CCI response to the European Commission's Targeted Consultation on Integration of EU Capital Markets

Introduction

The Crypto Council for Innovation, the premier global alliance advancing crypto innovation, is grateful for the opportunity to provide this tailored response to the European Commission's (EC) 'targeted consultation on obstacles to capital markets integration across the EU'.

Building on our physical presence in Brussels and our regular engagement with EU policymakers, we submit this response in relation to those aspects of the SIU framework which are of most interest and relevance to our members in the digital asset / crypto ecosystem. We refrain from commenting on other, technical aspects, for which other parts of the financial services sector are better placed to provide input.

We would like to underscore, however, the importance of technological innovation as a horizontal theme which we believe needs to be considered by regulation by design and from the outset. We therefore welcome any and all efforts by the EU to enhance and expand the use of distributed ledger technology (DLT) and blockchain technology - raising citizens' awareness of the benefits whilst ensuring a future-proofed legislative framework will act as an important enabler, driving uptake by businesses and citizens alike. This in turn will support broader EU public policy goals such as competitiveness, simplification/burden reduction and economic growth.

In a rapidly changing, globalized world, the EU must also be mindful of the implications of its regulatory framework on its position in the competitive landscape of global financial markets. We support robust, EU-wide measures as a means of ensuring harmonized regional standards. However, these rules need to be well crafted and consistently implemented/enforced if they are to have the desired effect of closing the innovation gap and contributing to fairer, more efficient and sustainable economic growth and prosperity.

Moreover, harmonization and centralization of supervision cannot (and will not) create the conditions for increased digital innovation. Proximity to local, domestic markets and expertise at national competent authority (NCA) level are essential, particularly as the EU needs to build capacity and ensure it has adequate financial and human resources as a first step before pooling supervision at EU level.

Below we provide a summary of general comments on the consultation whilst the rest of this paper provides more detailed commentary focussing on the three most parts for our members, namely: i) Simplification and burden reduction; ii) Innovation – DLT Pilot Regime (DLTPR) and asset tokenisation and iii) cross-border supervision.

General comments

- Welcome and support the main thrust of the consultation and the EU's SIU project.
- Reiterate the importance of a harmonized rulebook to drive an integrated single market for financial services as an essential ingredient for developing economic growth.
- Underscore the importance of mainstreaming innovation in the design, development and deployment of financial services, both in terms of infrastructure as well as products and services.
- Strongly believe the EU needs to embrace the opportunities from innovative technologies such as DLT in order to leverage the benefits for EU firms and citizens - securer, more efficient financial transactions, deeper liquidity, more efficient and resilient processes such as settlement.
- We recommend introducing a framework for NCAs to propose increases in the DLTPR's thresholds to ESMA which, absent material and demonstrable investor protection or systemic risk concerns, should issue an opinion applying the increased thresholds across the internal market.
- We do not support differentiating prudential standards between permissioned and permissionless distributed ledgers.
- We do not believe wholesale or comprehensive public policy intervention is necessary to support interoperability among DLT systems, and between DLT and non-DLT systems.

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Part 1

Section 2: Trading

General comments

- Support simplification - The complexity of the EU's regulatory framework acts as a barrier to entry and a blockage on cross-border service provision, particularly for SMEs. There is also an important exercise to be undertaken to ensure existing level 2/3 workstreams mandates are aligned with the simplification agenda - e.g. ESG provisions in sectoral specific legislation should be discontinued given the recent omnibus packages and the small-mid cap package, effectively descoping a large majority of the digital asset ecosystem from the EU's regulatory perimeter.
- Burden reduction is essential. As recognised by Draghi/Letta/competitiveness compass, the EU needs to take bolder action here. We strongly believe it is entirely possible and compatible to retain high standards of financial stability, consumer protection etc whilst parring back some of the duplicative and constraining provisions, particularly national vs. EU level as well as EU level 2/3.
- Innovation and technology, if harnessed and incentivised properly through the regulatory framework, can be a major enabler here, supporting firms of all sizes in modernising their processes and increasing efficiency. This is particularly important for SMEs who are disproportionately burdened by EU regulations, including excessive and often unnecessary/duplicative reporting requirements.

2.3. Non-regulatory barriers (market practices) to liquidity aggregation and deepening

23) Crypto-markets have seen the emergence of a market architecture whereby retail investors have direct access to a crypto-asset trading venue. Do you see merit in allowing or promoting the direct access of retail participants to trading venues for financial instruments, without an intermediary?

We firmly believe that allowing retail investors direct access to trading venues — without relying on intermediaries— has clear advantages. Crypto markets have already demonstrated the viability of this model, which offers significant benefits, particularly as the tokenization of traditional assets such as equities becomes more prevalent.

Advantages:

- **Broader financial access:** Direct market access allows a wider range of retail investors to engage in capital markets, removing traditional barriers created by intermediaries and promoting fairer participation in investment opportunities.
- **Lower costs and improved efficiency:** Eliminating intermediaries cuts down on fees, accelerates settlement processes, and reduces operational complexity—resulting in quicker, more cost-effective, and transparent trading.

- **Always-on markets:** Blockchain-based venues with direct retail access support continuous, real-time trading, enabling investors to act immediately on market developments—unlike traditional exchanges limited by fixed trading hours.

  Next-generation custody options: Blockchain technology supports secure self-custody and smart contract-enabled custody through regulated entities, offering investors enhanced control, strong security, and compliance with regulatory standards.

Risks and mitigation:

- **Protecting investors:** Direct engagement with complex assets or volatile markets can expose retail investors to heightened risks. These can be addressed through improved transparency, investor education, and integrated platform safeguards—such as trading caps, real-time risk alerts, and suitability assessments.
- **Ensuring AML/KYC compliance:** Granting retail users direct access increases the compliance burden on platforms. To mitigate risks of illicit activity, strong identity verification, continuous transaction surveillance, and automated systems aligned with EU AML regulations must be in place.
- **Robust infrastructure:** Enabling round-the-clock retail access demands infrastructure that is scalable, secure, and resilient—able to process high trading volumes while resisting disruptions and manipulation.
- **Evolving regulation:** Regulatory frameworks like MiFID II and CSDR should be modernized to explicitly support and govern direct retail access, ensuring that requirements around custody, asset protection, and trading venue obligations accommodate blockchain and decentralized exchange models.

Section 3: Post-trading

3.2. Barriers to the application of new technology and new market practices

71) Considering the core functions of a CSD, i.e. those of notary, central maintenance and settlement, is the current legal framework appropriate to mitigate and control risks that could arise from the use of DLT?

No. The existing CSD framework is rooted in centralized post-trade infrastructure and does not adequately reflect how DLT transforms key CSD roles such as notary, record-keeping, and settlement. In a DLT-enabled environment, these core functions can be separated and carried out by distinct regulated entities operating collaboratively on a shared ledger. This diverges from the traditional centralized CSD approach and enables more robust, decentralized ecosystems.To modernize settlement rules, the EU should revise CSDR to regulate these functions based on their purpose and performance, rather than assuming they must be handled by a single centralized institution.This would pave the way for modular, function-driven models where multiple authorized participants manage nodes and jointly govern infrastructure—while still complying with existing regulatory requirements.Such a regulatory evolution would help mitigate concentration risk, encourage innovation, and better reflect the operational realities of DLT-based markets.

