

EN: Comments on BCBS Document (d567) regarding Cryptoasset Standard Amendments

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A few years ago, data centers for banks were operated exclusively on-premise, i.e. on their own or rented hardware. With the advent of cloud computing, a paradigm shift took place. The banking industry worked with providers, regulators and other regulated market participants to define audit standards that enabled the use of the cloud.

Why was that necessary?

The cloud brings new risks. For example, you become dependent on providers if they offer highly specialized solutions that are not offered in this form by other cloud providers. Clouds are typically used in a multi-tenant setup where there may be interactions between different customers. When data is "in the cloud," it is often difficult to tell which physical device a data set or application resides on.

All of these and many more risks have been discussed and regulated in supervisory practice. Now DORA is coming to Europe, a uniform regulation that is intended to make the use of cloud infrastructure even safer.

Why this preface?

Let's imagine a different scenario: what would have happened if the approach had been different back then and additional capital requirements had been established for banks using the cloud? The infrastructure had "more" and, above all, new risks. The operation of a banking system and the safekeeping of money and other financial instruments would be less secure than before. More equity in the RWA (Risk Weighted Assets) would have cushioned these additional risks.

Today one would say that such a proposal is **unimaginable**. But that's exactly what's happening in the blockchain space right now!

If a bank stores and processes money or securities on a public and permissionless blockchain system, then, according to the BCBS, it should deposit more equity than if these values are processed "traditionally". The financial instrument is the same. This means that the risk posed by the financial instrument should be the same and so should the equity capital to be deposited. But unlike cloud computing, financial instruments on the blockchain should be secured with additional equity.

In my opinion, the suggestions are not technology-neutral. As with the cloud, operational risks should also be addressed operationally, which is what happened in Germany, for example, with BAIT, supervisory practice and now with DORA at the EU level. Corresponding rules could be drawn up in a "BORA" (Blockchain Operational Resilience Act).

What has to be criticized about the BCBS paper is that they do not talk in great detail about the risks posed by blockchains. I am an objective representative of the industry and see certain risks, e.g. that the governance of some blockchains in the sense of BCMs (Business Continuity Management) is not optimal, especially since the continued existence of some consensus processes cannot be guaranteed. Some blockchains are also relatively centralized, which creates dependencies. I also cannot conclude a contract with a blockchain as it is not a juridical person or there is not a company behind I can work with. Guarantees are given to me in other ways, e.g. that 100% availability can be mathematically guaranteed.

In my opinion, the more correct approach would be to state the risks clearly and give the industry and banks the opportunity to solve them at an operational level. Experience values could be harmonized and transferred into regulations.

We should also note that the development of blockchain technology is not yet complete. We will see new blockchains in the future that will deal with systemic risks differently, perhaps being semi-permissionless or semi-public. Giving regulated companies more governance. It would be a mistake to take an entire technology class today with rules that can be solved tomorrow.

Nobody talks about the countless advantages of blockchain. Financial services are 100% automated with smart contracts. People can no longer manipulate so easily. Transactions, e.g. tokenized deposits, can be more easily tracked across multiple recipients. Money flows from criminals can therefore be better tracked. With Digital

Identity and Strong Customer Authentication, more fraud-resistant bank accounts can be developed. The consequence would be that there would be significantly less effort in FIUs and prosecution authorities.

The proposed rules could result in banks missing out on a step in technological evolution. The EU's progressive approach to regulating cryptoassets under MiCAR as well as the introduction of stablecoins as an official form of money in Europe would be torpedoed.

I don't want to downplay risks, but I am in favor of addressing blockchain risks at an operational level. To do this, these must be clearly addressed and discussed. The risks of the financial instruments themselves should be the same everywhere, regardless of the technology used. And in order to remain open to technology in the future, regulation should fundamentally be principle-based. Unfortunately, these are not the suggestions in my opinion.