Reply form
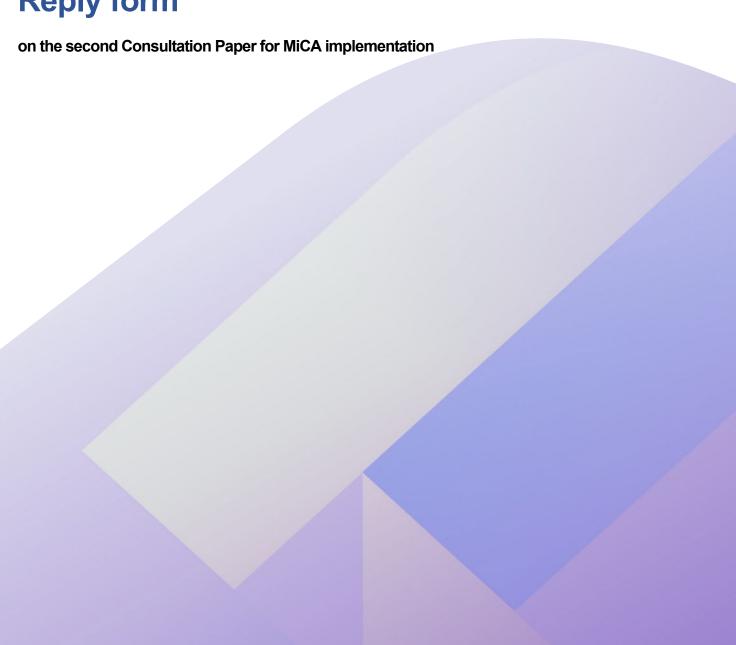
on the second Consultation Paper for MiCA implementation

Responding to this paper

ESMA invites comments on all matters in this consultation paper and in particular on the specific questions. Comments are most helpful if they:

- respond to the question stated;

- indicate the specific question to which the comment relates;

- contain a clear rationale; and

- describe any alternatives ESMA should consider.

ESMA will consider all comments received by **14 December 2023.**

Instructions

In order to facilitate analysis of responses to the Consultation Paper, respondents are requested to follow the below steps when preparing and submitting their response:

1. Insert your responses to the questions in the Consultation Paper in the present response form.

2. Use this form and send your responses in Word format (**pdf documents will not be considered except for annexes**);

3. Please do not remove tags of the type <ESMA_QUESTION _MIC2_1>. Your response to each question has to be framed by the two tags corresponding to the question.

4. If you do not wish to respond to a given question, please do not delete it but simply leave the text "TYPE YOUR TEXT HERE" between the tags.

5. When you have drafted your response, name your response form according to the following convention: ESMA_MIC2_nameofrespondent_RESPONSEFORM. For example, for a respondent named ABCD, the response form would be entitled ESMA_MIC2_ABCD_RESPONSEFORM.

6. Upload the form containing your responses, **in Word format**, to ESMA's website (www.esma.europa.eu under the heading "Your input – Open Consultations" -> Consultation Paper on the clearing and derivative trading obligations in view of the benchmark transition").

Publication of responses

All contributions received will be published following the close of the consultation, unless you request otherwise. Please clearly and prominently indicate in your submission any part you do not wish to be publically disclosed. A standard confidentiality statement in an email message will not be treated as a request for non-disclosure. A confidential response may be requested from us in accordance with ESMA's rules on access to documents. We may consult you if we receive such a request. Any decision we make not to disclose the response is reviewable by ESMA's Board of Appeal and the European Ombudsman.

Data protection

Information on data protection can be found at www.esma.europa.eu under the heading Legal Notice.

Who should read this paper

All interested stakeholders are invited to respond to this consultation paper. In particular, ESMA invites crypto-assets issuers, crypto-asset service providers and financial entities dealing with crypto-assets as well as all stakeholders that have an interest in crypto-assets.

General information about respondent

Name of the company / organisation	Association for Financial Markets in Europe
Activity	Banking sector
Are you representing an association?	☒
Country/Region	Belgium

Questions

Q1: Do you agree with ESMA's assessment of the mandate for sustainability disclosures under MiCA?

<ESMA_QUESTION_MIC2_1>

We support the policy objective to provide information on the climate and other environment-related adverse impacts of the consensus mechanism used for the validation of transactions in crypto-assets and for the maintenance of the integrity of the distributed ledger of transactions. However, we view that ESMA has taken a very broad interpretation of the obligations that should be placed on CASPs, and there is no requirement, and no real justification, in the MiCA Level 1 text for such a broad interpretation to be taken. The proposed approach is prescriptive, and we highlight the following key issues for consideration:

- **Low data availability requires use of estimates**: there is currently low information availability due to the decentralised nature of distributed ledger technologies (DLTs). We therefore strongly support the use of estimates across the disclosure requirements, including mandatory disclosures on the consumption of energy, scope 1 and scope 2 GHG emissions and the production of waste.

- **Decentralisation means no participant can observe network-level information**: due to the decentralised nature of DLTs, not one single market participant, whether as an issuer or CASP, can observe climate and environment-related impact at the network-level. We do not envisage firms to have access to full and updated information on the energy consumption of DLT network nodes, GHG emissions based on energy sources and locations, and their production of waste and use of natural resources.

