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| European Economic and Social Committee (EESC) public hearing on crypto-assets: opportunities and challenges |
| Brussels, 02/03/2022 (date of delivery) |

Opening remarks by Elisabeth Noble[[1]](#footnote-2)

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Thank you for the opportunity to participate in this timely public hearing.

In my intervention I will first focus on the European Banking Authority’s work on crypto-assets. I will then go on to cover five themes for priority attention in order to leverage the benefits of crypto-asset and DLT applications in the EU banking and payments sector whilst mitigating effectively the risks.

So first a few words on **the EBA’s work**:

In accordance with our statutory mandate to monitor innovation, the EBA is continuously reviewing crypto-asset market developments and taking actions to facilitate knowledge-sharing between supervisory authorities, with the objectives of promoting consistency in regulatory and supervisory approaches.

Indeed, we have been monitoring crypto-assets since 2012.

Where risks have been identified, we have not hesitated to act.

Notably, the EBA was the first regulatory body globally to warn consumers of the risks of so-called virtual currencies – all the way back in 2013.

We have since issued further warnings, most recently in March 2022, jointly with our sister agencies EIOPA and ESMA in the context of growing consumer interest in crypto-assets, continued market volatility, and the aggressive promotion of crypto-assets, including via social media.

Our action has not, however, been limited to the retail sphere.

For instance, in 2019 we recommended that banks’ exposures to so-called virtual currencies be subject to a conservative prudential treatment, pending the outcome of the work by the Basel Committee on Banking Supervision.

This action has successfully disincentivised EU banks from gaining exposures to these typically volatile assets and exposure levels remain very low.

Also in 2019 we, along with ESMA, issued advice to the European Commission on the need for a common EU framework for crypto-asset activities.

In this advice we highlighted both:

* lost opportunities as a result of an increasingly complex patchwork of emerging regulatory measures at the national level, as well as
* significant uncovered risks at the EU level, including to consumers, to the integrity and prudential resilience of the financial system, and ultimately to financial stability.

We were very pleased to see the Commission move fast thereafter to issue its legislative proposals for a Regulation on Markets in Crypto-assets (MiCA) and the new AML/CFT package.

The EBA strongly supports these proposals.

In our view, the MiCA regime will create a robust and consistent framework for the regulation and supervision of crypto-asset activities, including the issuance of ‘asset-referenced’ and ‘e-money’ tokens, exchange and custody services.

And the AML package will result in very important extensions to the definition of ‘obliged entity’ to ensure that all crypto-asset service providers have in place robust AML/CFT policies and procedures.

Crypto-asset service providers will also be in scope of the Digital Operational Resilience Act which will ensure the highest standards of resilience to guard against the significant threat of cyber-attack and operational disruptions.

For completeness, the proposals for the third Capital Requirements Regulation include a mandate for the Commission to issue a delegated act on the prudential treatment of banks’ exposures to crypto-assets following the conclusion of the BCBS work. This will ensure that banks’ exposures continue to be appropriately capitalised in the future.

Overall, these comprehensive measures will mitigate the key risks identified in the EBA’s 2019 and earlier reports to the European Commission.

**But with these measures, can we consider the job done or are further actions needed?**

Here I would like to reflect on five key themes, all of which are inter-linked.

Theme **number 1 is the need for technical capacity building.**

This is critical from the perspective of the effective application and enforcement of the MiCA regime.

Here, notwithstanding resourcing challenges, we are seeing many supervisory authorities already prioritise recruitments and training for staff in anticipation of applying the new regulatory framework.

However, more is needed to ensure we are collectively capable of applying MiCA in practice.[[2]](#footnote-3)

In this regard, I take the opportunity to highlight the need for any EU-level supervision structure under MiCA to be effectively resourced, both on an ongoing basis and in the set-up phase, bearing in mind any such structure would relate to the most significant issuers, and potentially the most significant crypto-asset service providers.

Currently, we understand that no resource is foreseen to fund the necessary set-up phase. If this is not addressed in the final legislative financial statement, the absence of funding for set-up could significantly impede our readiness for supervision at Day 1.

Looking beyond supervisors, key to the success of MiCA, is the need for the industry to have a clear understanding of what is expected of it. Therefore, we strongly encourage authorities to continue to invest in supervisory outreach events and roadshows to promote the visibility of the upcoming rules and requirements.

