



Regulatory Board Communiqué No. 3/2024
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Crypto-assets as underlying instruments for derivatives and ETPs: amendment of existing regulations and adoption of new regulations

I Background

Under the current SIX regulations, cryptocurrencies are only permitted as underlying instruments for derivatives and Exchange Traded Products (ETPs) to a limited extent, namely under the conditions set out in margin numbers 14–23 of Circular No. 3: Practice for the Listing of Derivatives (CIR3). As of 1 April 2024, the requirements will be extended and transferred into the relevant Additional Rules and a new directive. This will ensure that the listing of derivatives and ETPs with cryptocurrencies as underlying instruments is appropriately structured and takes account of changing market requirements.

II Amendments of existing regulations and adoption of new regulations

The transfer and extension of the requirements for crypto-assets as underlying instruments for derivatives and ETPs require amendments to the Additional Rules Derivatives (ARD) and Exchange Traded Products (ARETP) as well as the Directive Procedures Exchange Traded Products (DPETP) and the issuance of the Directive on Crypto Assets as Underlying Instruments (DCA), in particular:

- Definition and permissibility of crypto-assets as underlying instruments for derivatives and ETPs (Art. 17a ARD and Art. 12a ARETP);
- Exclusion of the permissibility of certain crypto-assets, including privacy coins, security tokens and hybrid security tokens (Art. 17a ARD and Art. 12a ARETP);
- Specification of the technical details and further requirements for crypto-assets as underlying instruments for derivatives and ETPs in the newly issued DCA (Art. 17a ARD and Art. 12a ARETP in conjunction with Art. 1 DCA), inter alia, now taking into account a market capitalisation of at least USD 500 million, an average daily liquidity of at least USD 50 million during the last 30 calendar days and a trading history of at least 180 calendar days;
- The following particularities apply to ETPs with crypto-assets as underlying instruments:

- Possibility of collateralisation by presenting the claim for surrender of the underlying instrument, whereby the custodian must keep the assets ready for the issuer at all times and these must be assignable; furthermore, either the custodian of the assets or the issuer or guarantor must be subject to prudential supervision (Art. 14 ARETP);
- Compliance Declaration by the issuer in which it guarantees that it or any guarantor is prudentially supervised or that collateralisation within the meaning of Art. 70 para. 2 lit. b FinSA is guaranteed (Art. 15a para. 1 ARETP; Art. 4 para. 1 DPETP);
- Disclosure obligation in the prospectus pursuant to FinSA regarding collateral and associated risks (Art. 15 para. 1 ARETP; Art. 4 para. 1 point 1 DPETP);
- Possibility of suspension of trading in exceptional circumstances and termination of listing if trading has been suspended for a continuous three-month period (Art. 28 ARETP; Art. 5 DCA);
- Disclosure obligation in the prospectus pursuant to FinSA regarding the possibility of suspension of trading in extraordinary circumstances and reference to termination of listing if trading has been suspended for a continuous three-month period (Art. 4 DCA);
- Transitional period of six months to fulfil the newly introduced requirements for issuers of derivatives and ETPs with crypto-assets as underlying instruments that were listed before the revised provisions entered into force (Art. 33a para. 2 ARETP; Art. 8 DCA).

III Entry into force

The revised and newly issued provisions will enter into force on 1 April 2024 and are published under the following [link](#).

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