



Have your say: Open finance framework – enabling data sharing and third-party access in the financial sector

Position Paper by the Digital Currencies Governance Group

The Digital Currencies Governance Group (DCGG), an international trade association advocating for a fair and proportionate regulatory approach to the digital assets industry, welcomes the initiative and effort put in the European Commission's proposed Regulation for Financial Data Access (FIDA). Our Members include Tether - currently the largest stablecoin issuer worldwide, Ledger - a leading technology service provider for self-custody, Bitfinex - a major centralised crypto-assets exchange, ZKValidator (ZKV) - a leading proof-of-stake validator, and Iden3 - a solutions provider for self-sovereign identity management. For us, it is critical to enforce clear, proportionate and harmonised rulebooks for the regulation of digital assets in the European Union.

Our members welcome the opportunity to protect their customers without regulatory ambiguity or divergence across Member States. We are pleased to see that the European Commission is taking the initiative to enforce harmonised data sharing requirements and standards across diverse entities within the EU finance sector and make strides toward an effective and competitive data-driven economy. However, we identify one major issue within the FIDA proposal that would prove to be detrimental for digital asset market participants offering services in Europe and highly contradictory in light of the progress made on the EU regulatory front in relation to digital assets.

Namely, our concern is primarily related to the **premature inclusion of MiCA-regulated digital asset market participants into the scope of this Regulation**. To this end, we provide a detailed explanation of our position below and welcome further discussions on this issue to ensure FIDA is as effective and future-proof as envisioned by the Commission, but without stifling the growth and innovation of the digital asset industry, which is just now starting to be regulated at EU-level.

According to Article 2(2) of the FIDA proposal, crypto-asset service providers (CASPs), issuers of e-money tokens (EMTs) and issuers of asset-referenced tokens (ARTs) as defined under Regulation (EU) 2023/1114, i.e., the Markets in Crypto-Assets (MiCA) Regulation, are in scope and considered data holders and/or users under FIDA. This proposal covers a wide range of entities across different areas of the financial sector to facilitate effective data sharing, which we support and encourage. Yet, crucially, the majority of these industries have existed within the EU regulatory perimeter far longer than the digital assets sector, which was only recently captured by landmark EU-wide crypto regulations such as MiCA, the Transfer of Funds Regulation (TFR), the Anti-Money Laundering Regulation (AMLR) and also scoped into the remit of the updated Directive for Administrative Cooperation (DAC8).

Other entities in the scope of FIDA such as, inter alia, credit institutions, payment institutions and investment firms are historically better-equipped in light of their status as already EU-regulated entities, to manage their compliance obligations under the proposed regulation. DCGG and its



members are particularly concerned that the proposal, as it currently stands, appears to favour incumbent market participants in managing their compliance obligations such as setting-up application programming interfaces (APIs) and financial data sharing schemes than new entities, i.e., CASPs, ARTs and EMTs issuers seeking to obtain a MiCA licence and also comply with other frameworks such as the TFR and AMLR, or DORA. The FIDA report fails to acknowledge these implications and that this demonstrates a lack of a level-playing field between the entities in scope, yet we believe this is crucial for proportionality and the principle of non-discrimination.

We believe the inclusion of digital asset market players in FIDA, in tandem with the already incoming wave of regulations and their respective divergent requirements, may stifle the growth of the industry and create unprecedented barriers to entry for CASPs and issuers of EMTs and/or ARTs into the EU market. At this stage, many companies are just starting to apply for MiCA licences to become regulated entities.

Noteworthy, these market participants wish to obtain this regulated status to compliantly provide their services to EU customers and drive economic activity, however the additional burden of FIDA measures, beyond MiCA and the TFR, would make it significantly more overwhelming for CASPs and issuers to 'set up shop' in the Union.

One of the main objectives of FIDA is to enable industry-led data sharing. However, CASPs and ART/EMT issuers are yet to be MiCA authorised and comply with its rules - the implementation phase of MiCA is currently still running, applicants may experience delays, the regulatory technical standards are still being drafted, and supervisors and applicants alike are likely to initially struggle to find their footing in this phase, given this is a brand-new framework. Based on the current status of regulation, it would be too overburdening for digital asset market participants to comply with FIDA on top of bespoke crypto regulations.

DCGG and its members therefore urge for the EU institutions to recognise the regulatory obstacle posed by FIDA for CASPs and issuers currently seeking market entry. Not recognising this obstacle could result in disincentivizing these businesses to operate in the EU due to excessive regulation. **The exclusion of crypto sector entities from the scope of FIDA would promote the necessary flexibility, fairness and proportionality for the industry to comply with its upcoming regulatory obligations.** Ultimately, it would also allow for a smoother transition for these firms to work on securing the appropriate authorisation and establish themselves on the EU market.

For any general enquiries or to request further feedback on our members' views on this proposal, please do reach out to info@dcgg.eu