Reply Form

Consultation Paper on the Guidelines for the criteria on the assessment of knowledge and competence under the Markets in Crypto Assets Regulation (MiCA)

Responding to this Consultation Paper

ESMA invites comments on all matters in this Consultation Paper and in particular on the specific questions summarised in Annex 1. Comments are most helpful if they:

* respond to the question stated;
* indicate the specific question to which the comment relates;
* contain a clear rationale; and
* describe any alternatives ESMA should consider.

ESMA will consider all comments received by **22 April 2025.**

All contributions should be submitted online at [www.esma.europa.eu](http://www.esma.europa.eu) under the heading ‘Your input - Consultations’.

Instructions

In order to facilitate analysis of responses to the Consultation Paper, respondents are requested to follow the below steps when preparing and submitting their response:

• Insert your responses to the questions in the Consultation Paper in this reply form.

• Please do not remove tags of the type < ESMA\_QUESTION\_MIKC\_0>. Your response to each question has to be framed by the two tags corresponding to the question.

• If you do not wish to respond to a given question, please do not delete it but simply leave the text “TYPE YOUR TEXT HERE” between the tags.

• When you have drafted your responses, save the reply form according to the following convention: ESMA\_CP\_ MIKC\_nameofrespondent.

For example, for a respondent named ABCD, the reply form would be saved with the following name: ESMA\_CP\_ MIKC\_ABCD.

• Upload the Word reply form containing your responses to ESMA’s website (**pdf documents will not be considered except for annexes**). All contributions should be submitted online at *www.esma.europa.eu* under the heading *‘Your input - Consultations’.*

**Publication of responses**

All contributions received will be published following the close of the consultation, unless you request otherwise. Please clearly and prominently indicate in your submission any part you do not wish to be publicly disclosed. A standard confidentiality statement in an email message will not be treated as a request for non-disclosure. A confidential response may be requested from us in accordance with ESMA’s rules on access to documents. We may consult you if we receive such a request. Any decision we make not to disclose the response is reviewable by ESMA’s Board of Appeal and the European Ombudsman.

**Data protection**

Information on data protection can be found at [www.esma.europa.eu](http://www.esma.europa.eu) under the heading ‘[Data protection](https://www.esma.europa.eu/about-esma/data-protection)’.

**Who should read this paper?**

All interested stakeholders are invited to respond to this Consultation Paper. In particular, ESMA invites crypto-asset service providers, investors and their associations, financial entities dealing with crypto-assets and any other stakeholders that have an interest in the market for crypto-assets.

# General information about respondent

| Name of the company / organisation | Blockchain Bundesverband e.V. |
| --- | --- |
| Activity | Choose an item. |
| Are you representing an association? | x |
| Country / Region | Germany |

# Questions

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.**

<ESMA\_QUESTION\_MIKC\_1>

*The Bundesblock recognizes the need for a baseline of competence to ensure clients receive accurate information, but we have significant reservations about the practicality and potential unintended consequences of these requirements.*

*The proposed options (80 hours of professional qualification plus 6 months of supervised experience, or 1 year of supervised experience, followed by an exam) are reasonable starting points, and the grandfathering provision for existing staff could prevent market disruption. However, the lack of clarity on what constitutes a "professional qualification" or an "exam" risks fostering a fragmented training landscape. While larger CASPs could potentially create their own internal assessment systems, smaller firms and freelancers might find themselves dependent on private training providers due to resource constraints for developing equivalent internal programs. This potentially creates a landscape of proliferating dubious certifications without meaningful improvements to service quality.*

*We think, that many crypto-asset services mirror investment services already regulated under MiFID II, making a separate framework potentially redundant. Instead existing regulations should be slightly adapted to avoid duplicative burdens. Similarly, requiring staff to understand general tax implications overlaps with the role of tax consultancies, as clients typically seek specialized tax advice from dedicated professionals, not CASP staff.*

*Industry self-regulation led by established CASPs will potentially be more effective than prescriptive requirements. Larger companies have a strong intrinsic motivation to educate their service employees properly to maintain client trust and build sustainable business models. These companies could collaborate to establish intercompany standards for staff education and competence that reflect industry best practices while remaining adaptable to this rapidly evolving sector. Such an approach would foster responsible industry growth without imposing excessive regulatory burdens that would hinder innovation and competition.*

<ESMA\_QUESTION\_MIKC\_1>

1. **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.**

<ESMA\_QUESTION\_MIKC\_2>

*The Bundesblock does not agree with the minimum requirements in paragraphs 24 to 26 of draft Guideline 3 for staff providing advice on crypto-assets and crypto-asset services. We advocate for a streamlined approach that leverages existing frameworks and prioritizes transparency over extensive and potentially intransparent training mandates.*

