EBA BSG 2025 013 rev. 1

8 April 2025

Banking Stakeholder Group

Banking Stakeholder Group's response to Consultation on Draft Regulatory Technical Standards on the calculation and aggregation of crypto exposure values under Article 501d(5) of the CRR

The BSG considers that the proposed draft RTS is a positive step towards greater clarity of the crypto exposures that is necessary to support user confidence in crypto assets, subject to the following comments. BSG considers that the following high-level considerations should be taken into account:

1. Background

Considering the rapidly evolving crypto-market, the Capital Requirements Regulation (CRR 3) introduced a transitional prudential framework (*that BSG understand are effective as of 9 July 2024*) for institutions holding crypto-assets exposures. The provisions consider the legal requirements introduced in the Markets in Crypto Assets Regulation (MiCAR) and specify, amongst others, the capital treatment of exposures to electronic money tokens ('EMTs'), asset reference tokens ('ARTs') that reference one or more traditional asset(s) and 'other' crypto-assets - including for example ARTs referencing a crypto-asset – and – unbacked crypto-assets, such as Bitcoin.

These draft RTS further develop the relevant capital treatment for credit risk, counterparty credit risk ('CCR'), market risk ('MR') and credit valuation adjustment risk for 'ARTs' and 'other' crypto-assets exposures and align, to the extent possible, the capital treatment with the elements specified in the Basel standard on prudential treatment of crypto-asset exposures.

These draft RTS also include all the relevant technical elements on the use of netting, aggregating of long and short positions, criteria to allow hedge recognition for other crypto-assets, and the underlying formulas relevant for calculating the exposure value of crypto-assets for the CCR and MR treatment.

In addition, these draft RTS propose that all fair valued crypto assets within the scope of MiCAR under the applicable accounting framework shall be subject to the requirements for prudent valuation under the CRR 3.

Transitional provisions in the CRR 3 together with the rules set out in these draft RTS enable institutions to adequately capitalise their crypto-asset exposures until a permanent prudential treatment comes into force.

2. High level principles

Transitional rules

We understand that these RTS only cover a small part of the prudential treatment of cryptos (mainly the calculation and aggregation of crypto exposures under CRR 501d(5) and that they would apply for an interim period. According to CRR 501d(1), the Commission is tasked with the preparation of a legislative proposal which would include other rules such as liquidity requirements and leverages rules included in the BCBS standards are produced by the European Commission. These fully fledged rules were planned by June 2025 but we understand that the Commission is unlikely to do any work in 2025. Representatives of market participants of the BSG note that it would be important for them to ensure that the final rules are to the extent possible aligned with the transitional rules as market participants will spend time and resources, incur costs, in understanding and operationalising (adapting their infrastructure) these interim rules.

Furthermore, the interim rules would need to be reviewed holistically within the entirety of the final rules' framework, when available, to ensure consistency and an aggregate proportionate prudential treatment.

Level playing field

The development of these RTS as well as the final rules should take into account how these rules are implemented in non-EU countries (i.e. UK and US) in order to ensure a level playing field and ensure that EU firms remain competitive, while also safeguarding financial stability and the resilience of the banking sector.

Alignment with existing framework and international standards

The BSG welcomes that the RTS emphasises the importance of aligning with Basel standards in order to avoid conflicting frameworks and to ensure EU competitiveness while maintaining a strong framework for financial stability. Any deviations from, or gold plating of international standards (whether in the interim rules or final rules) should be carefully assessed (and justified) having regards to the global level playing field, to the principle that the rules should be risk based while also safeguarding financial stability and the resilience of the banking sector.

