

# CHAMBER OF DEPUTIES

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## SIXTH STANDING COMMITTEE (FINANCE)

### **FINAL DOCUMENT PUBLISHED PURSUANT TO HOUSE RULE OF PROCEDURE NO 127 RELATING TO:**

Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on a Digital Finance Strategy for the EU (COM(2020) 591 final);

Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on a Retail Payments Strategy for the EU (COM(2020) 592 final);

Proposal for a Regulation of the European Parliament and of the Council on Markets in Crypto-assets, and amending Directive (EU) 2019/1937 (COM(2020) 593 final and Annex);

Proposal for a Regulation of the European Parliament and of the Council on a Pilot regime for Market Infrastructures based on Distributed Ledger Technology (COM(2020) 594 final);

Proposal for a Regulation of the European Parliament and of the Council on Digital Operational Resilience for the Financial Sector and amending Regulations (EC) No 1060/2009, (EU) No 648/2012, (EU) No 600/2014 and (EU) No 909/2014 (COM(2020) 595 final);

Proposal for a Directive of the European Parliament and of the Council amending Directives 2006/43/EC, 2009/65/EC, 2009/138/EU, 2011/61/EU, EU/2013/36, 2014/65/EU, (EU) 2015/2366 and EU/2016/2341 (COM(2020) 596 final);

*Approved 20 October 2021*

The Finance Committee of Italy's  
Chamber of Deputies,

Having examined, pursuant to House Rule of Procedure 127.1, the following documents presented by the European Commission on 24 September 2020: the Communication on a Digital Finance Strategy for the EU (COM (2020) 591); the Communication on a Retail Payments Strategy for the EU (COM (2020) 592); the proposal for a Regulation on Markets in Crypto-assets, and amending Directive (EU) 2019/1937 (COM (2020) 593 and Annex); the proposal for a Regulation on a Pilot Regime for Market Infrastructures based on Distributed Ledger Technology (COM (2020) 594); the proposal for a Regulation on Digital Operational Resilience for the Financial Sector and amending Regulations (EC) No 1060/2009, (EU) No 648/2012, (EU) No 600/2014 and (EU) No 909/2014 (COM (2020) 595); and the proposal for a Directive of the European Parliament and of the Council amending Directives 2006/43/EC, 2009/65/EC, 2009/138/EU, 2011/61/EU, EU/2013/36, 2014/65/EU, (EU) 2015/2366 and EU/2016/2341 (COM (2020) 596);

*whereas:*

The progressive expansion of the digital finance sector has been accelerated by the COVID-19 pandemic, which has given fresh impetus to the transition to digital payments and the transformation of the banking and financial sector, which now relies mostly on modern information and communication technologies (ICT);

Yet the use of the new technologies carries risks for financial stability and for consumers: risks that might be exacerbated by the fragmentation of the regulatory landscape in the EU and by asymmetrical regulatory changes across the world;

We therefore welcome as a positive development the drafting of a unified regulatory framework that addresses crypto-asset markets and the cyber-resilience of the financial sector, and takes account of the diverse risks in this area, and of the broad array of asset types that already exist;

*considering that:*

The measures proposed by the European Commission build on the work carried out in connection with the 2018 Financial Technologies Action Plan, the opinions issued in 2019 by the European Banking Authority (EBA) and the European Securities and Markets Authority (ESMA), and the comprehensive impact assessment carried out by the Commission itself;

The Commission's initiative takes the form of a package of separate but coordinated measures, one of which is the adoption of a digital finance strategy based on a series of actions to be taken between now and 2024 to enhance the potential of the transition while reducing the risks deriving from it. This digital finance strategy is to be pursued in parallel with the roll-out of a retail payments strategy to promote instant payments and payment solutions across the EU;

The proposed Markets in Crypto-assets (MiCA) Regulation includes a taxonomy of crypto-assets that requires further elucidation so that its scope of application can be clearly delineated and problems of interpretation avoided, especially with regard to different categories of crypto-assets and “crypto-assets other than asset-referenced tokens and e-money tokens;”

Article 123.1 of the proposed MiCA Regulation stipulates that the new rules, as set out in Articles 4 to 14, shall not apply to “crypto-assets, other than asset-referenced tokens and e-money tokens, offered to the public in the Union or admitted to trading on a trading platform for crypto-assets” before the Regulation comes into effect, and that they shall continue not to apply for 18 months after the Regulation comes into effect;

Now under consideration are various global and European initiatives for the possible introduction of central bank digital currencies, the risks and opportunities of which need to be evaluated;

*Noting in particular that:*

The tax treatment of crypto-assets needs to be reviewed because Italian tax law, though it identifies different types of taxable income, has no specific provisions relating to crypto-assets;

In the judgement of 22 October 2015 relating to case C-264/14, the Court of Justice of the EU (CJEU) ruled that transactions consisting in the exchange of a traditional currency

for units of a virtual currency (specifically bitcoin) or vice versa in return for the payment of a sum equal to the difference between, on the one hand, the price paid by the operator to purchase the currency and, on the other, the price at which the operator sells that currency to clients, constitutes the performance of a service for consideration;

