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EBF response to the EBA CONSULTATION PAPER ON Draft Regulatory Technical Standards (RTS) on cryptoassets exposures.

GENERAL REMARKS

EBF appreciates the opportunity to provide feedback on the EBA's draft Regulatory Technical Standards (RTS) on the prudential treatment of crypto-asset exposures. Our comments aim to ensure that the final RTS strikes an appropriate balance between prudential rigor and fostering innovation within the European financial sector.

A primary concern is the potential for a competitive disadvantage for European banks if the prudential requirements are excessively stringent compared to those in the United States, the UK or Switzerland. It is imperative that the EBA adopts an approach that does not stifle innovation or hinder the ability of European institutions to compete effectively on a global scale.

In addition, another concerning point that could be raised is whether the scope of this EBA RTS perhaps exceeds the mandate stemming from CRR3 501d(5) to develop an RTS in order to "specify the technical elements necessary for the institutions to calculate their own funds requirements in accordance with the approaches set out in paragraph 2, points (b) [i.e. ARTs] and (c) [i.e. other crypto-assets], including how to calculate the value of the exposures and how to aggregate short and long exposures for the purposes of paragraphs 2 and 3".

Furthermore, it is stated that "in developing those draft regulatory technical standards" EBA shall take into consideration the BCBS standard. However, it might be understood that the proposed RTS presumes some of the solutions (e.g. incorporating certain BCBS concepts beyond the assigned scope of this RTS) intended by CRR3 501d(1) to be adopted by the European Parliament and the Council based on a separate legislative proposal by the European Commission. For example, such an EC mandate explicitly encompasses "specific own funds requirements for all risks entailed by different crypto-assets".

Besides, consistency with international standards, particularly those previously set by the Basel Committee on Banking Supervision (BCBS), which could be smoothed in upcoming months, is of utmost importance for competitivity. Over-implementation from these standards could place European banks at a disadvantageous position.

Exposure limit and requirements

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By considering the better and deeper understanding of DLTs and digital assets matured over years by banks and the evolution of the relevant risks frameworks that now include also such kind of risks, we believe that an exposure limit of at minimum 2% for the "Other" category would be adequate (the Banking Committee on Banking Standards - BCBS recommends an exposure limit between 1% and 2%). Or at least EBA should justify the reason why opting for the lower bracket is required and under which risks.

Permissionless Blockchain classification

As Financial Institutions have progressively excelled at their knowledge of DLTs similarly to Regulators (by considering, for instance, the number of pilots/experiments executed on permissionless blockchains by many central banks), EU legislation should evolve from the BCBS provision that consider more risky by definition the digital assets on permissionless blockchains (for this reason included under the so-called “Group 2”, the more risky one); we deem that such assets should be considered less risky, so they should fall under Group 1.
In addition such approach, by decoupling evaluation from the underlying technology, it would make the legislation technology neutral (as it is expected to be).

QUESTIONS LISTED IN THE EBA CONSULTATION PAPER

Q1: ***Prudent Valuation (PVA) and Crypto-Assets***
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 clarification regarding the scope of prudent valuation and the criteria for determining which crypto-assets fall within its ambit. Specifically, we question the limitation of prudent valuation to crypto-assets that are subject to the Markets in Crypto-Assets Regulation (MiCAR). It is essential to define the treatment of other crypto-assets excluded from this scope.
Furthermore, we emphasize the importance of avoiding double counting in the calculation of the PVA, which could lead to an excessively conservative assessment of risk.

From a formal point of view, we underline that it should be clearly stated that the digital assets in the scope of MiCAR relevant to traditional/non-crypto asset, i.e. e-money tokens (e-MT) should be excluded from the scope of RTS, as their value doesn’t change, so the relevant exposure is irrelevant under the consultation perspective.

On the other hand, Asset Reference Tokens (ART) fall with no doubts within the scope of the RTS.

Q2: **Application of Article 105 CRR and Delegated Regulation (EU) 2016/101 on Prudent Valuation**

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.