73) Are there any legal barriers to ensure the integrity of the issue, segregation and custody requirements also in the context of DLT-based issuance and settlement?

Yes, existing EU legal frameworks create obstacles for ensuring the integrity of issuance, segregation, and custody in DLT-based securities.To overcome these issues, the EU should update its regulatory framework to accommodate DLT-native processes and support new forms of post-trade infrastructure. Doing so would foster innovation while upholding market integrity and safeguarding investor interests.

- **Issuance:** Distributed ledger technology enables financial instruments to be issued directly on-chain, eliminating the need for a central notary or registrar. Yet under current EU rules—particularly CSDR—centralised registration is often mandated, casting doubt on the legal status and enforceability of natively issued on-chain securities. This conflict with the "book-entry form" requirement limits the ability of such assets to be listed or used as collateral, despite offering equivalent economic characteristics.
- **Segregation:** Blockchain provides clear, immutable methods for asset segregation. However, EU regulations still rely on traditional account-based models and do not formally acknowledge on-chain segregation mechanisms. This creates legal ambiguity—especially in insolvency situations—and highlights the need for clearer recognition of DLT-based segregation under existing law.
- **Custody:** Custody rules vary across Member States and frequently overlook the unique features of DLT-based solutions, such as smart contract governance and multi-signature wallet structures. This lack of harmonisation restricts the cross-border scalability of digital custody services and impedes the development of an integrated EU digital asset ecosystem.

74) Does the definition of cash need to be refined to take into account technological developments affecting the provision of cash, in particular the emergence of tokenised central bank money, tokenised commercial bank money and electronic money tokens? If 'yes', please specify how the use of such settlement assets can be facilitated while maintaining a high level of safety for cash settlement in DLT market infrastructures?

Yes, the definition of cash should be updated to reflect evolving technologies, particularly the rise of Electronic Money Tokens (EMTs) such as stablecoins regulated under MiCA.

Stablecoins authorised under MiCA are held to strict standards around reserve backing, governance, and redeemability. As a result, they offer a reliable and credible form of digital money, well-suited for use within DLT-based capital markets. These digital instruments enable atomic settlement and programmable transaction features—both essential to unlocking the full efficiency and security advantages of distributed ledger systems.

The DLT Pilot Regime already acknowledges this utility by providing an exemption from Article 40 of the Central Securities Depositories Regulation (CSDR), which otherwise requires settlement in central bank money. We propose that this Article 40 exemption be expanded to cover DLT-based securities transactions beyond the scope of the Pilot Regime, allowing for continued use of stablecoins in decentralised settlement infrastructures.

The future growth of EU DLT capital markets hinges on the practical deployment of MiCA-compliant stablecoins—already operational—alongside wholesale CBDCs and tokenised commercial bank deposits. A

diversified set of settlement instruments—including wholesale CBDCs, tokenised commercial bank money, and MiCA-regulated stablecoins—will be key to improving settlement performance. While central bank money remains essential and often preferred, alternative forms can deliver added efficiency and functionality.

Although wholesale CBDCs may be confined to interbank settings, stablecoins and tokenised bank money offer the cross-border reach and interoperability required to support broader adoption across market participants.

75) Could the use of DLT help reduce the reporting burden?

Yes. DLT has the potential to greatly ease the reporting burden by providing real-time, tamper-resistant, and automated transaction records. On-chain data is inherently transparent and synchronised across all parties, which can simplify regulatory reporting, minimise manual reconciliation, and reduce operational overhead.

However, it's important to differentiate between on-chain and off-chain data. While public, permissionless DLTs can enhance access to on-chain records, they do not inherently address the reporting needs for off-chain elements such as KYC/AML information, legal documentation, or corporate actions. These areas will likely continue to rely on conventional approaches or blended solutions.

Additionally, emerging zero-knowledge (zk) technologies show promise in enabling privacy-preserving transparency—allowing for the selective sharing of verified data with regulators without disclosing complete transaction histories. This could become a key mechanism to balance regulatory visibility with data confidentiality in future reporting systems.

76) Would a per-service authorisation of CSD services, with compliance requirements proportionate to the risk of the individual service, make the CSDR more technologically neutral and contribute to removing barriers to adoption of new technologies, such as DLT?

Yes. Adopting a per-service authorisation model would enable new market participants and technology providers—particularly those deploying DLT-based solutions—to offer CSD services without being subject to the full suite of obligations tailored to traditional, vertically integrated CSDs.

This model is especially relevant for functions such as the notary role, which authenticates the issuance of securities. In a DLT context, this function can be securely executed by the blockchain itself, using its immutable, time-stamped ledger to validate issuance and ownership—eliminating the need for a centralised intermediary.

A regulatory framework that recognises and accommodates this capability on a per-service basis would empower DLT infrastructure to support essential market functions while maintaining regulatory integrity.

77) Are there any legal barriers for DLT service providers in providing trading, settlement and clearing in an integrated manner, within one entity?

Yes, current legal and regulatory frameworks create significant obstacles for DLT service providers seeking to deliver fully integrated trading, settlement, and clearing services within a single entity under EU law.

Under today's rules—namely MiFID II, CSDR, and EMIR—trading venues, central counterparties (CCPs), and central securities depositories (CSDs) must operate as distinct legal entities, each with specific roles, authorisations, and governance standards. These frameworks are tailored to traditional, segmented infrastructures and do not account for the integrated capabilities of DLT, where settlement finality, risk management, and transparency can be achieved natively on-chain, without multiple layers of intermediaries.

The DLT Pilot Regime marks a positive step toward updating this model. It allows participants to obtain a unified licence to operate DLT-based trading and settlement systems (DLT TSS) and offers temporary relief from selected MiFID II and CSDR obligations. However, the regime excludes clearing services, remains experimental, and is limited in scope and duration—failing to deliver the legal clarity and scalability needed for broader commercial rollout.

To realise the full potential of DLT—including lower latency, real-time settlement, improved efficiency, and reduced systemic risk—EU law should evolve to permit technology-neutral frameworks that enable integrated trading, settlement, and clearing within a single DLT system, provided that appropriate regulatory safeguards are in place.

78) Are there any other barriers that you consider relevant for the DLT based provision of CSD services?

The absence of harmonised legal recognition for DLT-based securities continues to be a major obstacle. Across numerous EU member states, the legal status of tokenised securities—including provisions related to dematerialisation, ownership transfer, and settlement finality—remains ambiguous or inconsistent. This lack of clarity hinders the reliable operation of DLT-based CSD services and creates challenges for cross-border interoperability.

79) In particular in permissionless blockchains, validators have the ability to choose which transactions to prioritise for validation and decide on the order of transaction settlement. Can this feature negatively affect orderly settlement and how can it be mitigated?

We acknowledge that base layer actors including validators on permissionless blockchains have control over transaction ordering, which gives rise to MEV.

"MEV" (sometimes referred to as "miner extractable value" or "maximal extractable value") refers to the maximum value that can possibly be realized from a given block as a result of the most optimal and efficient contents and order of messages within that block. By this definition, MEV is generated by the users of a blockchain network based on where, when, and how they transact and submit messages to the network.

