

**Blockchain & Climate Institute's response to
Second Consultation Paper on technical standards specifying certain requirements of Markets in
Crypto Assets Regulation (MiCA)**

About the Blockchain & Climate Institute

The Blockchain & Climate Institute (BCI) is a progressive think tank providing expertise on the deployment of emerging technologies for climate and sustainability actions. Its mission is to effect positive changes by raising awareness of the potential of blockchain technology to considerably enhance state and non-state climate actions through targeted technological interventions. BCI's work includes advocating for and advising governments on the adoption of policy and regulatory frameworks which enable the deployment of blockchain and emerging digital technologies to support the decarbonisation of the global financial sector.

BCI is a network of 160 climate blockchain expert members in 11 Divisions from over 30 countries. BCI is accredited member of the UN Climate Technology Centre & Network (CTCN). Among the members of the secretariat, the Director-General, Alastair MARKE is member of the UK national committee of ISO TC307 Blockchain & Distributed Ledger Technology Standards Working Groups.

BCI Response to Consultation Questions: Content, methodologies and presentation of sustainability indicators on adverse impacts on the climate and the environment

Executive summary

Distributed ledger technology (DLT) is a promising technology with enormous potential to help support climate change mitigation and adaptation efforts across various sectors, including renewable energy, carbon markets and value chains. For this to be successful, regulation needs to strike a balance between addressing the risks whilst not stifling innovation and development. BCI agrees that the adoption of a certain technology should also consider the environmental impact derived by its usage. In this sense, BCI agrees that certain parameters which may measure the environmental impact of DLT, such as energy consumption or the usage of devices necessary to maintain the network operative, should be monitored.

This consultation is in preparation for the draft, by the European Securities and Markets Authority (ESMA), of the Regulatory Technical Standards (RTS) on the content, methodologies and presentation of the information on the adverse environmental and climate impact of the consensus mechanism used to issue all the crypto-assets covered by MiCA. MiCA mandates the inclusion of the information outlined above in the crypto asset white paper, and even Crypto Asset Service Providers (CASP) shall make such information available in a prominent place of their website. Since these disclosures are mandatory, any crypto asset participants, that fall under the scope of MiCA, could face additional legal obligations.

For this reason, BCI deems it important that, along with the RTS, all the legal issues concerning disclosure obligations are well-addressed to avoid, for an industry still in its infancy, additional uncertainties and undue burden that could hinder European Operators' competitiveness.

According to MiCA, the disclosure obligation refers to information contained in the white paper, that is the mandatory document to be released by anyone wishing to engage in the issuance, offer to the public and admission to trading of crypto-assets in the European Union according to Articles 19(1), 51(1), and 6(1). Additionally, the disclosure obligations are extended to CASPs by virtue of art.66(5) of MiCA. Therefore, these entities (**MiCA-regulated entities**) shall disclose data referring to the consensus mechanism adopted by the DLT network they use to issue their crypto-asset or provide related services. This introduces two further issues that must be addressed.

Firstly, it is necessary to agree on the technical structure of the DLT networks and correctly identify the components and parties involved, as well as the functioning of the interactions by these parties. This is a prerequisite for setting effective standards and for defining the content of the disclosure obligations.

Secondly, it must be underlined that the relevant information on the consensus mechanism is not directly under the control of the MiCA-regulated entities. In particular, the energy consumption, the usage of natural resources, the production of waste and of greenhouse gas emissions could not be necessarily known by the MiCA-regulated entities. The MiCA-regulated entities are reliant upon the various nodes/validators that comprise the crypto-asset ecosystem which exist outside of the control of the MiCA-regulated entity. Therefore, the MiCA-regulated entities would typically rely on the data made available, on a voluntary basis, by third parties to fulfil their disclosure obligations. Moreover, asking the MiCA-regulated entities to map the supply chain of DLT network operators will be problematic if not impossible due to the technical features of the infrastructure.

These issues pose certain legal questions concerning the actual applicability of the disclosure obligations and the consequences of not being compliant.

The BCI's response to this consultation, therefore, focuses upon these legal aspects that need to be properly addressed before identifying the specific disclosure obligations to certain subjects dealing with crypto assets.

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