• In particular, it could be demonstrated that the cumulative application of the prudent valuation rules and the 1250% risk weight would lead to a disproportionate capital requirement (double penalty). Indeed, 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. In this regard, we would like to ask the EBA whether such double punitive treatment of crypto assets is a) actually proportional to the risk and b) not stifling innovation to an undesired extend. While current exposures for banks might be immaterial the application of the risk weight and the CET1 deduction will also ensure that it stays this way even if banks were interested to develop into this space. Competitiveness is an important consideration here.
• However, it should be reminded that it is not something specific to crypto-asset exposures (for instance, same double penalty also applies for fair-valued equity tranches of securitization positions) and also exists for lower risk weights percentages.
• We call for further guidance on the accounting treatment of crypto-assets under International Financial Reporting Standards (IFRS). It should be specified that crypto-assets should not be treated as intangible assets under the relevant article but as per this RTS.
• In the context of simplification and coherence in the Prudent Valuation framework, we ask that any amendments, current or upcoming, to Prudent Valuation related to the framework for crypto- assets be consolidated within Delegated Regulation 2016/101.
• The explanatory text states that crypto-assets "give rise to significant valuation uncertainty". This sentence is actually false in a number of important cases: for example, main crypto-currencies (e.g. Bitcoin) and listed derivatives written on crypto-currencies (e.g. Futures on Bitcoin) display significant market liquidity and small bid-ask spreads, leading to classification at level 1 in the fair value hierarchy and null Additional Valuation Adjustments (AVA). We report in Appendix 1 market evidence supporting this point. Accordingly, we suggest avoiding this undue generalisation in the RTS.

Q3: **Uniform 250% weighting for CCR transactions (Alternative A) vs. using the counterparty's RWA (Alternative B)**

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 express a strong preference for Alternative B, which aligns with standard practices for calculating Counterparty Credit Risk (CCR) by utilizing the Risk-Weighted Assets

(RWA) of the counterparty. Alternative A, which imposes a uniform 250% weighting, appears unduly conservative and not risk-sensitive.
• In the interest of consistency, we propose extending the logic of Alternative B to Category 3 assets, including those weighted at 1250%. This would ensure a more coherent and risk-proportionate approach across the spectrum of crypto-asset exposures.

Overall it adds a bit of complexity making it expensive for banks to experiment and innovate with these types of exposures, not only necessarily because of the RWA but also from all the analysis work required for the different areas (credit risk, prudent valuation, CCR exposure values, market risk own funds requirements, CVA risk), in addition to subsequent implementation work needed in all these areas for what very likely will be relatively small positions.
A flat risk weight of 250% up to a certain amount (relative to a certain % of the institution's Tier 1 capital) of crypto-asset exposures, calculated in a similar way as instructed by 3(6) could be preferrable. Then only once you go above such an amount, you would be required to have the implementation in all the individual areas as described by the RTS.

1. The RW of the counterparty should apply for counterparty credit risk

• For exposures referred to in Article 501d(2)(c) that meet the conditions laid down in Article 3(1) of the draft EBA RTS (those are equivalent to Group 2a under Basel rules as they meet the hedging recognition criteria), Article 3(2)* of the draft RTS is silent** on the RW to be applied (only the conservative calculations of the exposure are mentioned in the second sentence) in the case of indirect exposures giving rise to Counterparty Credit Risk (CCR) whereas the 1250% RW in the case of Credit Risk (CR) is clearly recalled in the first sentence, as per the RW of 1250% to be applied for direct credit risk and as per CRR3 Article 501d(2)(c).

For the avoidance of doubts, it is our understanding that the usual CCR approach should be used as far as the RW of the counterparty is concerned (the counterparty's RW will be used instead of 1250%) whereas the exposure has already and naturally a more specific and conservative treatment. Therefore, we recommend the EBA to 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".

Article 3(3)(c) as such:

"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 referred to in paragraph 2 of this Article to this separate netting set".

We would like to remind the EBA that a RW of 1250% in the case of CCR exposures (for exposures that meet the conditions laid down in Article 3(1)) would lead to unintended consequences, in terms of undue capital outcome and operational complexity ; in combination with small exposures and an exposure limit operational efforts can become disproportional to the risk.