It is also essential that consumers have the information and skills they need to understand crypto-assets and the risks arising. In this respect we very much welcome the robust white paper requirements under MiCA. However, we also strongly encourage consumer financial education initiatives.

The **second theme is monitoring capability**.

Pending the coming into force of MiCA, in the vast majority of Member States, crypto-asset activities typically fall outside the perimeter of the relevant supervisory authorities.

This poses practical challenges for supervisors in monitoring crypto-asset activities at both a micro and macro level, albeit we recognize that some authorities are making significant efforts to improve capabilities.

However, more effective monitoring is essential as a foundation for understanding interconnectedness and contagion channels in the crypto-asset market and for proactively mitigating risks.

With strengthened monitoring, we can also equip ourselves with the information needed to ensure an effective enforcement of the requirements under MiCA and surveillance of new or emerging activities that may fall outside its scope but could warrant inclusion in the future.

A case in point is crypto-asset staking and lending.

In the EBA’s April 2022 report on non-bank lending, we noted that these activities are on the rise, albeit low in absolute terms, but require close monitoring in case such activities need to be brought in scope of regulation in the future.

Likewise, we need to continue to monitor DeFi. For the most part decentralised finance structures are not all that decentralised at the moment – and somewhere there is an issuer or crypto-asset service provider that will be in scope of MiCA. However, the market is constantly evolving and we need to be aware of those evolutions to ensure that we still have the right tools in place to mitigate risks. And I would draw particular attention to the need to monitor the levels of opacity in parts of the market, particularly as regards the price formation process.

The **third theme is enforcement**.

Here, we need to grapple head-on with the inevitable challenges in policing the perimeter under MiCA.

This will entail becoming more agile in our capabilities to monitor non-traditional distribution channels for crypto-assets, including via social media and in the metaverse.

It will also involve timely dialogue with supervisors beyond the EU bearing in mind that although MiCA will require certain types of firms to be established, or at least registered, in the EU, some crypto-asset systems will still involve a distributed footprint in terms of governance and functionalities.

And this takes me to the **fourth theme** which is about the need for **effective supervisory cooperation and coordination structures**.

Based on experience acquired in assessing the early proposals for the Libra/Diem and other so-called stablecoins, it is clear that strong coordination and cooperation arrangements are needed to facilitate system-wide monitoring, coordinate supervisory actions, and mitigate risks taking into account the potential impacts across the system as a whole.

As such, a framework to support structured dialoguebetween competent authorities supervising different parts of crypto-asset ecosystems (e.g. custodians, issuers, exchanges and wallet providers), is essential.

MiCA does include some proposals for supervisory colleges. However, these are rather focussed on the issuer.

If I could plea for any change to MiCA, it would be to broaden out the functionalities of the supervisory colleges to ensure that all constituent components of stablecoin ecosystems are in scope to facilitate the necessary pan-authority discussion on risks and vulnerabilities across the ecosystem as a whole and to facilitate the coordination of supervisory actions.

And I may say a bit more about this later if there is opportunity in this session.

Turning to my final theme – **theme number 5** - **this is the need for convergence at the international level on the regulatory and supervisory approach to crypto-assets**.

At a global level work is underway and we at the EBA are participating in multiple international standard-setter work streams including:

* the Financial Stability Board’s monitoring of crypto-assets and DeFi applications;
* the BCBS work on the prudential treatment of banks’ exposures to crypto-assets on which we expect a further consultation imminently;
* and ongoing Financial Action Task Force (FATF) work to monitor the application of the standards and guidance to so-called virtual assets and virtual asset service providers.

The discussions at these tables are absolutely key to ensure effective mitigation of risks in the context of borderless technologies and markets, in particular to address the risk of forum shopping and regulatory arbitrage and hence our given our high attention.

I will pause there and again thank you for the opportunity to participate in the public hearing today.[[3]](#footnote-4)

1. Elisabeth Noble is a Senior Policy Expert at the European Banking Authority and leads the work on crypto-assets. [↑](#footnote-ref-2)
2. To support national competent authorities in capacity building, in mid-2021 the EBA established its Network on Crypto-assets which provides a forum for supervisors to discuss market developments, and regulatory and supervisory issues with a view to promoting convergence in practices and developing skills and expertise. [↑](#footnote-ref-3)
3. For more information about the EBA’s work on financial innovation see the [FinTech Knowledge Hub](https://www.eba.europa.eu/financial-innovation-and-fintech/fintech-knowledge-hub). [↑](#footnote-ref-4)