As an example, Basel framework stipulates that Group 2a crypto assets are subject to either the Simplified Standardised Approach or the Standardised Approach for market risk. In contrast, the

Consultation Paper on Crypto Assets Exposures would restrict the calculation of market risk capital requirements for crypto assets solely to the Simplified Standardised Approach. Some BSG members believe that many initiatives by EU financial institutions may not progress as a result, depriving European markets from the development of crypto assets and technological innovation by credit institutions and investment firms. Other BSG member agrees with the proposal for a more conservative approach on the basis that the absence of adequate safeguards could expose financial institutions to heightened financial and operational risks, potentially undermining stability.

Any deviation from Basel standards carries inherent risks, as it may trigger an unravelling of the international regulatory framework, expose the EU economy and citizens to financial stability risks. Striking the right balance is crucial – ensuring that regulations foster innovation while upholding robust prudential safeguards to protect the resilience of financial institutions and the broader financial system

Furthermore, given the interaction with the newly created framework under MICAR, we encourage the EBA to assess the state of the play of implementation of MICAR.

Technology neutral

The EU regime should be technology neutral to prevent favouring specific technologies, thereby reducing risks to financial stability by avoiding over-dependence on a single technology and ensuring that the regulatory framework remains adaptable to future developments. The Basel standard classifies digital assets on permissionless blockchains as Group 2 due to perceived risks related to technology and validation design. Some BSG members disagree with the Basel Committee's assessment and suggest that European legislative proposals should consider deviating from the Basel standard on this point in such a way that digital assets on permissionless networks should not automatically be categorized in Group 2. They believe that existing risk management and compliance frameworks (including under sectoral regulations and MICAR) to identify, manage and mitigate these risks should be a relevant consideration for such risk assessment. Other BSG members agree with the Basel Committee's view that blockchains that do not meet the classification conditions, and condition 4 in particular, are liable to pose inherently higher risks that justify their Group 2 classification. They note, moreover, that the BSG, by its mandate, does not normally advise on the content of international standards that the EU has adopted, or EU Level 1 legislation.

Rules should take into account inherent risks and be proportionate

In order to support the development of this new asset class in a safe and stable manner, rules should take into account inherent risks of crypto assets and be proportionate. Some BSG members noted some crypto assets have more inherent risks than traditional assets e.g. no intrinsic value, more speculative and volatile, risks of scam, fraud and cyber attacks. However, other BSG members were of the view that any calibration of prudential rules that overstate the risk or disproportionality could constraint the capacity to participate in crypto assets would de facto prevent the development of this market. These BSG members refer to the more technical comments below relating to these RTS and to concerns raised by the industry in respect of the level 1 text that should be taken into account in the permanent rules. These relate to risk weight for Group 1b asset referenced tokens (ARTs), increase in exposure limit, exposure to digital liabilities and permissionless blockchain and Group 2 classification.

One BSG member noted that Investment Firms (IFs) are subject to a dedicated prudential regime in IFR. However, historically some articles of CRR or Basel rules have been cross referenced into IFR without further consultation or dedicated impact assessment. Although consultations are open to all market participants, Investment firms are on average smaller than credit institutions and are less likely to have the resources to follow legislative proposals related to the implementation of the banking package and it should not be assumed that problems identified (or the lack of) equally apply to IFs. In addition, some parts of these RTS may not be relevant or compatible with the design of the K factors in IFR.

In order to ensure fair process and to develop a diverse ecosystem where investment firms can play equally an important role in the development of this market, the rules should be proportionate to the size and complexity of the business models of IFs. This BSG member would recommend that some forms of impact assessment be conducted for IFs, and with some level of engagement with stakeholders (via workshops or consultation).

Another BSG member noted however that some investment firms are part of large universal banks (some of which are systemic on a global basis).

Rules should be aligned with traditional finance concept

To the extent possible rules on crypto assets should be aligned with methodology recognised under CRR. Indeed, a digital asset that provides equivalent economic functions and poses the same risks as a “traditional asset” should be subject to the same capital, liquidity and other requirements as the traditional asset.

