

30 October 2025

Regulatory Policy Team
Financial Markets Authority

By email: consultation@fma.govt.nz

Tēnā koe

Law Society feedback on the discussion paper: tokenisation in financial markets

1 Introduction

- 1.1 The New Zealand Law Society Te Kāhui Ture o Aotearoa (**Law Society**) welcomes the opportunity to provide feedback on the targeted consultation paper, *Discussion paper: Tokenisation in financial markets*, prepared by the Financial Markets Authority (**FMA**).
- 1.2 This feedback has been prepared with input from the Law Society's Commercial and Business Law Committee.¹
- 1.3 This consultation seeks feedback from market participants on the opportunities, risks, and regulatory considerations associated with tokenisation in New Zealand's financial markets to inform future policy and support responsible innovation. It aims to identify issues with the current policy and regulatory settings, and to consider whether legislative reform may be appropriate.
- 1.4 Given the preliminary nature of the consultation, the Law Society has limited comments at this stage. We encourage the FMA (and the Ministry of Business, Innovation and Employment) to continue engaging with industry and the public as policy development and legislative reform in this area progresses.
- 1.5 The Law Society supports a principles-based approach to financial services regulation and suggests that any future regulation should remain as technology-neutral as possible.²

¹ More information about this committee can be found on the Law Society's website: <https://www.lawsociety.org.nz/professional-practice/law-reform-and-advocacy/law-reform-committees/commercial-li/>

² See, for example, David Brennan, Sushil Kuner, Samatha Holland "Fintech Laws and Regulations 2025 – United Kingdom" (1 September 2025) Global Legal Insights accessed online at < <https://www.globallegalinsights.com/practice-areas/fintech-laws-and-regulations/united-kingdom/> > versus the more prescriptive European approach, for example, Anee Maréchal and Julie Bader "Fintech Laws and Regulations 2025 – France" (1 September 2025) Global Legal Insights accessed online at < <https://www.globallegalinsights.com/practice-areas/fintech-laws-and-regulations/france/> >.

- 1.6 In our view, the technology used to participate in financial markets should not dictate whether or not regulation applies. Further regulation may be appropriate only if there is evidence that:
- (a) Tokens are not being regulated (or at least there is considerable uncertainty) in circumstances where the underlying intangible or tangible assets or analogous assets are regulated; or
 - (b) Tokens are being captured by the current regulatory regime (or at least there is considerable uncertainty) in circumstances where the underlying intangible or tangible assets or analogous assets (e.g. cryptocurrency versus cash) are unregulated,
- 1.7 If feedback demonstrates that the current regulations are clear and suitable, and that issues arise only in relation to how the regulations apply to emerging technologies, it would be more appropriate to issue guidance on this topic, rather than updating the regulatory framework.

2 Next steps

- 2.1 We would be happy to answer any questions or discuss this feedback further. Please feel free to get in touch via the Law Society's Law Reform & Advocacy Advisor, Shelly Musgrave (shelly.musgrave@lawsociety.org.nz).

Nāku noa, nā



David Campbell
Vice-President