- **Avoid risk of duplication through the principle of data uniqueness**: duplication in disclosure requirements across the crypto asset lifecycle should be avoided. CASPs should be able to refer to the white papers for ARTs, EMTs and other crypto assets in their disclosure. In addition, financial institutions should not be subject to duplicative disclosure requirements under MiCA and existing regimes on disclosure.

- **Need to differentiate requirements for crypto assets which lack MiCA-compliant white papers**: in addition, the disclosure requirements need to consider situations where the sustainability information is not available in issuers' white papers, either because those issuers are not subject to MiCA or if they are making use of white paper exemptions under MiCA. We view that ESMA should differentiate between crypto assets with a white paper provided by the issuer, and those without. We do not agree with ESMA's assessment that CASPs need to

make sustainability disclosure available regardless of whether the information can be obtained from white papers, as this requirement is not explicit under Art. 66(5).

Low information availability due to the decentralised nature of DLTs

A key concern is that the information required for the proposed disclosure requirements on the validation mechanism is not available given the decentralised nature of DLTs. At this current stage, there are only estimates available that have to make fundamental assumptions on many variables. Therefore, mandatory disclosure requirements should be kept to a minimum at this stage. We also view that the disclosure requirements should rely on external, independent, and publicly available sources to also limit the required resource capacity of CASPs in light of possible shortcomings in quality at this current junction. These shortcomings include:

- The adverse impacts occur mainly during the mining / validation process, especially for transactions of tokens applying the computational intense proof-of-work consensus mechanism. Even though transactions on the blockchain are key for CASPs' services, the majority of CASPs will likely not have any direct link to mining activities.
- The available data is of limited quality as it is at best an informed estimate, making assumptions on the energy source and equipment used by miners. Further, the Ethereum protocol, for example, had > 800k active validators as of Sep 2023, which illustrates the complexity of such estimates. There are some independent providers though that provide continuous estimates on energy consumption and carbon emissions like the Cambridge Blockchain Network Sustainability **Index**[1] that should be leveraged for disclosure purposes.
- Many of the major protocols apply much less energy intensive consensus mechanism, like proof-of-stake, where the sustainability aspects are of much lower relevance. The Crypto Carbon Ratings Institute **estimates** that with its switch from proof-of-work to proof-of-stake the energy consumption of Ethereum decreased by ~99.988% and likewise its carbon footprint by ~99.992%[2]. Given the pace of technological advancements, we encourage ESMA to maintain flexibility and proportionality in its proposed approach.

No comprehensive network-level overview

Due to the decentralised nature of DLTs, we view that no single market participant possesses a comprehensive overview of network-wide information requested by ESMA, specifically for the following reasons:

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[1] https://ccaf.io/cbnsi/cbeci
[2] https://ethereum.org/en/energy-consumption/

- The devices: given the decentralised nature of DLT, it is impossible to know which devices a miner or node is using to connect with the network. That information is not publicised and there are several hundreds of thousands of nodes and miners so it is not possible to request such information. Specifically:
  o Miners: Some sources assume miners use the most efficient device (or ASIC) to mine blocks, but that is not necessarily the case: capex is very expensive and the return on investment on mining equipment might take a long time.
  o Nodes: nodes usually do not require demanding specifics, but they could be run on a laptop or a server, and each has unique specificities.
- The energy consumption of each DLT network node or miner: same as above, as identifying the device is impossible. Therefore, it is impossible to know the energy consumption of each DLT node or miner.
- The location of devices: locations can only be known through Ips, which are not a great proxy to understanding location since VPNs are widely used to foster security. In addition, in the case of miners, we note that they organise in mining pools and the IP address available for the mining pool does not specify where miners are located.

Risk of duplication

Our third concern relates to the distribution of information under the proposed sustainability disclosure requirements arising from the Level 1 obligations for CASPs to both provide a link to the white papers of crypto assets for which they provide services (under Article 66(3)) and to make sustainability information available for those crypto assets (under Article 66(5)). We view that this could impose double obligations on CASPs for disclosure and lead to the negative consequence of inconsistent information being publicly available. We therefore view that ESMA should apply to the greatest extent possible the principle of data uniqueness, namely, the principle of a "golden source" of data (i.e. of data being stored and maintained in one location, and not in multiple, separate locations).

For example, for the disclosure of the sustainability impact of tokens, CASPs should be allowed to make reference to the white paper of the relevant token in order to comply with the requirements. As such, the responsibility towards accurate disclosure should be placed on white paper issuers as opposed to CASPs which are not involved in issuance. The starting point of the process of distribution of the information should be with the white paper of the issuer, and the issuer should be obliged to include all the sustainability information in the white paper (under Article 4(1)) and liable for updating this information "whenever there is a significant new factor, material mistake or material inaccuracy". In addition, CASPs should not be obliged to translate the information given in a white paper if the language obligation placed on a CASP in RTS Article 3(4) does not match the language obligation placed on an issuer.

