

Targeted consultation on the review of Regulation on the Markets in Crypto-Assets (MiCA)

Fields marked with * are mandatory.

Introduction

Background for this consultation

[Regulation 2023/1114 of 31 May 2023 on Markets in Crypto-Assets \(MiCA\)](#), which sets a dedicated and harmonised framework at Union level to provide specific rules for crypto-assets and related services and activities started to apply in part from 30 June 2024 and in full from 30 December 2024.

Crypto-assets and distributed ledger technology (DLT) offer opportunities for faster cross-border payments, new fundraising methods, and innovative decentralised services, but also entail risks. MiCA was introduced to provide legal certainty through a harmonised EU framework, defining key crypto-asset categories and setting requirements for issuers and service providers, while fostering responsible innovation and mitigating risks related to investor protection, market integrity, and financial stability. As these markets are growing in importance, and traditional financial services providers are also moving into the crypto- and tokenised assets space, a question arises whether the regulatory framework currently governing them remains fit for purpose. The national competent authorities (NCAs), the [European Supervisory Authorities \(ESAs\)](#) and the industry have been sharing feedback on their first implementation experiences. While it may be difficult at this stage to draw conclusions on how MiCA is performing in practice, there have been many policy and regulatory developments globally since MiCA was adopted, and more importantly the crypto-asset markets themselves have significantly developed and continue to evolve since MiCA was designed and adopted. Given these developments, the Commission services consider it necessary to compare and contrast, via this public consultation, the EU framework for crypto-assets with the more recent frameworks of other jurisdictions and with market developments. The results should help assess whether MiCA remains fit for purpose in this evolving policy and market context.

Notwithstanding the objective to promote innovation and digitalisation in European financial systems, financial regulation should remain technology neutral. This is crucial to guarantee the freedom of choice for market participants without inciting them towards using any specific technology and to ensure financial regulation remains adapted to technological advancements without major amendments.

Article 142 MiCA requests the Commission to present a report to the European Parliament and the Council on the latest developments with respect to crypto-assets, in particular, on matters that were left outside the scope of MiCA. The Commission services consider that the review of the Payment Services Directive has largely addressed and clarified some issues emerging from the interplay between the payment services legislation and MiCA following the [advice of the EBA](#).

With this consultation, the Commission services therefore:

- seek to respond to the request in Article 142 of MiCA^[1] and seek to collect the views of the stakeholders on all the market developments not originally covered by MiCA and whether policy or regulatory action would be warranted (see part 5)
- seek feedback to inform the review of MiCA referred to in Article 140 of MiCA^[2], consulting also the [European Banking Authority \(EBA\)](#) and the [European Securities and Markets Authority \(ESMA\)](#) to that effect
- seek to consult on matters that have emerged from the implementation of MiCA to date
- take stock of whether MiCA is fit for the future in the rapidly evolving landscape of digital and tokenised asset markets in a global and internationally competitive context, seizing both the opportunities tokenisation and DLT bring and addressing risks they may generate

In line with its simplification agenda to support EU competitiveness, the Commission services also wish to use this consultation to gather information and assess whether administrative or other burdens emanating from MiCA and its implementation measures can be simplified, reduced or dispensed with.

Beyond questions related to crypto-assets covered by MiCA, this consultation puts forward several questions affecting broader financial acquis. Interested parties that wish to bring other relevant issues, not raised in this consultation, to the Commission's attention, should feel free to communicate them through the open question at the end of this questionnaire. The Commission services welcome specificity and brevity in the replies. The different parts of the consultation cover the following areas:

- **PART 1 - Scope and definitions (title II crypto-assets):** this section includes questions on the current conditions for offering or seeking admission to trading of crypto-assets other than asset referenced tokens (ARTs) or e-money tokens (EMTs)
- **PART 2 - requirements applying to asset referenced tokens (ARTs) and e-money tokens (EMTs) and their issuers (titles III and IV):** this section includes questions on the current conditions for offering or seeking admission to trading of ARTs and EMTs,, their prudential regime, the multi-issuance model of global tokens and considering also the interaction with third country regulatory frameworks, the reserve requirements of ARTs and EMTs, the redemption rights of their holders and crisis management measures
- **PART 3 - the appropriateness of the current legal framework for crypto-asset service providers (CASPs) (titles V and VI):** this section covers questions on the adequacy of the current scope of crypto-asset services regulated under MiCA. Since the supervisory arrangements for CASPs are covered under the current [market integration and supervision package \(MISP\)](#), supervision of CASPs is outside the scope of this consultation
- **PART 4 - topics beyond the initial scope of MiCA:** this final part of the consultation consists of questions relating to decentralised finance, crypto-assets staking, lending and borrowing activities, and non-fungible tokens (NFTs). It also seeks views on whether MiCA should aim to increase legal certainty of crypto-assets and other on-chain assets, particularly in relation to natively issued assets

¹ Regulation (EU) 2023/1114, Article 142(1): 'By 30 December 2024 and after consulting EBA and ESMA, the Commission shall present a report to the European Parliament and the Council on the latest developments with respect to crypto-assets, in particular on matters that are not addressed in this Regulation, accompanied, where appropriate, by a legislative proposal'.

² Regulation (EU) 2023/1114, Article 140(1): 'By 30 June 2027, having consulted EBA and ESMA, the Commission shall present a report to the European Parliament and the Council on the application of this Regulation accompanied, where appropriate, by a legislative proposal. An interim report shall be presented by 30 June 2025, accompanied, where appropriate, by a legislative proposal'.

Responding to this consultation

In this targeted consultation, the Commission is interested in the views of a wide range of stakeholders. Responses to this consultation are expected to be most useful where they present a clear and detailed narrative, demonstrated by data (where possible), concrete examples, legal references and qualitative evidence. Specific suggestions for solutions to address issues raised are welcome.

All interested stakeholders are invited to reply by 30 September 2026 via the online questionnaires below.

To the extent that not all questions will be relevant to all stakeholders, respondents are invited to reply only to those questions that are relevant to them.

Please note: In order to ensure a fair and transparent consultation process **only responses received through our online questionnaire will be taken into account** and included in the report summarising the responses. Should you have a problem completing this questionnaire or if you require particular assistance, please contact fisma-mica-review@ec.europa.eu.

More information on

- [this consultation](#)
- [the related public consultation](#)
- [the consultation document](#)
- [crypto-assets](#)
- [the protection of personal data regime for this consultation](#)

About you

* Language of my contribution

- ☐ Bulgarian
- ☐ Croatian
- ☐ Czech
- ☐

- Danish
- ☐ Dutch
- ☒ English
- ☐ Estonian
- ☐ Finnish
- ☐ French
- ☐ German
- ☐ Greek
- ☐ Hungarian
- ☐ Irish
- ☐ Italian
- ☐ Latvian
- ☐ Lithuanian
- ☐ Maltese
- ☐ Polish
- ☐ Portuguese
- ☐ Romanian
- ☐ Slovak
- ☐ Slovenian
- ☐ Spanish
- ☐ Swedish

* I am giving my contribution as

- ☐ Academic/research institution
- ☒ Business association
- ☐ Company/business
- ☐ Consumer organisation
- ☐ EU citizen
- ☐ Environmental organisation
- ☐ Non-EU citizen
- ☐ Non-governmental organisation (NGO)
- ☐ Public authority

- ☐ Trade union
- ☐ Other

* First name

Helmut

* Surname

Bauer

* Email (this won't be published)

helmut.bauer@e-ma.org

* Organisation name

255 character(s) maximum

Electronic Money Association

* Organisation size

- ☐ Micro (1 to 9 employees)
- ☒ Small (10 to 49 employees)
- ☐ Medium (50 to 249 employees)
- ☐ Large (250 or more)

Transparency register number

255 character(s) maximum

Check if your organisation is on the [transparency register](#). It's a voluntary database for organisations seeking to influence EU decision-making.

