Paris, 8 April 2025

EBA consultation on draft RTS on the calculation and aggregation of crypto exposure values under article 501d(5) of CRR

Paris Europlace brings together more than 600 players in the financial ecosystem — banks, insurance companies, asset managers, intermediaries, fintechs, industrial and commercial companies, consulting firms, law firms, public authorities...: a unique network that brings together all the stakeholders of the Paris financial market to discuss their priorities.
Paris Europlace very much welcomes the European Commission invitation to provide feedback on the Securitisation European framework.

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Paris Europlace thanks the European Banking Authority for this consultation. Indeed, Paris Europlace wishes to contribute to the discussions being conducted by European authorities to appropriately regulate the development of crypto-assets in the European Union. This notably involves the establishment of a regulatory and prudential framework adapted to the specific characteristics of these assets, as well as appropriate supervision of the stakeholders involved.
In this regard, the prudential treatment of EU credit institutions' exposures constitutes an important lever to support this development. A balanced framework should enable banks to be involved in this dynamic, while an unusually restrictive regime could risk hampering the banking sector's involvement, to the benefit of less-regulated, less-supervised and riskier players from a financial stability perspective.
Before responding to the various questions raised by EBA in the consultation 2025/01, Paris Europlace would like to share some general considerations, in connection with certain comments or remarks expressed during the public hearing organized by the EBA on March 4, 2025 ("the public hearing").

A transitional regime already in effect and set to last

Although the regime provided for in Article 501d of Regulation (EU) 575/2013, introduced by Regulation (EU) 2024/1623 (CRR3), was designed as a transitional regime, it has already been operational since the entry into force of CRR3 in July 2024. Such transitional regime was therefore implemented ahead of the application date of most of the provisions of this text, applicable since January 1, 2025, even though certain elements of it still need to be clarified by the draft RTS (Regulation of the Tax Code) subject to the present consultation.
As the EBA pointed out during the public hearing, it is likely that this transitional regime, initially planned to last until June 30, 2025, will remain in effect well beyond this deadline. Its relevance and implementation procedures therefore require more attention given its long-term nature.

Need for International Consistency

The Basel framework must be considered in light of its implementation in other major jurisdictions. EU institutions are seeing a growing gap compared to their international competitors, which raises serious concerns about competitiveness. It is crucial to support the development of crypto-asset markets in the EU, within the framework established by MiCA.
In this regard, it seems necessary to revisit certain requirements of the Basel standard through concrete developments in the global market and the disparities in treatment between jurisdictions. For example, the total exposure limit of 1% of Tier 1 capital to Group 2 crypto-assets of the Basel standard, transposed in a downgraded and even more penalizing manner in the EU transitional regime, will severely constrain the activities of credit institutions. It will also be a driver of bank evictions and the relocation outside the EU of crypto-asset sector players, which will be unable to refinance with Eurozone institutions. Moreover, it is essential that the Basel Committee continues its work on crypto-assets circulating on public blockchains, both permissioned and permissionless, to calibrate solutions that would allow them to be classified as Group 1, which is not the case under the current standard.
Finally, the possibility of an infrastructure risk add-on, left to the discretion of supervisors and which could apply to the highest-quality of cryptoassets in Group 1, could significantly hamper the tokenization of financial markets, which we are calling for, particularly within the framework of the Savings and Investments Union.