We strongly view that CASPs should only be responsible for disclosing any adverse climate and environmental impacts which arise from their role in the crypto asset lifecycle. The proposed requirements do not distinguish between CASPs that act as operator of a trading venue, and CASPs that do not act as an operator of a trading venue, and may just offer a limited

range of CASP services (such as custody services). This may lead to the negative outcome that duplication would arise because the same information will be located, and will be publicly available, in many separate places (in the white paper of the issuer, and, in accordance with RTS Articles 3 and 4, on the websites of each CASP offering services for a crypto asset). This should be avoided as it may lead to confusion and inconsistency from the investor perspective. In addition, while we welcome ESMA's view to base the RTS on early experiences from sustainability reporting requirements under the CSRD and the SFDR, as well as to take these frameworks as a reference to establish common methodological principles for quantitative metrics, credit institution which are subject to reporting obligations under SFRD / CSRD (and EFRAG disclosure standards) should not be subject to duplicative reporting requirements. Supervisors should clearly identify what additional disclosure issues will be required under the new RTSs.

Lack of information in white papers
For the reasons outlined above, we strongly view that in their disclosures CASPs should be able to refer to the sustainability disclosures included as part of the white papers of ARTs, EMTs and other crypto assets. However, in situations where either the issuer is not subject to MiCA or where the issuer benefits from an exemption from drawing up white papers, sustainability information on such ARTs, EMTs and other crypto assets would necessarily be unavailable. In these situations, we view that ESMA should differentiate between crypto assets with a white paper provided by the issuer, and those without (please refer to Question 10 for more details).
<ESMA_QUESTION_MIC2_1>

> **Q2** : In your view, what features of the consensus mechanisms are relevant to assess their sustainability impacts, and what type of information can be obtained in relation to each DLT network node?

<ESMA_QUESTION_MIC2_2>
We view that there are multiple different factors which can be considered when assessing the sustainability impacts. In our view, the key factors are the i) the type of consensus mechanism (Proof of Work v. Proof of Stake), ii) the energy consumption of the consensus layer (e.g. hardware used etc.), iii) the source of energy, iv) the regional distribution of miners / validators, and v) regional-specific carbon intensity factors. However, given the decentralized nature of networks and the difficulty in acquiring information (e.g. on the energy consumption of each DLT network node, its location and the devices used to take part in the DLT network and hold a replica of records) outlined above, we view that the factors can only be derived based on estimates / assumptions and hence any results would be a best-guess estimate. As provided in our answer to Question 1, we view that very limited information can be obtained in relation to individual DLT network node.

<ESMA_QUESTION_MIC2_2>

Q3 : Do you agree with ESMA's approach to ensure coherence, complementarity, consistency and proportionality?

<ESMA_QUESTION_MIC2_3>
We support ESMA's approach to ensure proportionality. As part of this, and as highlighted in our response to Question 1, it is imperative that the technical standards allow CASPs to use estimates and not require any market participant to disclosure sustainability information to which it lacks access (e.g. network-level information or where the issuer does not produce a white paper).

<ESMA_QUESTION_MIC2_3>

Q4 : Do you agree with ESMA's approach to mitigating challenges related to data availability and reliability? Do you support the use of estimates in case of limited data availability, for example when data is not available for the entirety of a calendar year?

<ESMA_QUESTION_MIC2_4>
As previously mentioned, only estimates are available due to the decentralised nature of networks, and therefore it is of utmost importance that issuers and CASPs can use estimates. This also needs to be considered in relation to the quality of data available. In the medium-term, we support market-led solutions towards creating a centralised database for sustainability information.
<ESMA_QUESTION_MIC2_4>

Q5 : What are your views on the feasibility and costs of accessing data required to compute the sustainability metrics included in the draft RTS?

<ESMA_QUESTION_MIC2_5>
Due to the highly complex nature of accessing sustainability information for crypto assets described above, we support the ability to use publicly available sources like the Cambridge Blockchain Network Sustainability Index[3] or Crypto Carbon Ratings Institute studies, which would help reduce the associated costs. We do not support involving third parties charging CASPs for the provision of sustainability metrics, given the decentralised nature of the networks and that any resulting data remains estimates at the current juncture.
<ESMA_QUESTION_MIC2_5>

Q6 : Do you agree with ESMA's description on the practical approach to assessing the sustainability impacts of consensus mechanisms? If not, what alternative approach would you consider suitable to assess these impacts?

<ESMA_QUESTION_MIC2_6>
Please refer to our answer to Questions 1 and 2.
<ESMA_QUESTION_MIC2_6>

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[3] https://ccaf.io/cbnsi/cbeci

Q7 : Do you agree with the definitions proposed in the draft RTS, in particular on incentive structure and on DLT GHG emissions? If not, what alternative wording would you consider appropriate?

<ESMA_QUESTION_MIC2_7>
Please refer to our answer to Questions 1 and 2.
<ESMA_QUESTION_MIC2_7>

Q8 : In your view, are the proposed mandatory sustainability indicators conducive to investor awareness? If not, what additional or alternative indicators would you consider relevant?

