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Reserve Bank outlines plans to regulate crypto assets in South Africa

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The regulatory framework will address concerns previously raised by the Intergovernmental Fintech Working Group, which is comprised of the SARB, National Treasury, the Financial Intelligence Centre (FIC), the Financial Sector Conduct Authority (FSCA), the National Credit Regulator, the South African Revenue Service and the Competition Commission.

The proposed regulations include the classification of crypto assets as a “*financial product*” as defined under the Financial Advisory and Intermediary Services Act 37 of 2002 (FAIS) and the inclusion of crypto asset service providers as accountable institutions under schedule 1 of the Financial Intelligence Centre Act 38 of 2001 (FICA). Therefore, a person providing advice (as defined under FAIS) regarding crypto assets will soon be required to be licensed as a financial services provider in terms of FAIS and to comply with the relevant requirements of both FAIS

and FICA (including the necessary reporting requirements). This will ensure proper monitoring, reporting and oversight by the FSCA and FIC over all crypto asset transactions.

In an attempt to avert financial crimes and illicit activities related to crypto asset transactions, the SARB also intends to develop a regulatory framework for crypto exchanges and platforms to allow for crypto listing. This will include compliance with know-your-customer protocols and tax and exchange control requirements.

To date, there has been no internationally co-ordinated regulation of crypto assets, given their constantly evolving nature. There has been a wide range of responses to crypto assets in different countries. Some countries have adopted a more robust approach with an outright ban on the use of cryptocurrencies, while other countries are adopting

systems to better understand the technology. The recent development in South Africa seems to follow suit with other countries such as the US, UK and China, which have taken a firm stance on the regulation of crypto assets and the tax treatment of such products.

The true impact of South Africa’s firm stance to bring crypto assets under regulation are unknown, however, it seems that the proposed regulations are consistent with proposals being developed by other central banks and regulators in the international market.

Bearing in mind that the main aim for the classification of crypto assets as “*financial product*” under FAIS, and the inherent oversight of these products by the relevant regulators, is to protect consumers who are participants in the crypto asset market, this news will be celebrated by those who have been victims of crypto scams and scandals over the past few years.

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