FÉDÉRATION BANCAIRE FRANÇAISE

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TO : EBA - CONSULTATION EBA/CP/2025/01

CALCULATION AND AGGREGATION OF CRYPTO EXPOSURE VALUES

RESPONSE TO THE EBA CONSULTATION EBA/CP/2025/01
ON DRAFT RTS ON CRYPTO-ASSETS EXPOSURES

INTRODUCTION

We appreciate the opportunity to provide feedback on the EBA's draft Regulatory Technical Standards (RTS) on the prudential treatment of crypto-asset exposures. Our comments aim to help ensure that the final RTS strikes an appropriate balance between **prudential soundness and fostering innovation** within the European financial sector.

- In this context, we stress the importance of a proportionate approach to the RTS in order to avoid creating a stricter prudential environment that could place **European banks** at a **competitive disadvantage** compared to other jurisdictions, notably the United States, where regulatory and prudential approaches to crypto-assets have been recently relaxed or overturned. It is imperative that the EBA adopts an approach that does not stifle innovation or hinder the ability of European institutions to compete effectively on a global scale, consistent with the broader objective of the European legislative framework, notably MiCA, which aims **to promote innovation and competitiveness in the EU.**
- In addition to our comments on the draft RTS, we also take this opportunity to express broader concerns regarding the underlying transitional regime set in the CRR3 and the BCBS international standard. We believe that the Basel standard should be revisited in light of the recent evolution of the crypto market and the increasing maturity of regulatory and risk management in this field. We **understand the BCBS may consider reopening the discussion in the near future**, which would be an opportunity to achieve a more balanced approach. Until then, we urge the European authorities to **avoid over-implementation** that could unduly constrain EU banks' competitiveness on the global stage, including on the 1% total exposure limit, that should be reconsidered.
- In addition to that, the Industry would like to highlight the **need for a market risk treatment of crypto assets:** Basel framework stipulates that Group 2a crypto assets are subject to either the Simplified Standardised Approach or the Standardised Approach for market risk. In contrast, the Consultation Paper on Crypto Assets Exposures would restrict the calculation of market risk capital requirements for crypto assets solely to the Simplified Standardised Approach. The Basel standards have established a framework for the prudential treatment of cryptocurrencies. As part of CRR3, a transitional treatment has been introduced for this new kind of risk (no treatment was established before CRR3) and must notably **remain aligned** with the Basel framework. The Delegated Act that postpones the FRTB application did not impact the treatment of Crypto exposures (Article 510d(2) point c) as it's not falling into its mandate (Article 461a).

This lack of flexibility ultimately places **EU institutions at a disadvantage**, reducing their competitiveness compared to institutions in other jurisdictions.

- Should there be overly unfavorable treatment, Europeans markets may not be immune to potential contagion from crypto-based products originating in more permissive countries.

FBF RESPONSES:

Q1: Prudent Valuation (PVA) and Crypto-Assets

Do you agree that fair-valued crypto-assets within the scope of MiCAR should be included within the scope of the prudent valuation rules? If not, please explain

- We seek clarification regarding the **scope of prudent valuation** (PVA) and the criteria for determining which crypto-assets fall within its ambit. Specifically, we question the limitation of prudent valuation to crypto-assets that are subject to the Markets in Crypto-Assets Regulation (MiCAR). It is essential to clearly define the treatment of other crypto-assets that are not within the scope of MiCAR.
- We emphasize the **need to legally align the future revised RTS Pruval with the current RTS on crypto-assets**. Extending the scope of PVA to crypto-assets not considered financial instruments or commodities, even if they fall under MiCAR, could lead to regulatory inconsistencies and application difficulties.
- Furthermore, we emphasize the importance of **avoiding double counting** of risks in the calculation of the PVA especially in combination with high risk weights such as 1250%, which could lead to an excessively conservative assessment of risk.

Q2: Application of Article 105 CRR and Delegated Regulation (EU) 2016/101 on Prudent Valuation

Do you have any concern in relation to the application of the requirements specified in Article 105 CRR and Delegated Regulation (EU) 2016/101(RTS on Prudent Valuation) to crypto-assets? If so, please explain.