• From a capital point of view (in the case of an indirect exposure), the crypto-asset already gives rise to a specific and conservative computation of the exposure*** : applying a RW of 1250% (instead of the RW of the counterparty) in addition to the conservative treatment of the exposure implies an undue and unjustified double counting treatment in the CCR framework and would imply a deviation from Basel for Group 2a
• From an operational point of view, it could lead to unintended consequences, for instance in the case where a bank finance a client's portfolio that is composed of traditional assets and crypto-assets, collateralized by this portfolio. In that case, it would imply to split the exposure into the part of the exposure with a RW of the original client (that corresponds to traditional assets that are financed) and the part of the exposure with a RW of 1250% (that corresponds to the crypto-assets that are financed), while financing level is provided to the client with collateralization requirements which depend on the full portfolio composition and diversification.

2. For mixed pool, one single netting set should be allowed when computing the exposure value for IMM banks

• When computing the exposure value for securities financing transactions (SFTs) referencing crypto-assets referred to in Article 501d(2)(c) that meet the hedging recognition criteria, the standard method (FCCM) shall be used. As the EBA draft RTS is not precising the calculation methodology in the case of SFTs that are referencing both (i) traditional assets or crypto-assets referred to in Article 501d(2)(a) or (b) and (ii) crypto-assets referred to in Article 501d(2)(c) that meet the hedging recognition criteria, we ask the EBA to confirm that IMM banks that finance a pool of clients assets can continue to have a single netting set with (i) and (ii), in line with risk their management practices (in particular in the prime brokerage activity). Assets financed that corresponds to (ii) will be considered as non-eligible collateral as per the EBA draft RTS, while such lent assets will have a volatility adjustment of 30%

• The same logic (one single netting set) should apply in the case of derivatives with (i) and (ii) as underlyings for IMM banks.

• That being said, for SFTs and derivatives, we agree that an own separate netting set for (ii) assets may be used as an option for operational reasons, as described in the EBA draft RTS in the case of derivatives (Article 3(3)(c) as per above proposed amendment).
We therefore recommend that EBA amend :

Article 3(3)(b)(ii) as follows:
« 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 follows :
« 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 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 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: **Implementation of the Alternative Internal Model (IMA) approach**

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?*

We wish to emphasize that the current transitional regime does not explicitly prohibit the use of Internal Models (IMM) for calculating capital requirements for crypto-asset exposures. We are open to engaging in further discussions with the EBA regarding the potential for incorporating IMM approaches in the future.

Q5: **Default risk of the issuer and 250% weighting for direct credit risk**

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.

Under the CRR3 transitional treatment, the standard 250% applies to "asset referenced tokens whose issuers comply with Regulation (EU) 2023/1114 and that reference one or more traditional assets". We believe such assets, which under Basel would be treated in transparency on the traditional assets they refer to, and are stringently framed under MICA by various EBA RTS, do not carry the level of credit risk encompassed by a 250% risk weigh and are hence unduly penalized by the transitional CRR3 treatment. It should also be reminded that the EBA RTS in consultation with Article 2(3)a does not allow the use of article 501d(2)b crypto-assets as eligible collateral. We consequently believe that the 250% risk weigh assigned to article 501d(2)b crypto-assets in CRR3 is largely sufficient to capture all kind of risks on these assets risks, including the default of the issuer of such ARTs.

We seek additional clarity regarding the sufficiency of the 250% weighting for direct credit risk to adequately capture the default risk of the issuer, particularly in specific scenarios. A more granular approach to risk weighting may be warranted.

