的是保持相对于特定资产、资产池或一篮子资产的稳定价值”。


Stablecoins represent a large portion of the total market value for crypto-assets, and as a result there is a renewed focus on stablecoin arrangements. While stablecoin arrangements seek to achieve a particular characteristic (i.e., a stable value, in most cases tied to a fiat currency (e.g., the U.S. Dollar)), they are not technologically different from other types of crypto-assets. Stablecoins generally purport to be pegged or linked to one or more assets, in many cases fiat currency (“reference assets”).

稳定币占加密资产市场总价值的很大一部分，因此稳定币安排再次受到关注。虽然稳定币安排旨在实现一个特定的特征（即稳定的价值，在大多数情况下与法定货币（如美元）挂钩），但它们在技术上与其他类型的加密资产并无不同。稳定币一般声称与一种或多种资产挂钩或联系，在许多情况下是与法定货币相挂钩（“参考资产”）。

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<sup>36</sup> See FSB, High-level Recommendations for the Regulation, Supervision and Oversight of Crypto-Asset Activities and Markets: Final report, Final Report, July 17 2023.

见金融稳定委员会，《关于监管、监督和监督加密资产活动和市场的高级别建议》：最终报告，最终报告，2023 年 7 月 17 日。



Despite claims by some stablecoin<sup>37</sup> issuers that the arrangements are “backed” or “collateralized” by reserve assets, it should be noted that several currently traded stablecoins are not in fact fully “backed” or “collateralized” by reserve assets. Therefore, stablecoin holders may not be entitled to any redemption right (at face value or otherwise) from the issuer of the stablecoin.

尽管一些稳定币 37 发行者声称这些安排由储备资产 “支持” 或 “抵押”，但应该指出的是，目前交易的一些稳定币实际上并不完全由储备资产 “支持” 或 “抵押”。因此，稳定币持有人可能无权从稳定币发行人处获得任何赎回权（按面值或其他方式）。

Stablecoin arrangements can take many forms and can reference one or more of the following asset types, or a combination of these asset types:

稳定币安排可以有多种形式，可以参考以下一种或多种资产类型，也可以是这些资产类型的组合：

- Fiat currencies: stablecoins can reference one or more fiat currencies. The fiat currencies, or assets with equivalent fair value, may or may not be safeguarded by a custodian.

法定货币：稳定币可以参考一种或多种法定货币。法定货币或具有同等公允价值的资产可以由或不由托管人保管。

- Other real-world assets: stablecoins can reference other real-world assets, for example, securities, commodities, derivatives, real-estate, and/or other financial instruments and assets.

其他真实资产：稳定币可以参考其他真实资产，例如证券、商品、衍生品、不动产和/或其他金融工具和资产。

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<sup>37</sup> Generally, the issuer of a stablecoin is the entity responsible for designing the stablecoin, and managing the minting, issuance, redemption and supply of tokens. The stablecoin issuer also may manage the reserve assets. The trading price, and therefore maintenance of the peg, occurs with respect to fiat-based stablecoins through trading activities and the ability of certain market participants to acquire newly minted stablecoins in exchange for fiat currency and to put stablecoins to issuers for redemption. Algorithmically controlled stablecoins use a different mechanism to maintain the peg.

一般来说，稳定币的发行方是负责设计稳定币、管理代币的铸造、发行、赎回和供应的实体。稳定币发行者还可以管理储备资产。基于法定货币的稳定币的交易价格，也就是挂钩的维持，是通过交易活动以及某些市场参与者获取新铸造的稳定币以换取法定货币和将稳定币交给发行者赎回的能力来实现的。算法控制的稳定币使用不同的机制来维持挂钩。



Finally, some stablecoins can also be pegged to and backed by other crypto-assets and/or market themselves as algorithmically controlled. An algorithmically controlled stablecoin is one that typically uses an algorithm to maintain price stability relative to the identified reference asset by adjusting the supply of tokens as needed. These types of arrangements are not covered in this Annex.

最后，一些稳定币还可以与其他加密资产挂钩并得到其支持，和/或以算法控制的方式进行营销。算法控制型稳定币通常使用一种算法，通过在需要时调整代币供应量来维持相对于确定的参考资产的价格稳定。本附件不包括这些类型的安排。

### **Uses of Stablecoins 稳定币的用途**

Stablecoins are predominantly used to facilitate trading, lending and borrowing of crypto-assets, and are used as a perceived stable leg of a crypto-asset trading pair and as collateral in lending and borrowing arrangements, both on crypto-asset platforms and in DeFi applications and protocols. As such, stablecoins can play an important role in a CASP's operations.