84308599569-14

* Country of origin

Please add your country of origin, or that of your organisation.

- | | | | |
|-------------------------------------|--------------------------------|-------------------------------------|---|
| ☐ Afghanistan | ☐ Djibouti | ☐ Libya | ☐ Saint Martin |
| ☐ Åland Islands | ☐ Dominica | ☐ Liechtenstein | ☐ Saint Pierre and Miquelon |
| ☐ Albania | ☐ | ☐ Lithuania | ☐ |

	Dominican Republic		Saint Vincent and the Grenadines
○ Algeria	○ Ecuador	○ Luxembourg	○ Samoa
○ American Samoa	○ Egypt	○ Macau	○ San Marino
○ Andorra	○ El Salvador	○ Madagascar	○ São Tomé and Príncipe
○ Angola	○ Equatorial Guinea	○ Malawi	○ Saudi Arabia
○ Anguilla	○ Eritrea	○ Malaysia	○ Senegal
○ Antarctica	○ Estonia	○ Maldives	○ Serbia
○ Antigua and Barbuda	○ Eswatini	○ Mali	○ Seychelles
○ Argentina	○ Ethiopia	○ Malta	○ Sierra Leone
○ Armenia	○ Falkland Islands	○ Marshall Islands	○ Singapore
○ Aruba	○ Faroe Islands	○ Martinique	○ Sint Maarten
○ Australia	○ Fiji	○ Mauritania	○ Slovakia
○ Austria	○ Finland	○ Mauritius	○ Slovenia
○ Azerbaijan	○ France	○ Mayotte	○ Solomon Islands
○ Bahamas	○ French Guiana	○ Mexico	○ Somalia
○ Bahrain	○ French Polynesia	○ Micronesia	○ South Africa
○ Bangladesh	○ French Southern and Antarctic Lands	○ Moldova	○ South Georgia and the South Sandwich Islands
○ Barbados	○ Gabon	○ Monaco	○ South Korea
○ Belarus	○ Georgia	○ Mongolia	○ South Sudan
○ Belgium	○ Germany	○ Montenegro	○ Spain
○ Belize	○ Ghana	○ Montserrat	○ Sri Lanka
○ Benin	○ Gibraltar	○ Morocco	○ Sudan
○ Bermuda	○ Greece	○ Mozambique	○ Suriname
○ Bhutan	○ Greenland	○ Myanmar/Burma	○ Svalbard and Jan Mayen
○ Bolivia	○ Grenada	○ Namibia	○ Sweden

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| ☐ Bonaire Saint Eustatius and Saba | ☐ Guadeloupe | ☐ Nauru | ☐ Switzerland |
| ☐ Bosnia and Herzegovina | ☐ Guam | ☐ Nepal | ☐ Syria |
| ☐ Botswana | ☐ Guatemala | ☐ Netherlands | ☐ Taiwan |
| ☐ Bouvet Island | ☐ Guernsey | ☐ New Caledonia | ☐ Tajikistan |
| ☐ Brazil | ☐ Guinea | ☐ New Zealand | ☐ Tanzania |
| ☐ British Indian Ocean Territory | ☐ Guinea-Bissau | ☐ Nicaragua | ☐ Thailand |
| ☐ British Virgin Islands | ☐ Guyana | ☐ Niger | ☐ The Gambia |
| ☐ Brunei | ☐ Haiti | ☐ Nigeria | ☐ Timor-Leste |
| ☐ Bulgaria | ☐ Heard Island and McDonald Islands | ☐ Niue | ☐ Togo |
| ☐ Burkina Faso | ☐ Honduras | ☐ Norfolk Island | ☐ Tokelau |
| ☐ Burundi | ☐ Hong Kong | ☐ Northern Mariana Islands | ☐ Tonga |
| ☐ Cambodia | ☐ Hungary | ☐ North Korea | ☐ Trinidad and Tobago |
| ☐ Cameroon | ☐ Iceland | ☐ North Macedonia | ☐ Tunisia |
| ☐ Canada | ☐ India | ☐ Norway | ☐ Turkey |
| ☐ Cape Verde | ☐ Indonesia | ☐ Oman | ☐ Turkmenistan |
| ☐ Cayman Islands | ☐ Iran | ☐ Pakistan | ☐ Turks and Caicos Islands |
| ☐ Central African Republic | ☐ Iraq | ☐ Palau | ☐ Tuvalu |
| ☐ Chad | ☐ Ireland | ☐ Palestine | ☐ Uganda |
| ☐ Chile | ☐ Isle of Man | ☐ Panama | ☐ Ukraine |
| ☐ China | ☐ Israel | ☐ Papua New Guinea | ☐ United Arab Emirates |
| ☐ Christmas Island | ☐ Italy | ☐ Paraguay | ☒ United Kingdom |

- | | | | |
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| ☐ Clipperton | ☐ Jamaica | ☐ Peru | ☐ United States |
| ☐ Cocos (Keeling) Islands | ☐ Japan | ☐ Philippines | ☐ United States Minor Outlying Islands |
| ☐ Colombia | ☐ Jersey | ☐ Pitcairn Islands | ☐ Uruguay |
| ☐ Comoros | ☐ Jordan | ☐ Poland | ☐ US Virgin Islands |
| ☐ Congo | ☐ Kazakhstan | ☐ Portugal | ☐ Uzbekistan |
| ☐ Cook Islands | ☐ Kenya | ☐ Puerto Rico | ☐ Vanuatu |
| ☐ Costa Rica | ☐ Kiribati | ☐ Qatar | ☐ Vatican City |
| ☐ Côte d'Ivoire | ☐ Kosovo | ☐ Réunion | ☐ Venezuela |
| ☐ Croatia | ☐ Kuwait | ☐ Romania | ☐ Vietnam |
| ☐ Cuba | ☐ Kyrgyzstan | ☐ Russia | ☐ Wallis and Futuna |
| ☐ Curaçao | ☐ Laos | ☐ Rwanda | ☐ Western Sahara |
| ☐ Cyprus | ☐ Latvia | ☐ Saint Barthélemy | ☐ Yemen |
| ☐ Czechia | ☐ Lebanon | ☐ Saint Helena
Ascension and
Tristan da Cunha | ☐ Zambia |
| ☐ Democratic Republic of the Congo | ☐ Lesotho | ☐ Saint Kitts and Nevis | ☐ Zimbabwe |
| ☐ Denmark | ☐ Liberia | ☐ Saint Lucia | |