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 introduced in Article 3(1) of the RTS in consultation are consistent with the conditions of crypto-assets defined as Group 2a crypto-assets under the Basel standard SCO.60. The differentiation introduced by the EBA in the RTS in consultation is welcome as it appropriately reflects the level of lesser riskiness of such assets. Although this goes beyond the question raised here, we would like to share our views about nettings :

- According to article 3.4.a, point iv, institutions shall "identify their gross long and short positions in the crypto-asset separately for every market and exchange where they are traded. Institutions may offset gross long and gross short positions in a crypto-asset traded in the same market or exchange".
- We would welcome clarification from the EBA regarding the overlap of "Market" and "Exchange" concepts in the context of market risk requirements. We infer from the Public Hearing that both could be used in the same meaning but would welcome a confirmation by the EBA to ensure consistent application of the RTS across institutions. In particular, we would appreciate confirmation on the following :
- the market or exchange should primarily refer to the risk drivers of the position, based on the main source of change in value of the position in crypto-assets,
- For direct exposures, the market or exchange should refer to negotiation platforms where the underlying crypto-assets is publicly traded,

▪ For a crypto ETF/ETN, the primary risk factor should either be the price/reference rate of underlying crypto assets (when a look-through treatment as a collective investment undertaking is applied), or the price of the ETF/ETN itself (when look-through treatment is not applied). For a crypto derivative, the primary risk factor should be the price of its underlying asset or, when look-through is applied to the latter, the price of underlying crypto assets.
▪ For example, we consider that an OTC derivative (for example a swap, fulfilling the conditions set in article 3(1) of the RTS in consultation) referencing an exchange traded ETF traded on a given exchange, and the exact same ETF traded on the same exchange create "positions traded on the same exchange", i.e. refer to the same risk factor and can be fully offset according to article 3.4.a, point iv.

Q7: **Default risk of the issuer and 250% weighting for ART**
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.*

• Other Points :
Furthermore, we support the flexibility to maintain a single netting set for crypto-asset exposures, while acknowledging that the current proposals do not allow for any offset for derivatives. We request that the EBA consider this aspect further to ensure that netting benefits can be appropriately recognized.

Likewise, regarding the correlation parameter ρ_kl referred to in Article 3.4.b.xi of the RTS:
The current setting of ρ_kl at 94% has a disproportionately penalizing effect on the use of derivatives referencing ETFs and other liquid instruments linked to crypto-assets. For instruments meeting the criteria under Article 3.1, delta hedging within the trading book is not expected to present significant challenges, due to their high liquidity and market capitalisation.
Given both the relatively low risk associated with hedging such instruments and the punitive im-pact of the current correlation assumption, we would ask the EBA to consider the revision of this parameter (similar to the approach taken for other asset classes, such as carbon-related instruments).

Annex 1: Evidence for supporting market liquidity

In this appendix we report evidence of market liquidity for the most important crypto-assets, i.e. crypto-currencies, Futures, and Exchange Traded Products (ETP).
1) **Crypto-currencies**

The following *Table 1* and *Figure 1* report evidence of market liquidity for the most important crypto-currencies. Table 1 reports historical annual volatility, average daily volume, market capitalisation for three crypto-currencies, Bitcoin, Ethereum and AAVE, selected as representative of large, medium and small capitalisation, respectively. We observe that both market capitalisation and average daily volumes are very high, and the historical volatility is relatively small. To better appreciate these characteristics, in Figure 1 we compare these crypto-currencies with the components of two US equity indexes, Russell 2000 and S&P 500, representative of small and large cap US stocks, respectively. We observe that the crypto-currency volatility is smaller than many small-cap components of Russell 2000, especially for BTC and ETH (top left chart), while the volumes are much larger (top right chart). Volumes are even higher than large-cap components of S&P 500, except for AAVE (bottom right chart), while volatilities are higher, for AAVE in particular (bottom left chart).

Table 1: liquidity evidence (historical volatility 260 days, average daily volume, market capitalisation) for three crypto-currencies (Bitcoin, Ethereum, AAVE), selected as representative of large, medium and small capitalisation, respectively. Source: Bloomberg as of 21 March 2025 17.00 CET.