稳定币主要用于促进加密资产的交易、借贷，在加密资产平台以及 DeFi 应用程序和协议中，稳定币被视为加密资产交易中稳定的那一部分，以及借贷安排中的抵押品。因此，稳定币可以在 CASP 的运营中发挥重要作用。

Some have said that stablecoins may have the potential to be used for payments, outside of trading, lending and borrowing activities. At the same time, stablecoins may constitute a financial instrument. Issues involving stablecoins have been considered by a number of global organizations and standard setting bodies, including the FSB, IOSCO and CPMI-IOSCO because of the potential systemic impact they could have if used globally as a means of payment in commerce and because of their potential impact on investors and markets.

一些人表示，稳定币有可能在交易、借贷活动之外用于支付。同时，稳定币也可能构成一种金融工具。包括金融稳定委员会、国际证监会组织和 CPMI-IOSCO 在内的一些全球性组织和标准制定机构已经审议了涉及稳定币的问题，因为如果在全球范围内将稳定币用作商业支付手段，可能会产生系统性影响，而且会对投资者和市场产生潜在影响。





Risks presented by crypto-assets are also relevant to stablecoins. In particular, there are risks addressed by these Recommendations, such as conflicts of interest, abusive behaviors, lack of operational resilience, information asymmetry, poor governance, lack of financial resilience and increased concentration risk.

加密资产带来的风险也与稳定币有关。尤其是这些建议所提及的风险，如利益冲突、滥用行为、缺乏操作弹性、信息不对称、治理不善、缺乏财务弹性和集中风险增加。

However, stablecoins also present specific risks that differ from other crypto-assets due to their purported “stability” in relation to reference assets. These risks include those that flow from a lack of transparency, lack of verification of underlying reserve assets and potential for a “bank run” on the stablecoin.<sup>38</sup>

不过，稳定币也存在与其他加密资产不同的特定风险，因为它们相对于参考资产而言具有所谓的“稳定性”。这些风险包括因缺乏透明度、缺乏对基础储备资产的验证以及因稳定币“银行挤兑”的可能性而产生的风险。<sup>38</sup>

### Reserve Assets 储备资产

There are risks that the reserve assets supporting a stablecoin might either be insufficient, or unavailable, to fund redemption requests, either when the issuer is a going concern, or when it is insolvent. The particular risks relating to reserve assets is enhanced in stablecoin arrangements in which the reserve assets are not held in a segregated manner and investors and other holders of stablecoins do not have a direct right of redemption from the issuer from dedicated and segregated reserve assets. The credit risk of the issuer in this scenario, which is the most common currently is significant given the lack of segregation of reserve assets from other creditors of the stablecoin issuer. The particular risks relating to the sufficiency and/or viability of the reserve assets themselves could arise as a result of mismanagement of the reserve assets by the stablecoin issuer or due to market conditions. Even where the reserve

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<sup>38</sup> Recent studies suggest that stablecoins are vulnerable to runs in times of stress, in a similar way to money market funds.

最近的研究表明，稳定币在压力时期很容易出现挤兑，这一点与货币市场基金类似。





assets are segregated, liquidity is a key risk in relation to the reserve assets as the reserve assets must be sufficiently liquid to enable issuers to use the reserve to fund redemption requests. A failure to fund such requests or loss of confidence could result in a “run” on the stablecoin. If the stablecoin issuer becomes insolvent, even stablecoin holders that have a direct right of redemption from an issuer may not be able to redeem their stablecoins, thus facing loss of their entire value. Stablecoin holders are subject to the credit risk of the stablecoin issuer if the reserve assets are not segregated and held for the crypto-asset holders in a way that protects the assets from other creditors of the stablecoin issuer. In this case, there may be no legal claim by the stablecoin holder as against the issuer or reserve.

支持稳定币的储备资产有可能在发行者持续经营或破产时不足以或无法为赎回请求提供资金。在稳定币安排中，与储备资产有关的特殊风险会增加，因为在这种安排中，储备资产不是以独立的方式持有，稳定币的投资者和其他持有者没有直接从发行者那里从专用和独立的储备资产中赎回的权利。由于储备资产没有与稳定币发行者的其他债权人隔离，发行者在这种情况下的信用风险很大，这也是目前最常见的情况。与储备资产本身的充足性和/或可行性有关的特殊风险可能因稳定币发行者对储备资产管理不善或因市场条件而产生。即使储备资产是独立的，流动性也是与储备资产有关的主要风险，因为储备资产必须有足够的流动性，使发行者能够使用储备为赎回请求提供资金。如果无法为这些请求提供资金或客户对此失去信心，可能导致稳定币“挤兑”。如果稳定币发行商破产，即使拥有发行商直接赎回权的稳定币持有者也可能无法赎回其稳定币，从而面临全部价值损失。如果储备资产没有以保护资产不受稳定币发行者其他债权人影响的方式分离出来并为加密资产持有者持有，稳定币持有者就会面临稳定币发行者的信用风险。在这种情况下，稳定币持有人可能无法对发行人或储备金提出法律索赔。

Reserve assets of a financial nature, including deposits with banks or assets held with custodians, create an interdependence channel with traditional finance. This poses two-way risks – a run on a stablecoin may threaten the viability of an institution that holds the reserve assets as, for example, deposits. Similarly, the failure of a bank or custodian will mean that

those reserve issues may become either illiquid or diminished for a period – and there is a risk of destabilizing the stablecoin, the stablecoin issuer and the wider crypto-asset market.