* Field of activity or sector (if applicable)

- ☐ Accounting
- ☐ Auditing
- ☐ Banking
- ☐ Credit rating agencies
- ☐ Insurance
- ☐ Pension provision
- ☐ Investment management (e.g. hedge funds, private equity funds, venture capital funds, money market funds, securities)
- ☐

Market infrastructure operation (e.g. CCPs, CSDs, Stock exchanges)

☐ Social entrepreneurship

☒ Other

☐ Not applicable

* Please specify your activity field(s) or sector(s)

Non-bank financial institutions association

The Commission will publish all contributions to this public consultation. You can choose whether you would prefer to have your details published or to remain anonymous when your contribution is published. **For the purpose of transparency, the type of respondent (for example, ‘business association’, ‘consumer association’, ‘EU citizen’) country of origin, organisation name and size, and its transparency register number, are always published. Your e-mail address will never be published.** Opt in to select the privacy option that best suits you. Privacy options default based on the type of respondent selected

* Contribution publication privacy settings

The Commission will publish the responses to this public consultation. You can choose whether you would like your details to be made public or to remain anonymous.

☐ Anonymous

Only the organisation type is published: The type of respondent that you responded to this consultation as, your field of activity and your contribution will be published as received. The name of the organisation on whose behalf you reply as well as its transparency number, its size, its country of origin and your name will not be published. Please do not include any personal data in the contribution itself if you want to remain anonymous.

☒ Public

Organisation details and respondent details are published: The type of respondent that you responded to this consultation as, the name of the organisation on whose behalf you reply as well as its transparency number, its size, its country of origin and your contribution will be published. Your name will also be published.

☒ I agree with the [personal data protection provisions](#)

PART 1: Scope and definitions, Title II crypto-assets

MiCA covers three types of crypto-assets: asset-referenced tokens (ARTs), electronic money tokens (EMTs) and crypto-assets other than ARTs or EMTs. The provisions related to the last category are set out in Title II of MiCA. This part of the consultation seeks feedback on the regulation of this category of crypto-assets.

Crypto-assets that fall under other sectoral legislation such as deposits, financial instruments including derivatives, or other regulated products, are outside the scope of MiCA. Therefore, some crypto-assets are regulated under MiCA, while tokenised financial instruments are not.

The distinction between crypto-assets regulated under MiCA and those governed by other sectoral legislation can sometimes be complex, particularly given that the definitions of certain assets, such as securities, are established in national law. Evolving market practices further highlight the convergence between the two areas, as traditional financial institutions increasingly offer MiCA-regulated crypto-assets and services, while MiCA-authorised entities expand into traditional financial products, subject to obtaining the necessary authorisations to do so.

1.1 MiCA scope & crypto-asset classification

Question 1. Should crypto-assets that qualify as financial instruments as defined in [Directive 2014/65/EU](#) of the European Parliament and of the Council, continue to be governed by sectorial legislation ([MiFID](#)/[MiFIR](#)/[MAR](#)/[Prospectus Regulation](#), etc.), or should all assets that are recorded and transacted on distributed ledgers and that meet the definition of a crypto-asset, or the services provided on such assets, in principle be covered by MiCA?

- ☒ Yes, they should remain under the main sectoral legislation
- ☐ No, all crypto-assets, or the services provided on such assets, should be covered by MiCA
- ☐ Don't know / no opinion / not applicable

Question 1.1 Is the distinction between financial instruments governed by MiFID and crypto-assets governed by MiCA sufficiently clear, also taking into account ESMA's guidelines on the conditions and criteria for the qualification of crypto-assets as financial instruments?

- ☐ Yes, sufficiently clear
- ☒ No, clarification is needed
- ☐ Don't know / no opinion / not applicable

Question 1.2 Please explain your answer to question 1.1 and suggest any policy actions for clarification if needed:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

The EMA supports maintaining the current dual-track approach under which tokenised financial instruments remain subject to MiFID/MiFIR and other crypto-assets are regulated under MiCA. Bringing all distributed-ledger-based assets within a single framework would risk regulatory duplication and legal uncertainty for market participants that are already subject to well-established securities market rules, without a clear corresponding benefit for market integrity or consumer protection.

However the practical boundary between the two regimes remains difficult to apply consistently in certain cases, such as tokenised commodities and asset-backed structured products, among other borderline categories. ESMA's guidelines on the qualification of crypto-assets as financial instruments have provided helpful direction but have not fully resolved this ambiguity in practice.

The EMA therefore recommends that the Commission, working with ESMA, maintain and regularly update practical guidance, such as a living Q&A supplemented with illustrative, non-exhaustive worked examples covering categories of crypto-assets where classification is most frequently contested.

Question 2. To what extent have ESMA's MiCA Article 2(5) guidelines and the joint ESA standardised classification test reduced uncertainty in practice? Which borderline cases remain difficult?

Please explain your response and suggest any policy actions for clarification if needed.

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

The ESMA guidelines under Article 2(5) MiCA and the joint ESA standardised classification test have provided a useful common reference point and improved the overall consistency of classification analysis across the EEA. However, interpretive uncertainty remains in practice for a number of token categories e.g. hybrid tokens combining utility and payment functions, wrapped tokens representing off-chain financial instruments, governance tokens, tokens associated with staking arrangements, and commodity-backed tokens. For several of these categories, the underlying difficulty is not a lack of general principles but the application of those principles to products with mixed or evolving characteristics.

A particular concern is cross-border inconsistency in outcomes for materially similar products. For instance, a gold-backed asset-referenced token (ART) may be classified as an ART in one Member State and as a MiFID financial instrument (e.g., a derivative) in another, reflecting differences in national securities law rather than differences in the product itself. This divergence creates legal uncertainty for firms operating cross-border and risks an uneven playing field and inconsistent consumer protection outcomes across the single market.

1.2 Transparency rules and ex post supervisory control regime

Question 3. Title II establishes disclosure, marketing, conduct and liability rules for public offers and admission to trading of crypto-assets other than ART and EMT.

How appropriate or effective is the design of Title II in balancing investor protection, market integrity and innovation?

a) Please assess each provision below along their adequacy:

	1 (completely inadequate)	2 (mostly inadequate)	3 (neutral)	4 (moderately adequate)	5 (fully adequate)	Don't know - No opinion - Not applicable
Exemptions for offers to <150 persons per Member State, small offerings (<€1m over 12 months), and qualified investors (Article 4 (2))	☐	☐	☐	☐	☒	☐
White paper disclosure framework (Article 6): issuer information, crypto-asset characteristics, tokenomics, risks, use of proceeds	☐	☐	☐	☒	☐	☐
Marketing requirements: identifiable, fair, clear, not misleading and consistent with the white paper (Article 7)	☐	☐	☐	☐	☒	☐
Ex ante notification model without prior regulatory approval (Article 8)	☐	☐	☐	☐	☒	☐
Obligation to modify/update the white paper for significant new factors, material mistakes or inaccuracies (Article 12)	☐	☐	☐	☒	☐	☐
Retail investor right of withdrawal (14 days), excluding assets already admitted to trading or after subscription period ends (Article 13)	☐	☐	☒	☐	☐	☐
Conduct obligations: honesty, fairness and professionalism, clear communications, conflicts management, and effective systems and security arrangements (Article 14)	☐	☐	☐	☒	☐	☐

