



EUROPEAN COMMISSION

*Brussels, 13.4.2021
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Dear Chair,

The Commission would like to thank the Assembleia da República for its Opinion on the proposal for a Regulation of the European Parliament and of the Council on Markets in Crypto-assets, and amending Directive (EU) 2019/1937 {COM(2020) 593 final} (hereafter: 'proposal' or 'MiCA proposal').

The proposal is part of a broader Digital Finance Package presented in September 2020 that aims to enable and support the potential of digital finance in terms of innovation and competition, while mitigating the risks arising from digitalisation of finance. It is in line with the Commission priorities to make Europe fit for the digital age and to build a future-ready economy that works for the people. At the heart of the package is a Digital Finance Strategy, which identifies as one of the priority areas to ensure that the EU financial services framework is innovation-friendly and does not pose obstacles to the application of new technologies. The proposal, together with a proposal for a Regulation on a pilot regime for market infrastructures based on distributed ledger technology {COM(2020)594 final}, represent concrete actions towards achieving this objective.

Besides supporting innovation, the objectives of the MiCA proposal are to provide legal certainty on the regulatory treatment within the Union of crypto-assets that currently fall outside of the scope of financial services legislation. The proposal aims to ensure high levels of consumer protection, market integrity and financial stability. The proposal designs a framework that mitigates risks related to monetary policy transmission and monetary sovereignty, especially those arising from the wider adoption of so called 'stablecoins'.

To achieve these objectives, the proposal envisages specific rules for crypto-assets issuers and for crypto-asset service providers, such as wallet providers, trading platforms and exchanges. When issuing or placing on the Union markets crypto-assets that are currently not regulated by financial services legislation, the issuers must disclose and provide information on the nature of the crypto-asset by publishing a crypto-asset white paper. The requirements are stricter for 'stablecoins', which are in the proposal referred to as asset reference tokens (ARTs), when the reference is to the

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basket of assets, i.e. commodities, crypto-assets or official currencies, and e-money tokens (EMTs), when they are referenced to a single official currency. Issuers of both types of assets can only issue such tokens if they are authorised and comply with certain requirements. EMTs are considered as e-money, so they need to comply with the EU legislation on e-money and payment services, while they are required under the MiCA proposal to provide for a 1:1 redemption right at par value to the consumer. The substantive requirements and supervision are even more robust in relation to significant ARTs and EMTs. The proposal also provides for rules on provision of crypto-asset services that are also subject to authorisation requirements. Once the issuers and crypto-asset service providers comply with the Regulation, they will be able to offer crypto-assets or services across the Union (EU passport). Both set of rules on issuing crypto-assets and provision of services aim at consumer and investment protection, and are accompanied by provisions on enforcement and supervision, as well as the rules on preventing market abuse.

The Commission is pleased that the Assembleia da República shares the view that action at EU level as envisaged in the proposal is necessary to achieve the above-mentioned objectives and is in line with the principles of subsidiarity and proportionality.

The attached Report of the Committee on Budget and Finance, which is an integral part of the Opinion, highlights additional risks and concerns that are not specifically addressed by the MiCA proposal, such as money laundering and the financing of terrorism, cybersecurity risks and environmental concerns relating to crypto-assets. The Report also stresses the need to promote financial literacy relating to these new financial products and services. In this regard, we would like to make the following observations.

The risks of terrorist financing and money laundering related to crypto-assets are addressed by the current 5th anti-money laundering Directive (Directive 2015/849), which provides the substantive anti-money laundering (AML) requirements applicable to financial institutions and obliged entities and covers some crypto-asset service providers such as fiat to crypto-asset exchanges and custodian wallet providers. The proposed regulation on crypto-asset markets is an important step forward in this respect, reflecting the most recent recommendations developed at international level by the Financial Action Task Force, identifying further entities in the crypto-asset ecosystem. It will pave the way for addressing comprehensively these risks in the forthcoming revision of the 5th anti-money laundering Directive. The Commission intends to propose that the full range of crypto-asset service providers included in the MiCA proposal will be identified as obliged entities under the new AML framework.

Cybersecurity risks are intended to be mitigated by the proposed Regulation on digital operational resilience for the financial sector {COM(2020) 595 final}, which is also part of the recent Digital Finance Package. This proposal aims to ensure that all participants in the financial system, including those covered by MiCA, have the necessary safeguards in place to mitigate cyber-attacks and other risks. It is envisaged to be a horizontal framework in the field of financial services, applying also to crypto-asset service providers regulated under MiCA.

As regards environmental concerns relating to high-energy consumption, we have analysed this issue in the Impact Assessment accompanying the proposal. High-energy consumption of the data centres that work to validate the transactions on a blockchain is indeed a cause for concern. However, many recent blockchains use a different type of validation mechanism, which is more energy efficient, and some older blockchains seem to be transitioning to such an alternative type of validation. It is the Commission's view that investments in, and development of our digital infrastructures, should be compatible with the imperatives of becoming carbon neutral and their financing should be subject to sustainability principles. The sustainable finance taxonomy will help in this respect, for example with its focus on data processing, hosting and related activities.

Finally, as regards financial literacy, the Commission in its Digital Finance Strategy showed its readiness to help fund financial literacy programmes focusing on digitalisation, to be implemented by Member States, for example through the structural reform support service. In addition, actions proposed on financial literacy in the Capital markets union action plan, published in September 2020, have a digital aspect in line with the Digital Finance Strategy.

Discussions between the Commission and the co-legislators concerning the proposal are now underway and the Commission remains hopeful that an agreement will be reached in the near future. The Commission believes that the political dialogue with national Parliaments is essential for linking the Institutions and the citizens of the European Union, and looks forward to continuing it with the Assembleia da República in the future.

Yours faithfully,

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Member of the Commission*