

**“Decentralised” or “disintermediated” finance: what regulatory response?**

(April 2023)

**Consultation questionnaire**

This document contains the list of questions from the discussion paper submitted for public consultation: *“Decentralised” or “disintermediated” finance: what regulatory response?*

Responses should be sent to fintech-innovation@acpr.banque-france.fr by **19 May 2023**.

**Part 1: DeFi: definition, use cases and schematic structure**

Q1: Do you have any comments on the definition of DeFi used in the paper? Does the document correctly reflect the real level of decentralisation of services?

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Q2: In your opinion, which use cases of DeFi are likely to develop in the future? Can they serve the real economy?

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Q3: What do you think about the concentration phenomena described in section 1-5 of this document?

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Q4: Do you have any comments on or information to add to the schematic presentation of DeFi presented in section 1-6?

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**Part 2: The risks associated with DeFi**

Q5: Do you have any comments on the description (provided in section 2-1 of this document) as regards risks related to decentralised governance?

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Q6: Do you think that layer 1 solutions can exacerbate the security issues of the blockchain infrastructure? What about layer 2 solutions? In your opinion, are there significant differences in this respect between the layer 2 solutions considered?

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Q7: Do you think that the use of rollups or similar solutions will result in less transparency of information for an observer?

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Q8: Do you have any comments on the description (provided in section 2-3) of the risks related to the application layer of DeFi?

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Q9: Do you have any comments on the identification of DeFi risks for retail customers (section 2-4-1)?

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Q10: Do you have any comments or additions to make to the description (provided in section 2-4-2) of the systemic vulnerabilities of the DeFi ecosystem (endogeneity of investments, significant leverage effects, role of automated position liquidation mechanisms)?

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Q11: Do you agree with the proposal concerning the regulation of stablecoins issued by DeFi protocols? (refer to section 2-4-3: “if a decentralised service claims to create or use a crypto-asset with an official currency as a reference, this crypto-asset must be an EMT within the meaning of MiCA or an equivalent asset)

[ ] Yes

[ ] No

Why?

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Q12: Do you have any comments on the description of the potential AML/CFT risks of DeFi (section 2-4-4)?

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Q13: In your opinion, are there any other risks that should be taken into account which are not mentioned (or not given sufficient attention) in the document?

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**Part 3: Avenues for a regulatory framework**

Section 3-1: Ensuring a minimum level of security with respect to infrastructure

Q14: Should public blockchains be governed by a framework or by minimum security standards (refer to section 3-1, regulatory scenario A)?

[ ] Yes

[ ] No

If so, how? If not, why?

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Q15: Should public authorities supervise the concentration level of validation capacities on public blockchains? If so, through what kind of measures?

[ ] Supervising concentration in real time

[ ] Setting caps on concentration

[ ] Publicly disclosing when specific concentration thresholds are exceeded

[ ] Taking further action (specify how)

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Q16: Do you agree with the analysis provided in the paper on the merits and limitations of private blockchains (section 3-1, regulatory scenario B)? Should private blockchains operated by private operators be regulated through a supervisory framework, if at all?

[ ] Yes

[ ] No

Why?

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Q17: Should public players directly manage the blockchains that provide the infrastructure for DeFi operations?

[ ] Yes

[ ] No

Why?

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Q18: Do you have any other regulatory proposals to make with a view to ensuring a minimum level of security for the blockchain infrastructure?

[ ] Yes

[ ] No

If so, what are they?

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Section 3-2: Providing a suitable oversight framework in view of the algorithmic nature of services

Q19: Is a certification mechanism an effective solution to determine the scope of "safe" smart contracts (for a given state of knowledge)? Would alternative solutions achieve the same result?

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Q20: Do you agree with the description (provided in section 3-2-1) of the various techniques offered to audit the computer code of smart contracts, including with their respective strengths and limitations?

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Q21: Can you identify examples of smart contracts that should not be certifiable due to the nature of the services they provide?

[ ] Yes

[ ] No

If so, which ones?

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Q22: What do you think of the rules put forward in this paper (section 3-2-2, item a) on how to certify smart contracts (pre-certification of called components, certification life cycle)?

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Q23: Should smart contracts embed a number of regulatory requirements in their code in the future?

[ ] Yes

[ ] No

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Q24: Who should set the security standards for smart contracts (refer to section 3-2-2, item b) and why?

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Q25: Should interaction with uncertified smart contracts be discouraged or prohibited (refer to section 3-2-2, item c)?

[ ] Discouraged

[ ] Prohibited

[ ] Neither discouraged nor prohibited

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Q26: Who should bear the certification costs of smart contracts (refer to section 3-2-2, item b) and why?

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Q27: Do you have any comments on the description made of the risks inherent in the decentralised oracle model? Can these risks be mitigated using a certification mechanism tailored to the specifics of these applications (refer to section 3-2-3)? Do you have any comments or alternative proposals for a framework governing the activities of oracles?

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Q28: Do you have any other regulatory suggestions that could contribute to reducing the risks associated with the application layer of DeFi?

[ ] Yes

[ ] No

If so, what are they?

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Section 3-3: Regulating the provision of and access to services

Q29: Do you think that in some cases it may be necessary to "recentralise" specific sensitive activities (section 3-3-1)?

[ ] Yes

[ ] No

If so, which ones? If not, why?

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Q30: What do you think of the proposals on how to achieve this goal (incorporation requirements, making players with effective control liable, legal status for DAOs)? Do you have any suggestions regarding the legal status of DAOs?

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Q31: Do you agree with the description provided of the risks associated with "CeDeFi" on the one hand and "crypto conglomerates" on the other (box 6)?

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Q32: What requirements should apply to intermediaries facilitating access to DeFi?

[ ] Information requirements

[ ] Duty of care and duty of advice

[ ] White paper publication requirement

[ ] KYC requirements

[ ] A comprehensive framework inspired by MiCA

[ ] Other

Why?

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Q33: Should the same rules apply to all intermediaries in DeFi (including, where appropriate, decentralised web interfaces)?

[ ] Yes

[ ] No

Why?

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Q34: Should access to financial products be conditional on customers' financial literacy level and risk appetite?

[ ] Yes

[ ] No

Why?

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Q35: Do you have any other suggestions for regulating the provision of and access to services?

[ ] Yes

[ ] No

If so, which ones?

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Avenues for a regulatory framework: cross-cutting aspects

Q36: How can proportionality requirements (for small players) be taken into account in the various regulatory avenues put forward by the document (or proposed by you)?

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Q37: What regulatory avenues -whether or not they are proposed in the document- could overcome the problems related to the possible extraterritoriality of actors (from a national or European point of view)?

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Q38: Who should, in each case, monitor the implementation of the different regulatory tracks (whether they are put forward in this document or proposed by you)? With what means?

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