Civil liability for inaccurate, misleading or incomplete white paper information (Article 15)						
Overall balance between investor protection, market integrity and innovation under Title II						

Please explain your ratings in question 3 a), focusing on the issues you deem most significant regarding the overall balance between investor protection, market integrity and innovation:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

The EMA considers the model under Article 8, which allows supervisory review without a lengthy prior approval process, to be one of the more effective design choices in Title II. The white paper disclosure framework and marketing requirements are broadly appropriate in substance. The exemption thresholds under Article 4(2) are broadly well-calibrated; the Commission may wish to review whether they remain proportionate given market developments since MiCA's adoption.

b) Please assess each provision below along the direction of change you consider appropriate:

	1 (should be significantly weakened)	2 (should be somewhat weakened)	3 (should remain unchanged)	4 (should be somewhat strengthened)	5 (should be significantly strengthened)	Don't know - No opinion - - (should be significantly strengthened) Not applicable
Exemptions for offers to <150 persons per Member State, small offerings (<€1m over 12 months), and qualified investors (Article 4 (2))	☐	☐	☐	☐	☒	☐
White paper disclosure framework (Article 6): issuer information, crypto-asset characteristics, tokenomics, risks, use of proceeds	☐	☒	☐	☐	☐	☐
Marketing requirements: identifiable, fair, clear, not misleading and consistent with the white paper (Article 7)	☐	☐	☒	☐	☐	☐
Ex ante notification model without prior regulatory approval (Article 8)	☐	☐	☒	☐	☐	☐
Obligation to modify/update the white paper for significant new factors, material mistakes or inaccuracies (Article 12)	☐	☒	☐	☐	☐	☐
Retail investor right of withdrawal (14 days), excluding assets already admitted to trading or after subscription period ends (Article 13)	☐	☒	☐	☐	☐	☐
Conduct obligations: honesty, fairness and professionalism, clear communications, conflicts management, and effective systems and security arrangements (Article 14)	☐	☐	☒	☐	☐	☐

Civil liability for inaccurate, misleading or incomplete white paper information (Article 15)	☒	☐	☐	☐	☐	☐
Overall balance between investor protection, market integrity and innovation under Title II	☐	☒	☐	☐	☐	☐

Please explain your ratings in question 3 b), focusing on the issues you deem most significant regarding the overall balance between investor protection, market integrity and innovation:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 4. Based on initial implementation experience under MiCA, please assess the extent to which the following issues remain a concern:

	1 (not serious concern at all)	2 (rather not serious concern)	3 (neutral)	4 (rather serious concern)	5 (extremely serious concern)	Don't know - No opinion - Not applicable
Inadequate or non-comparable disclosure clarity or complexity to retail investors in Title II white papers	☐	☐	☒	☐	☐	☐
Fraudulent or misleading crypto-asset offerings affecting EU investors	☒	☐	☐	☐	☐	☐
Lack of clear and enforceable investor rights for crypto-asset holders	☐	☒	☐	☐	☐	☐
Insufficient issuer governance or accountability in crypto-asset projects e.g. monitoring of the use of funds by issuers after the offering period	☐	☒	☐	☐	☐	☐
Regulatory arbitrage, including activity shifting outside the EU	☐	☐	☐	☐	☐	☒
Promotions by social media, influencers, sponsorships	☐	☒	☐	☐	☐	☐
Post-issuance token value erosion or project failure affecting EU retail investors	☐	☐	☐	☐	☒	☐
Market manipulation practices (e.g. wash trading, price manipulation) in crypto-asset markets	☐	☒	☐	☐	☐	☐

Misaligned incentives between crypto-asset issuers and investors (e. g. insider allocations, weak lock-ups)						
Difficulty in assessing issuer quality and project credibility for EU investors						
Cross-border enforcement and supervisory coordination challenges within the EU						
Cross-border enforcement and supervisory coordination challenges with third countries authorities outside of the EU						

Please explain your ratings in question 4, focusing on the issues you deem most significant and add any additional issues that you deem highly important:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

MiCA's disclosure and liability requirements for public offers appear to be discouraging issuers from launching tokens in the EU, with most EU white papers instead being produced retrospectively by exchanges or foundations for tokens already trading, while actual issuances happen predominantly outside the EU and remain accessible to EU investors. The EMA considers that the regime should be recalibrated to be more competitive for issuers.

Question 5. Should additional measures either at the issuance stage or during the marketing and distribution of crypto-assets, be considered?

Based on your experience or expertise, please evaluate the potential effectiveness of the following additional measures in relation to Title II crypto-assets.

	1 (not at all effective)	2 (slightly effective)	3 (moderately effective)	4 (rather effective)	5 (highly effective)	Don't know - No opinion - Not applicable
Marketing restrictions for high-risk or speculative crypto-assets aimed at retail investors e.g. restricting or banning the use of algorithmic or "gamified" marketing tactics for new token launches	☐	☐	☒	☐	☐	☐
Lock-up periods (e.g. 12 months) or vesting schedules for founder and early investor tokens	☐	☐	☒	☐	☐	☐

Please explain your ratings in question 5, and what (other) regulatory or supervisory actions you would consider useful either at the issuance stage and during marketing or distribution:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

The EMA supports the targeted restrictions.

Question 6. What administrative simplification or burden reduction measures should be considered under title II and its implementing measures and technical standards?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Consistent with our response to Question 3, the EMA suggests the Commission review the exemption thresholds under Article 4(2). We consider they are no longer proportionate in the context of current market conditions, and do not support experimental or smaller-scale token offerings within the EU, instead incentivising issuers to launch elsewhere.

The EMA also recommends a substantially shorter, more accessible white paper format; current white papers are believed to be rarely consulted in full by retail investors. The EMA also supports a more proportionate, risk-based approach to white paper updates, whereby updates are required only where changes are material to the token's risk profile, assessed against clear, objective criteria rather than left to unconstrained issuer discretion.

The EMA also notes that for widely-held crypto-assets, multiple white papers from different institutions can appear in ESMA's register, which may create confusion for investors seeking a reliable source of information.

The EMA suggests ESMA publish guidance to improve the clarity and navigability of the register in such cases, recognising that for many crypto-assets there is no single identifiable issuer, and that any solution should not disadvantage legitimate white papers published by exchanges, foundations or other market participants.

Question 7. Which specific categories remain most difficult to classify in practice? (e.g. hybrid tokens, wrapped assets, tokenised fund interests, tokenised money-market instruments, governance tokens, synthetic exposures, or assets marketed as NFTs but issued in series)?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Consistent with our response to Question 2, the EMA considers that:

- hybrid tokens combining utility and payment functions,
- wrapped or staked assets,

- governance tokens,
- tokenised commodities, and
- assets marketed as NFTs but issued in series

remain the categories most difficult to classify in practice.