RTS should be aligned with the mandate at level 1

The public hearing recognised that MICAR has unintentionally omitted to address prudent valuation. Some part of these RTS aims at closing these gaps. In order for market participants to retain confidence in the legislative process, any change to the legislative framework should be subject to the co decision process.

Conversely, the mandate in Art. 501d (5) includes a specification on how to aggregate long and short exposures for the purposes of the exposure limit. However, it is not clear which question of the consultation addressed this point. We would encourage the EBA to include explicit requirements into the RTS and consult those with stakeholders.

3. BSG comments on the RTS

In addition to the high-level principles referred above, the BSG would like to make more specific comment on the RTS.

Q1: Do you agree that fair-valued crypto-assets within the scope of MiCAR should be included within the scope of the prudent valuation rules? If not, please explain.

Taking into account the possible different accounting treatment of crypto currencies (e.g. financial instruments or intangible assets), the BSG welcomes the discussion on prudential valuation rules.

For some members of the BSG, the fair-valued crypto-assets within the scope of MiCAR should not be included within the scope of the prudent valuation rules as it is not part of the EBA mandate. They point out that the EBA mandate described in CRR 501d(5) refers to those assets mentioned in 501d (2) point (b) and (c) and infer that exposures to tokenised traditional assets (such as e-money tokens, or EMTs) should be outside the scope of the RTS. These BSG members would therefore encourage the EBA to clarify the scope of exclusion. Other members of the BSG consider this is necessary for the purposes of CRR 501d (2) point (b) and (c) to clarify the application of Prudential Valuation rules to asset-referenced tokens and other crypto assets issued under MiCAR that are not financial instruments or commodities, and consider that is a prudent approach taking into account the inherent risks of crypto assets such as a lower level of observed trading or reliable pricing and higher potential risks of mismanagement and operational risks of some crypto platforms.

Some BSG members believe that crypto assets within the scope of Regulation (EU) 2023/1114 which are financial instruments or commodities and are valued at fair value under the applicable accounting framework, are already subject to the requirements for prudent valuation in accordance with Article 105 of Regulation (EU) No 575/2013 and Commission Delegated Regulation (EU) 2016/101. On the other side, as also noted in the Consultation Paper, the IFRS recognized that a holding of cryptocurrency is not a financial asset or commodities. They believe that changing the Prudent Valuation ("PV") scope of application in this RTS would lead to increased complexity for market participants where the PV scope is defined in two different RTS. They would encourage the EBA to consider the inclusion of crypto assets in PV scope within the currently ongoing revision of the RTS on prudent valuation, which would lead to a reconsideration of Article 1 in the RTS.

Other BSG members observed that the EBA has expressly reserved judgment on the sequencing of this draft RTS and the RTS on PV currently under review. They think that the EBA should prioritise legal certainty by ensuring that the applicability of prudent valuation rules to crypto assets that are not financial instruments or commodities is confirmed clearly and in the most expedient manner.

Some BSG members note, in addition, that although it is recognised that some crypto currencies are more volatile and benefit from less reliable pricing than traditional assets, the rules for exposures to crypto assets are already very prudent (e.g. 1250%) and in the case of ARTs in Europe (RW 250%). Given this conservativeness, applying an additional layer of conservatism, such as the prudent valuation adjustment, may lead to a disproportionate capital charge that would prevent the adoption of this asset class.

This would also result in some assets being treated as effectively more capital-intensive than for e.g. intangible assets and having an actual capital requirement more than 1 dollar per dollar of investment although it was also noted that some unbacked crypto assets are intangible and lack intrinsic value.

This requirement, that does not apply to US banks, will prevent EU banks to take part in this market on a level playing field basis. EU banks should be able to apply the Basel to allow them to be part of this market.

Finally, we would recommend further work be done to tie the proposed prudent valuation requirements into the applicable accounting treatments.

