

Deutsche Börse Group

Comments on FSB's Consultative Documents

**“Regulation, Supervision and Oversight of Crypto-Asset Activities and Markets” and the
“Review of the FSB high-level Recommendations of the Regulation, Supervision and Oversight of “Global Stablecoin” Arrangements”**

Frankfurt am Main, 13th December 2022

Introduction

Deutsche Börse Group (DBG) welcomes **FSB's efforts to further enhance financial stability and market integrity** by promoting the consistency and comprehensiveness of regulatory, supervisory and oversight approaches to crypto-asset activities and markets.

We support **FSB's valuable work on crypto-asset activities and markets**, of which we are pleased to be a part of. We are outspoken proponents of **high, globally agreed, common standards** that avoid market fragmentation **and ensure market integrity**.

Deutsche Börse Group has a long experience as an operator of several trading venues, clearing houses (CCPs) and central securities depositories (CSDs) in **building markets and implementing several safeguard mechanisms** which we in future also **like to apply for new types of markets and asset classes**.

From our point of view, it is time to **bring the crypto-asset ecosystem to the same level of regulation as the rest of the financial system**. "**Same business, same risks, same rules**" should apply as a **general principle**, while **maintaining and not compromising "tech-neutrality"**, as the lessons learned from the financial crisis 2008/9 are still important, even if the technology changes. This principle has been underlined in the FSB proposals, namely in Recommendation 2 on the General Regulatory Framework in proposed recommendations for the regulation, supervision and oversight of crypto-asset activities and markets, as well as in an explanatory note to high-level Recommendation 2 of GSC Arrangements.

Further, recent **market turmoil in the area of crypto-currencies** has once again demonstrated that **unregulated spaces bring risks for market actors** as well as (retail-) customers. Therefore, we are in favor of the approach undertaken by the FSB to ensure that the work underway regarding the monitoring and regulation is coordinated and mutually supportive.

Given that the **EU Markets in Crypto-assets framework (MiCAR) is expected to be implemented** very soon, we would ideally be **in favour of a very close global alignment of regulators** when addressing provisions for crypto-asset activities and markets. From a first assessment, we are **convinced that the proposed safeguarding elements by FSB go in the same direction as those having been included in MiCAR** (segregation of client accounts, governance, own fund requirements etc.)

Therefore, we welcome the opportunity to comment on FSB's consultative documents "Regulation, Supervision and Oversight of Crypto-Asset Activities and Markets" and the - "Review of the FSB high-level Recommendations of the Regulation, Supervision and Oversight of "Global Stablecoin" Arrangements".

If you have any questions about our comments, please do not hesitate to contact us.

DBG key messages on both crypto-assets and stablecoins questions

Clear classification/definition of crypto-assets/stablecoins necessary: we consider crypto-assets to be a sub-category of digital assets. Crypto-assets could be sub-categorised between utility-, securities- and payment-tokens. Payment tokens (e.g. stablecoins) or “digital money”, have different sub-classes, depending on certain features like the openness of the network and governance structure used (public or private ledger, permissioned or permissionless), the backing or the reserve (without backing or asset backed) and the issuer. This logic has been followed by the EU regulation as well:

- if an underlying digital asset/crypto-asset qualifies as a financial instrument, then the regulation on financial markets shall apply (in the EU MiFID/MiFIR) to allow for “same business, same risks, same rules” principle
- if an underlying digital asset/crypto-asset qualifies as non-financial instrument, then it is dealt within MiCAR, which differentiates between:
 - asset-reference tokens (ARTs) pegged to several fiat-currencies or basket of securities
 - e-money tokens (EMTs) pegged to only one fiat-currency
 - utility tokens
 - crypto-assets (catch all category incl. native crypto-currencies)

Harmonise categorization of crypto-assets/significant crypto-assets as well as stablecoins/global stablecoins: a possible distinction to the following factors:

- 1) Number of currencies (coin itself and/or reserve pool)
- 2) Number of participants/holders (reach)
- 3) Volume(s)/Market capitalization/number of transactions of coins(s) issued
- 4) The insolvency remoteness of the backed assets’ (“reserve”) will be a crucial factor

FSB could align with the categories proposed in MiCAR to determine whether a crypto-assets/stablecoin needs to be considered as “significant” due to its importance/risks for the market in case of failure.