- We suggest studying the **relevance of excluding crypto-assets subject to a risk weight of 1250% from the scope of PVA**. We request the EBA's opinion on this approach to avoid a disproportionate operational burden combined with an excessively conservative assessment of risk.
- In particular, it could be demonstrated that the cumulative application of the prudent valuation rules and the 1250% risk weight would lead to a disproportionate capital requirement (double penalty). Indeed, a 1250% risk weight is a 100% capital allocation to the asset value, equivalent to the CET1 deduction of the full value. If the Prudent value deduction (direct impact on CET1) also applies to the same cryptocurrency asset value, this would lead to a cumulative CET1 deduction superior to the asset value.
- Added with the limitation at 1% of the Tier 1 on these same crypto-assets, the treatment seems overly disproportionate.

- We call for further guidance on the **accounting treatment of crypto-assets under International Financial Reporting Standards (IFRS)**. It should be specified that crypto-assets should **not be treated as intangible assets** under the relevant article but as per this RTS.

Q3: Uniform 250% weighting for CCR transactions (Alternative A) vs. using the counterparty's RWA (Alternative B)

> Q3: Do you agree that a one-size fits all RW of 250% should apply also to CCR transactions requiring specifications on netting set treatment (Alternative A) or do you prefer using the counterparty's RW as is standard in CCR (Alternative B)? Please briefly justify your assessment.

- We express a strong preference for **Alternative B**, which aligns with standard practices for calculating Counterparty Credit Risk (CCR) by utilizing the Risk-Weighted Assets (RWA) of the counterparty. Alternative A, which imposes a uniform 250% weighting, appears unduly conservative, not risk-sensitive, and, as reminded by the EBA, not consistent with the Basel standard (on counterparty credit risk as well as on crypto-assets exposures).
- In the interest of consistency, we propose **extending the logic of Alternative B to exposures referred to in Article 501d (2) point (c)** that meet the hedging recognition criteria. This would ensure a more coherent and risk-proportionate approach across the spectrum of crypto-asset exposures.

1. The RW of the counterparty should apply for counterparty credit risk

   For exposures referred to in Article 501d(2)(c) that meet the conditions laid down in Article 3(1) of the draft EBA RTS (those are equivalent to Group 2a under Basel rules as they meet the hedging recognition criteria), Article 3(2)*[1] of the draft RTS is silent**[2] on the RW to be applied (only the conservative calculations of the exposure are mentioned in the second sentence) in the case of **indirect exposures** giving rise to Counterparty Credit Risk (CCR) whereas the **1250% RW in the case of Credit Risk** (CR) is clearly recalled in the first sentence, as per the RW of 1250% to be applied for direct credit risk and as per CRR3 Article 501d(2)(c).

   For the avoidance of doubts, it is our understanding that the **usual CCR approach should be used as far as the RW of the counterparty is concerned** (the counterparty's RW will be used instead of 1250%) whereas the exposure has already and naturally a more specific and conservative treatment. Therefore, we recommend the EBA to amend:

[1] ** Institutions shall follow the requirements specified in Part Three, Title II, Chapter 2, of Regulation (EU) No 575/2013 which refer to own funds requirements for **credit risk, applying the 1250% risk weight**, for calculating own funds requirements for exposures referred to in Article 501d(2), point (c) of Regulation (EU) No 575/2013 that meet the criteria laid down in paragraph 1 of this Article.*
*When institutions calculate **the exposure** for these crypto-assets, the specifications of paragraphs 3 and 4 of this Article apply.*

[2] ** As it is also the case in Basel for Group 2a cryptoassets (Prudential treatment of cryptoasset exposures dated December 2022)

Article 3(2) as such:

> *"Institutions shall follow the requirements specified in Part Three, Title II, Chapter 2, of Regulation (EU) No 575/2013 which refer to own funds requirements for credit risk, applying the 1250% risk weight, for calculating own funds requirements for exposures referred to in Article 501d(2), point (c) of Regulation (EU) No 575/2013 that meet the criteria laid down in paragraph 1 of this Article.*
> *When institutions calculate the exposure for these crypto-assets, the specifications of paragraphs 3 and 4 of this Article apply* ***and the risk weight of the counterparty will apply when computing own funds requirements for counterparty credit risk".***

Article 3(3)(c) as such:

> *"where a netting set contains derivatives on traditional assets or crypto-assets referred to in Article 501d(2), point (a) or (b) of Regulation (EU) No 575/2013, and derivatives underlying crypto-assets referred to in Article 501d(2), point (c), of Regulation (EU) No 575/2013 institutions can assign the crypto-assets referred to in Article 501d(2), point (c) of Regulation (EU) No 575/2013 in their own separate netting set* ~~***and apply the risk weight re[1]ferred to in paragraph 2 of this Article to this separate netting set".***~~

We would like to remind the EBA that a RW of 1250% in the case of CCR exposures (for exposures that meet the conditions laid down in Article 3(1)) would lead to unintended consequences, in terms of undue capital outcome and operational complexity:

- **From a capital point of view** (in the case of an indirect exposure), the crypto-asset already gives rise to a specific and **conservative computation** of the exposure***[3]: applying a **RW of 1250%** (instead of the RW of the counterparty) in addition to the conservative treatment of the exposure **implies an undue and unjustified double counting** treatment in the CCR framework and would imply a **deviation from Basel for Group 2a**
- **From an operational point of view**, it could lead to **unintended consequences**, for instance in the case where a bank finance a client's **portfolio that is composed of traditional assets and crypto-assets**, collateralized by this portfolio. In that case, it would imply to split the exposure into the part of the exposure with a RW of the original client (that corresponds to traditional assets that are financed) and the part of the exposure with a RW of 1250% (that corresponds to the crypto-assets that are financed), while financing level is provided to the client with collateralization requirements which depend on the full portfolio composition and diversification.

2. For mixed pool, **one single netting** set should be allowed when computing the **exposure value for IMM banks**

- When **computing the exposure value for securities financing transactions** (SFTs) referencing crypto-assets referred to in Article 501d(2)(c) that meet the hedging

[3] *** in the case of SLAB or repo for instance under FCCM, a volatility adjustment of 30% is applied for crypto-assets that are lent whereas crypto-assets are not recognized as eligible collateral

recognition criteria, the standard method (FCCM) -as defined in Article 220- shall be used. As the EBA draft RTS is not precising the calculation methodology **in the case of SFTs that are referencing both** (i) **traditional** assets or crypto-assets referred to in Article 501d(2)(a) or (b) and (ii) **crypto-assets** referred to in Article 501d(2)(c) that meet the hedging recognition criteria, we ask the EBA to **confirm that IMM banks** that finance a pool of clients assets can continue to have **a single netting set** with (i) and (ii), in line with their risk management practices (in particular in the prime brokerage activity). Assets financed that correspond to (ii) will be considered as non-eligible collateral as per the EBA draft RTS, while such lent assets will have a volatility adjustment of 30%

- The same **logic (one single netting set**) should apply **in the case of derivatives** with (i) and (ii) as underlyings for IMM banks.
- That being said, <u>for SFTs and derivatives</u>, we agree that an **own separate netting set** for (ii) assets may be used as an option **for operational reasons**, as described in the EBA draft RTS in the case of derivatives (Article 3(3)(c) as per above proposed amendment).

- We therefore recommend the EBA to amend:

  <u>Article 3(3)(b)(ii) as such:</u>

  *« Institutions shall not use the internal model method or the simplified standardised approach for the calculation of their own funds requirements for counterparty credit risk for derivatives on crypto-assets**; in the case of derivatives on both crypto-assets and traditional assets, institutions may continue to use IMM"***

  <u>Article 3(3)(a) as such:</u>

  *"Institutions calculating the net exposure to the counterparty for securities financing transactions with a crypto-asset as underlying, shall apply the requirement set out in Articles **220** and 223 to 228 of Regulation (EU) No 575/2013 as applicable for traditional assets, without recognising the crypto-assets as eligible collateral. Institutions that lend these crypto-assets shall apply a volatility adjustment of 30% that is consistent with the volatility adjustment appropriate for other non-eligible securities laid down in Article 224(4) of Regulation (EU) No 575/2013**; in the case of SFTs with underlyings on both crypto-assets and traditional assets, institutions may continue to use IMM. In that case, institutions may use a single netting set but can also assign the crypto-assets referred to in Article 501d(2)(c) of CRR3 in their own separate netting set;"***

<u>Q4: Implementation of the Alternative Internal Model (IMA) approach</u>

Q4: Are there any credit institutions considering implementing the alternative internal model approach during the transitional period, or consider implementing it in the medium to long term? Would there be an impact for the development of the crypto-assets market in the EU, and/or for the capitalisation and/or business activities of European credit institutions, if the use of the alternative internal models approach in the short to medium term is not permitted?