The amount of MEV realized in a given block is a function of both (i) the messages that are included in a given block; and (ii) the way that the included messages are ordered in the block. In this way, MEV serves as a measure of a blockchain network's efficiency in handling and prioritizing messages within the limited space of a block, especially as volumes may fluctuate. Not all database transactions can be processed immediately or in the order they are submitted, so MEV ought to be conceptualized more broadly as a tool to understand how transaction priority affects a network's efficiency, and therefore overall health, security and resiliency.

However, MEV is not inherently malicious. It is an intrinsic aspect of blockchain design that reflects the economic value embedded in transaction sequencing. Indeed, many MEV-related activities—such as arbitrage and DeFi liquidations—are essential to the health of decentralized finance (DeFi) ecosystems. These processes aid in price discovery, enhance market efficiency, and support protocol stability, enabling DeFi platforms to function effectively.

It is crucial to understand that MEV constitutes a technical challenge rather than a straightforward market abuse issue, necessitating solutions at the protocol level rather than broad regulatory measures. While specific MEV behaviors, like sandwich attacks, can negatively impact users, there are existing mitigations including user-defined slippage limits, private or encrypted mempools, and the deployment of larger liquidity pools.

We recommend that regulators promote technology and market-driven approaches to managing MEV, empowering participants and protocols to develop tailored responses that accommodate their technological frameworks and user requirements, without stifling innovation in transaction design.

80) Does the emergence of DLT-based tokenised financial instruments require changes to the provision of CSD services or the requirement to use a CSD? If so, which CSD roles or requirements could be meaningfully impacted in a DLT environment?

Yes, the rise of DLT-based tokenised financial instruments necessitates a reassessment of how CSD services are defined, delivered, and regulated. DLT fundamentally transforms the execution of core post-trade services such as safekeeping, notary, and settlement. Within a DLT context, many of these functions can be automated, embedded, and verified directly on-chain—often with enhanced transparency, security, and efficiency.

The presumption that a traditional CSD must be involved in every issuance or settlement of financial instruments should be reconsidered in a DLT-native framework. Instead, regulatory focus should shift to ensuring outcomes like safety, transparency, and resilience, while allowing technological flexibility in how these objectives are met.

Key CSD functions notably affected by DLT include:

- Notary function: On-chain issuance combined with smart contract recording can provide indisputable, immutable proof of issuance and ownership, potentially reducing the necessity of a centralized notary.
- Safekeeping: Digital wallets and smart contract-enabled custody within DLT systems can perform safekeeping duties without relying on intermediated account models.
- Settlement finality: DLT facilitates near-instantaneous, atomic settlement, lessening dependence on conventional batch processes and post-trade reconciliations managed by CSDs.
- Reconciliation and record-keeping: Shared, immutable ledgers remove the need for redundant record-keeping across institutions, thereby lowering operational risk and costs.

Accordingly, we recommend evolving the CSDR framework to embrace new decentralized and hybrid market infrastructure models, permitting DLT-based service providers to directly perform post-trade functions under appropriate regulatory oversight and risk controls.

81) Can certain functions normally assigned to or reserved for a CSD be safely, securely and effectively be performed by other market participants in a DLT environment? If 'yes', please specify which functions and which market participants, and state reasons.

Yes. Within a DLT-native environment, core functions traditionally performed by CSDs can be securely and efficiently handled by DLT service providers, custodians, or even the blockchain itself. DLT facilitates the automation and decentralisation of these critical roles, provided that appropriate regulatory safeguards are maintained.

In particular, the notary and issuance functions can be executed directly on-chain via smart contracts, creating an immutable and permanent record of issuance that removes the need for a centralized notary.

Likewise, safekeeping and custody responsibilities can be fulfilled through wallet-based solutions and programmable asset controls.

3.3. Barriers and other aspects under the FCD

85) Is there sufficient clarity regarding the use of tokenised assets as financial collateral in the context of financial collateral arrangements under the FCD?

No, there remains a lack of clear guidance on the treatment of tokenised assets under the Financial Collateral Directive (FCD).

The FCD was originally designed for a centralized, account-based financial system and does not explicitly address how digital assets—particularly those issued or recorded on DLT—are encompassed within its framework. Significant legal uncertainties persist regarding whether tokenised instruments qualify as "financial collateral" and how traditional notions such as possession, control, and enforcement translate in a DLT environment.

For instance, it is unclear if control exercised via smart contracts or multi-signature wallets meets the FCD's criteria for "possession or control," a key factor for legal certainty in enforcing collateral rights. This ambiguity introduces both legal and operational risks for financial institutions aiming to utilise tokenised assets as collateral, thereby hindering broader adoption.

We would advocate for targeted EU-level guidance or clarification to confirm that appropriately designed DLT-based arrangements satisfy FCD requirements. Such clarification would provide legal certainty, encourage wider adoption, and ensure collateral regulations evolve in step with market infrastructure developments.

86) In the last FCD consultation, the addition re-insurers, alternative investment funds (AIF), institutions for occupational retirement provision (IORPs), crypto-asset service providers, all non-natural persons, non-financial market participants which regularly enter into physically or financially settled forward contracts for commodities or EU allowances (EUAs) was suggested by stakeholders. It was also asked if payment institutions, e-money institutions and CSDs should be added to the scope. Please provide any views you may have of one or several of the suggested potential additional participants.

We support broadening the Financial Collateral Directive's scope to encompass MiCA-authorised crypto-asset service providers (CASPs). As regulated entities, CASPs play an increasingly vital role in digital asset custody, trading, and collateral management. Their formal inclusion would provide essential legal clarity for crypto-backed collateral arrangements and ensure they are treated consistently with traditional financial institutions.

Specifically, this expansion would allow CASPs to handle regulated stablecoins—such as MiCA-compliant euro-denominated E-Money Tokens—as high-quality collateral in transactions like on-chain repos, derivatives, and secured lending. These assets adhere to rigorous reserve and redemption requirements, making them well-suited for use within financial collateral frameworks under EU law.

Incorporating CASPs would facilitate the development of tokenized collateral markets, encourage innovation, and ensure the legal framework evolves in line with contemporary market practices, all while maintaining equivalent standards of oversight and protection.

88) Do you see legal uncertainty related to the recognition of tokenised financial instruments as collateral under the FCD? If yes, please describe these uncertainties.

Yes. There is legal ambiguity surrounding whether tokenized financial instruments satisfy the formal criteria for recognition under the Financial Collateral Directive (FCD), especially with respect to concepts such as "possession," "control," and "book-entry form." These notions were developed for traditional financial systems and may not straightforwardly apply to DLT-based assets that are issued, held, or transferred natively on-chain. Clear guidance is required to confirm that tokenized instruments providing equivalent rights and protections can be recognized as financial collateral.

89) Do the definitions and concepts in the FCD, including the notion of 'possession and control', 'accounts' and 'book-entry' result in barriers or legal uncertainty, e.g. due to the change in market practices, the use of DLT?

Yes, the current definitions within the FCD create legal uncertainty and practical challenges when applied to tokenized securities and digital assets. The concept of 'possession and control' traditionally refers to physical custody or control over securities accounts, whereas in a DLT setting, control is cryptographically linked to private keys held by the asset owner. This fundamental distinction means existing rules do not adequately address how control is established and exercised in tokenised contexts.

