FÉDÉRATION BANCAIRE FRANÇAISE

Paris, 31 January 2024

FBF comments to Basel Committee on Banking Supervision (BCBS) public consultation on banks' disclosure of cryptoasset exposures (d556)

The French Banking Federation (FBF) represents the interests of the banking industry in France. Its membership is composed of all credit institutions authorised as banks and doing business in France, i.e., 326 commercial, cooperative and mutual banks. FBF member banks have more than 34,000 permanent branches in France. They employ more than 349,000 people in France and around the world, and service 48 million customers.

The French Banking Federation (FBF) welcomes the opportunity to put forward its comments on BCBS consultation on banks' disclosure of cryptoasset exposures. As a preliminary remark, in line with the BCBS' objectives, we would like to express our support to appropriate and proportionate disclosures of cryptoasset exposures, as an intake of a sound banking system.

In order to achieve the objectives pursued, it is important that the level of disclosure requirements fits the aim of Pillar 3 disclosures to "*enable market participants to access key information relating to a bank's regulatory capital and risk exposures in order to increase transparency and confidence about a bank's exposure to risk and the overall adequacy of its regulatory capital*" (DIS 10.1).

The disclosure requirements should also reflect the principles set by the prudential standard published by the Basel Committee in December 2022. In this respect, SCO60.129 provides that "*in accordance with the general guiding principles, banks must disclose information regarding any material Group 1a, Group 1b, Group 2a and Group 2b cryptoasset exposures on a regular basis*". In the same vein, according to SCO60.128, "*banks must provide qualitative information that sets out an overview of the bank's activities related to cryptoassets and main risks related to their cryptoasset exposures*". SCO60.128 reflects the principle defined by DIS 10.15: "*disclosures should describe a bank's main activities and all significant risks*".

As it stands however, the table CAEA and the templates CAE1, CAE2 and CAE3 require disclosure of all cryptoasset exposures and not only material ones. In fact, the requirements envisaged by the Committee go way beyond SCO60.128, SCO60.129 and DIS 10.15 provisions. Given the granularity of the information required and the scope of application expected in the consultation paper, **it would not provide an overview of the bank's main activities related to cryptoassets and the main/significant related risks but an**

extensively detailed insight of all its activities and risks associated, be they significant or not, and moreover at an overly high frequency to ensure. Qualitative disclosure in particular on all activities related to cryptoassets, whatever the actual level of risk and exposure, would be unjustified and therefore unnecessarily constraining.

We believe there is a need for clarification between what would be relevant under pillar 3 public disclosure and what would be provided to supervisors on a bilateral basis for supervisory purposes. A clear distinction should be made between the two, in order to ensure that public disclosures are really relevant for regular stakeholders and provide them with the appropriate level of detail. Such an extensive level of detail would not be consistent with other Pillar 3 disclosures requirements and may lead to an overestimation of actual risk levels. Even for supervisory purposes, the level of granularity should depend on the level of risk materiality. This is all the truer for public disclosures.

These disclosure requirements are not in line with the technological neutrality principle, they would be overly burdensome and maybe even dissuasive. In addition, there may be some uncertainty as to the ability of banks to collect and consolidate all the necessary data to fill in the templates, should they be requested as daily averages, as further discussed below. Combined with the prudential requirements set by the Committee, it could lead some banks to avoid any kind of participation in these markets, even for group 1 cryptoassets. At the same time, other players, which are out of reach of banking regulations, such as non-bank financial institutions (NBFIs), pure crypto-players or GAFAM, will be able to conduct these activities, possibly at a larger scale, without being subject to such requirements.

Given these elements:

- Groups 1a, 1b and 2 cryptoassets: there is a need for differentiated and proportionate disclosure requirements between Group 1a, Group 1b and Group 2 cryptoassets as these should take into account the respective risk exposures, which is not the case in the proposed framework. In particular, SCO 60.9 specifies that Group 1a cryptoassets – i.e., tokenised traditional assets – "pose the same level of credit and market risk as the traditional (non-tokenised)". Moreover, 60.105 clarifies that "In general, exposures involving Group 1a cryptoassets and cryptoliabilities must be treated the same as exposures involving their equivalent non-tokenised traditional assets and liabilities, including the assignment of inflows, outflows, RSF factors and ASF factors."
Thus, disclosure rules for Group 1a cryptoassets and cryptoliabilities should be equivalent to that of their underlying traditional assets/liabilities, which are already subject to Pillar 3 requirements. Such an alignment would be coherent with the principle of technological neutrality and the one of 'same activity, same risk, same regulation'.

- Materiality threshold: the proposal is not commensurate with the purpose of Pillar 3 disclosures as it is measured as a proportion of the bank's total cryptoassets exposures. For a bank only marginally engaging in such markets, it represents a burdensome and somehow disproportionate disclosure requirement.

- Custody: the proposal would impose a disclosure (see column 'g' of CAE1 template) of "the market value of cryptoassets that the bank holds in custody for clients at the end of the reporting period", which is disruptive to current disclosures applicable to traditional financial instruments. For the latter, custodians are not subject to such extensive disclosure regime, as custodial activities do not give rise to credit, market or liquidity risk and the amounts of assets in custody do not reflect the level of risk borne by a custodian institution. In addition, this proposal is contravening the December 2022 standard on the prudential treatment of banks' exposures to cryptoassets since, as stated in SCO 60.4, "custodial services involving the

safekeeping or administration of client cryptoassets on a segregated basis, […] do not generally give rise to credit, market or liquidity requirements."
In particular, the above-mentioned principle in SCO60.9 regarding Group 1a cryptoassets should govern and the same disclosure framework should apply to custodial activities related to cryptoassets as well as to reserves of assets backing cryptoassets under custody, likewise traditional assets. The proposal is not proportionate with the objective pursued by Pillar 3 requirements.
Additionally, it could be argued that such approach is at odds with the way DLT are functioning: a custodian is securing the access keys to the blockchain, which is the registry, thus the custodian (and its clients) is exposed to an operational risk which is to be mitigated through traditional operational risk management. When considering specifically security token, the issuer (or its agent) usually has the possibility to destroy and recreate it on the DLT to cope with KYC/AML/Sanctions, which ensure complete safety for the security holder. Cryptoassets under custody should hence not be disclosed.

- Window-dressing: the Committee is considering requiring "banks to disclose the amounts in template CAE1 using daily average values in addition to the period-end values". First, we believe that any assessment related to potential window dressing activities should primarily be an issue to be dealt with between supervisors and specific supervised entities on a case-by-case basis, without publishing information that might be misleading to the market or the general public with potential detrimental consequences. As a matter of fact, a disconnection between period-end and daily average values over the period is not necessarily reflective of an intended business decision of a banks and can also be driven by external factors. Second, such calculations would be extremely burdensome and would generate significant IT implementation and run cost as well as process enhancements to ensure the quality control of daily values. Third, this would raise proportionality issues as regards the means to address the risk targeted and the possible economic consequences since the disclosure template is not supposed to have any impact on capital requirements.