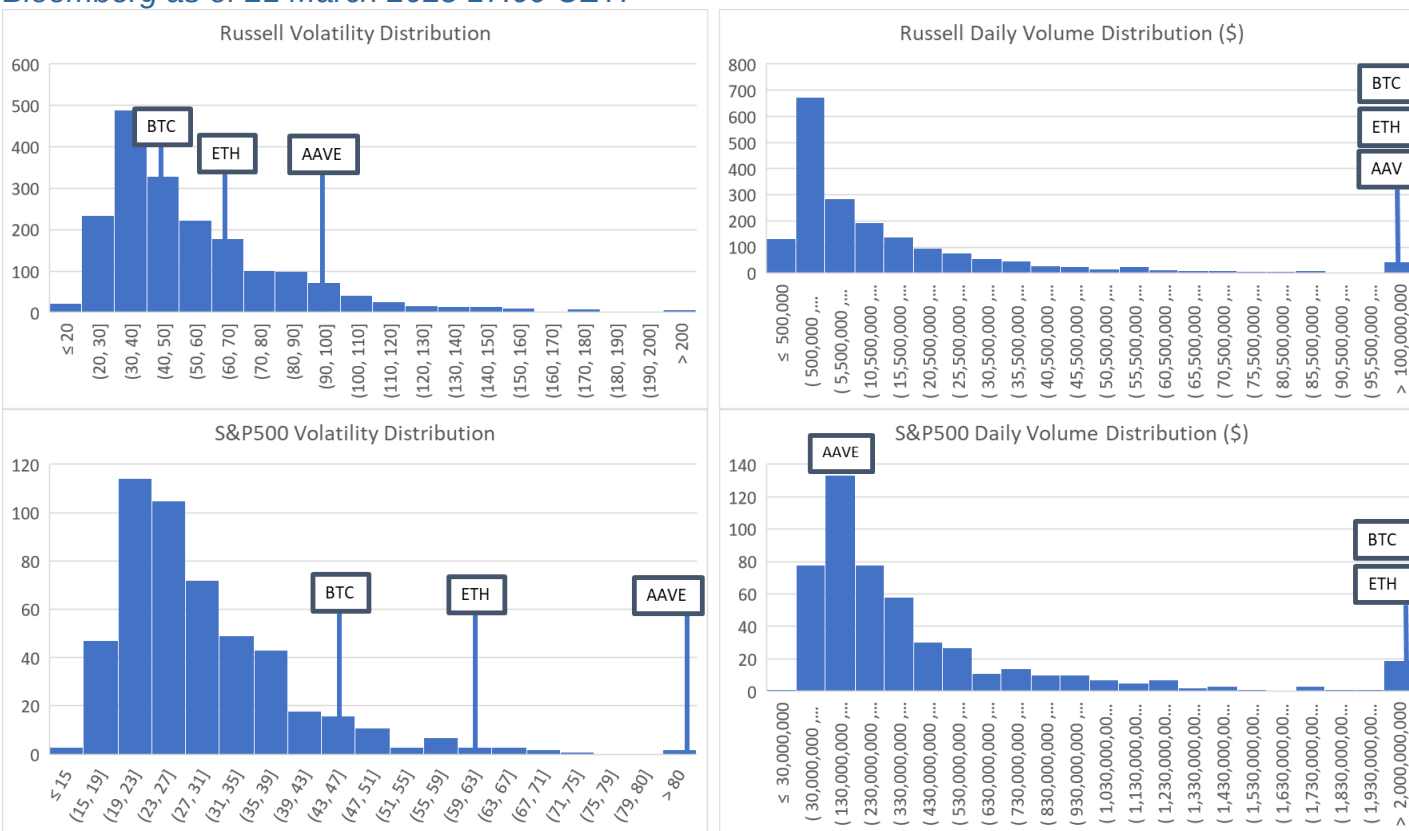

Figure 1: historical volatilities (left charts) and daily volumes (right charts) distributions of Russell 2000 (top) and S&P500 (bottom) indexes components (representative of small and large capitalization U.S. stocks, respectively). Source: Bloomberg as of 21 March 2025 17.00 CET.

2) Futures

The following Table 2 and Figure 2 report evidence of market liquidity for CME Futures on two crypto currencies (Bitcoin and Ether). The market trades essentially the first two Futures with very high volumes, small ask-bid spreads, and similar volatilities.

