

SUBMITTED VIA WEB FORM TO: <https://www.esma.europa.eu/>

To whom it may concern,

**Re: European Securities & Markets Authority (ESMA) Consultation Paper on Guidelines for the criteria on the assessment of knowledge and competence under the Markets in Crypto Assets Regulation (MiCA)**

**About Global Digital Finance (GDF) & Blockchain for Europe (BC4EU)**

BC4EU is Europe's leading trade association for the blockchain and digital assets industry at the EU level. BC4EU promotes collaboration between our industry and key European stakeholders in the policy, regulatory, and supervisory space to support the development of clear and consumer-friendly rules that will support blockchain-based innovation and foster greater competitiveness in Europe's economy.

GDF is the leading global members association advocating and accelerating the adoption of best practices for crypto and digital assets. GDF's mission is to promote and facilitate greater adoption of market standards for digital assets through the development of best practices and governance standards by convening industry, policymakers, and regulators.

The input to this response has been curated through a series of member discussions and roundtables, and GDF and BC4EU are grateful to their members who have taken part.

As always, GDF and BC4EU remain at your disposal for any further questions or clarifications you may have, and we would welcome a meeting with you to further discuss these matters in more detail with our members.

Yours faithfully,

Elise Soucie – Executive Director – Global Digital Finance  
Tommaso Astazi – Policy Director – Blockchain for Europe

## Response to the Consultation Report: Executive Summary

GDF and BC4EU collaborated across their memberships to respond to the **ESMA Consultation Paper on Guidelines for the criteria on the assessment of knowledge and competence (K&C) under the Markets in Crypto Assets Regulation (MiCA)**. Please note that as this response was developed in collaboration with our joint membership, as well as community partners, that portions of our response may be similar or verbatim to individual member responses. In particular, GDF and BC4EU were also pleased to collaborate on this response with the ACI Financial Markets Association and are grateful for their contributions.

Overall, GDF and BC4EU are supportive of the objective of the proposals made in Consultation Paper (referred to henceforth as the CP) and of ESMA's intent of providing clarity to the market as the Markets in Crypto Assets (MiCA) Regulation is implemented across the EU. However, we caution that the proposed implementation in paragraphs 19 to 21, while well-intentioned, may lead to disproportionate outcomes for certain business models in the MiCA ecosystem. We are also concerned that the requirements as drafted do not proportionately reflect the risks for the provision of information about crypto-assets or crypto-asset services, particularly for lower risk assets and products.

GDF and BC4EU have worked with our members to provide a constructive assessment of how to better ensure alignment with MiFID II as well as proportionality and suitability in the implementation of the guidelines. Through this process, the Working Group has identified key areas that may require further drafting consideration or additional guidance for purposes of clarity, proportionality, and effective implementation. The core areas identified are:

- 1. We caution against a disproportionate approach to K&C under MiCA, in particular in comparison to the level of prescription and scope of MiFID II;**
- 2. In support of point 1, we also encourage greater alignment to regulatory principles and benchmarking to MiFID II;**
- 3. We propose clear guidance on transitional arrangements and realistic timelines for firms to achieve compliance including support for traditional 'grandfathering' arrangements and clear transitional regimes for existing staff;**
- 4. We encourage flexibility in training formats and recognition rather than an overly prescriptive approach;**
- 5. We strongly encourage the development of a Cost Benefit Analysis (CBA);**
- 6. We emphasize a need for clarity of the standards and format of mandatory exams including standardisation of qualification equivalence;**

- 7. We support enhancing proportionality by distinguishing high-risk vs low-risk services and also to calibrate for the lower risk presented by non-advisory roles;**
- 8. We emphasize the need for greater clarity on the interpretation of portfolio knowledge;**
- 9. We support the development of industry led best practice for learning pathways or certification;**
- 10. We support additional guidance on supervisory evidence;**
- 11. We support ESMA considering how to strengthen the link to suitability obligations; and**
- 12. We encourage the development of more appropriate models and examples that better reflect the industry (with reference to the Annex).**

## **Response to the Consultation Paper (CP): Questions for Public Consultation**

***Q1: 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?***

Yes, GDF and BC4EU broadly agree with the principle of requiring minimum standards of knowledge, experience, and continuous professional development (CPD) for staff giving information on crypto-assets. These measures regarding qualifications, experience, and ongoing professional development are essential for ensuring staff have the foundational knowledge to provide accurate and reliable information to clients to ensuring competent service and investor protection.

