

CCI input into European Commission request for additional information and perspectives on asset tokenisation

October 31, 2024

Executive Summary:

- The [Crypto Council for Innovation](#) (CCI) welcomes the European Commission's (EC) proactive and thoughtful approach to engaging with industry on the issue of asset tokenisation.
- Whilst it is appropriate for EU policymakers to monitor market developments to ensure proper legislative frameworks exist to protect EU citizens and investors, we respectfully question whether a bespoke or entirely new EU level framework for tokenisation is necessary or desirable at this stage for the reasons provided in more detail *infra*.
- We'd also like to underscore that whilst this input relates solely to financial services, tokenisation is a much broader concept, with tokens often representing non-financial activities (e.g. governance, voting rights, identification, authentication, etc.).
- We respectfully urge DG FISMA to undertake a detailed market study to understand what gaps, if any, exist in terms of current providers of tokenised products and services falling outside the EU's existing and comprehensive regulatory perimeter. We do not believe this to be the case and therefore remain unconvinced new legislative initiatives are needed at this stage.
- We also feel there are some modifications to the EU's current digital assets framework, in particular MiCA and the DLT pilot project, which would enable broader take up of tokenisation within the EU.
- We believe asset tokenisation is an opportunity for the EU to further improve its competitiveness and for its citizens to access cheaper, safer and quicker financial services products and services. As such, the EU is right to embrace the potential it can bring, whilst remaining vigilant to potential risks.
- Should the EU feel the need to act in order to enable the take up of tokenised assets, a useful first step would be to provide needed legal certainty and clarity regarding our working assumption: that

info@cryptocouncil.org

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tokenised representations of assets shall be treated, under EU law, in the same way as the underlying asset they represent.

The rest of this short paper provides further detail on our thinking in relation to the topic of asset tokenisation. We remain at the EC's disposal and would be pleased to continue the dialogue as your thinking evolves on this matter.

Detailed Input:

The [Crypto Council for Innovation](#) (CCI) appreciates the opportunity to submit this letter in response to the EC's invitation to provide perspectives on appropriate policies for asset tokenisation pursuant to the EC's workshop from 11 June 2024.

By way of background, CCI is an alliance of crypto industry leaders with a mission to communicate the benefits of DLT, in particular blockchain, and digital assets and demonstrate their transformational promise. CCI members span the digital asset ecosystem and share the goal of encouraging the responsible global regulation of digital assets to unlock economic potential, improve lives, foster financial inclusion, protect national security, and disrupt illicit activity. CCI believes that achieving these goals requires informed, evidence-based policy decisions, realised through collaborative engagement with regulators, policymakers, and industry

Whilst this paper focuses on the financial services aspects of tokenisation, we would like to underscore tokenisation as a concept is broader than merely financial assets and therefore the importance of ensuring a holistic approach. DLT and blockchain are diverse, horizontal technologies that can have multiple benefits and use cases, with financial assets merely being one small part of a large and varied ecosystem. As such, it is essential, in our view, that DG FISMA ensures coordinated, EC-wide input from other interested DGs (e.g., CNCT, GROW, DIGIT, etc.) before considering any sector specific action.

We agree with the EC's assertion that asset tokenisation is the next step in the evolution of the monetary and financial system, unlocking new types of economic arrangements and with the potential of greatly enhancing the investor experience.

There are many clear benefits to both financial services providers and end-users of tokenisation. 24/7 trading and instant settlement, deeper liquidity pools, enhanced compliance, auditability, and transparency, increased

democratization of access, opportunities for more bespoke products and services and more privacy-enhancing/user-consent-based tools are just a couple of examples.

Tokenisation can also lead to operational cost savings, for example you can embed certain operations into the smart contract of the token to further automation). Contrast this with existing asset classes where servicing is overly manual, requires many intermediaries, prone to human error. Tokenisation, broadly speaking, can lead to automation/asset programmability via smart contracts, leveraging inherent attributes of blockchain. This results in cheaper, safer, more efficient processes to the benefit of providers and end-users alike.

It is worth noting the significant interest in - and collaboration with - traditional financial services ('tradfi') providers when it comes to DLT technology and asset tokenisation. We are seeing the technical and technological expertise from digital assets/crypto native ecosystem being considered by tradfi firms as a means of improving the efficiency of back office services whilst creating new product offerings to their clients.

A couple of examples of where tokenisation and DLT technology could transform and improve the EU's financial services system:

- **Modifying the conditions for a more attractive in EU DLT pilot regime:**
 - We believe the high up-front investment costs required for DLT pilot projects currently outweigh the advantages of participating given the various limitations, in particular the duration and cap limits with the pilot project.
 - We believe tokenisation of funds, particularly money market funds (MMFs) will be the next technological and market-demanded development from institutional investors. However, the 1bn euro (issuance) and 6bn euro (aggregate market value) thresholds significantly reduce the attractiveness of the DLT pilot project for institutional investors and asset managers compared to traditional markets.
- **Harness the benefits of permissionless financial market infrastructure (FMIs):**
 - The DLT pilot recognised the benefits of permissionless systems however, punitive prudential treatment under Basel - frontloaded compared to other jurisdictions in the EU's Capital Requirements Regulation - will have a chilling effect on traditional operators' willingness to use the technology.

