Brussels, 8 April 2025

MR/MM

EACB comments on
Draft Regulatory Technical Standards on the calculation and aggregation of crypto exposure values under Article 501d(5) of the CRR
EBA/CP/2025/01

General comments

The EACB welcomes the opportunity to comment on the EBA draft RTS for the calculation and aggregation of exposures to crypto-assets under Article 501d(5) of CRR3. We support the objective of these draft RTS to further specify technical elements that ensure a sound prudential treatment of crypto-asset exposures in the EU, taking into consideration the Basel standard on the prudential treatment of crypto-asset exposures.

The transitional provisions in the CRR3, together with the rules set out in these draft RTS, should enable institutions to adequately cover their crypto-asset exposures until a permanent prudential treatment comes into force. In parallel, the European Commission should produce a holistic and comprehensive framework (which would also encompass aspects such as liquidity requirements and leverage rules introduced in the BCBS standards) to be submitted to the European Parliament and the Council by June 2025, in accordance with the mandate delineated in the CRR3. In this regard, it is paramount to take into account international developments and the implementation of regulatory frameworks dedicated to crypto-exposures in other major economies such as the US and the UK. It would be key to avoid any gold plating of international standards that would lead to a tilting of the global level playing field. Overly stringent requirements exceeding the Basel standards may hinder EU financial institutions from advancing key initiatives/scaling the learning curve, thereby impeding technological innovation in distributed ledger technology within the European financial sector.

Moreover, given the possible overlap between the finalisation of the EBA regime and the launch of the Commission's own reflection on the matter, it would be essential to ensure that final rules are aligned with the transitional rules as much as possible. Market participants will indeed allocate time and resources to comprehend and implement these interim rules, including adapting their infrastructure. In addition, ensuring stability in the prudential treatment of crypto-assets seems appropriate for ensuring the orderly development and understanding of this asset class in Europe, also preserving the competitiveness of EU institutions.

In addition, we emphasise the importance of applying the principle of proportionality under different aspects. A calibration of prudential requirements that overestimates risk or disproportionality constrains the capacity to participate in the market would de facto prevent any meaningful development. To the extent possible, we recommend to align the methodology with the general CRR principles. In addition, the regulatory requirements for ARTs under Article 2 of the EBA consultation paper are significantly simpler compared to the highly complex requirements for "other crypto-assets" under Article 3(1) to (5), particularly concerning CCR and market price risks. We would therefore suggest an alignment and simplification of these requirements.

Finally, as the planned implementation in areas such as counterparty credit risk requires significant adjustments to the calculation logic and the calculation kernels of the reporting software, we consider a transitional period of one year after publication in the Official Journal of the EU to be necessary, at least as an option. Within this one-year period, institutions should be given the possibility of continuing to apply the rules of Art. 501d (2) CRR in addition to the first-time application of the RTS.

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Answers to selected questions

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.

We do not agree with the proposal of including fair-valued crypto assets in the scope of the prudent valuation rules. The rules for exposures to crypto assets are already sufficiently prudent, with RW of 250% for ARTs and 1250% for other crypto-assets. Applying an additional margin of conservatism, such as the prudent valuation adjustment, seems excessive. The specific characteristics of crypto-assets, such as the lack of uniform price formation mechanisms and sometimes low market liquidity, make the application of the prudent valuation rules burdensome. Additionally, the required written documentation of the valuation process is challenging – both when valuing based on market prices and when using a model-based approach.

In addition, the proposal to apply the prudent valuation rules does not fully align with the scope of the RTS and its mandate. The article should clarify that the crypto-assets to which Art. 1 refers are those indicated in Art. 501d(2), points (b) and (c), and indeed, to ARTs that reference one or more traditional assets and other crypto-assets. Currently, the formulation of Art.1 seems to encompass all the crypto-assets within the scope of Regulation (EU) 2023/114, also including exposures to tokenised traditional assets (such as e-money tokens, or EMTs) that are outside the scope of the RTS.