<ESMA_QUESTION_MIC2_8>
Due to duplicative requirements for CASPs operating difference services, confusion for investors will arise because the same information will be available in multiple locations, and there is a significant risk of inconsistency due to different updating processes and degrees of information access. For example, even if an issuer updates its white paper on a timely basis, it is inevitable that there will be a delay before all the CASPs offering services for that crypto asset update the information available on their website.
As highlighted in our response to Question 2, we encourage ESMA to modify its approach in this regard and minimise the risk of the same data being maintained in multiple locations.

<ESMA_QUESTION_MIC2_8>

Q9 : Do you consider the proposed optional sustainability indicators fit for purpose? If not, what additional indicators would you consider relevant? Would you agree to making these optional sustainability indicators mandatory in the medium run?

<ESMA_QUESTION_MIC2_9>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_MIC2_9>

Q10 : Do you consider the principles for the presentation of the information, and the template for sustainability disclosures fit for purpose? If not, what improvements would you suggest?

<ESMA_QUESTION_MIC2_10>
We do not view that the proposed principles for the presentation of the information are fit for purpose for the reasons highlighted above. In particular, we support ESMA to differentiate the requirements for crypto assets for which there is a white paper and those for which there is not. We propose:

- For an EU/EEA issuer which issues a white paper in accordance with the MiCA requirements: we suggest that the information to be provided by CASPs under the Article 66(5) disclosure obligation be limited to the "General information and key indicators" set out in Table 1; there should be no obligation for a CASP to provide the information contained in the rest of Table 1, and in Table 2. In its disclosure the CASP should state the information comes from the white paper of the issuer, and should include a link to this white paper.

- An EU/EEA issuer does not issue a white paper as it can benefit from an exemption from the obligation to provide a white paper (as set out in MiCA Level 1, Article 4, paragraphs 2 and 3): given that the issuer benefits from an exemption, we suggest that all CASPs similarly benefit from an exemption from the disclosure obligation.

- A third-country issuer issues a white paper that is in line with the MiCA requirements: we suggest that the same approach be taken as with an EU/EEA issuer that issues a white paper (see first bullet above).

- A third-country issuer issues a white paper that is not in line with the MiCA requirements, or does not issue a white paper, or there is no issuer: we suggest that the full Article 66(5) obligation to provide sustainability related information be applied just to those CASPs that operate a trading platform to which the crypto asset is admitted. All other CASPs (that do not operate a trading platform) will be able to provide the information set out in the first point above, and in this information refer, and provide a link, to the information provided by a CASP operating a trading platform for that crypto asset.

<ESMA_QUESTION_MIC2_10>

Q11 : In your view, are the calculation guidance for energy use and GHG emissions included in the draft European Sustainability Reporting Standards relevant for methodologies in relation to the sustainability indicators under MiCA? If not, what alternative methodologies would you consider relevant? For the other indicators for which the calculation guidance of the ESRS was not available, do you consider that there are alternative methodologies that could be used? If so, which ones?

<ESMA_QUESTION_MIC2_11>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_MIC2_11>

Q12 : Would you consider it useful that ESMA provides further clarity and guidance on methodologies and on recommended data sources? If yes, what are your suggestions in this regard?

<ESMA_QUESTION_MIC2_12>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_MIC2_12>

Q13 : Is the definition for permissionless DLT in Article 1 sufficiently precise?

<ESMA_QUESTION_MIC2_13>
In itself, we view the definition for permissionless DLT as being sufficiently precise.
However, we believe that it is worthwhile to bring some additional clarity to the discussion in paragraphs 62 and 63 of the consultation paper. A CASP may provide a wide variety of services, and may interact with a DLT platform in different ways. A CASP may, for example, hold tokens on a DLT platform without using that platform for many of its internal processes. Under such a model, the distinction raised in paragraphs 62 and 63 between permissioned and permissionless DLTs is largely inappropriate.

Under such a model, a CASP – even though it may have a contractual relationship with the operator of a permissioned DLT platform – would not have control of the infrastructure, and thus – as with a permissionless platform – should, as set out in paragraph 62, be exempted from liability for losses not attributable to the CASP.

Similarly, paragraph 63 is fully correct in stating that use by a CASP of a permissionless DLT platform is not outsourcing in the context of Article 73 of MiCA Level 1. However, under the model set out above, use by a CASP of a permissioned DLT would not be outsourcing.

<ESMA_QUESTION_MIC2_13>

Q14 : Throughout the RTS, we refer to 'critical or important functions'. The term is borrowed from DORA and does not just capture ICT-specific systems. Does this approach make sense?

<ESMA_QUESTION_MIC2_14>
This approach makes sense, but we would note that some issuers of non-ART crypto assets may not fall under the perimeter of the entities subject to DORA, and they therefore would not be subject to the requirements imposed by DORA. For these entities, we view it remains important to capture ICT specific systems given their importance and impact on operations.
<ESMA_QUESTION_MIC2_14>

Q15 : Do you consider subparagraph (e) in Article 4(2) on external communications with clients in the event of a disruption involving a permissionless DLT appropriate for the mandate (i.e., does it constitute a measure that would ensure continuity of services)?