Q2: Do you have any concern in relation **to the application of the requirements specified in Article 105 CRR and Delegated Regulation (EU) 2016/101 (RTS on Prudent Valuation) to crypto-assets? If so, please explain.**

The inclusion of crypto assets within the Prudent Valuation scope of application should ensure that both financial instruments on crypto assets and the underlying crypto asset are included in the PV scope, to avoid possible unbalanced exposures and consequent Additional Valuation Adjustments increase.

Some BSG members therefore suggest the possibility of excluding crypto-assets subject to a risk weight of 1250% from the scope of PV to avoid a disproportionate operational burden combined with an excessively conservative assessment of risk. In particular, the cumulative application of the prudent valuation rules and the 1250% risk weight would lead to a disproportionate capital requirement (double penalty). A 1250% risk weight is a 100% capital allocation to the asset value, equivalent to the CET1 deduction of the full value. If the Prudent value deduction (direct impact on CET1) also applies to the same cryptocurrency asset value, this would lead to a cumulative CET1 deduction superior to the asset value.

The explanatory text states that crypto-assets “give rise to significant valuation uncertainty”. Some BSG members argue that this is not always the case as for example some main crypto-currencies (e.g. Bitcoin) and listed derivatives written on crypto-currencies (e.g. Futures on Bitcoin) display good market liquidity and small bid-ask spreads, leading to classification at level 1 in the fair value hierarchy with no Additional Valuation Adjustments (AVA). Those BSG members would welcome a more “nuanced” statement.

Other BSG members note that this reservation applies only to a limited number of the thousands of crypto-assets in circulation, many of which do not have any demonstrable liquidity or price transparency. They believe that there is indeed a significant degree of valuation uncertainty, which is frequently compounded by the fact that many of these assets have no intrinsic value, i.e. are not supported by assets or claims that would deliver a financial return other than speculative appreciation on the basis of market sentiment, which is by nature highly volatile.

Q3: Do you agree that a one-size fits all RW of 250% should apply also to CCR transactions requiring specifications on netting set treatment (Alternative A) or do you prefer using the counterparty's RW as is standard in CCR (Alternative B)? Please briefly justify your assessment.

Alternative B should be the preferred option as it is in line with the Basel crypto standard and general treatment. The counterparty credit risk **on** derivative/SFT transactions is on the counterparty and so should be risk weighted using the risk weight of the counterparty. A bespoke one-size-fits-all counterparty risk weight based on an underlying notional asset does not make sense and is inconsistent with the existing CCR framework. Concerns about CCR exposure to Asset Referenced Tokens should be addressed through volatility parameters in the exposure calculation. Alternative B is consistent with the existing frameworks and easier to implement for institutions.

Some BSG members believe, in addition, that the 250% risk weight is an addition in CRR3 that does not exist in the Basel crypto standards and does not reflect the thorough analysis carried out by Basel on crypto assets, and should not be used for CCR. They believe, for the sake of clarity, that this should also apply to crypto assets treated at 1250% in CRR3: their CCR should be associated with the counterpart's RW, not 1250%.

Q4: Are there any credit institutions considering implementing the alternative internal model approach during the transitional period, or **consider implementing it in the medium to long term? Would there be an impact for the development of the crypto-assets market in the EU, and/or for the capitalisation and/or business activities of European credit institutions, if the use of the alternative internal models approach in the short to medium term is not permitted?**

In recent years, some listed crypto-assets have exhibited trading volumes and volatility comparable to those of other risky assets with a correlation dynamic that could support diversification and risk reduction [1]. The market for a limited number of these established, regularly traded assets, has matured significantly, and pricing for many crypto-assets has become somewhat more reliable. Unlike the EU, other jurisdictions have not adopted such a restrictive stance. Some BSG members believe that banning the usage of FRTB A-IMA for crypto-asset exposures would be disproportionate and introduce further constraints on the development of the crypto-assets market and of business activities of European credit institutions in the EU, lowering their competitiveness with credit institutions under different jurisdictions and further discouraging the adoption of FRTB A-IMA. They argue that the proposed usage of FRTB A-SA, based on crypto-assets sensitivities, would leverage on the same pricing capability required by the usage of FRTB A-IMA.