The Italian revenue authority notes that, in the absence of specific legislation applicable to the system of virtual currencies, the foregoing CJEU ruling must necessarily serve as the standard reference for the taxation of virtual currencies and, specifically, bitcoin;

*observing that:*

The proposal for a Regulation on a pilot regime for market infrastructures based on distributed ledger technology (DLT) allows for experimentation (for a maximum of five years) in the trading and settlement of crypto-assets through transactions that fall under the remit of EU financial services legislation;

The proposal for a Regulation on Digital Operational Resilience for the Financial Sector (DORA) tightens the rules governing information and communication technology (ICT) risk management, the reporting of ICT-related incidents, and the oversight of ICT service providers;

The spread of digital technologies has increased the exposure of systems to cyber threats and amplified the interconnection between cyber threats and those of another nature (so-called “hybrid” threats);

Observing also that the Commission's legislative proposals need to be comprehensively reviewed with a view to guaranteeing technological neutrality;

Taking note of the Reports submitted by the Government on the documents, issued in accordance with Article 6.4 of Law 234 of 24 December 2012;

Taking note of the information and opinions acquired during the examination of the documents;

Aware that this final document needs to be promptly forwarded to the European Commission within the framework of the political dialogue, as well as to the European Parliament and the Council,

Expresses a

#### FAVOURABLE ASSESSMENT

*with the following remarks :*

a) The scope of application of the proposed Regulation on crypto-assets markets needs to be delineated more sharply the better to specify the various sub-categories of assets to which it refers and to distinguish them from the assets and financial instruments that fall under the scope of application of Directive 2014/65/EU (MiFID II). Asset categorisation can be effected either by means of secondary legislation, or, in the name of compromise, by adhering to the guidelines of the European Supervisory Authorities;

b) A precise legal framework is needed for crypto-assets that addresses, first, the matter of their definition and the question of the tax treatment of virtual currencies, including for the purposes of direct taxation, and, second, the need to apply a uniform treatment at European level;

c) With respect to the supervisory and sanctioning regime for the crypto-assets sector, more clarity is needed regarding the division of roles and responsibilities between, on the one hand, European authorities (the EBA and ESMA) and, on the other, national authorities, especially when the assets consist of significant asset-referenced tokens. A clear division of roles would also facilitate the exchange of information and operational coordination among the various authorities responsible for the supervision of individual entities;

d) The impact of the transitional measure referred to in Article 123.1 of the proposed MiCA Regulation should be scrupulously assessed in terms of the potential effects of applying different regulatory treatments to assets that are traded or offered to the public both before and after the coming into effect of the new rules, and due consideration should be paid to the importance of protecting consumers and investors;

e) Proper consideration needs to be given to the introduction of specific provisions that, in addition to prohibiting the dissemination of marketing materials until a White Paper has been published to ensure that markets are adequately informed, would also strengthen the powers of the supervisory bodies by, in particular, giving them the power to

suspend and ban the dissemination of marketing communications;

*f)* As transactions become increasingly disintermediated and crypto-assets become increasingly complex, educating people in matters of finance becomes an increasingly pressing necessity. Social media channels offer one possible means of imparting the necessary knowledge to retail savers and professional investors for their activities on the financial markets;

*g)* Consideration should be given to the potential advantages of enhancing the coordination between the proposed MiCA Regulation and the pilot regime, with particular reference to the relationship between the multilateral trading facility for distributed ledger technology (DLT MTF) and the crypto-asset trading platforms to which the MiCA Regulation refers;

*h)* The pilot stage experimentation with DLT-based market infrastructures needs to be shortened to less than five years because the sector is characterised by rapid technological development which entails the need for ongoing adaptation;

*i)* Consideration should be given to extending the scope of the pilot regime to include entities that are not covered by the proposed framework, provided that they are authorised on a temporary basis. The pilot regime could likewise be extended to include financial instruments other than those to which it currently refers, while maintaining similar issuance limits;

*j)* When applying the proposal for a Regulation on digital operational resilience (DORA), a fair balance needs to be struck between the competing needs of, on the one hand, enhancing the security of information systems and, on the other, lowering the costs and mitigating the bureaucratic burdens for financial operators, especially small ones. For example, digital operational resilience testing should be applied proportionately and in accordance both with the relative size of the financial operator and with the relevant risk factors;

*k)* Consideration should be given to ensuring greater coordination with Directive (EU) 2016/1148 concerning measures for a high common level of security of network and information systems across the Union (known as the “NIS Directive”), as well as enhanced cooperation between competent authorities identified in the DORA Regulation and the existing bodies that already form part of the NIS ecosystem, especially in the event of ICT-related incidents;

*l)* As regards the new supervisory framework for third-party ICT service providers envisaged in the proposed DORA, the role of the various European and national supervisory authorities needs to be better defined, and the powers of the competent national and sector-specific authorities need to be safeguarded.