<ESMA_QUESTION_MIC2_15>
We do not consider external communications with clients in the event of a disruption involving a permissionless DLT appropriate for the mandate, as communications by themselves cannot ensure the continuity of services. In addition, it may not be possible to provide correct updates about expected resumed time and the reasons and impacts of the incident. Due to the nature of permissionless DLT, we foresee the following challenges: i) repair time can depend from other

actors and therefore a forecast concerning time could not be possible; ii) reasons and impacts could rely on undisclosed problems requiring further investigations.

While the real-time monitoring of the DLT may be seen as a value-added service offered by CASPs to clients, this monitoring does not guarantee continuity of services in case of problems arising in the permissionless DLT, so we do not view that it should be mandatory.
<ESMA_QUESTION_MIC2_15>

Q16   : Should this RTS also specify that CASPs should establish a business continuity management function (to oversee the obligations in the RTS)? In your view, does this fall within the mandate of 'measures' ensuring continuity and regularity?

<ESMA_QUESTION_MIC2_16>
We agree that RTS has also to specify that CASPs must establish a business continuity management function in order to oversee the obligations in the RTS. CASPs which belong to entities with existing business continuity management functions should be able to leverage existing capabilities.

<ESMA_QUESTION_MIC2_16>

Q17   : Are there other organisational measures to be considered for specific CASP services?

<ESMA_QUESTION_MIC2_17>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_MIC2_17>

Q18   : Do you consider the obligation for CASPs to conduct testing of the business continuity plans in Article 4(4) via an internal audit function appropriate for the mandate?

<ESMA_QUESTION_MIC2_18>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_MIC2_18>

Q19   : In Art. 68(8), CASPs are required to take into account the scale, nature, and range of crypto asset services in their internal risk assessments. Is there support for this general principle on proportionality in Article 6? Do you support the proposed self-assessment under Article 6(2) and in the Annex of the draft RTS?

<ESMA_QUESTION_MIC2_19>
We view it is important to define what components should be included in self assessments, for example the kinds of assets held in custody (under point b of the Annex). We note that some assets may be newer and less established than others, and it would be useful to understand what is required to be included.

<ESMA_QUESTION_MIC2_19>

Q20 : Do you agree with the description provided for the different types of CEX and DEX listed?

<ESMA_QUESTION_MIC2_20>
While we broadly agree with the description, we note that the MiCA regulation does not define decentralised finance (which will be subject to a Commission report by end-2024), and therefore we view that any description should facilitate the Commission report and further legislative proposal (if required).

<ESMA_QUESTION_MIC2_20>

Q21 : <u>For trading platforms</u>: Please provide an explanation of (i) the trading systems you offer to your users, (ii) which type of orders can be entered within each of these trading systems and (iii) whether you consider these trading systems to be a CEX or a DEX (please explain why)?

<ESMA_QUESTION_MIC2_21>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_MIC2_21>

Q22 : Do you consider the trading systems described, and the transparency obligations attached to each trading system, in Table 1 of Annex I of the draft RTS appropriate for the trading of crypto-assets? Do you offer a trading system that cannot meet the transparency requirements under the provisions in this Table? Please provide reasons for your answers.

<ESMA_QUESTION_MIC2_22>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_MIC2_22>

Q23 : Regarding more specifically AMMs, do you agree with the definition included in Table 1 of Annex I of the draft RTS? What specific information other than the mathematical equation used to determine the price and the quantity of the asset in the liquidity pools would be appropriate to be published to allow a market participant to define the price of the assets offered in the liquidity pool?

<ESMA_QUESTION_MIC2_23>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_MIC2_23>

Q24 : Do you agree with ESMA's proposals on the description of the pre-trade information to be disclosed (content of pre-trade information) under Table 2 of Annex

I of the draft RTS? If not, please explain why. If yes, please clarify whether any elements should be amended, added and/or removed.

<ESMA_QUESTION_MIC2_24>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_MIC2_24>

Q25 : Do you agree with ESMA's proposals to require a specific format to further standardise the pre-trade information to be disclosed (format of pre-trade information)? If not, please explain why and how the pre-trade information can be harmonised. If yes, please clarify whether any elements should be amended.

<ESMA_QUESTION_MIC2_25>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_MIC2_25>

Q26 : Do you agree with the proposed approach to reserve and stop orders?

<ESMA_QUESTION_MIC2_26>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_MIC2_26>

Q27 : Do you agree with the proposed list of post-trade information that trading platforms in crypto assets should make public in accordance with Tables 1, 2 and 3 of Annex II of the draft RTS? Please provide reasons for your answers.

<ESMA_QUESTION_MIC2_27>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_MIC2_27>

Q28 : Is the information requested in Table 2 of Annex II of the draft RTS sufficient to identify the traded contract and to compare the reports to the same / similar contracts.

<ESMA_QUESTION_MIC2_28>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_MIC2_28>

Q29 : Is there any other information, specific to crypto-assets, that should be included in the tables of Annex II of the draft RTS? Please provide reasons for your answers.

<ESMA_QUESTION_MIC2_29>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_MIC2_29>

Q30 : Do you expect any challenges for trading platforms in crypto assets to obtain the data fields required for publication to comply with pre- and post-trade transparency requirements under Annex I and Annex II of the draft RTS?