Likewise, the terms 'accounts' and 'book-entry' are grounded in centralized ledger frameworks and do not fully reflect the decentralized, on-chain record-keeping inherent in DLT systems. Without updated, technology-neutral definitions, market participants face uncertainty over the legal recognition and enforceability of tokenised assets under the FCD.

To promote innovation and support the growth of digital finance in the EU, the FCD's definitions should be revised to explicitly acknowledge the unique attributes of digital assets. This would enhance legal certainty, reduce regulatory fragmentation, and establish a consistent framework for the custody, collateralisation, and settlement of tokenised securities.

90) Is the list of collateral providers and collateral takers limiting the applicability of the FCD in a detrimental manner for DLT-based financial collateral arrangements?

Yes, the current list of collateral providers and takers under the FCD restricts its applicability to DLT-based financial collateral arrangements. The directive predominantly addresses traditional financial institutions and entities, which may not adequately reflect the evolving ecosystem where regulated crypto-asset service providers (CASPs), decentralized finance platforms, and other innovative actors play an increasingly important role.

This narrow scope creates legal uncertainty and operational challenges for market participants seeking to utilise tokenized assets—such as stablecoins or tokenised securities—as collateral within decentralized or hybrid settlement frameworks. For instance, regulated CASPs involved in custody, lending, or collateral management of digital assets often lack full access to the protections and clarity the FCD provides traditional entities.

Broadening the FCD's scope to explicitly encompass these emerging categories of market participants would eliminate unnecessary obstacles, deliver legal certainty, and encourage broader adoption of compliant DLT-based collateral solutions. Such alignment is essential to driving innovation while maintaining strong investor protection and market integrity in the EU's dynamic digital finance environment.

91) Do you think that collateral other than cash, financial instruments and credit claims should be made eligible under the FCD, in particular in light of DLT based financial collateral arrangements? If yes, please list what other forms of collateral should be considered as eligible and explain why.

Yes, regulated stablecoins—such as MiCA-compliant E-Money Tokens—should be explicitly acknowledged as eligible collateral under the FCD. Stablecoins provide distinct benefits that make them particularly suitable for DLT-based financial collateral arrangements, including:

- Near-instant, programmable settlement with automated collateral management features
- Continuous 24/7 operation, removing time-zone limitations and enabling seamless global market access
- Substantial reduction of counterparty and settlement risk via atomic settlement mechanisms
- Improved transparency, auditability, and traceability on-chain, enhancing risk management and regulatory supervision
- Support for more efficient margining and liquidation processes, bolstering operational resilience
- Standardized valuation relative to other digital assets, fostering market stability and investor trust

Explicit recognition of stablecoins as eligible collateral would modernize the FCD framework, aligning it with technological advancements and the changing landscape of digital markets.

92) Do you see the need to change the current approach that only financial collateral arrangements should be protected where at least one of the parties is a public authority, central bank or financial institution? Please explain

Yes, we believe the current restriction limiting protection to collateral arrangements involving at least one public authority, central bank, or financial institution should be revisited and broadened.

As digital assets and DLT-based financial services develop, a wider range of market participants—including regulated crypto-asset service providers (CASPs)—play vital roles within the financial ecosystem. Restricting legal protections to traditional counterparties excludes many innovative, compliant entities that enable efficient collateral arrangements using tokenised assets.

Expanding protection to encompass regulated CASPs and other authorised non-bank financial institutions would:

- Reflect the evolving financial market landscape, where digital assets and DLT facilitate new, secure collateralisation methods
- Boost market confidence by offering legal certainty and protection to a broader spectrum of participants
- Encourage innovation and the expansion of tokenised collateral markets, improving liquidity and capital efficiency
- Support the inclusion of emerging digital finance players without weakening regulatory standards or investor safeguards.

98) Are there any other issues you would like to address regarding FCD financial collateral in a DLT environment?

Yes. Under current Eurosystem rules, DLT-based securities are frequently deemed ineligible as collateral because they are not held within a recognised Securities Settlement System (SSS) or recorded in the traditional book-entry format. This effectively excludes on-chain assets from collateral use, despite them fulfilling equivalent functional and legal criteria as conventional instruments.

To remedy this, we recommend revising eligibility criteria to acknowledge DLT infrastructures that provide comparable safeguards. Adopting a technology-neutral stance would allow DLT-based securities and regulated stablecoins to qualify as financial collateral, enhancing efficiency and fostering the development of DLT-based capital markets within the EU.

Part 2:

Section 4: Horizontal barriers to trading and post-trading infrastructures

4.3: Issuance

We recommend introducing a framework for NCAs to propose increases in the DLTPR's thresholds to ESMA which, absent material and demonstrable investor protection or systemic risk concerns, should issue an opinion applying the increased thresholds across the internal market.

23) Do you believe that the DLTPR limit on the value of financial instruments traded or recorded by a DLT market infrastructure should be increased?

Yes. We agree with ESMA[1] that the DLTPR's low thresholds are hindering its attractiveness and competitiveness. The existing thresholds are too low to support sufficient transaction volumes, thereby limiting the profitability and commercial viability of enterprises or vehicles (e.g., CIUs) seeking to issue financial instruments on a DLT market infrastructure.

We acknowledge that the thresholds currently mandated in the DLTPR[2] were calibrated inline with the experimental nature of the first iteration of the DLTPR. To support the success of the regime going forward, we recommend introducing a framework for NCAs to propose increases in thresholds to ESMA. Furthermore, unless ESMA identifies material and demonstrable investor protection or systemic risk concerns, it should, by default, issue an opinion applying the increased threshold across the internal market.

24) Do you believe that the scope of assets eligible within the DLTPR should be extended?

Yes. The DLTPR's scope should include crypto assets deemed to be financial instruments under MiFID (e.g., a tokenised share), structured products, derivatives and alternative investment funds should be considered for inclusion in the regime to the extent they are compatible with a DLT market infrastructure modus operandi.

Section 4.4: Innovation – DLT Pilot Regime (DLTPR) and asset tokenisation

General comments:

- We do not support differentiating prudential standards between permissioned and permissionless distributed ledgers.
- We do not believe wholesale or comprehensive public policy intervention is necessary to support interoperability among DLT systems, and between DLT and non-DLT systems.

26) Should the DLT trading and settlement system (DLT TSS), allowing for trading and settlement activities within a single entity, become embedded into the regular framework (CSDR, MIFID)?

Distributed ledgers have the potential to reduce trading and settlement costs and to remove layers from the current trade lifecycle, including the extensive reconciliation process that is often currently required. We agree with the Commission that transaction finality is a critical concept in blockchain settlement in general and particularly for financial services, as it establishes legal certainty, enhances operational efficiency, and boosts trust in the system.

We see great potential for distributed ledgers to be embedded into the traditional regulatory framework. However, not all assets and infrastructures in current use may be able to deal with transaction finality and sequencing challenges (i.e., delayed settlement). The Commission should only embed trading and settlement within a single entity and within the existing framework where operations are compatible. In particular, the

[1] See Annex, Section V of the letter from Verena Ross, ESMA Chair, dated 2 April 2024, RE: DLT Pilot Regime Implementation, to Ms Mairead McGuiness, Irene Tingali and Vincent van Peteghem, available at https://www.esma.europa.eu/sites/default/files/2024-04/ESMA75-117376770-460_DLT_Pilot_Regime_-_Letter_to_EU_Institutions.pdf

[2] Article 3, DLTPR

Commission should not risk damaging broader confidence in the potential of the technology that underpins distributed ledgers resulting from a failure of process e.g., transaction finality not being achieved rather than a failure of the technology.

