

Advice to ESMA

SMSG advice to ESA's Consultation Paper on Guidelines for the knowledge and competence under the Markets in Crypto Asset Regulation (MiCA)

1 Executive Summary

The SMSG's advice reflects a dual concern: crypto-assets constitute a unique ecosphere that is often not well understood, while at the same time, they may pose significant risks for investors. In light of this, the SMSG supports the need for proper information and advice for potential investors and therefore endorses strict knowledge and competence requirements for those providing such information and advice.

In this regard, the SMSG shares the same principles as ESMA in its guidelines, particularly the tailored application of MiFID II knowledge and competence requirements, the principle of proportionality, and the provision of a transition period. However, taking into account the concerns mentioned above, the SMSG overall proposes stricter requirements than those suggested by ESMA.

While the SMSG agrees with the proposed competence requirements, it advocates for stricter guidelines concerning the verification of competence. Given the diverse nature of Crypto-Asset Service Providers (CASPs) and the associated concerns, the SMSG recommends that competence verification should not be conducted by the CASPs themselves, but by an external party. Furthermore, regarding the transition period for staff already engaged in crypto-asset services, the SMSG considers that one year of supervised experience is insufficient. Here too, competence should be externally verified.

While advocating for stricter verification requirements, the SMSG also acknowledges the importance of proportionality. In this respect, the SMSG supports ESMA's distinction between 'giving information' and 'giving advice'. However, given the varied nature of crypto-assets – from highly speculative digital investments to digital payment tools used at festivals – the SMSG suggests that ESMA include illustrative examples (possibly in an Annex) to clarify which crypto-services fall within the scope of these guidelines.

Finally, the SMSG cautions against a potential unintended consequence of the guidelines. Given the limited product offerings in this domain by regulated financial institutions, it is uncertain whether they will invest in extensive competence development programs. This could leave the market vulnerable to less scrupulous actors. While this issue is only partly within ESMA's remit, the SMSG believes that independent assessments of competence requirements could elevate standards in the sector, and that proportionality can help avoid undue burdens.

General remarks

1. The SMSG has previously highlighted, in a recent ESMA consultation, that the crypto-assets ecosystem has distinct characteristics compared to traditional financial systems. The specific attributes of various crypto-assets (e.g., utility tokens, payment coins, stablecoins, DeFi-related assets) are often not well understood by stakeholders and market participants, as they represent new asset classes with differing fundamentals.
2. Regulators worldwide have expressed concerns about investor harm, issuing multiple warnings over the years. These include the risk of total loss of investment, extreme volatility, and the prevalence of scams, fraud, operational errors, and cyberattacks. The crypto ecosystem has been among the most frequently warned-about sectors over the past 15 years.
3. In this context, a stricter regulatory approach is warranted. Those providing information and advice must be well-equipped to understand and communicate these specificities. They play a key role in educating clients and mitigating investment risks in this emerging area. Recent academic research supports this view. For example, Sobolev and Kallinteraki (2024)¹ suggest that "regulators could extend their reach by providing investors with more informative and detailed cryptocurrency risk advice." Similarly, Qi et al. (2025)² recommend that financial professionals enhance client education on crypto risks and that policymakers ensure accurate information is disseminated.
4. The SMSG's advice aligns with ESMA's principles:
 - Applying MiFID II knowledge and competence requirements where appropriate, to align standards for crypto-assets with those of other financial products and services, while acknowledging their specificities.
 - Recommending a proportionate application of these guidelines, taking into account the nature, scale, and complexity of CASP businesses.
 - Providing a transition period for existing businesses.
5. Given these considerations, the SMSG advocates for a stricter framework than that

¹ Sobolev, D., Kallinterakis, V., (2024), Risk is in the eye of the investor: Cryptocurrency investors' engagement with risk, regulatory advice, and regulatory institutions, *Journal of Behavioral and Experimental Finance* 44, 100994, <https://doi.org/10.1016/j.jbef.2024.100994>

² Qi, J., Zhang, Y., Ouyang, C., (2025) Cryptocurrency Investments: The Role of Advisory Sources, Investor Confidence, and Risk Perception in Shaping Behaviors and Intentions. *Journal of Risk and Financial Management* 5, 18, 57. <https://doi.org/10.3390/jrfm18020057>

proposed in the consultation document.

- I. **Question 1: Do you agree with the minimum requirements regarding qualification, experience and continuous professional development of staff giving information on crypto-assets and crypto-asset services to clients included in paragraphs 19 to 21 of draft Guideline 2? If not, what would, in your view, be adequate minimum requirements? Please state the reasons for your answer.**
 - II. **Question 2: Do you agree with the minimum requirements regarding qualification, experience and continuous professional development of staff giving advice on crypto-assets and crypto-asset services to clients included in paragraphs 24 to 26 of draft Guideline 3? If not, what would, in your view, be adequate minimum requirements? Please state the reasons for your answer.**
6. The SMSG agrees with the minimum requirements regarding both information and advice provision.
 7. The SMSG also supports the proportionality in distinguishing between “information” and “advice”.
 8. However, the SMSG advocates for stricter verification of competence. This does not only stem from the specific concerns already raised above, but also from the observation that Crypto-Asset Service Providers (CASP’s) may be very diverse in nature. The SMSG recommends that verification be conducted by an external party, not the CASP itself.
 9. To support training and verification, the SMSG proposes:
 - That educational institutions, or the NCAs themselves, develop professional qualification schemes aligned with these guidelines, which would be approved and recognized by NCAs.
 - That competent authorities publish a list of approved educational providers, ensuring a level playing field in training standards.
 10. The SMSG further suggests that experience under supervision alone is insufficient. Knowledge and competence must be verified. Therefore, the SMSG proposes the following provision: *"Existing members of staff providing information or advice on crypto-assets or crypto-asset services must obtain the aforementioned professional qualification within six months from the date of application of these guidelines."*

III. Question 3: Do you agree with the proposed draft guidelines? Please state the reasons for your answer.

11. See general remarks and responses to Questions 1, 2 and 4.

IV. Question 4: Are there any additional comments that you would like to raise and/or information that you would like to provide?

12. While supporting strict knowledge and competence requirements (and even stricter verification requirements), the SMSG also endorses the proportional application of these rules.

13. ESMA applies proportionality mainly through the distinction between 'giving information' and 'giving advice'. However, crypto-services vary greatly. For example, there is currently no distinction between high-risk assets and stablecoins. Stablecoins typically pose less risk, as they are used more as digital currencies than as investments. Similarly, digital coins can serve safe, practical purposes (e.g., festival tokens), where the investment element is minimal. It would be excessive to apply the same competence standards in such cases. The SMSG suggests that ESMA more clearly delineate which products fall under these requirements.

14. The SMSG also raises a broader concern. There is a risk that unscrupulous actors may dominate the market, particularly if regulated banks, which have few crypto products, are reluctant to invest in competence development. While this issue lies partially outside ESMA's scope, the SMSG believes that:

- Independent verification of competence, as recommended by the SMSG, could enhance trust in crypto advice services. NCAs could launch public awareness campaigns to highlight the existence and value of competence standards, helping quality providers to stand out.
- Proportionality, especially concerning product types, can support stricter standards for riskier services without imposing unnecessary burdens where the risk is low.

This advice will be published on the Securities and Markets Stakeholder Group section of ESMA's website.

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