Points of attention on the European transitional regime

The EU transitional treatment is, in some respects, even stricter than the Basel standard. In particular, it penalizes stablecoins issued in compliance with MiCA, backed by traditional assets, by applying a 250% weighting to them, whereas the Basel standard provides for the application of the weightings of the underlying traditional assets.
Furthermore, the classification of crypto-assets adopted in the transitional regime differs significantly from that of the Basel standard. It will lead credit institutions to temporarily apply a different and more restrictive framework, than that which will ultimately result from the full transposition of the Basel standard into EU law. Moreover, this will set an unfavourable precedent for the development of international activities.
Finally, certain provisions of the draft RTS raise questions. For example, the rule that crypto-assets referred to in b) of Article 501d (2) may not be used as collateral to mitigate credit risk does not directly stem from the Level 1 text. This prohibition, which would merit consultation, appears excessive. Similarly, the EBA's ban on the use of certain advanced methods for calculating market or counterparty risks appears disproportionate, or at the very least unjustified. For these reasons at least, the full implementation of the transitional regime provided for in Article 501d should be carefully considered in light of the eviction effects on EU establishments that it could have, possibly to the benefit of unsupervised players or those based in jurisdictions where prudential regulation is non-existent or not very advanced on these subjects.

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 seek further clarification on the scope of prudent valuation (PVA) and the criteria used to determine which crypto-assets are subject to it. Indeed, pursuant to the mandate given to the EBA, it should be clarified that the question of the application of the prudent valuation rules in the present CP arises in this CP only with regard to crypto-assets mentioned in 501d2(b) and (c).
Also, we stress the necessity of ensuring legal consistency between the future revised RTS on prudent valuation and the current RTS on crypto-assets. Extending the scope of PVA to assets that do not qualify as financial instruments or commodities, even if they fall under MiCAR, may lead to regulatory inconsistencies and difficulties in implementation.
Furthermore, we highlight the need to avoid the double counting of risks when calculating PVA, particularly in cases where crypto-assets are already subject to high-risk weights such as 1250%. Such cumulative conservatism could result in an excessively severe risk assessment.

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.*

We propose assessing the relevance of excluding crypto-assets assigned a 1250% risk weight from the scope of PVA. We invite the EBA to provide an opinion on this approach, as it would help avoid disproportionate operational burdens coupled with overly conservative risk assessments.
Specifically, applying both PVA and a 1250% risk weight could result in a disproportionate capital impact. A 1250% risk weight implies full capital deduction of the asset's value (equivalent to a CET1 deduction). If the prudent valuation adjustment also applies directly to CET1, the combined deductions could exceed the asset's full value.
When combined with the 1% Tier 1 exposure cap for such crypto-assets, the resulting treatment appears excessively punitive.

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.*

The application of the "one size fits all" approach does not seem appropriate. Indeed, it introduces an inconsistency in the definition of counterparty risk, which is a bilateral risk. The weighting to be assigned concerns that of the counterparty that could default on its obligations. Applying such a weighting would amount to taking into consideration the underlying asset and not the counterparty at risk. However, the risk linked to the underlying asset is already taken into account by the CCR exposure calculation. Consequently, alternative B seems more appropriate and consistent with current practice.
For consistency, we recommend applying the logic of Alternative B to exposures under Article 501d(2)(c) that meet the hedging recognition criteria. This would promote a more coherent and risk-sensitive approach across all crypto-asset exposures.

1. **Risk weight of the counterparty should apply to CCR exposures**

For exposures under Article 501d(2)(c) that meet the criteria in Article 3(1) of the draft RTS

(equivalent to Basel's Group 2a), Article 3(2) is silent on the applicable risk weight for CCR exposures. While it clearly refers to the 1250% RW for credit risk in the first sentence, the CCR treatment is not explicitly addressed.
We interpret this as meaning that the counterparty's risk weight should apply in CCR calculations (rather than 1250%), given that the exposure itself is already conservatively calculated. Accordingly, we recommend that the EBA amend Article 3(2) as such:
"Institutions shall follow the requirements specified in Part Three, Title II, Chapter 2, of Regulation (EU) No 575/2013 which refer to own funds requirements for credit risk, applying the 1250% risk weight, for calculating own funds requirements for exposures referred to in Article 501d(2), point (c) of Regulation (EU) No 575/2013 that meet the criteria laid down in paragraph 1 of this Article.
When institutions calculate the exposure for these crypto-assets, the specifications of paragraphs 3 and 4 of this Article apply ***and the risk weight of the counterparty will apply when computing own funds requirements for counterparty credit risk***".