It would be more appropriate to analyse the interaction between crypto-asset and prudent valuation rules in the framework of the revision of the RTS on prudent valuation itself.

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.

NA

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.

We would recommend **Alternative B**.

Art. 501d(2)(b) provides for a flat risk weight of 250% for the transitional period until the RTS comes into force. In our understanding, this risk weight is only intended to be temporarily valid until more detailed, risk-adequate methods for capital requirements are developed in the draft RTS.

Therefore, we do not consider appropriate alternative A, which still provides the same level of risk weight (250%). In counterparty credit risk, risk weights should reflect the creditworthiness risk of the counterparty. By specifying a risk weight of 250%, it becomes completely irrelevant whether, for example, an CRSA institution as a counterparty has the best credit quality step (of 1, with a regular risk weight of 20%) or the worst credit quality step (of 6, with a regular risk weight of 150%). As we do not believe that the counterparty's creditworthiness is completely irrelevant for derivatives on ART and, moreover, that the risk weight should not be mixed with issues unrelated to credit risk, we do not support Alternative A.

In addition, the SA-CCR includes a set of instruments in which the volatility and increased market risks of derivatives on ART can be appropriately taken into account in the EAD calculation, for example in the specification of crypto-specific supervisory volatilities, supervisory factors and requirements for hedging sets, as was also done in Art. 3(3)(b) of the draft RTS for other crypto-asset exposures.

Similar considerations might be made for the counterparty default risks for other risk crypto-asset exposures. Art. 501d(2)(c) CRR provides for a flat risk weight of 1250% for the transitional period until the RTS comes into force. In our understanding, this risk weight should only have temporary validity until more detailed, risk-adequate methods for capital requirements are developed in the draft RTS.

The flat-rate risk weighting of 1250% has now also been adopted in the draft RTS. We do not consider this solution to be appropriate. Risk weights should only reflect the creditworthiness of the counterparty and not the existence of increased market and valuation risks. This represents a non-transparent mixing of different risks. The risk weight of 1250% also makes it completely irrelevant whether, for example, a CRSA institution as a counterparty has the best credit quality step (of 1, with a regular risk weight of 20%) or the worst credit quality step (of 6, with a regular risk weight of 150%). We do not believe that the counterparty's credit rating is completely irrelevant for derivatives on other crypto assets.

The SA-CCR provides sufficient tools to adequately recognise increased risks in the calculation of the risk position value, as reflected in the draft RTS through increased supervisory factors and supervisory volatility as well as separated netting sets. We also believe that the risks associated with securities financing transactions are adequately taken into account by the high volatility adjustments and the exclusion of collateral recognition.

In conclusion, we are of the opinion that the risk weighting in connection with derivatives and securities financing transactions should depend exclusively on the creditworthiness of the counterparty.

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 capitalization 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?

NA

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.

The issuer's default risk should not be taken into account separately. The risk is already sufficiently included in the risk weighting of 250%. The CRSA risk weight for ART is significantly higher than for crypto-assets pursuant to Art. 501b (2) (a) CRR and, indeed, should be considered as already including the issuer's default risk.

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?

A distinction between ARTs and other crypto-assets should be permitted due to their differing structures. While most institutions currently have limited exposure to these assets, their exposure could increase over time. The existing exposures primarily involve well-known, market-traded crypto-assets, which can be relatively well distinguished.

If no differentiation is made, all "other crypto-assets" would, by our interpretation, need to be treated under Article 3(7) of the EBA consultation paper. Compared to the differentiation and treatment under Article 501d(2)(c) CRR, this approach would result in a significantly higher risk exposure value and, consequently, a greater capital requirement. This is because the risk exposure value would be based on absolute nominal value (netted for credit risk or gross for CCR) rather than on market value (as under the differentiated approach) or book value (as per CRR).

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.

NA