As previously noted, the difficulty in several of these categories lies less in a lack of general principles than in applying them consistently to products whose features may resemble those of traditional financial instruments, depending on the specific design of the product. This list should be regarded as illustrative rather than exhaustive, given the pace of product innovation in the sector.

Question 8. Are the current Title II mechanisms sufficient to ensure meaningful updates to investors after issuance, including where project governance, tokenomics, vesting schedules or control rights change materially?

- ☒ Yes
- ☐ No
- ☐ Don't know / no opinion / not applicable

Please explain your answer to question 8:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

The EMA considers the existing mechanism under Article 12 is capable of capturing material post-issuance changes to matters such as project governance, tokenomics, vesting schedules or control rights, provided these are interpreted as falling within the scope of "significant new factors" where they are material to investors. On this basis, the EMA considers the current framework to already provide an adequate mechanism for ensuring investors are informed of materially significant post-issuance developments, and does not see a need for additional disclosure triggers in this area.

PART 2. Requirements applying to Assets referenced tokens (ART) and electronic money tokens (EMT) and their issuers (MiCA Titles III and IV)

MiCA establishes a bespoke regulatory regime for so-called "stablecoins" by distinguishing between asset-referenced tokens (ARTs) and e-money tokens (EMTs).

This section seeks stakeholders' feedback on stablecoins (EMTs and ARTs) in general, notably on the future role they may play both within the EU and beyond. It also asks more specific questions related to their prudential regime, their reserve requirements, the redemption rights of their holders and whether MiCA's stablecoin regime remains fit for purpose or requires adjustment in view of market and international regulatory developments.

2.1 The future role of stablecoins

Question 9. Looking 5-10 years ahead, how strongly do you agree with the following visions for the role of stablecoins in the EU?

	1 (strongly disagree)	2 (rather disagree)	3 (neutral)	4 (rather agree)	5 (strongly agree)	Don't know - No opinion - Not applicable
A mainstream digital means of payment for retail transactions within the EU	☐	☐	☒	☐	☐	☐
A mainstream digital means of payment for wholesale transactions within the EU	☐	☐	☒	☐	☐	☐
A complement to existing payment instruments, used mainly in specific use cases especially in international, cross-border payments	☐	☐	☐	☐	☒	☐
A core infrastructure layer for the digital economy and tokenised financial markets especially for settlement	☐	☐	☐	☒	☐	☐
A niche or transitional product, eventually displaced by other forms of digital money (e.g. CBDCs or commercial bank money innovations)	☒	☐	☐	☐	☐	☐
No clear long-term role can be identified at this stage	☒	☐	☐	☐	☐	☐
Others	☐	☐	☐	☐	☒	☐

Please specify to what other vision(s) you refer in your answer to question 9:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Stablecoins are set to evolve into a cornerstone of the modern financial infrastructure. We expect stablecoins to: become the dominant cash leg and hence core infrastructure layer for on-chain settlement in the digital economy and tokenised financial markets, streamline international remittances and cross-border payments including in underserved regions, and potentially enable the emerging “agentic economy” (machine-to-machine transactions) through automated micro-payments.

As a programmable and 24/7 liquid medium of exchange stablecoins will be essential for the evolving architecture of a globalised, internet-native financial system. Stablecoins are becoming the foundational tool for the next generation of capital markets and cross-border trade.

Please explain your answers to question 9:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 10. The following question explores the current and potential benefits of stablecoins (both EMTs and ARTs) for different use cases. For each use case below, please indicate how beneficial stablecoins would be for EU users:

	1 (not beneficial)	2 (moderately beneficial)	3 (neutral)	4 (beneficial)	5 (very beneficial)	Don't know - No opinion - Not applicable
International payments (non-EU cross-border remittances or transfers)	☐	☐	☐	☐	☒	☐
Intra-EU payments (domestic and EU cross-border payments)	☐	☒	☐	☐	☐	☐
Crypto trading and liquidity provision	☐	☐	☐	☐	☒	☐
Retail payments - Person to Person	☐	☒	☐	☐	☐	☐
Retail payments – Person to Business (POI payment to merchants including e-commerce)	☐	☒	☐	☐	☐	☐
Retail payments - Business to Business	☐	☐	☒	☐	☐	☐
Wholesale payments (between financial institutions)	☐	☐	☒	☐	☐	☐
Settlement of tokenised financial instruments (e.g., digital bonds, securities)	☐	☐	☐	☐	☒	☐

Corporate treasury management						
Access to programmable or smart contract-based financial services (DeFi applications)						
Provision of financial services in underserved regions in the EU						
Others						

Please explain shortly your assessment and expectations in question 10 as regards the benefits of stablecoins for EU users and, where relevant, any potential risks:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Primary near-term use cases: Stablecoins offer greatest near-term benefits in cross-border payments, treasury management, as programmable settlement vehicles and as working capital and settlement vehicles in crypto capital markets and DeFi.

Limited benefits in domestic and Intra-EU retail payments: The existing payment instruments and channels such as SEPA instant payments are well established and live up fully to user expectations and demands.

Adoption of stablecoins in this category is likely to be limited in the foreseeable future.

2.2 Prudential regime and capital requirements

MiCA sets out different capital requirements for issuers of EMTs and ARTs, with additional requirements applying where tokens are classified as “significant”. Article 35 and 46 require that non-bank issuers of ARTs and EMTs shall, at all times, have own funds equal to an amount of at least the highest of the following:

- a. EUR 350 000
- b. 2% of the average amount of the reserve of assets referred to in Article 36
- c. a quarter of the fixed overheads of the preceding year

Question 11.1 To what extent do you think the calculation methods are relevant?

	1 (not at all relevant)	2 (slightly relevant)	3 (moderately relevant)	4 (mostly relevant)	5 (highly relevant)	Don't know - No opinion - Not applicable
Minimum own funds of EUR 350,000	☐	☒	☐	☐	☐	☐
2% of the average reserve of assets	☐	☐	☐	☒	☐	☐
25% of the fixed overheads of the preceding year	☐	☒	☐	☐	☐	☐
Additional own funds for "significant" tokens	☐	☐	☐	☐	☒	☐

Question 11.2 To what extent do you think the calculation methods are appropriately calibrated?

	1 (not at all appropriately calibrated)	2 (slightly appropriately calibrated)	3 (moderately appropriately calibrated)	4 (mostly appropriately calibrated)	5 (highly appropriately calibrated)	Don't know - No opinion - Not applicable
Minimum own funds of EUR 350,000	☐	☐	☐	☒	☐	☐
2% of the average reserve of assets	☐	☒	☐	☐	☐	☐
25% of the fixed overheads of the preceding year	☐	☐	☐	☒	☐	☐
Additional own funds for “significant” tokens	☒	☐	☐	☐	☐	☐

Please explain your answers to question 11.1 and 11.2, including your reasoning and any suggestions for recalibration or alternative approaches (e.g. greater risk sensitivity, differentiation by business model, or interaction with reserve and liquidity requirements):

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Destructive cliff-edge effect (see also response to question 43): Most problematic, that is both highly relevant and at the same time very poorly calibrated, are the additional own funds requirements for EMTs classified as significant. They produce a prohibitive "cliff-edge" effect by triggering a mandatory 50% boost in minimum own funds requirements (raising the requirement from 2% to 3% of average reserve assets under Article 45(5)). When combined with two layers of discretionary supervisory capital add-ons (a 20% add-on and another 20% –40% add-on under Article 35(3) and (5)), the total requirement can effectively double an issuer's required own funds. The magnitude of this additional capital hit is such that it threatens firms' viability, restricts profitability, and makes steady business scaling impossible.