*The qualification and experience options in paragraphs 24-25 are overly rigorous and fail to recognize the unique nature of the crypto industry, where many of the most knowledgeable experts are self-taught practitioners who have developed expertise through hands-on experience rather than formal education. Requiring a 3-year tertiary degree, 160 hours of training, or extensive supervised experience will exclude valuable talent and create artificial barriers to entry. This approach ignores the reality that crypto expertise often comes from direct market participation and community involvement rather than traditional educational pathways.*

*The 20-hour annual CPD requirement fails to address the true complexity of advisory roles, and even increasing this formal requirement would not solve the fundamental issue. Without proper oversight, these mandatory training hours risk becoming merely a bureaucratic checkbox rather than a meaningful enhancement of advisors' skills and knowledge. The proposed mandatory experience and training hours could spawn a low-quality education industry, with certificates suggesting competence that advisors may not possess, particularly burdening small CASPs and freelancers.*

*Advice on crypto-assets provided to private individuals closely resembles investment advice regulated under MiFID II, which already establishes robust suitability and competence standards. Technical advice about crypto technologies is primarily offered in business-to-business contexts, where companies can readily secure external expertise as needed. The proposed guidelines may therefore impose an unnecessary regulatory burden on retail-focused CASPs that already operate under MiFID II frameworks. We recommend only modest modifications to existing MiFID II provisions to address specific crypto-related requirements, rather than creating an entirely new regulatory regime.*

*A critical gap in the current proposal is the absence of mandatory disclosure of advisors' and their company's crypto holdings. MiFID II requires conflict disclosure only when unavoidable, but crypto's volatility and manipulation risks necessitate proactive transparency. Also, as noted in our response to Q1, requiring advisors to understand tax implications duplicates the role of tax consultancies, adding unnecessary complexity to their training.*

*Industry self-regulation led by established CASPs would potentially be more effective than prescriptive requirements. Larger companies have a strong intrinsic motivation to properly educate their advisory staff to maintain client trust and build sustainable business models. These companies could collaborate to establish intercompany standards for advisor qualification and competence that reflect industry best practices while remaining adaptable to this rapidly evolving sector. Supplementing this approach with requirements for advisors to disclose their crypto holdings would address the unique conflict of interest concerns in crypto markets while fostering responsible industry growth without imposing excessive regulatory burdens.*

<ESMA\_QUESTION\_MIKC\_2>

1. **Do you agree that with the proposed draft guidelines? Please state the reasons for your answer.**

<ESMA\_QUESTION\_MIKC\_3>

*The Bundesblock does not agree with the proposed guidelines in their current form. Based on our responses to Q1 and Q2, we believe these guidelines are unnecessary as standalone regulatory requirements. The organisational requirements outlined in Guideline 4 would be more appropriately implemented as part of a self-regulatory framework developed by the crypto industry itself.*

*Rather than imposing a prescriptive regulatory regime, EU lawmakers could provide these guidelines to crypto-asset service providers as recommended practices, allowing the industry to implement them in ways that reflect operational realities and the diverse nature of crypto expertise. Companies already have strong incentives to ensure their staff possess adequate knowledge and competence to maintain client trust and build sustainable business models.*

*This approach would permit the industry to collaboratively establish intercompany standards for assessing, maintaining, and updating staff knowledge and competence that align with industry best practices while remaining adaptable to this rapidly evolving sector. The EU could indicate that failure by the industry to meaningfully self-regulate could result in a tighter and mandatory legally binding framework in the future, providing motivation without immediate regulatory burden.*

<ESMA\_QUESTION\_MIKC\_3>

1. **Are there any additional comments that you would like to raise and/or information that you would like to provide?**

<ESMA\_QUESTION\_MIKC\_4>

The broadened scope in comparison to the MiFiD regulation wrt the affect (para 17) is a) hard to comprehend, since creators of benchmarks or staff that structures different product (e.g. derivatives) does not fall under the MiFiD regulation and b) it is hard to identify such staff in a crypto-asset service provider environment, which is based smart contracts. Given the proposed definition, all backend employees would fall under this regulation. This would lead to an unreasonable effort in comparison to traditional financial instruments.

In general, Bundesblock embraces the introduction of assessment of knowledge and competence to secure customers interests and the strengthen the trust in crypto-assets and their sales and distribution, but wants to plead for an adequate level of regulation (i.e. wrt the required hours of education and the relevant staff) to avoid overregulation (in comparison to MiFiD) and to support a healthy growth of that (key) industry..

<ESMA\_QUESTION\_MIKC\_4>