<ESMA_QUESTION_MIC2_30>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_MIC2_30>

Q31 : What do you consider to be the maximum possible delay falling under the definition of "as close to real-time as is technically possible" to publish post-trade information in crypto-assets? Please provide reasons for your answer.

<ESMA_QUESTION_MIC2_31>
In relation to orders on CEX, we consider few minutes as the maximum delay possible. Considering DEX, we view it is permissible to add more time depending on the number of blocks and time needed to confirm the transaction on-chain.

<ESMA_QUESTION_MIC2_31>

Q32 : Do you agree with ESMA's approach on the requirements to be included in the draft RTS in relation to a trading platform's operating conditions? Please provide reasons for your answer.

<ESMA_QUESTION_MIC2_32>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_MIC2_32>

Q33 : Do you consider that ESMA should include in the RTS more specific disclosure rules regarding a trading platform's operating conditions, in particular in relation to co-location and access arrangements?

<ESMA_QUESTION_MIC2_33>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_MIC2_33>

Q34 : From your experience, are all crypto-assets trading platforms making their data available free of charge? If not, what specific barriers have you encountered to access the data (e.g., price, level of disaggregation).

<ESMA_QUESTION_MIC2_34>
In our members' experience, the trading platforms on which clients trade generally offer visibility on market data such as price pair (both crypto to crypto and crypto to fiat) and price history in a granular manner.

<ESMA_QUESTION_MIC2_34>

Q35   : Do you agree with the level of disaggregation proposed in the draft RTS? Please provide reasons for your answer.

<ESMA_QUESTION_MIC2_35>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_MIC2_35>

Q36   : In the context of large number of CASPs and possible different models of data access, what kind of measures (common messages, common APIs, others) would you consider feasible to ensure effective and efficient access to data?

<ESMA_QUESTION_MIC2_36>
We view that measures including APIs, standardized file formats (such as json), and a centralized data portal for authorities would be feasible. In addition, we request clarification on the 'common messages' referred to in the proposal.

<ESMA_QUESTION_MIC2_36>

Q37   : Do you agree with using the DTI for uniquely identifying the crypto-assets for which the order is placed, or the transaction is executed? Do you agree with using DTI for reporting the quantity and price of transactions denominated in crypto-assets?

<ESMA_QUESTION_MIC2_37>
We view that DTIs need to be available and accessible for use by market participants involved in the entire lifecycle of the crypto assets. We remain concerned that, unlike ISINs, the market practices and standards for DTIs are not internationally well-established at this current juncture, and therefore it remains important to monitor their adoption for use across different jurisdictions otherwise there could be negative and fragmentary consequences. In addition, while the DTI is a good starting point, some extensions to the token matrix definition could be improved, including bootnodes of the relative chain and smart contract formal definition (via source code or similar).

<ESMA_QUESTION_MIC2_37>

Q38   : Are there relevant technical attributes describing the characteristics of the crypto-asset or of the DLT on which this is traded, other than those retrievable from the DTIF register? Please detail which ones.

<ESMA_QUESTION_MIC2_38>
Examples of technical attributes describing the characteristics of crypto assets or DLT (Distributed Ledger Technology) features that cannot be recovered from the DTIF (Digital

Token Information File) include the token definition contract in the case of secondary tokens defined through smart contracts or features defined through third-party standards (e.g., ASA). <ESMA_QUESTION_MIC2_38>

Q39   : Do you agree with using the transaction hash to uniquely identify transactions that are fully or partially executed on-chain in orders and transactions records? Please clarify in your response if this would be applicable for all types of DLT, and also be relevant in cases where hybrid systems are used.

<ESMA_QUESTION_MIC2_39>
While the transaction hash is a good solution on public blockchain technologies with a well-known ledger, we suggest a more specific reference should be made. However, it is not clear which use case can be associated with a transaction partially executed on-chain. Hybrid models exist in which the asset leg is on-chain, and the cash-leg is off-chain (Traditional payment rails). In this case, it is not clear how the two transactions should be identified. <ESMA_QUESTION_MIC2_39>

Q40   : Do you agree that a separate field for the recording of "gas fees" should be included for the purpose of identifying the sequencing of orders and events affecting the order?

<ESMA_QUESTION_MIC2_40>
We broadly agree with this requirement, but we view that this separate field should remain voluntary for several reasons:
- The purpose of having a separate recording of "gas fee" should be to identify the amount of gas fees paid out of the addresses where the customers' funds are located in case such addresses accumulate crypto assets from more than one customer (omnibus address).
- 'Gas fee' is a term specific to the Ethereum blockchain and Ethereum-based blockchains.
- For reporting related to on-chain transaction auditing, the inclusion of a separate field for recording the 'gas fees' applied to the transaction can be significant in identifying the priority and cost requirements associated with it.
- Furthermore, reference is made to transactions with "from" and "to" but not all transactions are necessarily directed towards individuals; they can also be directed towards "lock contracts" and "liquidity pools". Therefore, the simple definition of "to" might be misleading.

