



To: European Securities and Market Authority

Regarding: Consultation Paper on Draft Guidelines on the conditions and criteria for the qualification of crypto-assets as financial instruments

Dear European Securities and Market Authority,

I write to you in my capacity as co-chair of the Standards Advisory Group (SAG) of Technical Committee 68 of the International Organization for Standardization (ISO) TC 68/AG2.

ISO is an independent, non-governmental international organization with a membership of 163 national standards bodies. Through its members, it brings together experts to share knowledge and develop voluntary, consensus-based, market relevant International Standards that support innovation and provide solutions to global challenges.

ISO/TC 68 is the Technical Committee within ISO tasked with developing and maintaining international standards covering the areas of banking, securities, and other financial services. The Standards Advisory Group (SAG) as an Advisory Group of ISO/TC 68 acts as an advisory sounding board to support and engage with regulators on financial services standards requirements, for the effective and efficient use and development of financial services standards, delivered using a cooperative relationship approach. The SAG enables a proactive dialogue with regulators on financial services standards matters.

The SAG's objectives are:

- Provide a forum for mutual assistance between the global regulatory community and ISO in carrying out their respective authorities and responsibilities with respect to financial services standards;
- Aid the adoption and promotion of consistent standards, where possible;
- Effectively deal with common issues collectively and consistently; and
- Encourage strong and open communication within the regulatory community and with the industry concerning financial services standards.

The SAG's response represents a collective view of its membership and draws upon its knowledge as an expert standards setting body with practitioner-led experience in the development and use of standards.

The SAG would like to respond to Question 5: Do you agree with the suggested conditions and criteria to differentiate between MiFID II financial instruments and MiCA crypto-assets? Do you have concrete condition and/or criteria to suggest that could be used in the Guidelines? Please illustrate, if possible, your response with concrete examples.

The SAG would like to highlight to ESMA that ISO standards could be leveraged as an additional tool to support the qualification criteria to differentiate between MiFID II financial instruments and MiCA crypto-assets. A combination of ISO 24165, the Digital Token Identifier (DTI), ISO 6166 International Securities Identification Numbers (ISIN) and ISO 10962 Classification of Financial Instruments (CFI) provides a holistic view of a crypto-asset while linking to verified reference data for market participants and regulators.

The DTI is intended to cover representation of digital tokens including, e-money tokens, cryptocurrencies, virtual currencies, utility tokens, stablecoins, as well as tokenized financial instruments. . The data elements of a DTI used to uniquely identify a digital token are based on objective and publicly verifiable technical characteristics of the digital token. Inclusion in the registry and the issuance of a DTI guarantees the existence of the token and its 1:1 relationship to its identifier in all circumstances, including after complex events such as forks on a blockchain. The DTI has two parts: Part 1 addresses the method for registration and assignment, while Part 2 determines the data elements required for registration. The ISO Registration Authority for the DTI, the DTI Foundation (DTIF) is responsible for the issuance and management of DTIs.

The Association of National Numbering Agencies (ANNA), the ISO Registration Authority for ISIN, introduced new DTI based ISINs to identify digital assets to ensure a complementary relationship between the ISIN and DTI standards across all digital assets. The ISIN uniquely identifies the asset level of the instrument and includes the CFI, ISO 18774 Financial Instrument Short Name (FISN), and ISO 17442 Legal Entity Identifier (LEI) in its record, complementing the unique identification of the token level DLT implementation and associated reference data provided by the DTI.

CFI codes currently support the classification of those digital assets that are financial instruments (debt instrument, equity etc.) and represented in token form utilizing distributed ledger technology. Digital assets not deemed as financial instruments to date have also been categorized under the CFI category of 'Referential Instruments'. ISO TC 68 Subcommittee 8 (SC8) reference data for financial services, has an established Maintenance Agency (TC 68 SC 8/MA 4) for the CFI, as well as an accompanying Discussion Group (TC 68 SC 8/MA 5) where matters pertaining to the evolution of the CFI standard are addressed. The topic of extending the CFI standard to cater for classification of digital assets is a topic being addressed in this forum.

The SAG remains at your disposal to support you in your work and to engage with you in discussions and questions related to standards in financial services.

Thank you and regards,

[signed]

Karla McKenna

Co-Chair of the ISO/TC68/AG2