- Trading activity is expected to be **limited in the transitional period** in the <u>short to medium term</u> due to regulatory constraints and uncertainties on the final transposition of the Basel standards.

- In the medium to long term, the trading activity, crucial for the liquidity of this market, could potentially develop, depending on the appetite from the banks' clients on this asset class. Should this happen, banks that have been authorized for the new internal model approach (FRTB A-IMA) could naturally make the choice to **include those exposures in their model** and should not be prevented from doing so.
- We wish also to hightlight that the treatment of Crypto exposures (Article 510d (2) point c) **is not falling within** the mandate (Article 461a) of the Delegated Act that postpones the **FRTB application**. However, the RTS in consultation specifies that during the FRTB transition period only the **use of the SSA** is permitted. Since the CRR3 transitional treatment does not introduce such constraint, **could this be re-assessed in current context of further postponement of FRTB**?
- This raises also the question of the **use of the SSA in the medium to long term**: it is not clear whether the use of the SSA on crypto-assets will be allowed to banks that do not fulfil conditions of CRR3 article 325a(1) and hence are not allowed to use the SSA for their market activities.

- In addition, we would like to hightlight that in the **SA Market calculation**, both the RTS proposal and the Basel consultation remain silent on the treatment of **repo rate risk factors** on crypto-asset 2(c) of article 501d, we propose a treatment equivalent to the one used for **equity** repo rate risk factors.

  Indeed, we suggest the following:
  - An delta formula equivalent to the one used for equity repo rate risk factor.
  - Crypto-asset (c) repo rate risk factors (one risk factor per crypto-asset) should only be subject to delta capital requirement and not to Vega and Curvature requirements.
  - Bucket Structure: RW at 1% (100% /100).
  - A correlation ρ_{kl} set at 99,90 % between repo rate and other factors.

Q5: Default risk of the issuer and 250% weighting for direct credit risk

Q5: Do you agree that the risk of default of the issuer is relevant in certain specific circumstances and therefore should be considered within the scope of this draft RTS during the transitional period or do you believe that the 250% RW for direct credit risk is sufficient to capture for this risk during the transitions period? Please briefly justify your assessment.

Under the CRR3 transitional treatment, the standard 250% applies to "asset-referenced tokens whose issuers comply with Regulation (EU) 2023/1114 and that reference one or more traditional assets". We believe such assets, which under Basel would be treated in transparency on the traditional assets they reference, and are stringently framed under MICA by various EBA RTS, do not carry the level of credit risk encompassed by a 250% risk weigh and are hence unduly penalized by the transitional CRR3 treatment. It should also be reminded that the EBA RTS in consultation article 2(3)a does not allow the use of article 501d(2)b crypto-assets as eligible collateral.

We consequently believe that the 250% risk weigh assigned to article 501d(2)b crypto-assets in CRR3 is largely sufficient to capture all kind of risks on these assets risks, including the default of the issuer of such ARTs.

Q6 : Incorporation of "others" Crypto-Assets

Q6: How relevant is it to incorporate this differentiation for crypto-assets exposures referred to in Article 501d (2), point (c), of the CRR at this stage? Are institutions confident that they can assess their crypto-assets exposures against the criteria set out in these draft RTS? Is there sufficient market data available to make those assessments?

The conditions introduced in Article 3(1) of the RTS in consultation are consistent with the conditions of crypto-assets defined as Group 2a crypto-assets under the Basel standard SCO.60. The differentiation introduced by the EBA in the RTS in consultation is welcome as it appropriately reflects the level of lesser riskiness of such assets.

Although this goes beyond the question raised here, we would like to share our views about nettings :

- According to article 3.4.a, point iv, institutions shall « identify their **gross long and short** positions in the crypto-asset separately for **every market and exchange** where they are traded. Institutions may offset gross long and gross short positions in a crypto-asset traded in the same market or exchange"

- We would welcome clarification from the EBA regarding the overlap of "**Market" and "Exchange" concepts** in the context of market risk requirements. We infer from the Public Hearing that both could be used in the same meaning but would welcome a confirmation by the EBA to ensure consistent application of the RTS across institutions.