27) What other changes to the DLTPR are needed to ensure that it remains a framework that is fit for the purpose of allowing new entrants and established financial companies to deploy pioneering innovation with DLT in the EU, while also ensuring appropriate risk mitigation?

The Commission should underscore its stated commitment[3] to foster DLT-based innovation in financial markets by confirming its long-term support for the DLT regime (i.e., removing the 'pilot' qualification). The recommendations we have set out above for dynamic thresholds for the DLTPR, subject to ESMA endorsement, seek to strike a balance between enabling the regime to respond effectively to market evolution while providing an appropriate level of investor protection.

28) What type of below-specified changes to the DLTPR would improve business certainty and planning for businesses that are considering to join the DLTPR? Please rank each set of changes on a scale of 1-5 (1 denoting 'least important'). (a) remove the references in the DLTPR to the limited duration of licenses; (b) size-proportional requirements within the DLTPR, whereby the greater the size of the business of the DLTPR participant (e.g. measured in terms of volume of transactions traded/settled), the greater the compliance obligations; (c) clearer regulatory pathways to 'graduate' into the 'regular' CSDR framework; (d) other.

(a) remove the references in the DLTPR to the limited duration of licenses	Rank 5
(b) size-proportional requirements within the DLTPR, whereby the greater the size of the business of the DLTPR participant (e.g. measured in terms of volume of transactions traded/settled), the greater the compliance obligations	Rank 4
(c) clearer regulatory pathways to 'graduate' into the 'regular' CSDR framework	Rank 5

29) Does the DLTPR create a sufficiently clear and flexible framework for the use of EMTs as a settlement asset, bearing in mind the overarching need to ensure a high level of safety for cash settlement in DLT market infrastructures? [YES/NO]

No. While the European Commission has provided some helpful clarifications[4] concerning the settlement of payments using EMTs issued by a DLT SS/TSS operator or an EMI, the lack of experience of use of this

[3] https://www.esma.europa.eu/sites/default/files/2024-05/3056562_030524_Reply_Verena_Ross_on_DLT_Pilot_Regime_Implementation.pdf

[4] See ESMA_QA_2126, available from https://www.esma.europa.eu/publications-data/questions-answers/2126

framework due to the very small number of operators authorised under the DLTPR makes it difficult to determine if the framework is sufficiently clear and flexible.

31) Do you believe that DLT is a useful technology to support trading services in financial instruments?

Yes, DLT has the potential to revolutionalise trading services in financial instruments by reducing costs, increasing speed and mitigating many risks inherent in the current financial system. DLT can also support many of the Commission's broader ambitions including open finance.

33) For a financial entity using DLT to deploy its services, the distributed ledger is often an external platform on which services are run, and this platform may have a very distributed governance structure. What are the benefits and risks of deploying financial services, including post-trading services, on distributed ledgers external to the financial service provider, and therefore outside its direct control?

Financial entities may not have the experience or capability to operate a distributed ledger as effectively as an external platform provider. Many of the same considerations apply to the use of external distributed ledgers as apply to other 'outsourced' relationships. However, one of the most unique features of external distributed ledgers compared to existing architectures, is the potential to create a more neutral platform which while outside of a financial entity's direct control may mitigate many of the governance risks inherent in traditional systems. Such arrangements may create new risks, but as the Commission has also acknowledged, such risk can be mitigated effectively through appropriate governance controls.

34) How should the regulatory perimeter between a technological service provider and a financial service provider, especially a CSD, be drawn in the above described DLT context?

On the one hand firms that are providing services, including those that have access to or control of accounts user accounts and are therefore performing 'intermediary' type activities, should be considered financial services providers (e.g., CASPs). On the other hand, those firms which provide the underlying technology to enable such services to be performed should be considered technology service providers (e.g., a self-hosted wallet app or hardware device provider).

35) The Commission recently published a study on the use of permissionless blockchains for enhancing financial services, which set out operational robustness criteria for assessing permissionless blockchains. Do you believe that beyond the Digital Operational Resilience Act (DORA), additional legislative or non-legislative action is needed to ensure appropriate mitigation of risk stemming from decentralised IT systems such as permissionless blockchains? [YES/NO.] Please explain your reply.

No. We do not believe additional legislative or non-legislative action is needed at this time. DORA has only applied for a few months. We would encourage the Commission to evaluate the impact of DORA in due course to determine whether additional action is warranted.

36) Basel prudential standards on crypto exposures applicable to credit institutions assign group 2 status to tokenised assets, including tokenised financial instruments, that are issued and recorded on permissionless distributed ledgers. The transitional prudential treatment of exposures to tokenised

assets in the Capital Requirements Regulation currently applicable does not make a distinction based on the type of underlying distributed ledger. Do you believe that prudential rules should differentiate between permissioned and permissionless distributed ledgers? [YES/NO.] Please explain your reply.

No. Prudential rules should not differentiate between permissioned and permissionless distributed ledgers. As a general matter, we recommend that the prudential treatment of crypto exposures is reviewed as a matter of urgency. We note the BCBS's previous assessment that the use of permissionless distributed ledgers gives risk to a number of unique risks, which it asserts some of which cannot be sufficiently mitigated at present. We respectfully disagree with this conclusion as, in part, we consider this to be based on prior research which does not reflect market developments. We also do not consider permissioned vs permissionless distributed ledgers to be a binary distinction. Network assessments should be carried out on a case-by-case and be risk-based.

37) Do you believe that risks from permissionless blockchains, in particular operational risks and other risks set out in the BIS Working paper on novel risks, mitigants and uncertainties with permissionless distributed ledger technologies, can be mitigated? [YES/NO] Please explain your reply.

Yes. We respectfully disagree with the BCBS's conclusion that permissionless distributed ledgers give risk to a number of unique risks, which it asserts some of which cannot be sufficiently mitigated at present. Risks from permissionless distributed ledgers can and have been managed by built-in controls e.g., certain Ethereum token standards or by adding secure blockchain layers. Indeed, the Commission has acknowledged[5] that many of the governance concerns associated with public permissionless distributed ledgers can be mitigated at the smart contract level. We agree with the Commission that public permissionless blockchains represent a promising alternative to permissioned platforms, with the potential to reduce dependencies and mitigate monopolistic market structures on a platform level

38) Asset tokenisation concerns the use of new technologies, such as distributed ledger technology (DLT), to issue or represent assets in digital forms known as tokens. Where do you see most barriers to asset tokenisation in Europe? Please rank each of the potential barriers on a scale of 1-5 (1 denoting 'least barriers'). (a) Member State securities and corporate law (b) Member State laws other than securities and corporate law (c) EU laws that relate to trading and post-trading (d) EU laws other than laws that relate to trading and post-trading Please explain your reply, pointing to concrete examples in areas beyond the SFD, FCD and CSDR.