However, we caution that the proposed implementation in paragraphs 19 to 21, while well-intentioned, may lead to disproportionate outcomes for certain business models in the MiCA ecosystem. We are also concerned that the requirements as drafted do not proportionately reflect the risks for the provision of information about crypto-assets or crypto-asset services, particularly for lower risk assets and products.

For example, when compared to the equivalent MiFID II guidelines<sup>1</sup> there are some key differences:

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<sup>1</sup> [https://www.esma.europa.eu/sites/default/files/library/esma71-1154262120-153\\_guidelines\\_for\\_the\\_assessment\\_of\\_knowledge\\_and\\_competence\\_corrigenum.pdf](https://www.esma.europa.eu/sites/default/files/library/esma71-1154262120-153_guidelines_for_the_assessment_of_knowledge_and_competence_corrigenum.pdf)

**Level of Prescription:** MiCA's draft guidelines are more prescriptive in setting specific benchmarks (hours of training, degree level) for qualifications and CPD. MiFID II's guidelines provided criteria but left details (like exact qualifications or hours) to Member States or firms.

### **MiFID II**

- Applies to the core of the EU capital markets ecosystem — covering instruments like equities, derivatives, and fixed income.
- Staff giving information or advice are expected to have appropriate qualification and experience, but ESMA allowed flexibility:
  - No minimum training hours or CPD thresholds set at the EU level;
  - Member States could adopt differentiated local standards; and
  - ESMA allowed firms to implement principle-based compliance and training models.

### **MiCA**

- Regulates an emerging sector, much of which remains relatively retail-facing, speculative, or niche in institutional terms.
- ESMA proposes hard thresholds:
  - 80-hour training + exam + experience for giving information;
  - 160-hour+ professional formation or degree plus CPD for advice roles; and
  - 10–20 hours of annual CPD, with examination requirements.

We would caution that the current approach risks being disproportionate for CASPs which may severely hamper growth and also place a large, outsized compliance burden on the industry. As set out, MiFID investment firms could then comply through flexible local models, yet crypto-native CASPs would be subjected to more rigid, centralised, and quantified criteria. We strongly caution that this would be disproportionately, particularly where the systemic or suitability risks may be lower (e.g., for stablecoins or custody services).

### **Scope of Roles:**

#### **MiFID II**

- MiFID II's legal mandate was specifically for investment advice and information on financial instruments and was not extended by ESMA, even though the relative complexity and risk of MiFID services and products applies to a greater population of users with more direct investment consequence and potential harm than that of crypto-asset markets.

#### **MiCA**

- Under the current proposals ESMA has chosen to extend MiCA's knowledge-and-competence requirement to all natural persons providing information on crypto-asset services or crypto-assets, not only those giving advice. This is beyond the legal mandate in MiCA which refers to guidelines specifying the criteria for the assessment of knowledge and competence in accordance with Article 81(7).

**Transitional “Grandfathering”:** Both regimes recognize existing experience which is welcome. MiCA explicitly allows firms to deem current staff (with  $\geq 1$  year prior relevant experience) as competent. Under MiFID II, many national regulators similarly grandfathered experienced staff when the rules took effect, even though ESMA’s guidelines did not explicitly spell this out. We would encourage a proportionate approach under MiCA that still supports both a transitional period as well as the ability for grandfathering to apply to existing experience staff.

GDF and BC4EU would strongly encourage ESMA to amend the proposal to enable enhancements around flexibility, assessment clarity, and role-based proportionality / scope. We firmly believe that this would improve the effectiveness of the draft guidelines and facilitate more consistent application in practice.

***Q1B: If not, what would, in your view, be adequate minimum requirements? Please state the reasons for your answer.***

We recommend the following refinements to the current drafting:

- **Maintain flexibility in training formats and recognition:** Allow alternative, modular, or on-the-job training paths equivalent to the 80-hour formation requirement, especially for digital-native staff whose learning may be self-paced or decentralised.
- **Clarify the standards and format of mandatory exams:** Provide reference frameworks or outcome-based benchmarks for assessing information-providing competence.
- **Enhance proportionality by distinguishing high-risk vs low-risk services:** Where firms only offer non-complex services (e.g., fiat-backed stablecoin custody or simple execution), competence thresholds should reflect a lower risk profile.

These refinements would enhance proportionality without undermining client protection.

Making these amendments would also ensure that the guidelines proportionately capture the *right* staff who may be taking on either more or less risk. For example, staff providing basic information on relatively low-risk or simpler services do not need the same depth of knowledge as those handling more complex products. This differentiation should also take into account the differences between firms providing predominately wholesale products and services, and those working with retail clients. Different skill sets and competencies will be needed in each instance and we are concerned that as currently drafted the ‘necessary’ knowledge and competence in Guideline 2 is currently not proportionate.

