Deutsche Börse Group

Comments on the Basel Committee on Banking Supervision
Consultative Document: “Prudential treatment of cryptoasset exposures” “

Frankfurt am Main, 10 September 2021

I. General remarks

Deutsche Börse Group (DBG) in its capacity as a financial market infrastructure provider uses modern IT and technological solutions to operate, and service the financial sector worldwide. DBG's technologies are at the core of its operations and are an integral part of the regulated services we operate. We ensure the efficient functioning of markets, including but not limited to market data, trading, provision of indices, clearing, securities custody.

DBG clearly sees the advantages of new technologies and is actively seeking to use them. We have been familiar with the handling of critical and confidential financial market data for decades and we understand very well the risks associated with a significantly increased use of data. We are currently working on the use of cloud technology and distributed ledger technology (DLT) / blockchain as well as automation of processes. We use these technologies in a rather gradual, granular and tested manner, hence continuing to guarantee transparency, stability and investor protection at all times.

Given that the application of new technologies in financial markets is still ongoing, we are in favour of a close alignment with global standard setting bodies and national regulators.

In this context, we acknowledge the Basel Committee on Banking Supervision´s (BCBS) valuable work at monitoring developments in cryptoassets, and its efforts in coordinating its work with other global standard setting bodies and the Financial Stability Board.

DBG welcomes the efforts undertaken by the BCBS to develop a prudential treatment for crypto-assets. Hence, we welcome the opportunity to participate in the BCBS´s consultation.

We believe it is time to bring digital-assets, including the cryptoasset ecosystem, to the same level of opportunity, but also regulation, as the rest of the financial system. "Same business, same risks, same rules" needs to apply as a general principle, while "tech-neutrality" of regulation has also to be ensured. This is also true with regard to the prudential treatment of digital-assets, as the lessons learned from the financial crisis 2008/9 are still important, even if technology changes. Hence, we are of the opinion that there must be a balance between security and innovation friendliness, in order to support trust into the financial markets and new technologies alike.

As a financial market infrastructure provider, we do not offer "classic" banking services to the general public and we will therefore limit our focus on the broader scope and only selected questions of the consultation.

In our understanding the prudential requirements would not apply, if cryptoassets would be held under custody by an institution for a client.

Further, DBG is of the opinion, that the digital transformation in general, and DLT in particular, should be closely analysed to grasp their full potential on the one side, but also to mitigate potential risks both, within the banking system and within the financial system as a whole.

That said, we think it is important for the whole cryptoasset ecosystem to have legal clarity, also with regard to their prudential treatment.

Hence it is an important precondition to differentiate the underlying technology and its usage, from the banks´ exposure to various forms of cryptoassets.

If understood correctly, these cryptoassets can be summarised as a sub-set of digital assets, which are inherently representing value themselves and which in turn can be used for payment or investment purposes (excluding CBDC or digital representations of fiat currencies) and do rely on cryptography and DLT or similar technologies (including dematerialized securities, DeFi-instruments and NFT).

Whereas, if DLT is used as a form of “database” / “datastore” and only information is digitally recorded, this is not in scope of the mentioned recommendations. Hence, it is our understanding that the consultative document does only make a statement on the use of DLT or similar technologies by the banks, their clients and the banks´ service providers, as long as they do expose the banks (directly/indirectly) to cryptoassets. Consequently, it does not make statements on the usage of DLT as such.

We think this is important, as technical requirements for firms using DLT, are already addressed in other frameworks (e.g. the current DORA proposal in the EU context).

II. Comments in detail

Q1. What are your views on the Commitee's general principles?

In general, we support the general principles outlined by BCBS. Especially the principle of "Same business, same risk, same, rules" is key to integrate digital- /cryptoassets into the financial sector. Hence, we support the BCBS´s idea to treat "traditional assets" independent of the technology used. Further, we welcome the proposed categories, as it gives enough flexibility to include new/evolving "hybrid" cryptoassets.

However, we would like to point out that DLT itself must be seen separately from the discussion around cryptoassets, if the technology is only used as a "database" / "data storage" providing information to the participants / nodes or similar service, which do not expose banks to cryptoassets directly or indirectly.

Q2. What are your views on the Committee's approach to classify cryptoassets through a set of classification conditions? Do you think these conditions and the resulting categories of cryptoassets (Group 1a, 1b and 2) are appropriate? Which existing cryptoassets would likely meet the Group 1 classification conditions?

With regard to the classification, while we overall agree with the conditions, we think that those have to be reviewed on a regular basis, in order to assess whether the conditions are in practice fit for purpose or if they are too restrictive or could be replaced by other criteria (e.g. audit reports for the individual cryptoassets or control mechanisms looking at volatility, liquidity thresholds, maturity level, and operational risk).

Further, we do think that it should be made clear that the scope of the paper is solely on banks exposed to cryptoassets and does not make a statement on the use of the usage of DLT as such.

It should be avoided that the definition of cryptoassets could be interpreted to include all applications using DLT. BCBS should avoid inadvertently including all applications using DLT, as DLT applications are not the same. A case-by-case analysis of DLT applications may be required to determine categorization (out of scope, 1a, 1b, or 2).

Q8. Are there ways in which the increased operational risk relating to cryptoassets (relative to traditional assets) can be measured? How should a pillar 1 add-on be designed to capture additional operational risks arising from exposures to cryptoassets?

We agree with BCBS that the risks associated with cryptoassets are at least partially different to those related to "traditional assets". They need to be addressed from an IT-Security/ Operational Resilience perspective and not necessarily via additional capital requirements in order to help the technology develop. However, in the choice of DLT as part of the technology stack does not necessarily imply additional decentralisation, cyber-security, or asset issuance and control risks, but is dependent on the specific use case implementation.

Q12. 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?

Q13. Are there alternative approaches that the Committee should consider that are simple, conservative and easy to implement? For exposures in the trading book, would it be appropriate to permit recognition of hedging via the application of a modified version of the standardised approach to market risk?

Regarding Q12 and Q13, and esp. page 14: in our view, netting should be generally allowed, as it is an element of risk management and reduces the maximum risk exposure. As a consequence, we think that prudential requirements should be reduced in cases where netting techniques are used, i.e. the requirements should target positions after netting has taken place.

Q14. Do you have any views on the Committee's current thinking regarding the leverage ratio, large exposures framework and liquidity ratio requirements? Are there further aspects of these requirements that could benefit from additional guidance?

In our view, if regulated markets / CCPs are involved the overall counterparty risk is reduced, hence we think that the risk weight should also be reduced/adjusted accordingly in those cases (as it is already common practice in equity markets for example).