

Response to Consultation Paper

ESMA's Consultation Paper Guidelines for the criteria on the assessment of knowledge and competence under the Markets in Crypto Assets Regulation (MiCA)

Link:

https://www.esma.europa.eu/sites/default/files/2025-02/ESMA35-1872330276-2004_MiCA_-_Consultation_Paper_-_Guidelines_on_knowledge_and_competence.pdf

About Solidus Labs:

Solidus Labs is the category-definer for crypto-native market integrity solutions and a leading cross-asset and cross-market surveillance solution across digital assets and securities. Our mission is to enable safe and secure crypto trading throughout the entire digital asset life-cycle - off-chain, on-chain and pre-chain. Crypto exchanges, financial institutions, DeFi projects and regulators globally rely on Solidus HALO — our real-time market integrity-platform — to safeguard their platforms, investors and consumers. HALO is purpose-built to address the distinctive compliance and regulatory risks and challenges tied to crypto-assets, providing the assurance needed for responsible and secure operation.

As the founder of industry-leading initiatives like the [Crypto Market Integrity Coalition](#), the [DACOM Summit](#) and the [Trade Surveillance Academy](#), and in everything we do, Solidus is deeply committed to enabling the merits of digital assets and decentralization, by mitigating their new risks.

Solidus Labs developed its solutions, and continues to update them, in tandem with constant feedback from regulators and in view of evolving regulatory developments globally. As such, we have been closely monitoring regulatory developments led by ESMA, and are pleased to provide our feedback to ESMA's Consultation Paper Guidelines for the criteria on the assessment of knowledge and competence under the Markets in Crypto Assets Regulation (MiCA) regulation.

We are appreciative of ESMA's efforts to promote greater consistency and address concerns related to investor protection in crypto-asset activities. We believe that ensuring a minimum and clearly defined level of knowledge and competence of staff providing advice and information on crypto-assets or crypto-asset services to clients, is key to enhance investor protection and foster investors' trust in the crypto-asset markets

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

We agree that establishing minimum requirements regarding qualifications, experience and ongoing professional development is essential to ensure staff have the necessary knowledge to provide accurate and reliable information to clients, and maintain 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 crypto 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.

We believe that it would be beneficial for the industry if ESMA could clarify the following points:

- **The scope of the guidelines:** ESMA seems to go beyond the scope of article 81 by adding a new category - “natural persons giving information about cryptoassets or crypto-asset services.” In comparison, 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.
- If ESMA would keep the scope as it is, we recommend ESMA to clarify the meaning of “providing information” by providing concrete examples: Does the mere fact of posting information on a website in compliance with disclosure mandatory requirements or in a social media post constitute “giving information”? Or does an element of direct communication, inducement, solicitation or recommendation needs to be present?
- Accountability and knowledge requirements where the content of informational materials is externally developed or outsourced, specifically whether, and to what extent, CASPs must ensure external providers’ personnel comply with MiCA competence guidelines when they directly author informational content (e.g., whitepapers, prospectuses, educational materials). Without explicit guidelines,

outsourced content production could create ambiguity, potentially diluting accountability and undermining investor protection objectives.

We would also like to propose the following amendments:

- Related to this point, we encourage ESMA to make sure that the approach taken reflects the level of complexity and risk associated with the specific crypto-asset services or products offered, and also 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 may 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. This will ensure a proportionate approach. We are concerned that, as currently drafted, the ‘necessary’ knowledge and competence in Guideline 2 is not proportionate
- As highlighted above, the guidelines should be amended to delineate between staff who only provide factual information (as opposed to investment advice) and thus 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.
- The qualification should include modules on risks associated with crypto-specific market abuse and manipulation risks such as DEX (decentralized exchanges)-based insider trading, smart contracts scams, and stablecoins ecosystem risks. We would also like to stress that most current training offerings in the market focus almost exclusively on anti-money laundering (AML) and counter-terrorist financing (CFT) obligations. Very few, if any, training programs comprehensively address the risks of market manipulation and abusive behaviors as defined under MiCA, particularly under Title VI. As crypto markets continue to evolve, new manipulation typologies emerge that differ substantially from those in traditional markets and instruments. We strongly encourage ESMA to mandate dedicated training modules on crypto-specific market abuse and manipulation risks — including insider dealing, wash trading, spoofing, and manipulation on decentralized venues — to bridge this gap and ensure staff are properly equipped to protect investors.
- Understanding issues related to market abuse and anti-money laundering and terrorist financing should be mandatory even in the case of “one year of supervised experience”