	Volume (avg 20 days USD)	Open interest	Price Bid	Price Ask	Price Ask-Bid	Price Ask-Bid (%)	20 days volatility
CME Bitcoin Fut Mar25	4,867,243,411	15,348	83,715	83,755	40	0.05%	64.3%
CME Bitcoin Fut Apr25	983,858,842	13,983	84,370	84,435	65	0.08%	64.5%
CME Bitcoin Fut May25	29,576,520	504	84,950	85,030	80	0.09%	64.7%
CME Bitcoin Fut Jun25	9,129,527	202	85,450	85,595	145	0.17%	64.9%
CME Ether Future Mar25	938,121,310	12,343	1,967	1,968	1	0.05%	78.2%
CME Ether Future Apr25	164,736,686	5,955	1,977	1,979	2	0.08%	79.0%
CME Ether Future May25	1,959,596	237	1,990	1,999	9	0.45%	78.7%
CME Ether Future Jun25	405,658	37	1,998	2,009	11	0.52%	78.7%

Table 2: main Futures on crypto-currencies (Bitcoin and Ether). Source: Bloomberg as of 21 March 2025 17.00 CET.

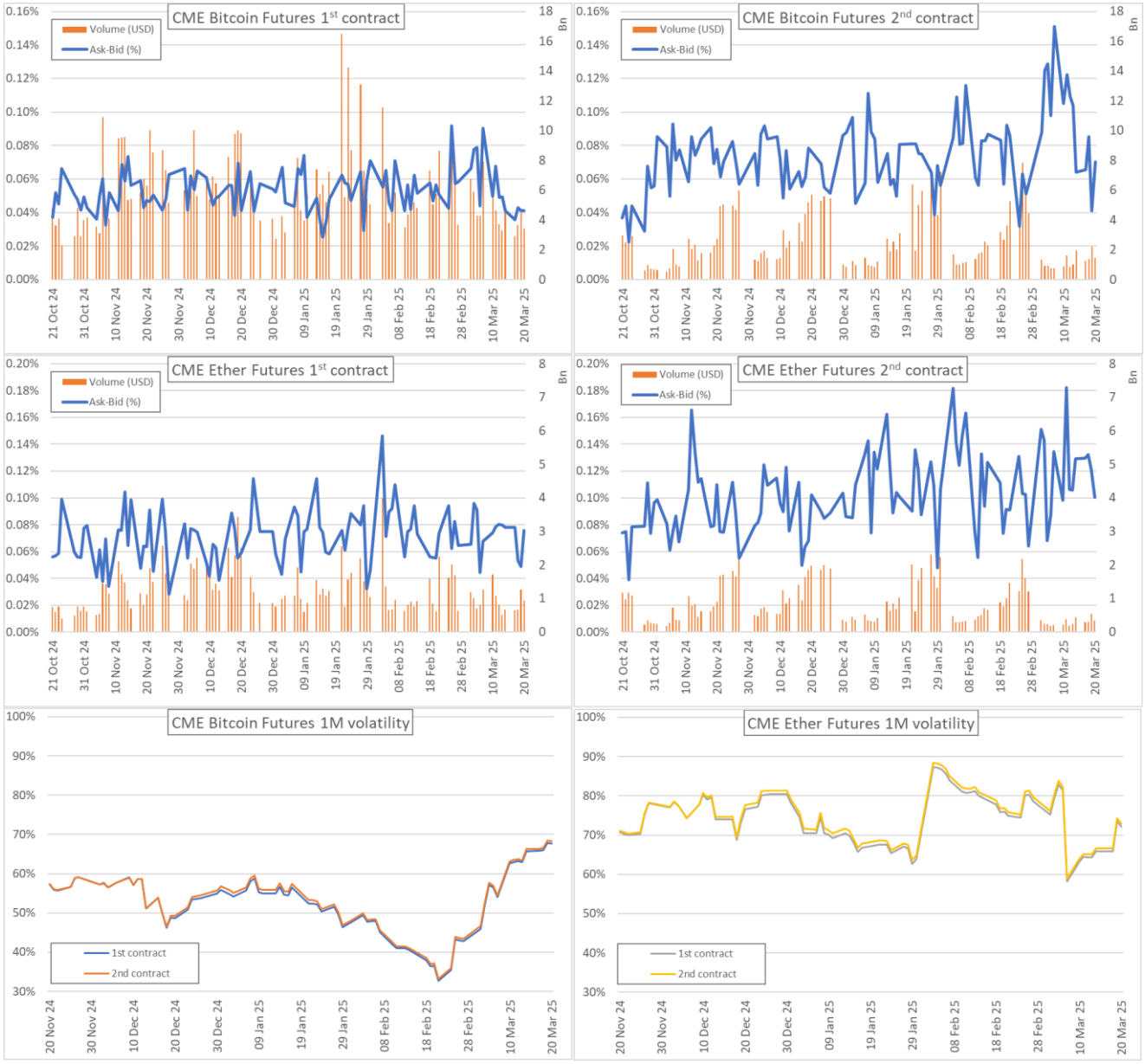

Figure 2: main Futures on crypto-currencies (Bitcoin and Ether). Source: Bloomberg data from 21 October 2024 to 20 March 2025.

To better appreciate the liquidity characteristics of Futures on crypto-currencies, we report in Figure 3 the same data for two liquid futures on equity indices (FTSE MIB and S&P/TSX Index), and we compare the average values in Table 3. We observe that both bid-ask and volumes are fairly similar with the bid-ask for FTSE MIB even larger than the others.

