

Per online submission:

European Securities and Markets Authority (ESMA)
201-203 rue de Bercy
CS 80910
FR-75589 Paris Cedex 12

Zurich, 07 August 2024

Call for Evidence on the review of UCITS Eligible Assets Directive [ESMA34-1270380148-1032] - Harmonization of Crypto Asset Exposure in UCITS Framework

Dear ESMA Representatives,

21Shares is writing to address the need for regulatory clarity and harmonization regarding the inclusion of crypto asset exchange-traded products (ETPs) within the UCITS framework. Currently, national regulators have differing views on permitting crypto exposure in UCITS. For instance, Malta and Germany have approved UCITS funds with indirect crypto exposure, whereas Luxembourg and Ireland have not, despite the existing UCITS framework providing robust provisions on eligible assets and risk management.

21Shares believes its ETPs meet the requirements of the current UCITS framework. Inconsistent interpretations by national regulators undermine the harmonized approach central to UCITS. Crypto asset ETFs have become mainstream in the eyes of regulators globally, such as the SEC in the US or the SFC in Hong Kong. Global alignment among world's leading regulators are instrumental to prevent regulatory arbitrage.

Crypto assets offer low correlation with other major asset classes, improve risk-adjusted returns and provide excellent portfolio diversification. The availability of reliable valuation information, liquidity, and safekeeping options for both direct and indirect exposures is given, with decreasing volatility of the asset class.

By holding crypto assets indirectly through ETPs, UCITS benefit from additional regulatory compliance layers and operational ease, while economies of scale for ETP issuers mean lower costs for UCITS. Therefore, 21Shares recommends that ESMA issues a clear statement supporting the inclusion of crypto asset ETPs as eligible UCITS investments to ensure a uniform standard of investor protection and operational clarity across all member states.

Enhanced collaboration between ESMA and national authorities will support consistent interpretation and enforcement, leading to greater supervisory convergence and investor confidence across the EU.

Thank you for your attention to this important matter. We look forward to your guidance and support in fostering a harmonized and robust regulatory environment for UCITS investors.

Sincerely,



Ophelia Snyder
Member of the Board of Directors