金融性质的储备资产，包括银行存款或托管资产，与传统金融形成了相互依存的渠道。这带来了双向风险--对稳定币的挤兑可能会威胁到以存款等形式持有储备资产的机构的生存能力。同样，银行或托管机构的倒闭将意味着这些储备问题可能在一段时间内变得流动性不足或减少--存在破坏稳定币、稳定币发行者和更广泛的加密资产市场稳定的风险。

### **Rights of Holders 持有人的权利**

The use of stablecoins is dependent upon a holder having a direct right against the stablecoin issuer to obtain the fiat value of the stablecoin. However, many issuers of stablecoins place restrictions on the types of persons that can request redemptions or place a minimum value for redemptions. In many stablecoin structures, the stablecoin issuer will allow only larger institutions and crypto-asset trading platforms to interact directly with the stablecoin issuer to create and to redeem stablecoins. Other persons interested in holding stablecoins must acquire them in trading or similar activities from these third parties and may only look to these third parties, including crypto-asset trading platforms for repurchase or redemption of the stablecoins. As a result, stablecoin holders are subject to counterparty risk of the crypto-asset trading platforms in order to redeem their stablecoins. The rights of holders may not be clearly disclosed, whether by the issuer of the stablecoin or other parties, and holders of stablecoins do not have any rights relating to the operation of the stablecoin arrangement.

稳定币的使用取决于持有者对稳定币发行者是否拥有获得稳定币法定价值的直接权利。然而，许多稳定币发行商对可以申请赎回的人员类型做出限制，或规定赎回的最低价值。在许多稳定币结构中，稳定币发行方只允许较大的机构和加密资产交易平台与稳定币发行方直接互动，以创建和赎回稳定币。其他有意持有稳定币的人必须在交易或类似活动中从这些第三方获得稳定币，并且只能寻求这些第三方，包括加密资产交易平台回购或赎回稳定币。因此，稳定币持有者在赎回稳定币时要承受加密资产交易平台的交易对手风险。稳定币发行方或其他各方可能没有明确披露持有人的权利，并且稳定币持有人没有任何与稳定币安排的运作有关的权利。



The majority of stablecoin distributions and trading occurs on secondary markets through CASPs and clients may not be aware of what rights they have and do not have against a stablecoin issuer. Further, a holder of a stablecoin may not understand that they are dependent on the continued viability and desire of CASPs to purchase stablecoins from them in order for them to sell or otherwise dispose of their stablecoin. Related to this issue is the fact that the pricing and, therefore, value of the stablecoin in the hands of the stablecoin holder is determined by secondary market trading and market sentiment. For example, the secondary market price of a stablecoin can “de-peg” due to market conditions, including sentiment, even if the issuer is fulfilling redemptions of certain market participants at par.

大多数稳定币的分销和交易都是通过 CASP 在二级市场上进行的，客户可能不知道他们对稳定币发行商拥有或不拥有哪些权利。此外，稳定币的持有者可能不了解，他们要出售或以其他方式处置自己的稳定币时，需要依赖 CASPs 的持续生存能力和向他们购买稳定币的意愿。与此相关的一个事实是，稳定币持有人手中稳定币的定价和价值是由二级市场交易和市场情绪决定的。例如，稳定币的二级市场价格可能会因市场状况（包括情绪）而“脱钩”，即使发行者按面值完成了某些市场参与者的赎回要求。

### **Money Laundering/Fraud/Scams 洗钱/欺诈/诈骗**

As with other crypto-assets, stablecoins may appeal to money launderers and criminals who do not wish to subject the proceeds of crime to traditional financial system oversight. Stablecoins are also likely to be perceived as more stable than other crypto-assets, so are more attractive to money launderers and criminals who do not wish to be as exposed to crypto-asset market volatility.

与其他加密资产一样，稳定币可能会吸引那些不想将犯罪所得置于传统金融系统监督之下的洗钱者和犯罪分子。加之稳定币也可能被认为比其他加密资产更稳定，因此对那些不希望受到加密资产市场波动影响的洗钱者和犯罪分子更有吸引力。

In light of the price instability of crypto-assets, because of their relatively more stable nature scammers have turned to stablecoins and are soliciting stablecoins from their victims.

鉴于加密资产价格的不稳定性，欺诈者开始转向稳定币，并向受害者索要稳定币。