Establish authorization and supervision of companies issuing crypto-assets/stablecoins: to address the corresponding risks, the issuer and/or system operator should ideally be authorized and supervised entities. A strong rulebook should be required including clear and transparent rules for the management of the reserve (e.g. governance requirements, orderly custody and administration of reserve assets, recovery/redemption plans). Further, regulators should ensure that any issuer of crypto-assets or stablecoins fulfill the FSB principles.

Ensure financial stability: we agree with the mentioned risks to financial stability, but we would add the fact that the value and stability of a fiat currency (or even multiple fiat currencies) and the respective central bank(s) in charge might be affected (e.g. by inflation).

Understand new actors and new concepts like “decentralized finance (DeFi): we have seen in the recent past that adoption of digital assets has continued to advance. Developments have included the growth of available products globally, large inflows into crypto products traded on exchanges, increasing investor interest – although decreasing lately due to the “crypto-winter”. Further, we have observed a focus on crypto-asset trading platforms, many service offerings facilitated by the underlying technology mirroring those available in the traditional financial sector, including lending, exchange, investment management and insurance with the use of “smart contracts” or open source protocols.

It is important to develop standards/guidelines as well as rules on how to deal with such “mirrored” services and on how regulated actors could enter this decentralized space.

Monitor interlinkages carefully: despite the current crypto-asset activity being small compared to that of the overall financial sector, if the pace of growth seen in recent years continues, interlinkages with the traditional financial sector seem likely to increase and should be monitored closely. Crypto-asset markets currently do not present systemic risk to the existing financial system, however the spillover risks/unlevel competition needs to be proactively monitored with regard to financial stability risks on an ongoing basis.

Allow trusted third parties to tackle vulnerabilities: crypto-assets are still a “niche” product but need to prove the existence and amount/value of reserves they undertake at all times reliably and continuously – for this purpose specific trusted third parties with a kind of notary functions could be used.

Use established financial market infrastructures to reduce systematic risk: assets pegged to stablecoins should be ideally safekept/in custody with (I)CSDs instead of the issuer, in order to secure investor protection and financial stability, similar to funds. (I)CSDs are already following the PFMI standards and national/regional regulations and are well established tools to avoid the mentioned risks and could fulfill these functions also in the realm of stablecoins. Financial markets infrastructures are committed to the highest standards of transparency, resilience, and investor protection to support safe and stable financial markets. Exchanges play an important role in supporting the stability of the financial system and they perform numerous functions to ensure efficient risk management and financial stability.

Protect (retail-)customers: regulating crypto-asset activities is becoming more crucial as crypto markets are attracting an ever more growing retail investor community, esp. as many retail-customers directly use custodised wallets and/or even so-called “unhosted” wallets. We welcome FSB high-level recommendation and believe that the FSB should further consider strengthening its paragraph specific to “Trading platforms and other intermediaries and service providers” in its GSC Recommendation 2 and CA Recommendation 9, most notably by referring to safeguarding requirements also proposed in the EU’s MiCAR.

Support FSB recommendations: we would agree with the recommendations, but also see the need for a potential revision/detailing of these recommendations according to the results of the legislative processes at the national/regional level in the near future.

Ensure close international alignment with regard to crypto-assets and stablecoins: we would support alignment on definitions, safeguard requirements as well as on regulatory or supervisory mechanisms. This is a “new” asset-class and regulators/supervisors should use the opportunity to harmonise rules for both crypto-assets as well as stablecoins globally.