# Börse Stuttgart Statement

## On the BIS Consultation about the Prudential Treatment of Cryptoasset Exposures

Stuttgart, 3 September 2021

**Börse Stuttgart Group appreciates this opportunity to take part in the BIS consultation about the prudential treatment of cryptoasset exposures.**

Börse Stuttgart was the first regulated European Exchange Group deeply exploring new technologies as blockchain and distributed ledger technology in the field of digital finance. Today we operate both, a regulated market and execution venues for cryptoassets. Börse Stuttgart Digital Exchange is a multilateral venue and BISON is an app-based bilateral trading system. Both are accomplished by a safe custody service provider within our group called blocknox. While retail investors can trade at traditional exchanges through intermediaries like brokers or banks only, our digital services allow retail investors to benefit from direct access to capital markets. As a high standard of investor protection has ever been part of our DNA, our digital finance applications are designed in a transparent manner adapting regulatory safeguards and investor protection rules of traditional exchanges to these new digital services. In fact, we are applying the idea of the proposed EU Markets in Cryptoassets Act (MiCA) to regulate crypto assets and Crypto Asset Service Providers (CASPs) already in practice. We are convinced that a safe and efficient regulatory environment is key to uphold a high level of investor protection, fair competition and financial stability in financial markets.

Therefore, we highly welcome the guiding principles of your consultation paper, especially the ‘same risk, same activity, same treatment’ approach. Boerse Stuttgart fully agrees with applying capital requirements at least equivalent to those of traditional assets to “Group 1 cryptoassets” as proposed in the consultation paper. We do also fully share your view applying the concept of technology neutrality and not designing the prudential framework in a way to explicitly advocate or discourage the use of specific technologies related to cryptoassets. However, we concur with your view regarding the application of these principles to “Group 2 cryptoassets”. To this end we would like to contribute in particular to question 12 of your consultation.

### Question 12

*Do you think the proposed capital treatment of Group 2 cryptoassets, including the application of a 1250% risk weight instead of deducting the asset from capital (for the reasons explained above), appropriately reflects the unique risks inherent in these assets?*

The application of the 1250% risk weight will require banks to hold risk-based capital at least equal in value to their ‘Group 2 cryptoasset’ exposures. In our view, such approach is overly conservative, applies a one-size-fits-all solution to the majority of todays traded cryptoassets and is missing a differentiated perspective as applied to ‘Group 1 cryptoassets’.

Evolution in the sphere of cryptoassets is progressing fast. A more differentiated approach could have been taken with regards to the history and market capitalization of cryptoassets, their economic function or the projects and concrete use cases behind.
Furthermore, a lot of the currently traded cryptoassets are or at least will be able in the near future to meet the classification conditions mentioned at page 4ff of ‘Group 1a cryptoassets’ in Europe – except the first one that is to represent a traditional asset or to be linked to such.

The upcoming European MiCA Regulation will clearly define rights and obligations with regards to cryptoassets and will provide a legally enforceable framework in Europe that provides secure, stable and final settlement together with the evolving laws of the European Member States. MiCA will also ensure proper documentation, the application of the Market Abuse Regulation (MAR) and further investor protection rules with regards to crypto assets. The European law of Anti-Money-Laundering and Counter Financing of Terrorism rules (AML/CFT) will also apply or already do due to national law. The upcoming European Digital Operational Resilience Act (DORA) will oblige the CASPs to cover risks of outsourcing, cyber risks, risk of loss of data, data integrity and operational resilience. All together the legislative “European Financial Package 2020” together with the evolving laws of the Member States will cover all the conditions – including regulatory supervision. There is merely one criterion of ‘Group 1 cryptoassets’ that regulation cannot deliver: asking the cryptocurrencies to represent or to be linked to a traditional asset. This is by nature inherent to the new asset class and therefore the approach applied to ‘Group 2 cryptoassets’ appears to be too strict in the light of the principle of technology neutrality.

Although we highly appreciate your announcement to further develop the approach in the future, the chosen approach could have provided already more flexibility with regards to the interpretation of the “same risk, same activity, same treatment” principle. Börse Stuttgart welcomes to create a risk-scheme, taking into account the volatility and the new technology risk. But applying the most conservative option to all of the evolving different token like cryptocurrencies, utility tokens, DeFi tokens, algorithmic as well as crypto backed coins in the same way does not leave enough room to reflect todays reality of technological and regulatory evolution. In our view ‘Group 2 cryptoassets’ meeting all the criteria except representing or being linked to a traditional asset class would not pose more risk on financial stability than traditional assets. In such case a more differentiated – and by the way still simple – approach could have been applied that treats ‘Group 2 cryptoassets’ like other risky or volatile unlisted equity exposures of banks. Here the risk weight is between 300-400%. Also netting long and short positions could have been allowed in order to promote risk hedging. A more flexible approach would allow banks to offer these new asset class in their regulated ecosystem to their customers in a trusted environment ensuring investor protection. Cryptoassets would be available for a larger amount of people used to invest in their well-known environment of their bank accounts, trading less speculation-oriented and receiving proper investment advice by their trusted banks. Finally, such more flexible approach would also contribute to reduce volatility in cryptomarkets and thus lead to more financial stability.

**Vereinigung Baden-Württembergische Wertpapierbörse e.V.**
Regulatory Affairs
Börsenstraße 4
70174 Stuttgart
T +49 711 222 985-0
RegulatoryAffairs@boerse-stuttgart.de
boerse-stuttgart.de
EU-Transparency Register: 676502643674-70

Börse Stuttgart