Lack of risk sensitivity: The uniform single-step 50% capital jump dramatically lacks risk-sensitivity. It fails to account for potentially major differences in risk profiles between product types (ARTs vs. EMTs) and distinct business activities and models of individual issuers. Moreover, even the purely qualitative criteria (such as issuing more than one token and providing at least one crypto-asset service) can trigger significance and hence application of 'cliff-edge' prudential requirement ignoring entirely the actual volume of any additional risk incurred.

As set out in more detail in our response to question 17 MiCA's current significance regime should be replaced by an approach drawing on the Basel Committee's G-SIB (Global Systemically Important Banks) framework. The BCBS methodology combines an indicator-based assessment of a bank's relative contribution to systemic risk with a graduated bucketing approach for risk-adjusted and consistent scaling of the additional individual "loss absorbency requirements". This would introduce pre-defined risk buckets with moderate, incremental capital increases (e.g., +0.5% steps) commensurate with the actual relative contribution of each individual bank to systemic risk.

Allow for more supervisory discretion: Based ideally upon the BCBS's G-SIB framework with its graduated bucketing approach as proposed before, more room should be provided for supervisory discretion and regulatory agility in responding to this still young and dynamically evolving financial sector. Given the lack of historical evidence of systemic risks, notably the risk of contagion from stablecoins across the financial system, mandatory statutory increases of capital requirements should be reduced significantly (e.g., lowering at a minimum the mandatory 3% rate to 2.5%). Regulators should instead be granted case-by-case supervisory discretion to impose targeted capital add-ons commensurate with their assessment of additional risks incl. as appropriate systemic risks.

Question 12. After being in effect for close to two years, no ARTs have been licensed in the EU under MiCA. In your view, does this absence primarily reflect low market interest in ARTs or other reasons?

Please rate each factor below:

--	--	--	--	--	--	--

	1 (not at all a factor)	2 (rather not a factor)	3 (neutral/uncertain)	4 (rather a factor)	5 (a major factor)	Do not know
Market interests for ARTs	☐	☒	☐	☐	☐	
Licencing and regulatory requirements for ARTs	☐	☐	☐	☐	☒	

Please explain your answers to question 12:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 13. If ARTs were to come to market, what do you think is the primary purpose from a consumer/investor perspective: investment or alternative means of exchange/payment? Please explain your answer:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Regulatory obstacles vs. market interest: The absence of licensed ARTs under MiCA is in our view driven by overly restrictive and operationally burdensome regulatory requirements, rather than a lack of market demand. Given the current prohibitive entry barriers prospective issuers face an exceptionally high compliance bar created by strict reserve rules, heavy own funds requirements, detailed governance obligations, and an intricate authorisation process.

Destructive “cliff-edge” effect penalizing steady business scaling: Moreover, as set out before (see response to question 11), the prudential regime for ARTs (and EMTs) classified as significant is prohibitive. It lacks risk-sensitivity entirely and penalizes growth by the extremely sharp “cliff-edge” effect it creates. Unless these regulatory requirements are recalibrated, ARTs will remain commercially non-viable for the foreseeable future.

Severe impact on wrapped and staked tokens: Regarding specific assets like wrapped or staked tokens we note that these products are facing immediate structural conflicts, since no major crypto-backed variant can currently comply with MiCA’s ART reserve rules while preserving its crypto-backed model (for further details see response to question 14).

2.3 Liquidity and reserve requirements

Question 14. MiCA requires issuers of ARTs to establish, maintain, and prudently manage a reserve of assets and appropriate liquidity arrangements to ensure orderly redemptions and mitigate financial stability, liquidity, and operational risks. Additional and enhanced requirements apply to ARTs classified as “significant” under Article 45.

How do you think, if at all, each of the following elements of the MiCA liquidity and reserve regime for ARTs should be adjusted?

Please rate each aspect on a scale from 1 to 5, where

- **“1” indicates that requirements should be significantly relaxed (e.g. lower liquidity buffers or remove specific obligations)**
- **“3” indicates that the current framework is appropriate and should remain unchanged**
- **“5” indicates that requirements should be made substantially more stringent (e.g. higher reserves, tighter risk controls, or enhanced safeguards)**

a) Please rate each aspect below as regard to non-significant ARTs:

	1 (should be significantly relaxed)	2 (should be somehow relaxed)	3 (current framework appropriate)	4 (should be made somehow more stringent)	5 (should be made substantially more stringent)	Don't know - No opinion - Not applicable
Obligation to constitute and maintain a reserve of assets covering redemption and liquidity risks (Article 36(1))	☐	☐	☒	☐	☐	☐
Liquidity composition and maturity structure of the reserve (Article 36(4), RTS)	☐	☐	☒	☐	☐	☐
Minimum amount of deposits held (30% and 60%) (Article 36(4), RTS)	☒	☐	☐	☐	☐	☐
Auditing requirements (Article 36(9))	☐	☐	☒	☐	☐	☐
Custody requirements (Article 37)	☐	☒	☐	☐	☐	☐

b) Please rate each aspect below as regard to requirements for significant ARTs:

	1 (should be significantly relaxed)	2 (should be somehow relaxed)	3 (current framework appropriate)	4 (should be made somehow more stringent)	5 (should be made substantially more stringent)	Don't know - No opinion - Not applicable
Obligation to constitute and maintain a reserve of assets covering redemption and liquidity risks (Article 36(1))	☐	☐	☒	☐	☐	☐
Liquidity composition and maturity structure of the reserve (Article 36(4), RTS)	☐	☐	☒	☐	☐	☐
Minimum amount of deposits held (30% and 60%) (Article 36(4), RTS)	☒	☐	☐	☐	☐	☐
Auditing requirements (Article 36(9))	☐	☐	☒	☐	☐	☐
Custody requirements (Article 37)	☐	☒	☐	☐	☐	☐
Enhanced liquidity management, stress testing, monitoring, and reporting obligations for significant ARTs (Article 45(3)-(4))	☐	☐	☒	☐	☐	☐

Please explain your answers to question 14 a) and b), including your reasoning and any suggestions for recalibration or alternative approaches (e.g. greater risk sensitivity, differentiation by business model, or interaction with reserve and liquidity requirements):

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Mandatory minimum bank deposit ratios: Requiring issuers to hold 30% (non-significant) and 60% (significant) of reserve assets in bank deposits is the single most problematic element. As even the EBA acknowledged in its final report on the related draft RTS mandatory minima "might trigger concerns from the perspective of the liquidity of the reserve assets overall and their exposure to credit risk". The EBA highlights that "interconnectedness between the banking system and crypto-asset sector should be well controlled to avoid reciprocal contagion effects in case of distress of one of them" (see Final Report - Draft Regulatory Technical Standards to further specify the liquidity requirements of the reserve of assets under Article 36(4) of Regulation (EU) 2023/1114 - para 22.). The EBA's comments confirm that the current minimum requirements amplify systemic risk rather than containing it. Accordingly, the minimum requirement for bank deposits should be abolished entirely. The regulatory approach should instead focus on HQLA eligibility criteria.