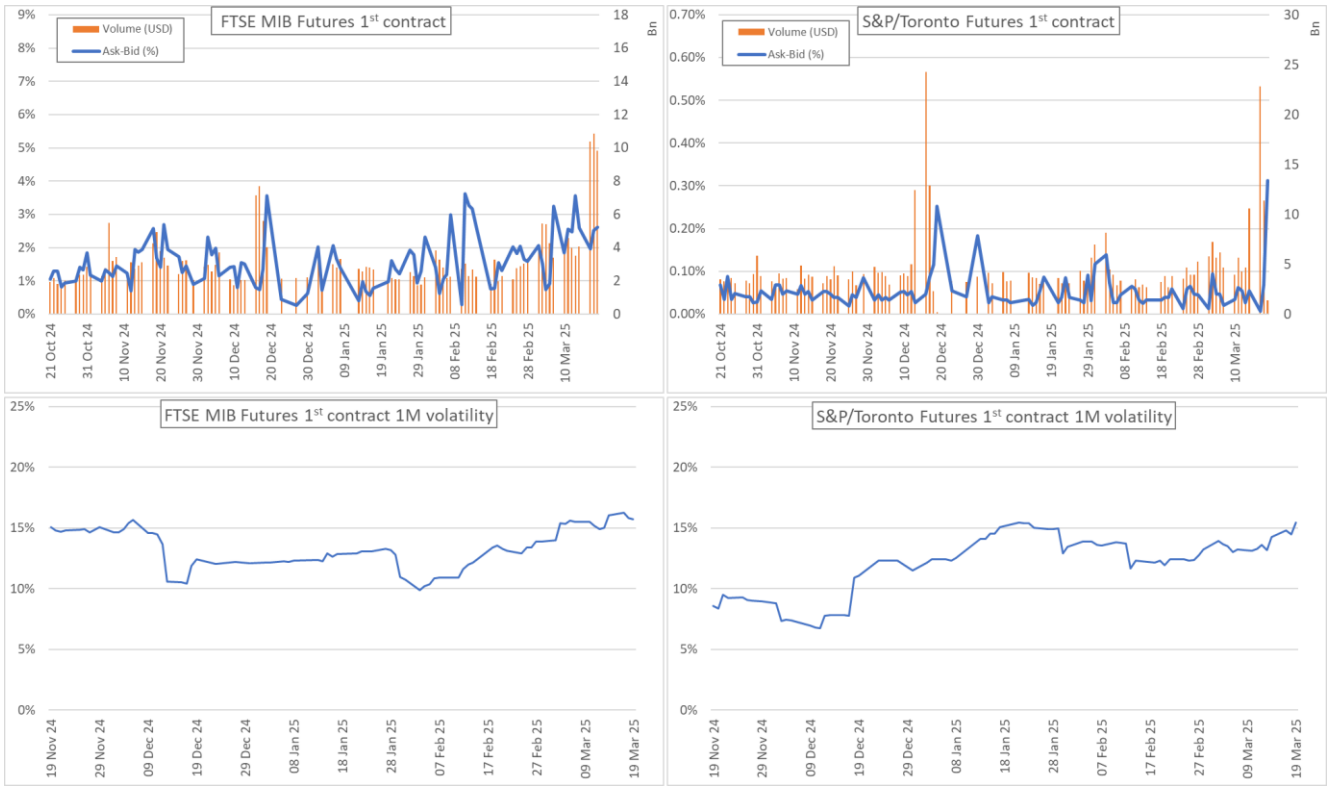

Figure 3: Futures on equity indices (FTSE MIB and S&P/TSX Index Source: Bloomberg data from 21 October 2024 to 20 March 2025.

	Bid-Ask (%)	Volume (USD)
BTC1	0.05%	6,119,319,502
BTC2	0.07%	2,572,576,770
ETH1	0.07%	1,283,727,870
ETH2	0.10%	841,473,583
FTSE MIB	1.56%	3,197,154,399
S&P/TSX	0.05%	4,581,417,051

Table 3: average bid-ask and volumes for the period from 21 October 2024 to 20 March 2025.

3) Exchange Traded Products (ETP)