Finally, we would also propose that the guidelines are amended to more specifically delineate between staff who only provide factual information (as opposed to investment advice) require a baseline knowledge of crypto-asset technology, terminology, and regulatory obligations. However, they may not require in-depth advisory competencies. As currently drafted paragraph 18 of the CP is extremely broad and risks imposing certain competencies on staff which may not require such training. Additionally, ESMA should consider transferring Transfer certain elements of paragraph 18 into **Guideline 3** where we believe that they more appropriately belong given the elevated responsibilities of staff providing client advice, particularly those

areas requiring in-depth understanding of consensus mechanisms, market abuse frameworks, tax implications, and valuation methodologies.

***Q2: 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?***

Yes, GDF and BC4EU support the requirement for higher standards for staff providing advice, given the personalised and suitability-sensitive nature of such services. The expectation for broader knowledge, deeper training and longer experience is also aligned with the principles of client protection, and mirrors similar obligations under MiFID II. As, set out under our response to Q1 we also believe that this should be tailored to the nature of their role and the scale of the risk in order to be proportionate and achievable for firms.

Nonetheless, to ensure proportionate implementation in practice, we would encourage ESMA to support greater operational clarity, role segmentation, and national consistency, especially as the market matures and CASPs scale up advisory offerings. Further refinement, especially on evidentiary expectations, CPD content, and harmonisation would enhance consistency, reduce legal uncertainty, and ultimately support investor protection, as per our comments in Q2B.

***Q2B: If not, what would, in your view, be adequate minimum requirements? Please state the reasons for your answer.***

While we support the intention, we recommend the following clarifications and enhancements:

- **Greater clarity on the interpretation of portfolio knowledge:** The expectations under paragraph 23(d) regarding portfolio diversification should be proportionate and relevant to the product set of the CASP. For the avoidance of doubt, firms that do not offer portfolio-level services should not be expected to train staff to portfolio advisory standards.
- **Standardisation of qualification equivalence:** ESMA should coordinate with Member States to harmonise recognition of “tertiary education”, “professional formation” and “previous MiFID/IDD experience” to avoid cross-border inconsistency.
- **Support for the development of industry led best practice:** ESMA could encourage the development of standardized learning pathways or certifications, in partnership with industry. Instead of mandated pathways, these could be driven and led by industry or cooperative efforts by industry bodies. This would promote consistent competence standards across the EU in a way that would also enable more agile development of key training initiatives that could more effectively match the pace of the market than a hierarchical top-down approach.
- **Guidance on supervisory evidence:** Paragraph 25 allows for grandfathering of experienced staff. However, ESMA should provide guidance on acceptable forms of evidence (e.g., logs, client interactions, internal sign-offs) to reduce uncertainty.
- **Strengthen the link to suitability obligations:** Since the obligation to provide advice triggers Article 81 MiCA suitability requirements, the guidelines could more explicitly

tie the qualification/CPD content to practical competencies in assessing client risk profiles, financial objectives, and suitability documentation — in line with how ESMA handled MiFID II suitability.

These steps will ensure the guidelines are operationally feasible and maintain proportionality across different CASP models. This adjustment to the guidelines would also enable greater scalability with the complexity of the advisory service being provided and the nature of the risk involved.

***Q3: Do you agree that with the proposed draft guidelines? Please state the reasons for your answer.***

GDF and BC4EU agree with the overarching objectives of the draft guidelines and welcomes ESMA's focus on fostering competence, convergence, and investor protection in the crypto-asset sector.

However, we believe the current guidelines may unintentionally deviate from the regulatory principle of "**same risk, same rules, same outcomes**", which has been a foundational commitment of the ESAs and national competent authorities. We also believe that further specificity is required and that the current approach is too expansive. For example, when compared to:

**MiFID II:**

- MiCA guidelines are more prescriptive, despite often addressing lower-risk or less complex client services.
- MiFID II allows for national flexibility, while MiCA proposes fixed hours, exam structures, and content expectations.
- MiFID II focused on outcomes and principles, while MiCA guidelines emphasise inputs and formal structure.

If MiCA firms face higher compliance thresholds than MiFID firms for functionally similar risks (e.g., execution-only services or custody), this undermines regulatory and technological neutrality and may stifle innovation.