Look-through for UCITS funds as reserve assets: Instead of applying the current 5% concentration limit at the fund wrapper level a look-through approach to the UCITS funds underlying holdings should be introduced.

Crypto-backed ARTs: Regarding crypto-backed ARTs we note that the inability to back wrapped or staked tokens with the referenced crypto-assets (e.g. backing wrapped BTC solely with BTC) due to the obviously sub-optimal tracking heightens the risks associated with this type of token and effectively renders crypto-backed ARTs unviable.

Question 15. MiCA sets out liquidity and reserve requirements for issuers of EMTs to ensure immediate redemption of tokens, mitigation of credit and operational risk, and resilience under stress scenarios. Additional requirements apply to EMTs classified as "significant" (Article 56).

Should any of the following aspects of the MiCA regime for EMTs issued by e-money institutions be adjusted?

Please rate each aspect on a scale from 1 to 5, where

- **"1" indicates that requirements should be significantly relaxed (e.g. lower liquidity buffers or remove specific obligations)**
- **"3" indicates that the current framework is appropriate and should remain unchanged**
- **"5" indicates that requirements should be made substantially more stringent (e.g. higher reserves, tighter risk controls, or enhanced safeguards)**

a) Please rate each aspect below as regard to requirements for non-significant ARTs:

	1 (should be significantly relaxed)	2 (should be somehow relaxed)	3 (current framework appropriate)	4 (should be made somehow more stringent)	5 (should be made substantially more stringent)	Don't know - No opinion - Not applicable
Obligation to constitute and maintain a reserve of assets covering redemption and liquidity risks (Article 36(1))	☐	☐	☒	☐	☐	☐
Legal and operational segregation of reserve assets from the issuer's own estate and from other token reserves (Article 36(2)–(3))	☐	☐	☒	☐	☐	☐
Liquidity composition and maturity structure of the reserve (Article 36(4), RTS)	☐	☐	☒	☐	☐	☐
Minimum amount of deposits held (30% and 60%) (Article 36(4), RTS)	☐	☒	☐	☐	☐	☐
Auditing requirements (Article 36(9))	☒	☐	☐	☐	☐	☐
Custody requirements (Article 37)	☒	☐	☐	☐	☐	☐
Excessive exposure / concentration between bank and token (Article 36(4) MiCA) Do you consider the 1.5% binding limit adequate? (RTS)	☒	☐	☐	☐	☐	☐

b) Please rate each aspect below as regard to requirements for significant ARTs:

	1 (should be significantly relaxed)	2 (should be somehow relaxed)	3 (current framework appropriate)	4 (should be made somehow more stringent)	5 (should be made substantially more stringent)	Don't know - No opinion - Not applicable
Obligation to constitute and maintain a reserve of assets covering redemption and liquidity risks (Article 36(1))	☐	☐	☒	☐	☐	☐
Legal and operational segregation of reserve assets from the issuer's own estate and from other token reserves (Article 36(2)–(3))	☐	☐	☒	☐	☐	☐
Liquidity composition and maturity structure of the reserve (Article 36(4), RTS)	☐	☐	☒	☐	☐	☐
Minimum amount of deposits held (30% and 60%) (Article 36(4), RTS)	☒	☐	☐	☐	☐	☐
Auditing requirements (Article 36(9))	☐	☐	☒	☐	☐	☐
Custody requirements (Article 37)	☐	☐	☒	☐	☐	☐
Enhanced liquidity management, stress testing, monitoring, and reporting obligations for significant EMTs (Article 45(3)–(4))	☐	☐	☒	☐	☐	☐

Excessive exposure / concentration between bank and token (Article 36(4) MiCA) Do you consider the 1.5% binding limit adequate? (RTS)	☒	☐	☐	☐	☐	☐
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Please explain your answers to question 15 a) and b), including your reasoning and any suggestions for recalibration or alternative approaches:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Similar concerns apply here as set out in our response to question 14:

30/60% bank deposit minima: The existing bank deposit floors are even more problematic than for EMTs since in addition to amplifying systemic risk they diverge from the EMD2 regime thus running against the principle of technology neutrality. Again, we urge the Commission to abolish the mandatory bank deposit minima entirely.

Alignment to regulatory approach to money-market-fund-style: Instead the regulatory approach should be fully aligned with money-market-fund-style HQLA management including short-duration government securities, government-backed reverse repos, central bank deposits where available. The built-in 1-day/5-day liquidity rules already provide efficient safeguards.

35% concentration cap on government bonds: This 35% cap runs counter to the regulatory objective in the case of non-EUR EMTs (e.g. USD-backed) since it forces issuers away from the deepest, safest sovereign bond markets into less optimal assets.

Concentration risk caps: The per-bank deposit concentration limit creates operational complexity since it requires firms to maintain numerous banking relationships simultaneously (12+ for significant EMT issuers). The problem is further compounded by the cap of 1.5% of total bank assets exposure and the wide-spread trend amongst banks towards derisking (i.e. ceasing/not providing banking services to EMTs). In particular the 1.5% cap discriminates against smaller, potentially specialised banks being able to fill the gaps resulting from larger banks' derisking strategy.

Look-through for UCITS funds as reserve assets: As set out in our response to question 14 a look-through approach should also be applied to holdings of UCITS funds as reserve assets for EMTs.

Question 16. Under MiCA, credit institutions issuing EMTs are not subject to the reserve asset segregation requirements or the requirement to maintain a reserve of assets applicable to non-bank EMT issuers (Article 58 MiCA). This is consistent with the approach to the regulation of traditional e-money.

Should MiCA be adjusted to introduce a requirement to maintain a reserve of assets and segregation requirements for reserve assets of EMTs issued by credit institutions?

- ☐ Yes – require reserve maintenance and segregation of EMT reserve assets within the credit institution's balance sheet
- ☒ Yes – require issuance through a legally separate entity of the credit institution with full segregation of EMT reserve assets
- ☐ No – keep the current MiCA approach unchanged
- ☐

Others / alternative approach

- Don't know / no opinion / not applicable

Please explain your answer to question 16, including your reasoning and any suggestions for other/alternative approaches:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

EMT issuance through legally separate entity: The requirement for banks to engage in the issuance of EMTs via a separately set up legal entity is the "cleanest" solution to ensure full compliance with the MiCA regime. It also avoids any potential distortion of competition in relation to non-bank issuers. We therefore have no objection to this approach.

Reduces two-way contagion risk: Furthermore, issuance via a separate legal entity would mitigate the risk of contagion in both directions. The EMT issuing entity would be isolated from stress affecting the banking business, and - vice versa - the banking business would be protected from problems incurred by the EMT issuance.