CCI response:

(a) Member State securities and corporate law	Rank 4
(b) Member State laws other than securities and corporate law	Rank 2
(c) EU laws that relate to trading and post-trading	Rank 5

[5] Enhancing financial services with permissionless blockchains, European Commission

(d) EU laws other than laws that relate to trading and post-trading	Rank 3

39) Should public policy intervene to support interoperability between non-DLT systems and DLT systems?

No. We do not believe wholesale or comprehensive public policy intervention is necessary to support interoperability between non-DLT and DLT systems. Instead, public policy interventions should remove barriers to interoperability by enabling standards for messaging and interfaces to develop unhindered. Furthermore, interventions should remove existing requirements which are either not compatible with DLT systems or create an additional layer or requirements. For instance, the requirement under CSDs to record transferable securities traded on a trading venue in book-entry form presents challenges for market infrastructure operators to efficiently use DLT systems.

As the Commission has acknowledged, distributed ledgers (e.g., public permissionless blockchains) serve as a neutral interoperability layer, potentially laying the groundwork for the next logical step in open finance. This may create strong incentives for non-DLT systems to develop interoperability with DLT systems to provide participants with the flexibility to use those characteristics of DLT systems which suit specific applications.

40) Should public policy intervene to support interoperability between distributed ledgers?

No. We do not believe wholesale or comprehensive public policy intervention is necessary to support interoperability between DLT systems. Public policy should be an enabler rather than a barrier to interoperability e.g., by fostering standaridisation.

41) Lack of standardisation acts as a hindrance to interoperability. This is especially the case with a relatively new technology such as DLT. Where is the greatest need for standardisation in the area of DLT? Multiple replies are possible. Please rank each of your reply from 1-5, with 1 denoting 'least important' (a) Business standards applicable to digital assets (for example data taxonomy to describe digital assets) (b) Technical standards applicable to digital assets and smart contract-based applications (c) Technical standards applicable to links (bridges) between DLTs (d) Other Please explain your reply.

CCI response:

(a) Business standards applicable to digital assets (for example data taxonomy to describe digital assets)	Rank 3
(b) Technical standards applicable to digital assets and smart contract-based applications	Rank 5

(c) Technical standards applicable to links (bridges) between DLTs	Rank 4

42) Given how you foresee DLT-based financial market infrastructure to develop, what do you think is the best way of providing interoperability between distributed ledgers? Please rank each of your reply from 1-5, with 1 denoting 'least important' (a) regulated financial entities, such as a CSD, that are present on multiple ledgers, acting as a distributed ledger hub for clients (b) pure technology companies that focus on sending messages securely across distributed ledgers for clients that are regulated financial companies (c) regulated financial entities that focus on sending messages securely across distributed ledgers for clients that are regulated financial companies (d) some other model Please explain your reply.

(a) regulated financial entities, such as a CSD, that are present on multiple ledgers, acting as a distributed ledger hub for clients	Rank 3
(b) pure technology companies that focus on sending messages securely across distributed ledgers for clients that are regulated financial companies	Rank 4
(c) regulated financial entities that focus on sending messages securely across distributed ledgers for clients that are regulated financial companies	Rank 5

Section 6: Supervision

General comments

- **Risk-based approach to supervision:** As a general matter, we believe that supervision - be it at national or EU level - needs to be laser-focused on taking a risk-based approach. Absent a significant increase in resources (financial, human, operational, ICT etc) regulators and supervisors should focus their attention and efforts on tackling the largest risks emanating from the most systemically impactful parts of the financial system.

- **Inappropriateness of crypto ecosystem being supervised at EU level:** We agree with ESMA's recent intervention before MEPs that, at this stage, cryptoassets and digital assets and the related ecosystem do not pose significant risks, including financial stability risk. We believe the existing ESMA toolbox already provides the necessary tools to drive greater convergence and that supervision should continue to be based with NCAs until such time as the ESAs build up the appropriate capacity for a broader range of entities under its direct supervision.

- **Importance of implementing recently agreed supervisory framework before reviewing/revising:** There are many aspects of the EU legislative framework - MiCA, Transfer of Funds Regulation, AML package - applicable to the digital asset ecosystem which remain in a nascent state. We strongly believe the supervisory provisions extensively outlined in these legislative acts - need to be given time to be effectively implemented, providing regulatory certainty for market operators and public authorities alike, before being revised.

6.2 Specific questions on supervisory arrangements for different sectors

4) Do you have ideas how EU-level supervision of financial markets could be structured (for example the whole or part of the sector should be supervised at EU level, supervisory decisions could be taken at EU level or national, etc.)? What broad changes would that involve in terms of - supervisory architecture and supervisors' responsibilities, - supervisors' approach to exercise their mandates and processes, - improved cooperation among supervisors?

There is a trade-off to be had between efficiency and simplification (from a more centralized supervisory system) vs a more tailored, diverse national supervisory system, which respects national specificities and expertise in financial services.

More integrated EU supervision is - in a way - inevitable, in light of the political objective of promoting integration of the EU financial markets established by the SIU and single market. Indeed, more cooperation will be needed as we scale digital and borderless services. Overall, we believe that the more coordinated and centralised supervision would ultimately help to ensure (i) regulatory convergence (solving the issue of regulatory arbitrage and gold-plating); (ii) level-playing field, (iii) harmonised interpretation and approach, and (iv) consistent enforcement.

We strongly support the promotion and further advancement of supervisory convergence and limiting duplicative or divergent national provisions discretions within the EU rulebook. That said, we remain unconvinced that a significant centralization of powers is currently needed for the digital asset ecosystem, given a risk-based assessment suggests that other parts of the financial services sector should be prioritised.

Enhancing peer reviews and coordination between NCAs, perhaps with a coordinating role for the ESAs, could be explored, as an initial step, as a means of improving coordination whilst respecting national prerogatives and expertise.

We also believe that the ESAs do not currently have the sufficient financing or human resource/expertise to deliver superior supervision of the digital asset ecosystem to that which has been growing at national level. Whilst centralized supervision may be an ultimate, long-term goal/aim, further investment should be placed, short-term, on capacity building and expertise at NCA level. An incremental approach - retaining NCA supervision in the short-term whilst building capacity at EU level for centralized supervision long-term, will avoid counterproductive and harmful competition between national and EU levels and ensure EU level capacity and expertise is established before transferring supervision to EU level.

We also note that under the EU's MiCA regime, the co-legislators explicitly decided to only prescribe EU level oversight (for EBA) for systemic stabelcoins (ARTs and EMTs), choosing to leave supervision of CASPs at the

national level. We do not believe there has been significant market development since the application of MiCA (December 2024) to warrant a centralization of supervisory oversight of CASPs. Moreover, market operators and NCAs have spent considerable time, effort and resources in developing and implementing the current regime. We believe it would be counterproductive and premature to overhaul this at this stage.

5) Some national competent authorities (NCAs) have developed advanced expertise or specialisation in supervising certain sectors. What is your view on building on these NCAs and creating EU centres of supervisory expertise by sectors?

We recognise the value of supervisory expertise by sector and believe there are several, existing examples of best practice (e.g. asset and fund management in Luxembourg and Ireland) within the EU which have developed/evolved without requiring any legislative or regulatory interventions. Any efforts to share best practice, to build and share national experiences should be applauded. We are not convinced that creating EU centres of supervisory expertise by sectors will lead to a significant improvement in supervisory quality. We believe it is appropriate and desirable to leave the market to evolve unhindered, rather than seeking to artificially create centralised, sectoral centers of supervisory expertise.