We therefore recommend:

- Incorporating a more outcome-oriented and proportional application, particularly for low-risk, digital-only, or emerging business models.
- Including more targeted risk-based adjustments or graduated thresholds for competence standards.
- Tailoring the guidelines to the realities of the crypto sector, such as online-only operations, automated interfaces, and decentralised delivery models.
- Continuing to support the transitional measures provided for existing members of staff of CASPs on the date of entry into application of the guidelines. Depending on how fast the guidelines enter into force, some market players may not yet be authorised as CASPs but still operating under a local regime and benefitting from the grandfathering



regime. As such, we reiterate our support for including in the transitional measures members of staff who have been working for more than a year in locally authorised digital asset service providers.

- ESMA committing to working with industry so that public private initiatives can drive forward training and CPD rather than a top-down approach.

Overall, we support amended guidelines that are scaled to the nature of the risk associated with specific types of staff members, and the varying risk levels of different types of products and services.

***Q4: Are there any additional comments that you would like to raise and/or information that you would like to provide?***

Yes. We believe the following points are critical for ESMA's finalisation of the guidelines:

1. **Cost-Benefit Assessment (CBA) is Missing:** ESMA states that no cost-benefit analysis was required, as the obligations stem from MiCA itself. We respectfully disagree. The guidelines introduce new operational burdens (e.g., minimum hours, exam logistics, CPD tracking, recordkeeping, supervisory frameworks) that go well beyond Article 81's general obligation. A more granular CBA should be included to assess:
  - The administrative and financial burden on small or medium-sized CASPs
  - The availability and cost of external training providers in the crypto space
  - The impact on innovation, market entry, and competitiveness
2. **Annex Examples are Ill-Fitting for Digital Models:** Many of the examples in the Annex presume a physical, branch-based retail model (e.g., handing out brochures, meeting clients face-to-face). These are not representative of crypto-asset firms, most of which:
  - Are fully online or app-based;
  - Use automated or semi-automated onboarding and disclosures; and
  - Operate remotely with cross-border staff.
3. **ESMA should revise the examples to better reflect the industry.** While MiFID II was introduced into a market with:
  - Long-established professional qualification regimes;
  - Brick-and-mortar intermediaries with compliance departments; and
  - A deep network of training providers, recognised accreditations, and legacy systems.

Most crypto-asset service providers (CASPs):

- Operate entirely online, often with remote, cross-border teams;



- May be start-ups or scale-ups without less extensive HR/compliance infrastructure;
- Lack an equivalent network of crypto-focused accredited training providers; and
- Operate in a fast-evolving market with unclear regulatory or technological norms.

As a consequence, what seems like a neutral “qualification + CPD + supervision” requirement under MiCA may have **disproportionate cost and operational impact** on CASPs relative to MiFID II intermediaries at the time of implementation.

4. **Application to Non-Advisory Roles Should Be Calibrated:** If the guidelines are extended to all information-giving roles, they should include proportional exclusions or lower thresholds for:
  - Technical support staff;
  - Purely administrative or client account operators; and
  - Staff only working with institutional clients.
5. **Regulatory Principle Alignment:** Finally, we encourage ESMA to actively benchmark these guidelines against the MiFID II framework, to avoid inadvertently imposing more stringent obligations on newer entrants providing less systemic risk exposure. This would better reflect the principle of technology-neutral regulation.
6. **Regular Review Process Needed:** we would encourage ESMA to implement a regular review process for these guidelines, to ensure they remain fit for purpose and can adapt to technological and market developments (while encouraging ongoing alignment with our other feedback around appropriateness and proportionality).
7. **Transitional Guidelines Needed:** we would propose clear guidance on transitional arrangements and realistic timelines for existing staff to meet the new requirements to help prevent operational disruption. These timelines should be proportionate and scaled to the nature of the risk presented from varying products and services.
8. **MiCA Guidelines Risk Stifling Innovation Through Over-Compliance:** For smaller CASPs or developers:
  - The cost of hiring or training compliant staff;
  - Certifying their knowledge through recognised exams;
  - Tracking CPD hours with exams; and
  - Managing multi-year supervised training pathways.

may push them to de-risk by limiting their client-facing activities, outsourcing, or pulling out of regulated services altogether. This would undermine MiCA’s goal of enabling harmonised, **innovation-friendly growth in Europe's crypto sector**, especially for Web3, DeFi, and DAO-like structures, where “staff” may be semi-autonomous contributors, not employees.



We thank ESMA for the opportunity to respond to this important consultation and would be happy to engage further to support the development of an effective and proportionate regulatory framework for the crypto-asset sector.