In particular, we would like to get confirmation that :

  - the market or exchange should primarily refer to the **risk drivers** of the position, based on the main source of change in value of the position in crypto-assets,
  - For direct exposures, the market or exchange should refer to **negociation platforms** where the underlying crypto-assets is publicly traded,
  - For a crypto ETF/ETN, the primary risk factor should either be the price/reference rate of underlying crypto assets (when a look-through treatment as a collective investment undertaking is applied), or the price of the ETF/ETN itself (when look-through treatment is not applied). For a crypto derivative, the primary risk factor should be the price of its underlying asset or, when look-through is applied to the latter, the price of underlying crypto assets
  - For example, we consider that an OTC derivative (for example a swap, fulfilling the conditions set in article 3(1) of the RTS in consultation) referencing an exchange traded ETF traded on a given exchange, and the exact same ETF traded on the same exchange create "positions traded on the same exchange", i.e. refer to the same risk factor and can be fully offset according to article 3.4.a, point iv. *Could the EBA please confirm ?*

- Another more complex example under that logic would be an ETF traded on exchange X, referencing Bitcoin traded on crypto-exchange Z (noted ETF_X(BitcoinZ)) and an ETF referencing the same bitcoin traded on crypto exchange Z but traded on a different exchange Y (noted ETF_Y(BitcoinZ)), both ETFs refer to the exact same underlying crypto-asset (and to the same underlying market price). However, in this case, the spot price of the two ETFs, ETF_X and ETF_Y, are distinct prices and thus these two positions are not identical risk factors and would not net if look-through as a CIU is not applied. If look-through is applied via the CIU rules, netting would be allowed as both reference the same Bitcoin traded on crypto exchange Z. *Could the EBA please confirm ?*

Q7: Default risk of the issuer and 250% weighting for ART

Q7: For ARTs subject to the calculation of own fund requirements for market risk in this paragraph, do you agree that the risk of default of the issuer is relevant in certain specific circumstances and therefore should be considered within the scope of these draft RTS during the transitional period as per Article 3(4)(d) or do you believe that the 250% RW for direct credit risk is sufficient to capture for this risk during the transitions period? Please briefly justify your assessment.

Please refer to question 5

Additionnal comments about the total exposure limite for crypto-assets referred to in Article 501d (2) point (c)

We would like to underline the **need for clarification on the calculation of the 1% Tier 1 limit**. The EBA mandate under CRR3 encompasses the aggregation of long and short for the calculation of the limit, but the details on such aggregation are not specified in the draft RTS. We strongly believe that the aggregate exposure subject to the 1% limit should be calculated based on the same methodology as that used for Market Risk exposures, i.e. that at least partial of netting long and short positions be permitted (see above observations on netting).

In that respect, we would like to emphasize a few points :

- What are the exposures institutions should consider including within the 1% limit ?

    - **First example** : suppose a **reverse repo** traded by an institution, whereby an amount in fiat currency is provided to the external counterparty against a crypto-asset received as collateral, the said crypto-asset qualifying under CRR3 article 501d2(c). Since the collateral received is not an eligible form of collateral under Article 3(3)a or 3(7) of the RTS in consultation for the calculation of Counterparty credit risk exposure, **this reverse repo would be considered in substance as an unsecured cash loan (from an economical point of view, as a collateral**

received, it does not "give rise" to counterparty credit risk but rather "reduces" the exposure) and hence not included in the limit. *Could the EBA please confirm ?*

- **Second example** : any kind of investment in an entity such as *MicroStrategy*, who has massively invested in crypto-assets, **is not to be considered as an exposure on crypto-assets in the meaning of CRR3 article 5a3.** *Could the EBA please confirm our view ?*

- Where an SFT or derivative exposure on crypto-assets is subject to both market risk RWA and CCR RWA, should the limit be calculated **based on** the exposure under the **market risk computation,** or based on the **CCR computation** ?

We trust that these comments will be helpful to the EBA in finalizing the RTS on crypto-asset exposures. We remain available to discuss these issues further and to provide any additional information that may be usefull.