Suggested amendment to Article 3(3)(c):
"where a netting set contains derivatives on traditional assets or crypto-assets referred to in Article 501d(2), point (a) or (b) of Regulation (EU) No 575/2013, and derivatives underlying crypto-assets referred to in Article 501d(2), point (c), of Regulation (EU) No 575/2013 institutions can assign the crypto-assets referred to in Article 501d(2), point (c) of Regulation (EU) No 575/2013 in their own separate netting set ~~***and apply the risk weight re[1]ferred to in paragraph 2 of this Article to this separate netting set***~~".

We caution that applying a 1250% RW to CCR exposures for crypto-assets meeting Article 3(1) conditions would have unintended effects:
- from a capital perspective, the exposure is already subject to a conservative computation; applying an additional 1250% RW would amount to unjustified double counting and a deviation from Basel rules for Group 2a;
- operationally, this could complicate financing of client portfolios containing both traditional and crypto-assets. Banks would need to split exposures by asset type and apply different risk weights, despite collateralization being based on the overall portfolio.

2. One single netting set for IMM banks should be allowed in mixed pools

For securities financing transactions (SFTs) involving crypto-assets under Article 501d(2)(c) that meet the hedging criteria, the standard FCCM approach under Article 220 should apply. Since the draft RTS does not specify how to handle SFTs involving both traditional assets and these crypto-assets, we ask the EBA to confirm that IMM banks may maintain a single netting set consistent with risk management practices (especially in prime brokerage).
The same approach should apply to derivatives with mixed underlyings.
A separate netting set for such crypto-assets may still be used optionally for operational purposes, as foreseen in the draft RTS.

Suggested amendments:
Article 3(3)(b)(ii) as such:
"Institutions shall not use the internal model method or the simplified standardised approach for the calculation of their own funds requirements for counterparty credit risk for derivatives

on crypto-assets; ***in the case of derivatives on both crypto-assets and traditional assets, institutions may continue to use IMM***"

Article 3(3)(a) as such:

"Institutions calculating the net exposure to the counterparty for securities financing transactions with a crypto-asset as underlying, shall apply the requirement set out in Articles ***220*** and 223 to 228 of Regulation (EU) No 575/2013 as applicable for traditional assets, without recognising the crypto-assets as eligible collateral. Institutions that lend these crypto-assets shall apply a volatility adjustment of 30% that is consistent with the volatility adjustment appropriate for other non-eligible securities laid down in Article 224(4) of Regulation (EU) No 575/2013***; in the case of SFTs with underlyings on both crypto-assets and traditional assets, institutions may continue to use IMM. In that case, institutions may use a single netting set but can also assign the crypto-assets referred to in Article 501d(2)(c) of CRR3 in their own separate netting set*****"**.

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?*

Most institutions contributing to this consultation do not plan to use internal models during the transitional period. However, we believe it is important to be able to maintain this alternative in the medium to long term.

Indeed, in the medium to long term, the development of trading activity will be key to ensuring liquidity in the crypto-asset market. Should client demand for this asset class increase, banks that are already authorised to use the new internal model approach (FRTB A-IMA) may naturally choose to include these exposures in their models and should not be restricted from doing so.

We also highlight that the treatment of crypto exposures under Article 501d(2)(c) does not fall within the scope of the mandate under Article 461a of the Delegated Act that defers the FRTB application. However, the RTS currently under consultation only allows the use of the Standardised Approach (SSA) during the FRTB transition period. As this constraint is not imposed under CRR3's transitional framework, we request a re-evaluation of this restriction in the context of the broader FRTB postponement.

This also raises a broader issue concerning SSA usage over the longer term: it is unclear whether banks that do not meet the requirements of Article 325a(1) of CRR3 will be allowed to use the SSA for crypto-asset market activities.

