

SWEDISH SECURITIES DEALERS ASSOCIATION

European Commission
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Public consultation on an EU framework for markets in crypto-assets

The Swedish Securities Dealers' Association (SSDA) welcomes the opportunity to provide comments on the EU Commission's Public Consultation on an EU Framework for Markets in Crypto-assets (Consultation Paper). The SSDA's comments reflect some general recommendations on the Commission's attempt to bring forward a comprehensive EU-framework for the regulation of crypto assets, promoting innovation while mitigating risks to consumers, investors and financial stability.

Founded in 1908, the SSDA represents the common interest of banks and investment firms active in the Swedish securities market, and has the objective of promoting a sound, strong and efficient market. The Association raises its members' views on regulatory, market and infrastructure-related issues and provides a neutral forum for discussing and exchanging views on matters which are of common interest to its members.

In general, the SSDA believes that any future EU framework for markets in crypto assets should be technology neutral, ensure a level playing field among market participants, and maintain a high level of consumer and retail investor protection. Similarly, the SSDA believes that policy-makers should follow the principle "same business, same risks, same rules", and should extend the scope of the current regulation to include crypto assets and take legislative initiative in areas that not covered by the current legislation. Policy makers also need to ensure that innovation is encouraged whilst the associated risks are mitigated. These principles should apply when addressing the various aspects of crypto-assets and Distributed Ledger Technologies (DLT).

DLT introduces several relevant and feasible use cases in a financial market context and in a wider financial services context. While the markets are maturing rapidly, a stable taxonomy that classify crypto assets and DLT use cases under the existing regulatory framework does not yet exist.

There is unquestionably a need to understand and regulate the appropriate nature of digital assets. While these assets provide many benefits, they could also provide a level of complexity that has not previously been seen. It is therefore important to recognise the level of use of these assets and the maturity level of the participants, e.g. direct consumers vs institutional investors. The SSDA also believes that it is important to allow these markets to develop organically.

The SSDA supports the classification of crypto assets at the EU level and preferably on a global level. The SSDA believes a harmonised taxonomy for crypto assets based on the economic characteristics of the assets is a crucial first step towards a common understanding that would facilitate collaboration across jurisdictions and provide greater regulatory certainty for participants, especially for those engaged in cross border activity.

While the classification proposed in the Consultation Paper is a good starting point, further analysis and clarification is required. The classification of crypto assets based on the economic function provides a good foundation. However, if the Commission only focus on the economic function, then there is a risk of overlooking those aspects and activities of crypto assets that are novel and fall outside the scope of existing regulation. Secondly, it is also important to consider relevant crypto-assets and DLT use cases on a case by case basis.

Concerning the entities that should be subject to the relevant regulation, we recommend that the Commission focuses on entities such as issuers, distributors, custodians, exchanges and other third-party intermediaries applying the “same business, same risks, same rules”-principle. This is especially important in the fight against money laundering and market manipulation and to ensure a high level of consumer protection. To regulate peer-to-peer interactions would be premature at this stage as it would have a restricting effect on innovation. It would also have a limited or even a non-existent effect on illegitimate use on DLT.

Further, we believe that the Commission’s sustainability finance action plan should take DLT based on protocols that require a disproportionate amount of energy into account.

The SSDA has reviewed and support the comments provided by the European Banking Federation (EBF) and the Association for Financial Markets in Europe (AFME) on the Consultation Paper, including AFME’s Crypto-asset Taxonomy.

Please do not hesitate to contact us if you have any questions or if there is anything you would like to discuss.

Your sincerely,

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