and should include training on new and emerging typologies used for manipulating the market, fraud, scams, etc. This would better reflect the dynamic nature of the risk landscape in crypto-asset markets.. This is a key risk that can affect staff and customers and thus we strongly recommend ESMA to strengthen the requirements to this regard.

- The continuous professional development (CPD) should be adaptable based on market developments and staff specialization. More complex roles may require higher CPD thresholds. ESMA could work cooperatively with the private sector to drive initiatives for CPD while crypto-asset markets continue to evolve. While we support ongoing CPD that is tailored to the rapid evolution of crypto markets, it is important that the number of hours also takes into account the specific roles that staff are undertaking, the risks posed, and the appropriate adjustment to the tasks being conducted. A flexible, modular approach—where staff can pursue relevant CPD modules as the market develops—will help maintain current and practical knowledge.

Finally, we would like to suggest that ESMA works collaboratively with the industry to:

- Define a minimum set of standards and criteria for the content of the training and the exam, depending on staff's roles, products and customers served, to avoid “regulatory shopping”.
- Define the criteria to qualify as an “external professional education body providing a recognised qualification” as well as specify educational credentials, equivalencies, and acceptable forms of training or professional experience. This would help level the playing field and support the emergence of quality training providers across Member States.
- To distinguish high-risk vs. low-risk services where firms only offer less complex services (e.g., fiat-backed stablecoin custody or simple execution), competence thresholds should reflect a lower risk profile.

This approach 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. These refinements would also enhance investor protection and improve the consistency of knowledge across different levels of expertise.

Overall, we would support further clarity and specificity around these requirements as clear, **proportionate guidelines** enable CASPs to grow and innovate while still meeting regulatory objectives. However, we would caution that the current approach as it stands risks being disproportionate for CASPs which may hamper growth and also place a large, outsized compliance burden on the industry. In comparison, MiFID investment firms could comply

through flexible local models with no minimum training hours and CPDs, yet crypto-native CASPs would be subjected to more rigid, centralised, and quantified criteria. This could be disproportionate, particularly where the systemic or suitability risks may be lower (e.g., for stablecoins or custody services).

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

Yes, we support the minimum requirements proposed for advisors. However, we would advise ESMA to tailor its approach and adjust the guidelines so that they can scale with the complexity of the advisory service being provided and the nature of the risk involved. For example, advising on high-risk or sophisticated crypto-asset derivatives may necessitate more stringent qualifications than staff working on products involving utility and non complex tokens.

We also suggest the following amendments:

- Introducing a mandatory module specific to market abuse. As noted in our response to Q1, existing training programs often omit crypto-specific market manipulation risks, despite MiCA's clear requirements outlined in Article 4 of Draft RTS pursuant to Article 92(2) of MiCA. Advisory staff must be able to recognize, avoid, and escalate signs of market abuse, including algorithmic or DeFi-based manipulation schemes. Introducing a mandatory ethics module within the qualification framework, given the higher risks associated with advisory roles, to ensure advisors act in their clients' best interests. This is equally applicable to anyone building advisory bots and AI agents.
- Introducing a mandatory market conduct module.
- Implementing periodic competency assessments (e.g. every two years) to ensure that advisors maintain up-to-date knowledge in the fast-changing crypto landscape.