<ESMA_QUESTION_MIC2_40>

Q41   : Do you agree with the inclusion of the above data elements, specific for on-chain transactions, in both RTS?

<ESMA_QUESTION_MIC2_41>

While we agree with this approach, we view that creating a custom standard which may not applicable to all kinds of digital asset technologies merits further consideration.

<ESMA_QUESTION_MIC2_41>

Q42 : Are some of the proposed data elements technology-specific, and not relevant or applicable to other DLTs?

<ESMA_QUESTION_MIC2_42>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_MIC2_42>

Q43 : Do you consider it necessary to add a different timing for the provision of identification codes for orders in the case of CASPs operating a platform which uses only on-chain trading?

<ESMA_QUESTION_MIC2_43>
We view that on-chain only trading should be considered differently from off-chain trading because the order settlement will depend on the timing of validation and confirmation of the transactions on the specific blockchain.

<ESMA_QUESTION_MIC2_43>

Q44 : Please suggest additional data elements that may be included to properly account for on-chain trading.

<ESMA_QUESTION_MIC2_44>
In most scenarios, the use of hash, HMAC, or generic pointers to data stored in off-chain databases is assumed for the proper management of data while ensuring privacy compliance.

<ESMA_QUESTION_MIC2_44>

Q45 : Do you find the meaning of the defined terms clear enough? Should the scope be adjusted to encompass or exclude some market practices? Provide concrete examples.

<ESMA_QUESTION_MIC2_45>
We view that the definitions are clear
<ESMA_QUESTION_MIC2_45>

Q46 : Are there other aspects that should be defined, for the purposes of this RTS?

<ESMA_QUESTION_MIC2_46>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_MIC2_46>

Q47 : Do you anticipate practical issues in the implementation of the proposed approach to reception and transmission of orders?

<ESMA_QUESTION_MIC2_47>
We do not anticipate practical issues in the implementation of the proposed approach to reception and transmission of orders.

<ESMA_QUESTION_MIC2_47>

Q48 : What transaction information can be retrieved in cases where a CASP execute the order on a third country platform/entity?

<ESMA_QUESTION_MIC2_48>
Transaction information which can be retrieved includes all the information related to the order and its workflow follow-up (partial filling, total fill, execution, cancellation etc.).

<ESMA_QUESTION_MIC2_48>

Q49 : Do you anticipate problems in retrieving information about the buyer/seller to the transaction?

<ESMA_QUESTION_MIC2_49>
We envision problems in both the CEX and DEX. For example, in a CEX environment, information about the identity of the counterparty of the transaction must be confirmed and retrieved by the platform entity which may not be regulated under the MiCA regulation. In a DEX environment, information about the identity of the counterparty must be collected via the CASP under which the counterparty is operating. Difficulties would emerge if the CASP of the counterparty is not regulated under MiCA and/or the counterparty operates in a self-custody regime, and for these reasons it is not possible to confirm their identity.

<ESMA_QUESTION_MIC2_49>

Q50 : Do you anticipate practical issues in the implementation of the methods for client identification that are used under MiFIR?

<ESMA_QUESTION_MIC2_50>
We do not currently anticipate issues in the implementation of the methods for client identification that are used under MiFIR.

<ESMA_QUESTION_MIC2_50>

Q51 : Do you anticipate practical issues in the implementation of the short selling flag?

<ESMA_QUESTION_MIC2_51>
We request clarification on why the short selling flag would impact services regulated under MiCA. Short-selling techniques might not be directly related to services on crypto-activities since the short-selling activities might arise from trading on derivatives which are not covered by MiCA.

<ESMA_QUESTION_MIC2_51>

> **Q52**   : Do you consider that some of the proposed data elements are not applicable/relevant to trading in crypto-assets?

<ESMA_QUESTION_MIC2_52>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_MIC2_52>

> **Q53**   : Do you consider that additional data elements for CAPS operating a trading platform are needed to allow NCAs to properly discharge their supervisory duties?

<ESMA_QUESTION_MIC2_53>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_MIC2_53>

> **Q54**   : Do you believe that a specific definition of routed orders should be provided as it applies to orders that are routed by the trading platform for crypto-assets to other venues? Should this definition include CASPs operating a platform which uses only on-chain trading?

<ESMA_QUESTION_MIC2_54>
We believe that trading platforms using liquidity coming from other venues should notify clients about their practices and what other venues are used.

<ESMA_QUESTION_MIC2_54>

> **Q55**   : Do you believe that fill-or kill strategies as referenced in MiFID II apply to trading in platforms for crypto-assets? Do they apply to partially filled orders?

<ESMA_QUESTION_MIC2_55>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_MIC2_55>

> **Q56**   : Do you agree with using messages based on the ISO 20022 methodology for sharing information with competent authorities?

<ESMA_QUESTION_MIC2_56>

The document references the ISO 20022 standard, which we believe is a suitable standard. However, it does not cover the management of multi-party transactions, which many DLT (Distributed Ledger Technology) platforms facilitate easily.

<ESMA_QUESTION_MIC2_56>

Q57 : Do you agree with the criteria proposed for identifying a relevant machine-readable format for the MiCA white paper and consequently with the proposal to mandate iXBRL as the machine-readable format for MiCA white papers, subject to the outcome of the study referred to in paragraph 239?

