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European Commission
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Re: European Commission targeted consultation on the review of Regulation on the Markets in Crypto-Assets (MiCA)

The Investment Company Institute (ICI)[1] welcomes the opportunity to share its views on the European Commission's public targeted consultation on the review of the Markets in Crypto-Assets (MiCA) Regulation and appreciates such engagement with stakeholders on how the current framework could be improved, clarified and updated to take into consideration future innovation.

ICI's mission is to strengthen the foundation of the asset management industry for the ultimate benefit of the long-term individual investor. Our members serve more than 125 million retail investors worldwide and have significant experience managing regulated funds, in Europe and other jurisdictions around the world.

ICI and its members are committed to working constructively with policymakers to support the development of a robust and effective regulatory framework for crypto-asset markets. The review of MiCA provides an important opportunity to ensure that the European Union (EU) remains an attractive jurisdiction for innovation in crypto-assets, including the development and application of tokenisation and distributed ledger technology (DLT), while maintaining high standards of investor protection, financial stability, and market integrity.

In our view, the review of the regulation should be guided by a few high-level principles including that MiCA should regulate crypto-assets that do not qualify as financial instruments, preserve the technology neutral approach that was already enshrined in the regulation, prevent

[1] The Investment Company Institute (ICI) is the leading voice of the global asset management industry serving individual investors. Managing €50.9 trillion in regulated fund assets, ICI's members offer funds — including UCITS, mutual funds, exchange-traded funds (ETFs), closed-end funds, unit investment trusts (UITs), and other collective investment schemes — to investors across Europe, the Americas, and the Asia-Pacific region. ICI has offices in Brussels, London, and Washington, DC.

regulatory and supervisory fragmentation at EU level, and ensure interoperability within the EU and with other non-EU jurisdictions.

ICI's views are set out in greater detail below.

I. The review should preserve a clear delineation between MiCA and MiFID

One of the most important questions raised by the consultation is whether crypto-assets that qualify as financial instruments should continue to be governed by existing sectoral legislation or whether they should fall within a broader application of MiCA. In ICI's view, the review should preserve and reinforce the existing boundary between MiCA and financial-services legislation.

MiCA was introduced to address a regulatory gap by establishing a framework for crypto-assets that do not qualify as financial instruments. That distinction remains appropriate today and should continue to underpin the European regulatory framework. Financial instruments are already subject to a comprehensive set of rules governing investor protection, market conduct, disclosure, governance, risk management and supervision. The development of DLT does not alter the nature of those instruments or justify the application of a separate regulatory regime.

The key principle should be that the regulatory treatment of an asset follows its economic substance rather than the technology used to issue, record, transfer or settle it. A share remains a share regardless of whether ownership is evidenced through paper certificates, electronic records or DLT. Equally, a fund unit, bond or money market instrument remains a financial instrument when represented in tokenised form.

Extending MiCA to crypto-assets that qualify as financial instruments would create unnecessary overlap between regulatory frameworks, generate uncertainty regarding the applicable regime, and risk duplicative compliance obligations. Such an outcome would increase costs for market participants and ultimately investors, without delivering commensurate benefits in terms of investor protection or financial stability. In some instances, it could also create additional licensing requirements simply because a different technological infrastructure is being used to perform the same regulated activity.

The review should therefore preserve a simple and predictable principle: if an asset qualifies as a financial instrument, it should continue to be regulated under the relevant financial services framework. MiCA should remain focused on crypto-assets that do not qualify as financial instruments.

II. Technology neutrality should remain a core principle of the framework

Closely linked to the MiCA-MiFID boundary is the principle of technology neutrality. This principle has long been a cornerstone of EU financial-services legislation and should remain central to the future development of the MiCA framework.

Technology evolves rapidly. Regulatory frameworks, however, should be designed to remain effective over time. Rules that are tied to specific technologies risk becoming outdated as innovation develops and market practices evolve. A technology-neutral framework is therefore essential to ensure that regulation remains durable, future-proof and capable of accommodating new forms of infrastructure that may emerge.

From an asset management perspective, equivalent products and activities should receive equivalent regulatory treatment regardless of whether they rely on traditional market infrastructure, DLT or future technological solutions. A tokenised UCITS unit should remain subject to the UCITS framework. A tokenised bond should remain subject to the securities rules applicable to bonds. The regulatory outcome should not change simply because a different technology is used to record ownership or facilitate transfer.

Technology neutrality is also essential to promoting innovation and competition. Regulation should not favour or disadvantage particular technologies, business models or distribution channels. Instead, firms should be able to compete on the quality, efficiency and usefulness of the products and services they provide. Market participants, rather than legislation, should determine which technologies ultimately prevail.

This does not mean that the regulation should ignore technological developments. Certain requirements may need to be adapted where traditional concepts do not map neatly onto DLT. However, such adaptations should be guided by functional equivalence and regulatory outcomes rather than by the technology itself. The objective should be to ensure equivalent levels of investor protection, operational resilience and market integrity irrespective of the infrastructure used.

The review should therefore reaffirm the technology-neutral nature of MiCA and avoid introducing provisions that would subject identical economic activities to different regulatory treatment solely because they are conducted through DLT.

