Statement Börse Stuttgart

Same business, same risk, same rules – prudential treatment for crypto-assets should follow the existing regulation for classic, comparable assets, as DLT is just another technology

We appreciate the initiative of BIS to clarify the prudential treatment of crypto-assets. It is a key topic that will gain importance in the years to come. Moreover, we welcome the workplan of the Committee that allows to take current developments in the area of crypto-assets into account.

Q2

What are the main economic and related functions and potential sources of value of crypto-assets that are relevant in the context of developing a prudential treatment? To what extent do these functions and potential sources of value affect the relative prudential risks of different crypto-assets for banks? Are there other potential sources of value that are relevant in designing a prudential treatment for crypto-assets?

We agree on the classification of crypto-assets according to their economic function that is payments, investments and utility characteristics.
With respect to potential sources of value we as Börse Stuttgart see the need to take regulation of crypto-assets into account and to differentiate between a more valuable regulated crypto-asset and a riskier unregulated crypto-asset.
There are initiatives to regulate crypto-assets on the European and national level which support the creation of secure and reliable standards. Looking e.g. at the ongoing consultation of the European Commission on crypto-assets[1] there is the intention to classify Security Tokens[2] as financial instruments under MiFID II and Payment Tokens can - depending on their design – fall under the E-Money Directive. In Germany we already see the first steps of regulating crypto-assets with the implementation of the 5th Any Money Laundering Directive[3] which foresees a license for crypto-asset custody services in Germany.

Moreover, we want to point out that even if crypto-assets have the same economic function, their potential value can differ. A crypto-asset classified as Security Token can be used to raise money, but it can also represent a classical stock we already trade today. In this case, the intrinsic value of the stock and the Security Token is the same, the only difference is the new technology used to create the Security Token.

Q9

What are your views on the illustrative example of a prudential treatment for high-risk crypto-assets? Which crypto-assets would classify as high-risk based on the criteria set out above? What other features could be considered in specifying the scope for such a potential treatment?

We as Börse Stuttgart do not see that the use of DLT and cryptography as such qualify crypto-assets to be of high-risk. Both features represent just another technology which should not impact technology neutral regulation.

What we would like to take into account for the evaluation is the possibility to reduce risks. The new technology offers opportunities to make crypto-assets more valuable and safer. Smart contracts e.g. offer the possibility to cover the current level of regulatory standards and if necessary may include further requirements.
Transparent allocation of crypto-assets onto different risk levels, respecting the guiding principle “same business, same rules”, is a key element. The basis could be the differentiation according to the economic function of the crypto-asset and the application of an existing regulatory framework which includes also the requirements mentioned in the consultation paper.

However, a final consideration of crypto-assets risk allocation is currently difficult as crypto-assets have a relatively young history. Today only cryptocurrencies (Payment Token) are tradable on secondary markets and we expect more crypto-assets – especially Security Token – to arrive on the market. Thus, Börse Stuttgart welcomes the creation of a risk-scheme, taking into account the volatility and the new technology risk. But there needs to be the option to redefine the scheme, once more data on crypto-assets is available.

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[1] https://ec.europa.eu/info/sites/info/files/business_economy_euro/banking_and_finance/documents/2019-crypto-assets-consultation-document_en.pdf (last accessed 11 March 2020)

[2] Security Token: Crypto-asset with the economic function characterized as “investments/securities”

[3] https://www.bafin.de/EN/Aufsicht/Geldwaeschepraevention/Rechtsquellen/EU-Regelwerk_und_Leitlinien/EU_Regelwerk_Guidelines_node_en.html and https://www.bafin.de/SharedDocs/Veroeffentlichungen/DE/Meldung/2020/meldung_2020_01_31_auas_gwg_bt_vu.htm (last accessed 11 March 2020)

Börse Stuttgart

Looking at the illustrative examples on capital and liquidity requirements for high-risk crypto-assets with respect to the trading book treatment, we want to point out that we are not in favor of a full deduction for high-risk crypto-assets in general. It is by now practically the easiest way to cover potential risks of crypto-assets, but it does not take into account their different design options. A full deduction is only necessary if the residual value of the crypto-asset can become zero. This risk can be limited but not eliminated by a daily evaluation of the crypto-asset.

What we would like to see is a more differentiated approach looking for equivalent use cases among current asset classes. One approach could be to compare high-risk crypto-assets to risky or volatile assets already available on the market. Here the risk weight is between 300-400 which leads to a deduction of approximately 1/3 instead of a full deduction.

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