



**MINISTRY OF INDUSTRY, BUSINESS
AND FINANCIAL AFFAIRS**

Valdis Dombrovskis
Executive Vice-President for An Economy that Works for People and
Commissioner for Financial Services, Financial Stability and Capital
Markets Union
European Commission

**MINISTER FOR INDUSTRY,
BUSINESS AND FINANCIAL
AFFAIRS**

Dear Executive Vice-President Valdis Dombrovskis

The Danish government welcomes the opportunity to respond to the European Commission's consultation on crypto-assets in the European Union. It is very timely that we proceed with setting out a common framework on this important subject.

Overall, legislation on crypto-assets must first of all ensure an effective consumer and investor protection. Preventing fraudulent activities and ensuring market integrity is crucial to take into account in relation to crypto-assets. Furthermore, such regulation should also consider the risks of crypto-assets, including in particular those related to money laundering. The regulation should furthermore strike the right balance to ensure financial stability and at the same time allow for innovation.

Moreover, due to the fast-paced development of crypto-asset business models, it is important that new legislation gives the necessary clarity for consumers and financial actors.

In order to facilitate this, it will be necessary to establish a new regulatory regime. Crypto-assets are cross border in nature and should thus be regulated at a European level. At the same time, we should prioritize amending current legislation, where it makes sense to expand the current legislative framework in scope to include crypto-assets. This is the case with e.g. the E-Money Directive (EMD2).

Level playing field

A common regulatory framework should ensure a level playing field between traditional providers of financial services, such as credit institutions, and other service providers not currently regulated, but using crypto-assets as a financial product.

Ensuring a level playing field contributes to maintaining well-functioning financial markets with the same degree of consumer protection, trust in market functions and financial stability.

At the moment, crypto-assets can be designed to mimic financial products, such as stocks, but still evade existing financial regulation and rules on

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consumer and investor protection. It is crucial that any regulation on crypto-assets mirrors the rules and requirements of existing regulation.

Future proof classification to address risks

The technology behind crypto-assets enables the creation of new business models. These business models often have a high degree of decentralisation and anonymisation that requires specific regulatory approaches. It is therefore important that a classification of crypto-assets distinguishes between the specific features of crypto-assets such as the degree of decentralisation. Also, regarding ‘stablecoins’, the underlying type of stabilisation mechanism should be properly categorised and treated accordingly.

It is essential to focus on all relevant risks involved. A distinction between subtypes of crypto-assets such as so-called ‘stablecoins’, ‘payment tokens’, ‘investment tokens’ and ‘utility tokens’, based solely on the economic function of the crypto-asset, will overlook the risks connected to the specific features of crypto-assets. This would incur a wide range of adverse results in the longer term.

Enforcement

Another point of importance relates to the question of determining the responsible legal subject. In existing financial regulation, the provider of the financial service is often defined as a legal subject of said regulation. This is a major issue for crypto-assets where the technology behind such assets can make the identification of a legal subject increasingly difficult due to the inherent potential for decentralisation and anonymisation. As a case in point, an issuer of a crypto-asset can detach itself from the management of the asset after its issuance, by using a smart contract which complicates the important issue of ensuring enforcement of the rules on among other things consumer and investor protection.

As the areas mentioned in this letter likely illustrates, we find it necessary to have sufficient clarity as to best handle the multitude of novel issues that crypto-assets pose to ensure financial stability and thereby achieve its potential for European citizens and companies alike.

Please find attached the specific replies to the consultation document. I remain at your disposal should you have any questions or comments.

Yours sincerely,

A handwritten signature in black ink that reads "Simon Kollerup". The signature is written in a cursive style with a large initial 'S' and a long vertical stroke for the 'l' in 'Kollerup'.

Simon Kollerup