- To ensure a level playing field with traditional MFIs, we believe the prudential treatment for DLT-based securities traded on permissionless systems should in principle be the same as for traditional securities, at least for the duration of the EU DLT pilot regime.
- **MiCA authorized stablecoins as on-chain cash settlement assets:**
 - On-chain cash settlement assets are essential for realizing the efficiency and security benefits of DLT, enabling transaction programmability and atomic settlement.
 - a mix of on-chain cash settlement assets - such as wholesale CBDCs, tokenized commercial bank money, and stablecoins - is essential for DLT-based capital markets, providing the necessary flexibility, stability, and interoperability to support a wide range of transactions and participants.
 - We would urge the EU to extend the article 40 CSRD exemption (enabling settlement in MiCA-authorized stablecoins rather than central bank money) beyond and after the DLT pilot for cash settlement of DLT-based security transactions.

CCI and our members welcome legal clarity and the EU's proven track-record to provide a regulatory environment in which all actors can safely operate, with a minimised exposure to legal risks. However, when it comes to tokenisation, a small but rapidly growing, nascent market, still evolving and not representing any threat to financial stability, we do not believe there is a case for additional legislative provisions regarding tokenisation at this stage. Moreover, this would be extremely detrimental to the stated aim of fostering innovation.

If handled correctly, these technological advancements could facilitate financial integration and improve the EU's global competitiveness, serving as a key building block for developing a [digital capital markets union](#), recently advocated by the ECB. The ECB states 'the possibility of extensive implementation of tokenisation and DLT offers opportunities to overhaul market structures. This could prove instrumental in tackling the technological obstacles hindering the establishment of a capital markets union in Europe'. In terms of potential financial cost savings, it is [estimated](#) that automation and smart contracts could reduce annual infrastructure operational costs by approximately USD 15-20 billion in global capital markets

CCI would also encourage the EC would to consider the significant legislative agenda¹ of the previous political cycle and the impact implementing these laws has on our ecosystem. We believe the EU's first priority should be to apply and enforce the current framework consistently and in a harmonised manner across Member States before considering introducing new regulation.

To this end, we advocate for policies that emphasise proportionate regulatory oversight, tailored to the unique characteristics of asset tokenisation. Specifically, operational risk management practices should focus on fostering resilience and cybersecurity while recognizing the particular nature of these processes. Additionally, a balanced approach to market transparency should be adopted, one that safeguards user privacy while maintaining sufficient transparency to prevent fraud and market manipulation. We believe that tokenisation brings unparalleled opportunities for increased privacy due to its functionality, without sacrificing aspects of market safety and integrity.

In spite of our assertions above, we would challenge the EC to identify operators involved in tokenisation in the EU market in a significant manner who are not already covered by EU legislation. We would argue that the EU's current legislative frameworks, referenced above, enable the EU to regulate and supervise tokenised assets already by placing legislative obligations on entities providing such services in the EU, be they banks, investment firms, asset managers or non-bank financial institutions, including CASPs and stablecoin issuers. As such, we question the need for (and desirability of) a new, bespoke regime for tokenisation at this stage.

We would however welcome confirmation from the EC that tokenised representations of assets shall be treated, under EU law, in the same way as the underlying asset they represent. Such a statement would provide certainty to operators, enabling them to develop tokenised products and services within EU markets in a safe, regulated manner. Should the EC agree with our assumption above, perhaps an 'omnibus' style piece of legislation might be helpful in order to create an enabling framework whilst providing the necessary legal certainty. We believe this would be a more elegant, proportionate approach, respecting the established 'activity-based' rather than 'entity-based' approach to legislation, rather than creating new, bespoke rules.

¹ MiCA, DORA, Transfer of Funds Regulation, AML package, Data Act, Product Liability Directive, Cyber Resilience Act, NIS2, DLT pilot project + revisions of the broader financial services framework - CRR, MiFID, CSRD, CSDDD - and digital transformation framework - DMA, DSA, AI act.....

It is crucial that governance over key DLT infrastructure remains robust yet adaptable, allowing stakeholders to govern and operate appropriately while ensuring that accountability measures are in place. The EC should be mindful that many firms operate globally and as such, the EU's regulatory dialogue with other key financial services jurisdictions and international standard setting bodies should ensure that the EU rulebook aligns, to the maximum extent possible, with developments elsewhere.

We would urge the EC to consider carefully what other jurisdictions may or may not do regarding tokenisation before taking any unilateral action. Front-running other jurisdictions and creating a comprehensive EU framework whilst others take a slower, more laissez-faire approach, will likely make EU markets less attractive, further undermining the EU's competitiveness. This would run counter to the EU's stated objectives.

Finally, we strongly believe interoperability of standards should be prioritised to enable seamless integration across platforms, which will support a diverse, inclusive, and competitive financial ecosystem in the EU and internationally. Such policies can support innovation in asset tokenisation, allowing the markets to grow whilst complying with existing EU financial services legislation.

CCI again appreciates the opportunity to provide these comments and to continue being part of this conversation. We would be pleased to further engage and contribute to forward-thinking policies creating a flexible regulatory landscape in the EU that facilitates the activities of innovative companies with the mission to improve our financial services industry. Thank you for your leadership regarding DLT and associated asset tokenisation.