6) Do you think supervision of EU financial markets would benefit from pooling together resources and expertise of individual NCAs in regional hubs?

Regional supervisory hubs are a new and novel idea. Whilst there may be some cultural and market specificities within certain geographical regions, we remain unconvinced that public policy intervention is the appropriate way to develop more efficient, streamlined supervision via regional hubs.

7) What is your view on setting up regional hubs of ESMA to ensure closer interaction with market participants? Please explain your reply highlighting benefits and downsides

On the face of it, we do not see benefits in introducing an additional supervisory layer between ESMA and the NCAs. We believe this would add cost and complexity, running contrary to the EU's stated political intention of simplification and administrative burden reduction. Given our support for a risk-based approach to supervision, we believe the vast majority of nationally focussed and smaller actors should remain under the auspices of NCAs when it comes to authorisation and supervision, recognizing the benefits of centralized supervision for the largest global actors in banking where systemic risk and interdependencies with national governments are evident.

6.5 Questions on the supervision of significant EU trading venues

6.5.2 How could more integrated EU supervision function?

34) Would joint supervisory teams, composed of experts of NCAs and representatives of ESMA, under ESMA's lead be an efficient tool to achieve a more harmonised and efficient ongoing supervision of trading venues?

Without prejudice to the organizational structure and importantly the ultimate governance/decision making process, we concede that such a system described here could be an efficient supervisory tool. However, and as a general remark, we would oppose any additional/duplicative roles/responsibilities or overlap between

NCAs and EU supervisory authorities. As such, if the EU were to centralize any provisions, it would be important that there was a subsequent and proportionate reduction in existing and future national supervisory rules and provisions, lest the cumulative impact reduce rather than increase efficiency.

36) Which criteria should be used to define the scope of trading venues that should fall under EU-level supervision?

In order to have the most efficient supervisory system in relation to the resources and tools available, the EU should double down on a risk-based approach when it comes to defining the potential eligibility criteria for EU level supervision. In this respect, quantitative thresholds - such as size relative to the overall EU market, not just to peers within a subsector - e.g. CASPs - should be the determining factor. Physical presence, operating entities/licences, number of employees across a minimum number of member states are other criteria which could be relevant for consideration. The AMLA framework (defining operations in at least one of the key criteria 6 MS cross-border operators) could be replicated for certain other financial services activities. We strongly disagree with the inference that belonging to a third country owned group should be considered as a criteria for falling under EU level supervision. This would constitute a discriminatory approach, going against the EU principle of freedom of establishment. Moreover, in order to operate in the EU, almost all providers (with a tiny exception of service providers using reverse solicitation provisions) are required to establish entities in an EU member state in order to fulfil their regulatory and authorisation requirements under respective EU legislation. We do not believe belonging to a non EU parent company has any bearing on the risk profile of a firm within EU markets and as such, should not be a criteria for consideration regarding EU-level supervision.

37) Assuming competences are split between an EU-level supervisor responsible for the supervision of significant relevant trading venues and NCAs responsible for the supervision of less significant institutions ('LSI'), do you believe that the EU-level supervisor should also have any oversight function with respect to LSI supervision?

We do not believe there should be any transfer of ultimate responsibility for supervision of LSIs from NCAs to the EU level. That said, some form of coordination or semi-regular dialogue, including reporting by NCAs of LSI to the EU level, may be appropriate. We'd note that such a system largely already exists so it is unclear whether there is evidence of failures in the existing system which would warrant revision. We also believe that EU-level supervision of significant relevant trading venues would need to be carefully considered and, if developed, carefully calibrated, in full respect of the principle of prioritising risk-based approach to supervision.

41) Do you consider that the application of the above criteria could also produce negative side-effects or lead to unintended results?

Quantitative thresholds and criteria always produce cliff edge effects, which could work as a disincentive to growth within EU markets. Policymakers should be mindful of avoiding the creation of a system which could see firms moving frequently between levels. An important consideration before assigning EU level supervision to an entity should also be a certain temporal element - where entities are provided a transition period before EU level oversight takes place and in doing so, this would happen only after a certain period of time during which the entity has consistently fulfilled the eligibility criteria, in particular any quantitative threshold. We also believe NCAs where entities have operations should have a formal role in any decision making process, including a certain level of discretionary control vis-a-vis the entity or entities within a group which they

supervise. Such a system could include some form of de minimis criteria, favorable recognition of domestic/national risk mitigation techniques which should be taken into account in the decision making process.

43) Should it be possible for a trading venue to opt-in into EU-level supervision even though it does not meet the relevant criteria?

As long as this is an optional element, we do not see any downside risk in providing such a possibility. We believe it should be for the trading venue directly to make such a decision and not for public authorities.

54) To which extent do you agree with the following statements about possible benefits of more integrated EU supervision (please rate from 1 to 5)?

a) It could reduce the CASPs regulatory costs	Rank 3
b) It could enhance the quality of supervision over CASPs	Rank 2
c) It could simplify and accelerate the procedure to apply for authorisation to provide cryptoasset services in the EU	Rank 2
d) It could simplify and accelerate the procedure for additional authorisations (e.g. to extend the scope of crypto-asset services or activities offered in the EU)	Rank 4
e) It could simplify and accelerate the procedures for obtaining supervisory approvals, e.g. with regard to outsourcing	Rank 2
f) It could lead to more efficient use of supervisory resources	Rank 3
g) It would decrease uncertainties that currently arise from different implementation or interpretations of the EU MiCA Regulation in different Member States or by Member States and ESMA	Rank 4

h) It would remove the need for market actors to deal with duplicative instructions from more than one supervisory authority	Rank 3
i) It would contribute to creating a level playing field between EU CASPs by eliminating regulatory arbitrage and gold plating	Rank 1
j) It would improve EU overview and cooperation over cross border activities	Rank 4
k) It could improve the resilience of EU CASPs	Rank 1
l) It would reduce the need for detailed regulations, extensive rulebooks and supervisory convergence activities to achieve harmonised supervision	Rank 1
m) It could contribute to a harmonised understanding of complex organisational structures and the different CASP business models	Rank 2

55) Do you consider that centralised EU supervision could also produce negative side-effects.

We do believe that there are considerable risks and negative side effects of centralised EU supervision. Firstly, there is a significant lack of expertise, knowledge and understanding at both NCA and EU level of how the digital asset ecosystem operates in practice. Without a significant increase in collaboration between public and private authorities - e.g. through the creation and extension of industry stakeholder working groups and potentially also through secondement schemes - we fear a centralised system will exacerbate the negative impacts of the lack of expertise and resource. There is also considerable risk of ‘brain drain’ from NCAs to EU authorities. This could further reduce resources and expertise at NCAs level, negatively impacting supervision of LSIs. We remain concerned that any centralisation without a clear limitation/reduction/elimination of national level provisions will lead to regulatory expansion, adding complexity and cost rather than efficiency and cost reduction. Finally, we do not believe there is a majority of Member States who favor a significant centralisation of supervisory powers, nor the freeing up of financial resources to deliver tangible, concrete improvements in supervision. Unless this changes, we believe there is no value in the Commission proposing changes which will not be able to be agreed by the co-legsilators.