Other BSG members disagree and note that the market for crypto-assets continues to expand rapidly, with new assets being launched on a daily basis. Only a very small number of these assets can demonstrate steady and liquid trading at high volumes over a meaningful period of time. Other assets, by contrast, exhibit little or no liquidity or trading volumes, or have been abandoned

[1] See e.g. "Bitcoin a Unique Diversifier", Blackrock Sept. 2024

altogether by their issuers and sponsors. Moreover, many crypto-assets continue to be traded on exchange platforms which are not (yet) regulated, and pricing information may therefore be incomplete and/or unreliable. These BSG members would like to express doubts that the A-IMA can be applied meaningfully to any but a very small fraction of crypto-assets, and even then modelling may be severely constrained by a shortage of reliable data.

Q5: Do you agree that the risk of default of the issuer is relevant in certain specific circumstances and therefore should be considered within the scope of this draft RTS during the transitional period or do you believe that the 250% RW for direct credit risk is sufficient to capture for this risk during the transitions period? Please briefly justify your assessment.

For some BSG members, the risk of default of the issuer should not be considered within the scope of this draft RTS.

They argue that the 250% risk weight is already more conservative than the BCBS standard and is sufficient to include all risks including the risk of default of the issuer. In addition, MICAR includes own funds requirements and governance requirements that further reduces this risk.

Other BSG members agree that the ART issuer default risk is a relevant risk consideration. There is still not sufficient empirical evidence to assess the resilience of ART models, e.g. in terms of managing reference assets and handling redemptions, and the effectiveness of recovery plans under MiCAR. Moreover, many issuers of ARTs still have only limited trading histories. The capital requirements for this risk should be aligned with the Basel standard.

Q6: How relevant is it to incorporate this differentiation for crypto-assets exposures referred to in Article 501d (2), point (c), of the CRR at this stage? Are institutions confident that they can assess their crypto-assets exposures against the **criteria set out in these draft RTS? Is there sufficient market data available to make those assessments?**

The BSG welcomes, in principle, the differentiation that is made to attempt to separate 2a from other crypto assets.

The referenced prudential distinction between liquid and illiquid crypto assets is essential. While some BSG members consider that adequate market data is available for an assessment of liquid crypto assets, others members note that many crypto assets continue to be traded on exchange platforms which are not (yet) regulated, and information on pricing and liquidity may therefore be unreliable.

Finally, although no questions have been included for consultation, Article 3 (4)(iV) enable financial institutions to offset long and short positions in a crypto asset traded in the "same market or exchange". It might be helpful to provide confirmation that this prescription refers to the exchange or market where the price of the underlying of a crypto exposure is quoted (as the price risk arises from the underlying instrument) and the EBA may want to provide some high-level examples.

Q7: For ARTs subject to the calculation of own fund requirements for market risk in this paragraph, do you agree that the risk of default of the issuer **is relevant in certain specific circumstances and therefore should be considered within the scope of these draft RTS during the transitional period as per Article 3(4)(d) or do you believe that the 250% RW for direct credit risk is sufficient to capture for this risk during the transitions period? Please briefly justify your assessment.**

Positions which include exposures to ART issuer default risk should include an assessment of the appropriate capital requirement. This should be done in line with the Basel framework for ART exposures.

Additional comments about the total exposure limit for crypto-assets referred to in Article 501d (2) point (c)

The calculation of the 1% Tier 1 limit should be clarified. The EBA mandate under CRR3 encompasses the aggregation of long and short positions for the calculation of the limit, but the details on such aggregation are not specified in the draft RTS.

The aggregate exposure subject to the 1% limit should be calculated based on the same methodology as the one used for Market Risk exposures, i.e. that at least partial netting of long and short positions be permitted.