The following Figure 4 reports evidence of market liquidity for main US Exchange Traded Funds (ETF) (left chart) and Exchange Traded Products (right chart). The percentage ask-bid spreads results to be quite small, with the smallest values corresponding to the largest average trading volumes. The figures also include a few ETFs on equity indices which show comparable liquidity characteristics.

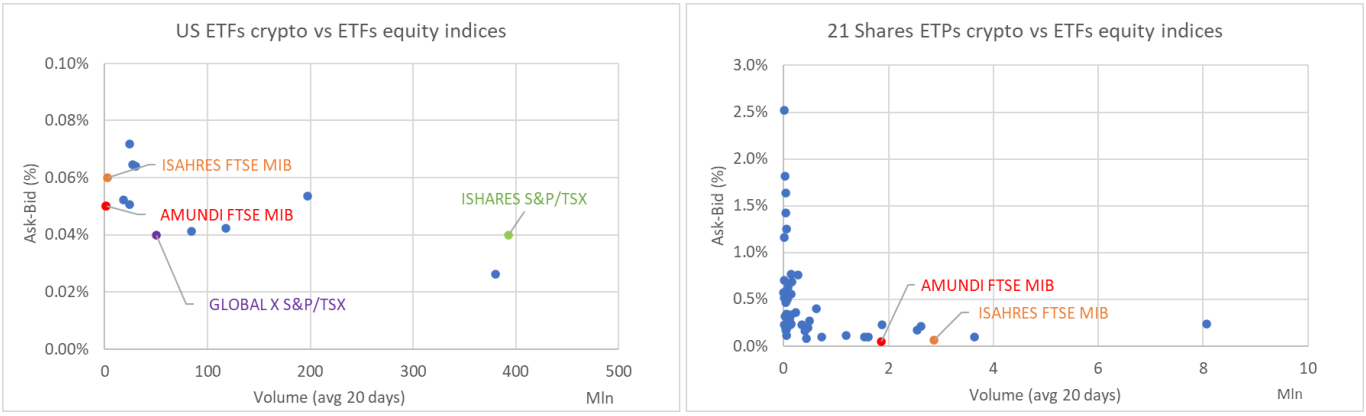

Figure 4: main ETFs/ETPs on crypto-currencies and comparison with ETFs on equity indices. Source: Bloomberg as of 21 March 2025 17.00 CET.