These additions will further strengthen the protection of retail investors and ensure a higher standard of advisory services.

As highlighted in question 1, ESMA should encourage the development of **standardized learning pathways or certifications, in partnership with industry**, clearly defining minimum content standards and criteria for training and competence assessment. This is critical for ensuring uniform competency standards and consistent investor protection across all EU

Member States. Instead of mandated pathways, these could be **driven and led by industry or cooperative efforts by industry bodies.**

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

Overall, we agree with the proposed draft guidelines, as they establish a strong foundation for the assessment of knowledge and competence under MiCA. We particularly support:

- The distinction made between staff providing information and staff giving advice, **provided that ESMA establishes clear criteria for identification and classification, which proportionately capture the right staff who may be taking on either more or less risk and reflect the level of complexity and risk associated with the specific crypto-asset services or products offered;**
- The focus on continuous professional development to maintain knowledge levels, especially as crypto markets are constantly evolving with new products and assets created every day, new technological advancements and new typologies associated with those developments.
- The inclusion of supervisory oversight for competence assessment.

However, we believe the guidelines could be further strengthened by:

- Incorporating a more outcome-oriented and proportional application, particularly for low-risk, digital-only, or emerging business models.
- **Introducing standardized certifications across the EU** to ensure consistency and avoid fragmented implementation, potential regulatory arbitrage, and “regulatory shopping,
- Clarifying the assessment process for automated advice tools and ensuring oversight of algorithm-driven recommendations, including the creation of AI agents. Technical staff should be subject to specific, alternative competence standards explicitly focused on the technical, ethical, regulatory, cybersecurity, and transparency-related aspects of their role.
- Including a mechanism for periodic updates to the guidelines as the crypto-asset market evolves rapidly.
- Emphasizing the financial crime elements, advisors must always be up to date on the new financial crime typologies such as fraud, scams and market abuse to protect customers against abusive behavior.
- Strengthening the training requirements on **ethics and market conduct..**

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?

We appreciate ESMA's efforts in developing these guidelines. To further strengthen the framework, we recommend:

- Providing specific guidance on emerging risks, such as decentralized finance (DeFi) and stablecoins, as these areas pose unique challenges.
- Adopting a modular and flexible certification framework. We suggest ESMA explicitly encourages flexible, modular “micro-certifications” to adapt quickly to rapid market innovation and new developments (e.g., DeFi, NFTs, emerging protocols). To effectively implement MiCA's knowledge and competence standards, ESMA should adopt a modular certification and testing framework similar to successful structures used in related financial sectors (e.g., MiFID II, CISI, CFA Institute, ICA, FCA Certification Regime). A modular approach offers clear advantages for crypto-assets due to the inherent dynamism and varying complexity across this sector.
- Calibration to non-advisory roles: as highlighted, If the guidelines are extended to all information-giving roles, they should include proportional exclusions or lower thresholds for lower risks staff as well as include concrete examples defining roles and functions and expected levels of compliance tailored to the risk.
- Adopting **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. This is especially important that there are not yet any approved providers of such training on the market.
- Additionally, we urge ESMA to issue guidance on minimum content for market abuse training in line with MiCA and article 4 of the Draft RTS pursuant to Article 92(2) of MiCA, to ensure these critical obligations are uniformly implemented and understood across Member States.
- Implementing 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).

- Finally, to ensure uniform and effective implementation, we recommend that ESMA encourage minimum training standards not only for CASPs, but also for National Competent Authorities (NCAs). Staff at NCAs should be equipped with an equivalent understanding of crypto-specific risks, including those defined under MiCA Articles 86–92, to enable robust supervision, fair assessments of firm compliance, and timely enforcement. Joint public-private training initiatives could support this effort and foster knowledge exchange between regulators and industry.

A dynamic and adaptive approach will ensure the long-term effectiveness of these guidelines in protecting investors while fostering innovation in the crypto-asset sector.