56) Do you consider significant crypto-asset service providers to be subject to different risks than smaller crypto-asset service providers? If yes, what are these risks?

Yes, significant CASPs face distinct risks compared to smaller providers, mainly due to their size, systemic importance, and scale of operations. Their larger user base and higher transaction volumes can magnify the consequences of operational failures, cyberattacks, or market disruptions, potentially increasing risks to financial stability.

Conversely, larger CASPs generally possess more sophisticated infrastructure, dedicated compliance resources, and greater capacity to invest in risk management and security frameworks. These strengths often enable them to manage risks more effectively than smaller entities. Therefore, while greater size may raise exposure, it can also bolster resilience.

58) Do you have other comments?

NCAs will need to develop expertise on MiCA-related matters (such as custody and market integrity), as these will become increasingly relevant for capital markets once tokenization and DLT adoption expand. Although ESMA may, ultimately, supervise 'systemic' CASPs, Member States must still build capacity to oversee other firms applying for MiCAR authorisation. Supervising larger market players can facilitate the development of this expertise.

CASPs' non-MiCA activities (for example, those related to EMI/PSD licenses or MiFID) will continue to be handled by NCAs, meaning there will not be a single EU-wide supervisor as such.

62) Do you consider the threshold for significant CASPs in Article 85(1) of MiCA adequate, high, or too low? (the threshold is currently 15 million active users on average in one calendar year)

The number of active users alone does not fully capture the scale or risk profile of a CASP. Larger, more established platforms with substantial financial transactions, liquidity, or institutional involvement often have a greater influence on market stability, irrespective of user count.

We suggest revisiting the criteria for identifying significant CASPs by incorporating factors such as trading volume, market share, and financial market exposure. This more nuanced approach would better align regulatory focus with the entities that pose the greatest risk to market integrity and financial stability.

Section 7: Horizontal questions on the supervisory framework

7.1 New direct supervisory mandates and governance models

1) Would you agree that EU level supervision is beneficial to achieve a more integrated market? Please provide your answer by choosing from 1 (strongly agree), 2 (rather agree), 3 (neutral), 4 (rather disagree), 5 (strongly disagree), (no opinion)

2. Assuming gold-plating and national provisions are removed, there could be efficiency gains for firms which could lead to more integrated markets. However, supervision in and of itself does not create market efficiencies or lead to integration.

2) Are there other sectors of financial services, not covered in the questions on the topic of supervision where granting ESMA new direct supervisory powers should be considered? Y (please provide examples) / N If the answer to previous question is 'yes', which entities should fall under its remit and which criteria should they meet? Please specify the area(s) and criteria.

No. As per our previous responses, we do not necessarily agree that the sectors identified warrant EU level supervision. Adhering strictly to a risk-based approach and looking at activities in relation to the totality of EU financial markets, we do not believe there is currently a case to be made or a supervisory failing which would demand a transfer from NCA to EU level supervision on CASPs, significant or otherwise.

3) What should be the key objectives behind a decision to grant direct supervision to the ESMA?

Risk-based approach, related to whether there is a significant risk to financial stability and/or significant detriment to consumers in a stressed environment. We would underscore the significantly more onerous/conservative requirements on ARTs/EMTs and CASPs under MiCA compared to other parts of the FS system, in particular the 1:1 reserve requirements in comparison to the fractional banking system with its low leverage ratio under the CRR regime, as a mitigating factor which limits to a large extent financial stability risk and lack of consumer protection risk in the EU's digital asset ecosystem.

7.3 Increasing the effective use of supervisory convergence tools

8) Do you think that the current supervisory convergence tools are used effectively and to the extent that is possible?

For CASPs, for whom the EU's MiCA regime is only applicable since the end of last year, it is perhaps too early to evaluate this. As such, it would be preferable to have some regulatory stability, providing an opportunity for market operators and NCAs/ESAs alike to assess whether the current regime under MiCA is functioning effectively and as intended before suggesting any change or centralisation.

10) How could the mandate of the Chair and Executive Director of ESAs be modified to allow them to act more independently and effectively in promoting supervisory convergence? o Prohibition of re-election o Longer term. o Other (please explain).

Prohibition of re-election

7.5 Possible new supervisory convergence tools

15) In the context of supervision of products or of conduct of business rules, supervisory convergence powers could be reinforced. The ESAs may identify cases where home supervision is deemed ineffective either through ongoing monitoring or in response to a specific complaint. For example, the ESAs could be given the power to issue an opinion/binding advice regarding ineffective national supervision to avoid that products or entities are granted access to the EU-market without adequate supervision. Do you think that ESAs should be empowered to issue an opinion in cases where national supervision is deemed ineffective?

No

16) Do you think that ESAs should be empowered to issue a binding advice in cases where national supervision is deemed ineffective? Y/N. If your answer is 'no' to the questions above, please explain why. If your answer is yes, please specify in which areas.

No. We do not believe it is appropriate for ESAs to encroach on NCAs powers in this way. If failings have been identified, the Commission can always resort to due process through legal avenues. The ultimate distinction between NCA supervision of LSI and potential EU level supervision on systemic actors should be the only in which ESAs are legally empowered - through legislation if/once it is agreed and applicable - to act.

20) Which area(s) would benefit most from an ESA(s)' enhanced role as a data and technology hub?

It is not clear, at this stage, that ESAs enhanced role as a data and technology hub would lead to tangible benefits for the digital assets ecosystem.

7.7 Funding

21) How should ESAs' suptech tools be funded?

General budget (EU/NCA)

23) Do you consider the provisions on financing and resources for the tasks and responsibilities of the ESAs appropriate? Y N Please explain your answer

Yes.

24) ESAs face pressure to fulfil a growing number of mandates while staying within the ceilings of the multi-annual financial framework (MFF). Taking into account the limitations of public financing, should ESAs be fully funded by the financial sector? Y N Please explain your answer If not fully funded by the financial sector, would you be in favour of targeted indirect industry funding for certain convergence work (indirect fees), e.g. for specific tasks, like voluntary colleges, opinions, etc.? Please explain your answer

No. We believe there is no justification for ESAs to be fully funded by the financial sector. We believe the public sector and policymakers need to take their responsibilities seriously and appropriately fund supervision at national and EU level. Indeed, if the Commission truly believes efficiency gains are to be made from centralized supervision, then there should be subsequent savings for NCAs from centralization which could offset any increase in Eu level funding under a revised MFF. We also believe that the Commission and co-legislator should be less inclined to expand the number of mandates for the ESAs in future legislation in order to avoid pressures and enable the ESAs to fulfil their primary mandate.

25) Do you think the current framework includes sufficient checks and balances to ensure that ESAs make efficient and effective use of their budgets?

Yes.

26) Which of the following measures could be envisaged to ensure efficiency and effectiveness of ESAs budgets?

Measures	CCI Response
Periodic performance audits assess the organisation's efficiency and effectiveness in executing its mandates, using resources, and achieving its goals.	Yes
Stronger role for the Commission on budgetary matters (at present, the Commission has no voting rights except the budget where it has one vote)	No
Veto power for the Commission on the budget	No
Transparency and monitoring mechanisms	Yes
An obligation to publish details on the calculation and use of the fees charged to directly supervised entities	Yes