DEUTSCHE BÖRSE
GROUP

Gruppe Deutsche Börse

Comments on

„Basel Committee on Banking Supervision: Public consultation on proposed amendments to its standard on banks' exposures to crypto-assets"

Frankfurt am Main, 28 March 2024

Introduction

Deutsche Börse Group (DBG) **welcomes the efforts undertaken by the Basel Committee on Banking Supervision** to develop a prudential treatment for crypto-assets.

We acknowledge the Committee´s valuable work at monitoring developments in crypto-assets, and its efforts in **coordinating its work with other global standard setting bodies** and the Financial Stability Board.

Given that the **application of technology in financial markets is still at an early stage**, we are in favour of a **close alignment with global standard setting bodies** and national regulators.

DBG, as a provider of financial market infrastructures (FMI), including "traditional" trading venues, clearing houses (CCPs) and central securities depositories (CSDs), has a long experience in building markets, and implementing rulebooks as well as several safeguard mechanisms on these markets.

As an FMI, **we do not offer "classic" banking services** to the general public and we will therefore limit our focus to the questions that have a **broader scope.**

We welcome the **opportunity to comment to the Committee´s public consultation** on proposed amendments to its standard on banks' exposures to crypto-assets. We already provided our comments to previous consultations on these topics. We support the proposed changes to flesh out the criteria on the composition of the reserve assets that back stablecoins as well as the due diligence requirement to ensure that banks have an adequate understanding of their stabilisation mechanisms, however we **would like to make some comments to the proposed technical amendments**.

We believe it is time to **bring digital/crypto-assets**, including the **crypto-asset ecosystem, to the same level of regulation as the rest of the financial system**. **"Same business, same risks, same rules" should apply as a general principle,** while **"tech-neutrality" needs to be ensured.** This is also true with regard to the prudential treatment of crypto-assets, as the lessons learned from the financial crisis 2008/9 are still important, even if the technology changes. With regard to the (capital) requirements, a distinction has to be made between closed/private environments and those crypto-assets which are offered to the broader public.

DBG is of the opinion, that the digital transformation in general, and the distributed ledger technology (DLT) in particular, **should be closely analysed to mitigate potential risks and to derive benefits** both, within the banking system and within the financial system as a whole.

Permissionless blockchains foster innovation

We disagree with the Committee's conclusions that risks posed by crypto-assets that use permissionless blockchains can't be sufficiently mitigated to allow for their inclusion in Group 1.

We understand that the **use of public permissionless blockchains introduces unique risks (e.g. deterministic finalization)** in traditional financial market infrastructure **that need to be addressed.** However, we also acknowledge their **potential for innovation, security, and cost efficiency for the capital market.**

We see a continuous rise of crypto-assets, particularly tokenised securities, issued on public permissionless blockchains. The risks typically associated with the use of this kind of infrastructure **can be addressed through appropriate countermeasures targeting e.g., know your customer (KYC) obligations.**

So far, these measures have generally been set up individually by the various players. We see potential to streamline this process in consultation with regulators and to render it robust. We see great potential in building a permissioned infrastructure on top of public blockchains to ensure regulatory compliance and orderly operations. In this context, **we see the trend of Decentralised Finance (DeFi) emerging with financial products and services built on public blockchains.** These financial products and services are provided through smart

contracts that are executed deterministically and offer financial services to (retail) clients without the need for a central counterparty. These services often introduce new mechanisms and incentive structures to financial markets, while reducing counterparty risk due to the use of smart contracts.

Therefore, **we caution that the use of public permissionless blockchains/DLTs is being restricted at this moment of time. We acknowledge that the use of public blockchains is associated with challenges, but that these can be addressed through appropriate security measures and processes.** Traditional finance companies may utilize public blockchains in the same way they use the internet (TCP/IP), **which is also open and publicly available on the base layer**, but **partially permissioned on the layers and applications built on top of it**. Thus, enabling and fostering innovation while **ensuring the safety and security of the services offered to investors**.

Regarding appropriate supervision, **there are technological tools available in the market that allow for auditing applications and assets deployed on public permissionless blockchains, including in the context of AML/KYC.** These tools include i.e., data analytics, verifiable credentials, and the deterministic nature of smart contracts themselves. Nearly **every single component could be controlled**, the network as a whole can be evaluated and audited very well: the number of nodes, the code, the smart contracts, network stability and security are **some of the aspects that are publicly accessible** and can be checked at any time. In addition, **threshold values could be defined in relation to the size of the network or its decentralization** – to ensure "real" decentralisation. Permissionless blockchains are accessible to the general public as the **source code used is - by definition - open source**.

The BCBS remains **extremely vague in their rationale** for the given conclusion that permissionless blockchains are unsuitable for classification in Group 1.

Regulators should take **a holistic and comprehensive view of DeFi products, services, arrangements, and activities**. A priori excluding one technology or one type of technology (e.g. public blockchain) will lead to a competitive disadvantage and leave economic potential unrealised. Instead, we recommend defining regulatory requirements that must be met for securities. Based on these requirements, private companies can submit technical, organisational and operational proposals. In consultation with the supervisory authorities, it can then be determined whether the requirements are met. Considering the still relatively low level of maturity of blockchain technology and the expected developments, we find this approach seems to be promising.

We support that **international regulatory frameworks should maintain a technology-neutral approach** and **should not favour one or the other technology used**. In this case the use of permissionless blockchain would receive a significant disadvantageous treatment compared to a security issued on a different technological solution.

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We hope that our comments will be helpful, and we stand available for any clarifications and further discussions.