



European  
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## Public consultation an EU framework for markets in Crypto-Assets

### SUMMARY COVERNOTE:

EVIA members operate as venues and intermediaries in Europe's wholesale markets. These markets are formed by financial institutions (on both buy- and sell-side) that are highly regulated, and our venues and intermediaries through which they transact are in turn highly regulated themselves.

Members note that one of the key factors holding back the development of markets in crypto assets is the lack of regulation. Our clients –and indeed our firms- need regulatory certainty in order to be able to operate and invest in these markets.

Such regulatory framework is best provided at a European level, to avoid fragmentation along national lines that would otherwise harm the ability to reach sufficient scale. We therefore fully support the European Commission's objective of developing an EU regulatory approach.

We recommend that any regulatory regime follows the logic that **the same activity that causes the same risk should be subject to the same regulation.**

- The starting point should be the application of the existing regulatory framework (primarily built upon MIFID II/R) on this new asset class. The principles in MIFID (market integrity, investor protection etc) and the organizational structure it imposes on venues and other actors together constitute the right balance of regulatory arrangements.
- This existing framework could be calibrated for the particular characteristics of this new asset class, but only where this is absolutely required and while taking into account the same principles and outcomes that apply across the existing regulatory framework.
- This minimizes the uncertainties and operational inconsistencies that would otherwise arise from a patchwork of potentially overlapping requirements applying to institutions that trade both crypto and traditional assets.
- Conversely, the principle of 'same activity, same risk, same regulation' should also lead to avoid underlaps in the application of the regulatory perimeter. Venues and intermediaries are currently subject to a full suite of regulation in order to protect our clients, and the integrity of the markets at large. If unregulated entities would be able to (continue to) offer similar services without abiding by a similar rulebook, clients and overall market functioning would be at risk.

*The European Venues and Intermediaries Association promotes and enhances the value and competitiveness of Wholesale Market Venues, Platforms and Arranging Intermediaries by providing members with co-ordination and a common voice to foster and promote liquid, transparent and fair markets. It maintains a clear focus and direction, building a credible reputation upon 50 years of history, by acting as a focal point for the industry and providing clear direction to their members when communicating with central banks, governments, policy makers, and regulators.*

*EVIA's core strength is the ability to consolidate views and data and act as a common voice for an industry operating in a complex and closely regulated environment, by acting as a central point for the industry and providing clear communication with central banks, governments, policy makers, and regulators.*

*EVIA provides specific standards and maintains a clear focus and direction for the participants and stakeholders across the market ecosystem, building upon a credible reputation from over 50 years of experience.*



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**If crypto-assets are not formally deemed “electronic money” then they need to be inside the financial instrument perimeter.<sup>1</sup>**

Most pressing, and the definitional certainly that we would singularly highlight, is a commonly accepted representation of a crypto-asset, especially Stablecoins and Central Bank Digital Currencies, as both financial instruments and indeed as derivatives under MiFID. We would further welcome this as a global standard which can be mutually recognised national or regional legal frameworks. This adoption could clarify whether contracts which could otherwise be variously represented as not only singular financial instruments, but also as packages or as collective investments, structured products or other contractual agreements outside the perimeter.

While a European approach is appropriate, crypto assets are inherently global in nature and the principles of the overall framework should therefore be coordinated at a global level with third country market access principles based on equivalent regulatory outcomes.

Alexander McDonald  
Chief Executive Officer  
EVIA.

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<sup>1</sup> This accords with Joint Money Laundering Steering Group (JMLSG) 20<sup>th</sup> March 2020 published for consultation the proposed [text](#) of a new chapter to be added to Part II of its anti-money laundering (AML) and counter-terrorist financing (CTF) guidance for the financial services sector.

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