<ESMA_QUESTION_MIC2_57>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_MIC2_57>

Q58 : If yes, do you agree that the white paper should be required to be a stand-alone document with a closed taxonomy (i.e., without extensions nor complex filing rules)?

<ESMA_QUESTION_MIC2_58>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_MIC2_58>

Q59 : If not, please elaborate your answer and propose alternative solutions that would best meet the criteria identified in section 7.3.

<ESMA_QUESTION_MIC2_59>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_MIC2_59>

Q60 : Are you currently preparing white paper documents in a different machine-readable format? If yes, which one?

<ESMA_QUESTION_MIC2_60>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_MIC2_60>

Q61 : How different is the white paper mandated by MiCA and further specified in this Consultation Paper from any white paper which you have drawn up or analysed prior to MiCA? Do you think that any additional information that used to be included in white papers prior to MiCA but that is no longer allowed under the relevant provisions of MiCA for the white paper will continue to be made available to investors as marketing communication?

<ESMA_QUESTION_MIC2_61>

TYPE YOUR TEXT HERE
<ESMA_QUESTION_MIC2_61>

> **Q62** : Do you agree with ESMA's estimate of the cost of preparing a white paper in iXBRL format? If not, where would you put the estimate of a preparing a white paper in iXBRL format (not considering costs of information sourcing which should be considered as base scenario)?

<ESMA_QUESTION_MIC2_62>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_MIC2_62>

> **Q63** : Do you agree with the proposed template for presenting the information as indicated in the Annex to this CP? We welcome your comments on the proposed fields and values/descriptions to be included in the fields - please provide specific references to the fields which you are commenting in your response and pay specific attention to the areas where additional explanatory description of the information is provided.

<ESMA_QUESTION_MIC2_63>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_MIC2_63>

> **Q64** : Are there additional data elements in the table of fields that would benefit from further explanatory descriptions to ensure that the information provided by a given issuer/offeror is understandable and comparable to the information provided by other issuer/offeror of the same type of crypto-asset? If yes, please elaborate and provide suggestions.

<ESMA_QUESTION_MIC2_64>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_MIC2_64>

> **Q65** : Would you deem it useful for ESMA to provide an editable template to support preparers with the compliance of the format requirements proposed in the draft ITSs?

<ESMA_QUESTION_MIC2_65>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_MIC2_65>

> **Q66** : Are there any other data elements that you would consider relevant to ensure that investors can properly compare different crypto-asset white papers and NCA can perform their classifications on the basis of harmonised information?

<ESMA_QUESTION_MIC2_66>

TYPE YOUR TEXT HERE
<ESMA_QUESTION_MIC2_66>

Q67   : Do you agree with ESMA's conclusion that an issuer, an offeror or a person seeking admission to trading of crypto-assets should always be eligible for an LEI? If not, please provide a description of the specific cases

<ESMA_QUESTION_MIC2_67>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_MIC2_67>

Q68   : Do you agree with the proposed metadata elements, also considering the mandatory metadata expected to be mandated in the context of ESAP?

<ESMA_QUESTION_MIC2_68>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_MIC2_68>

Q69   : Do you have any feedback in particular with regards to the metadata on the "industry sector of the economic activities" and its relevance for the ESAP search function?

<ESMA_QUESTION_MIC2_69>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_MIC2_69>

Q70   : Do you agree with the listed definitions? Would you consider useful to clarify any other term used in the ITS?

<ESMA_QUESTION_MIC2_70>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_MIC2_70>

Q71   : Do you agree with the proposed requirements for publication on the website of the issuer, offeror or person seeking admission to trading? Would you consider necessary any additional requirements regarding the publication on the website?

<ESMA_QUESTION_MIC2_71>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_MIC2_71>

Q72   : In your view, is there any obstacle for the website of the relevant parties to allow for specific alerts?

<ESMA_QUESTION_MIC2_72>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_MIC2_72>

Q73 : In your view, what are the media most relied upon by the public to collect information on crypto-assets? In case you are an issuer, offeror or person seeking admission to trading, please specify/add which media you would normally use to communicate with investors and the reasons supporting your choice.

<ESMA_QUESTION_MIC2_73>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_MIC2_73>

Q74 : Should a social media or a web-based platform be media reasonably relied upon by the public, what are the risks that you see when using them to achieve dissemination of inside information in relation to crypto assets? Should the dissemination rather take place through traditional media channel?

<ESMA_QUESTION_MIC2_74>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_MIC2_74>

Q75 : Please comment the proposed means for dissemination of inside information? Please motivate your answer by indicating why the means they are/are not valuable tools for dissemination purposes.

<ESMA_QUESTION_MIC2_75>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_MIC2_75>

Q76 : Would you add any means of communications for the persons subject to the disclosure obligation to consider when disseminating inside information? Please motivate your answer.

<ESMA_QUESTION_MIC2_76>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_MIC2_76>

Q77 : Do you agree with the technical means for delaying the public disclosure of inside information as described?

<ESMA_QUESTION_MIC2_77>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_MIC2_77>