Additionally, we note that both the RTS proposal and the Basel consultation remain silent on how to treat repo rate risk factors for crypto-assets under Article 501d(2)(c) in the Standardised Market Risk Approach. We propose the following:

- Use a delta calculation method equivalent to that for equity repo rate risk factors;
- Crypto-asset (c) repo rate risk factors should only be subject to delta capital requirements (not vega or curvature);
- Risk Weight (RW): 1% (equivalent to 100%/100);
- Correlation parameter (ρ): 99.9% between repo rate and other risk factors.

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.*

We consider that the application of a 250% weighting to cover the risk of default of the issuer of a token defined in Article 501d(2), point (b) is very penalizing given that this risk is limited. Indeed, the risk of default of the issuer seems to us to already be taken into account through the regulatory and prudential obligations incumbent on it within the framework of MiCAr (capital requirements, and constitution of reserves composed of highly liquid assets in particular). Consequently, the application of such a weighting would lead to a double penalty, both for the issuer and for the bearer.

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 conditions set out in Article 3(1) of the draft RTS are consistent with those defining Group 2a crypto-assets under the Basel standard SC0.60. We welcome this differentiation as it appropriately reflects the lower risk profile of such assets.
Though it goes beyond the scope of the question, we wish to offer additional comments regarding netting:

- According to Article 3(4)(a)(iv), institutions must identify gross long and short positions separately for each market and exchange, and may only offset positions within the same market or exchange.
- We request clarification from the EBA on the terms “market” and “exchange” in this context. Based on discussions at the public hearing, we understand these terms may be used interchangeably, but confirmation would help ensure consistent implementation. In particular, we would appreciate confirmation that:
    - “Market” or “exchange” refers primarily to the risk drivers behind a position, i.e. the main source of value fluctuation;
    - For direct exposures, this would be the trading venue where the underlying crypto-asset is listed;
    - For ETFs/ETNs, the primary risk factor depends on the treatment. If a look-through approach is applied as for CIUs, the underlying crypto-asset’s price/reference rate is the risk factor. If not, then the price of the ETF/ETN itself is the primary risk factor;
    - For derivatives, the underlying crypto-asset (or its referenced asset, if look-through is applied) determines the risk factor.
    - For example, an OTC derivative referencing an exchange-traded ETF, and the ETF itself traded on the same exchange, both reference the same risk factor and should be fully offsettable under Article 3(4)(a)(iv).
    - A more complex example: an ETF traded on exchange X, referencing Bitcoin on crypto-exchange Z (ETF_X(BitcoinZ)), and another ETF referencing the same Bitcoin but traded on exchange Y (ETF_Y(BitcoinZ)). The ETFs’ spot prices differ, so without look-through, they are not the same risk factor and cannot be offset. If look-through

is applied, both reference the same Bitcoin and netting should be allowed. A confirmation on this would be welcome.

Questions 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*

Please see our response to Q5.

Additional Comments

Total Exposure Limit for Crypto-Assets under Article 501d(2)(c)

We would like to highlight the need for clarification on how to calculate the 1% Tier 1 capital limit. While the EBA's mandate under CRR includes aggregating long and short positions for this limit, the draft RTS does not detail how this aggregation should be performed. We believe the same methodology used for market risk exposures should apply, allowing at least partial netting of long and short positions.
We would like to raise the following specific points:

- Which exposures should be included in the 1% limit?
    - Example 1: In a reverse repo transaction where fiat currency is lent against a crypto-asset received as collateral, the crypto-asset received reduces rather than creates counterparty credit risk and should not count toward the limit. Could the EBA confirm?
    - Example 2: An equity investment in a company (e.g. MicroStrategy) heavily invested in crypto-assets should not be considered a crypto-asset exposure under Article 5a(3) of CRR3. Could the EBA confirm?
- When a crypto-asset SFT or derivative is subject to both market risk and CCR risk weights, should the 1% limit be based on the exposure calculated under market risk or under CCR?