III. The review should prioritise legal certainty and reduce fragmentation

While discussions on tokenisation often focus on financial regulation, many of the barriers identified by market participants arise from legal uncertainty rather than from the absence of regulation itself. The European Commission's study[2] on national legal framework and obstacles for asset tokenisation in Member States demonstrates that the principal obstacles to wider adoption frequently relate to the interaction between different legal frameworks rather than shortcomings in financial-services rules. This is particularly relevant for the asset management

[2] Study on national legal framework and obstacles for asset tokenisation in Member States EC-FISMA/2024/OP/0003

industry that is cross-border by nature and where regulated fund structures already operate within comprehensive legal and supervisory frameworks.

As tokenisation develops, further consideration may be helpful regarding the interaction between MiCA, MiFID II, UCITS, AIFMD and other sectoral and national legislation. Market participants often face uncertainty regarding the treatment of tokenised assets and activities that rely simultaneously on regulated financial instruments and on digital infrastructure governed by MiCA.

Market participants would benefit from greater certainty regarding the provision of services supporting tokenised financial instruments. For example, investors holding tokenised fund units may seek assurance that wallet and custody providers operate under a regulatory framework that is consistent with the treatment of the underlying financial instrument. Lack of clarity regarding the applicable licensing framework may limit the availability of support services and the ability for service providers to operate adequately (for instance, compliant custody and wallet solutions), potentially constraining the development of tokenised fund markets. In some cases, this may create overlapping licensing requirements or duplicative compliance obligations despite no change in the underlying economic activity or level of investor protection. Such outcomes risk increasing costs, reducing efficiency and discouraging investment in tokenisation initiatives.

In addition, fragmentation across Member States acts as a barrier to innovation and growth. Divergent approaches to ownership records, shareholder registers, transfer of title, custody arrangements and the legal recognition of distributed ledger-based records create operational challenges for tokenised funds distributed on a cross-border basis. More specifically, a tokenised fund structure authorised in one Member State may not necessarily be assessed in the same way by supervisors in other Member States. This lack of supervisory convergence creates uncertainty for asset managers seeking to rely on the EU passport and distribute tokenised funds on a cross-border basis. As tokenisation continues to grow, these differences risk becoming a significant barrier to scale and could undermine the benefits of the Single Market.

Another element of national fragmentation relates to the need to ensure that tokenised assets receive the same treatment as their non-tokenised equivalent, particularly as a source of collateral within margin, repo and liquidity management practices. In this area, national supervisors have developed divergent approaches allowing, in some instances, for tokenised money market fund shares to be used in repo and margining transactions. The review should examine these national divergences in order to address fragmentation and better support use of tokenised assets.

The review therefore presents an opportunity to promote greater legal certainty, supervisory convergence and consistent interpretation across the European Union by simplifying rules where necessary, reducing uncertainty, eliminating unnecessary overlaps and enabling market

participants to operate with confidence across jurisdictions, rather than creating additional layers of regulation.

IV. Interoperability should be a strategic objective of the review

Beyond legal certainty, the long-term success of tokenised capital markets will depend on interoperability. A fragmented ecosystem in which infrastructures, legal frameworks, liquidity and settlement mechanisms operate in isolation will limit the benefits that tokenisation can deliver.

Interoperability should first be considered from a technological perspective. DLT infrastructures and traditional market infrastructures will continue to coexist for the foreseeable future. The framework should therefore encourage solutions that allow assets, data and transactions to move efficiently across different systems while minimising operational frictions. The objective should be to facilitate integration rather than create parallel and disconnected market infrastructures.

Secondly, interoperability has an important regulatory dimension. Divergent interpretations, classifications or supervisory approaches across Member States risk recreating the very fragmentation that MiCA sought to address. The review should therefore support greater convergence in the application of the framework and promote consistent treatment across the European Union.

Interoperability should also be considered internationally. Tokenisation is a global innovation and asset managers operate across jurisdictions. The European framework should remain sufficiently compatible with developments in other major markets, including the United States, the United Kingdom, and the Asia-Pacific region. Excessive divergence could fragment liquidity, increase operational costs, and weaken the global competitiveness of European markets.

Finally, interoperability also extends to settlement arrangements. The ability of tokenised assets to interact efficiently with digital settlement assets will be critical to achieving the full benefits of tokenisation. As tokenised fund units and financial instruments develop, market participants would benefit from legal certainty regarding the interaction between tokenised securities, digital cash solutions and settlement mechanisms operating across different infrastructures.

For these reasons, the review should promote compatibility between technologies, legal frameworks and market infrastructures, both within the European Union and internationally.

V. Conclusion

Digital transformation of financial services, including tokenisation, has the potential to deliver meaningful benefits for investors and capital markets by increasing efficiency, enhancing transparency, supporting innovation, and facilitating new forms of distribution and market

participation. The review of MiCA presents an important opportunity for the European Union to create the conditions necessary for these benefits to materialise at scale.

The EU should therefore continue to support the development of financial innovation through a clear, predictable and technology-neutral regulatory framework that reduces legal uncertainty, promotes supervisory convergence, and fosters interoperability across market infrastructures and jurisdictions. Rather than introducing additional layers of regulation, the focus should be on removing barriers to innovation and enabling market-led development within a robust framework of investor protection and market integrity.

ICI welcomes continued engagement with the European Commission to support the development of a competitive and future-oriented European ecosystem for tokenised assets and digital capital markets. We appreciate the opportunity to contribute to this work and would be pleased to discuss these issues further. For any questions regarding this response, please contact me at Tracey.wingate@ici.org , or Simon Jordan-Meille at simon.jordanmeille@ici.org

Sincerely,
/s/ Tracey Wingate
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