2.4 Criteria for determining significance

Under MiCA, ARTs and EMTs may be classified as "significant" based on a set of quantitative and qualitative criteria set out in Article 43 (ARTs) and Article 56 (EMTs), which trigger enhanced prudential, governance, and supervisory requirements. The Commission has adopted a [delegated act](#) to further clarify the criteria for determining significance.

Question 17. Do you think the following quantitative criteria thresholds used to classify EMTs or ARTs as "significant" should be adjusted, and if so how?

Please rate each each quantitative criteria thresholds on a scale from 1 to 5, where

- **"1" = Significantly decreased (thresholds should be much lower / classification triggered earlier)**
- **"2" = Somewhat decreased**
- **"3" = Kept as is (current MiCA thresholds are broadly appropriate)**
- **"4" = Somewhat increased**
- **"5" = Significantly increased (thresholds should be much higher / classification triggered later)**

a) Please rate how each quantitative criteria thresholds used to classify EMTs should be adjusted:

	1 (significantly decreased)	2 (somewhat decreased)	3 (kept as is)	4 (somewhat increased)	5 (significantly increased)	Don't know - No opinion - Not applicable
Number of holders / users exceeding 10 million (Articles 43(1)(a) and 56)	☐	☐	☐	☐	☒	☐
Total outstanding value / market capitalisation exceeding EUR 5 billion (Articles 43(1)(b) and 56)	☐	☐	☐	☐	☒	☐
Transaction volume or value per day (average 2.5 million transactions and EUR 500 million) (Articles 43(1)(c) and 54)	☐	☐	☐	☐	☒	☐

b) Please rate how each quantitative criteria thresholds used to classify ARTs should be adjusted:

	1 (significantly decreased)	2 (somewhat decreased)	3 (kept as is)	4 (somewhat increased)	5 (significantly increased)	Don't know - No opinion - Not applicable
Number of holders / users exceeding 10 million (Articles 43(1)(a) and 56)	☐	☐	☐	☐	☒	☐
Total outstanding value / market capitalisation exceeding EUR 5 billion (Articles 43(1)(b) and 56)	☐	☐	☐	☐	☒	☐
Transaction volume or value per day (average 2.5 million transactions and EUR 500 million) (Articles 43(1)(c) and 54)	☐	☐	☐	☐	☒	☐

Please explain your answers to question 17 a) & b), including your reasoning and any suggestions for other/alternative approaches:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

* **MiCA significance regime misconceived and related thresholds miscalibrated:** Classification of EMTs as significant serves a dual function. It transfers supervisory responsibility to the EBA, and at the same time triggers significantly higher prudential requirements, thus causing the destructive “cliff-edge” effect discussed in more detail below. The comparative analysis in the paper “MiCA’s significance regime for stablecoins — a sledgehammer to crack a nut?” (Hansen & Bauer, 2024, available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4699043) demonstrates clearly that the current thresholds may be broadly appropriate for the former purpose of triggering the transfer of supervisory responsibility to the EBA, but are grossly disproportionate for the latter purpose of generating the application of increased prudential requirements commensurate with the systemic risks posed by significant issuers. These respective classifications need to be disentangled and the associated thresholds calibrated separately.

* **Comparison to the BCBS G-SIB framework:** Not the only but arguably the most instructive benchmark for assessing the significance thresholds triggering increased prudential requirements is the BCBS framework for Global Systemically Important Banks (G-SIBs). The international BCBS standards and the underlying methodology are aimed at informing prudential requirements to be applied to contain systemic risks as posed by the largest internationally active banks. The smallest institution on the G-SIB list in 2024 — Standard Chartered — has total assets of approximately GBP 682 billion (end-2022), equivalent to over €800 billion. In contrast, under the MiCA significance regime an EMT issuer with only a €5 billion reserve is already classified as “significant” and, hence, subject to dramatically increased requirements. In other terms a stablecoin issuer that is 140 times smaller than the smallest G-SIB is treated, for prudential purposes, as if it posed systemic risks warranting up to more than double the prudential requirements applicable to a non-significant issuer.

* **Comparison to the current size of the global stablecoin market:** With a total market capitalisation of approximately \$300 billion the €5 billion reserve threshold represents less than 2% of today’s global stablecoin market. Also in this perspective the calibration of the threshold is clearly disproportionate. The extreme jump in prudential requirements it triggers will threaten the viability of the EMT classified as significant. Chances that failure of an EMT of that size could have a significant adverse impact on the crypto-asset sector as such are slim and broader systemic ramifications for the financial system highly unlikely.

* **MiCA binary classification misconceived for the purpose of informing increased prudential requirements:** By definition the current binary classification is not suited for setting increased prudential requirements reflective of actual risk. The one-step jump in capital requirements it triggers produces a highly disproportionate and most harmful “cliff-edge” effect. The G-SIB framework offers again a helpful reference for the necessary regulatory fix. To inform increased “loss absorbency requirements” commensurate with an individual bank’s contribution to systemic risks, the BCBS has developed a graduated bucketing approach combined with an indicator-based measurement of the systemic relevance of each bank. The risk indicators are assessed for each bank across five weighted categories (i.e. cross-jurisdictional activity, size, interconnectedness, substitutability and complexity) and subsequently computed into a score reflecting each bank’s relative contribution to systemic risks. Based upon their score, banks are then assigned to one of five buckets with graduated additional loss absorbency requirements, rising in 0.5 percentage point steps from 1% to 3.5% of risk-weighted assets.

In contrast, the MiCA significance regime disregards the individual risk profile of issuers, the specific business activities and products they engage in and to a large extent most relevant differences regarding the key criteria

underlying the G-SIB indicator-based measurement (i.e. cross-jurisdictional activity, interconnectedness, substitutability, complexity). As soon as three MiCA significance criteria are met, issuers face the full weight of the increased prudential requirements. The limited supervisory discretion regarding the calibration of additional, risk-specific add-ons is far from allowing sensible issuer-specific adjustments to the initial 50% hit triggered by the binary classification. As the paper linked above notes: "whether an issuer issues 2 or 20 significant EMTs, also by how much one or several of the issued EMTs exceed the significance cut-off in terms of their size, complexity or interconnectedness, does not make any difference."

Question 18. Do you think the qualitative criteria used to classify EMTs or ARTs as “significant” under MiCA should be adjusted?

- ☒ Yes
- ☐ No
- ☐ Don't know / no opinion / not applicable

Please explain how you think the qualitative criteria for classifying EMTs or ARTs as “significant” should be adjusted:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Fundamental adjustments regarding the MiCA qualitative criteria (international scale of activities (Article 43(1)(e)) and interconnectedness with the financial system (Article 43(1)(f) as further specified in the related delegated regulation) are needed and must be embedded in the broader legislative fix we're suggesting for the MiCA significance regime. Key elements of the reformed significance regime have to be:

Disentangle the misconceived dual purpose classification: Transfer of supervisory responsibility and increase of prudential requirements to contain systemic risks are two entirely different matters. For the latter a binary decision whether or not to apply a uniform capital add-on of 50% aimed at containing systemic risk lacks risk-sensitivity so fundamentally that it cannot be reconciled with the basic principle of proportionality.

Maintain current thresholds for triggering the transfer of supervisory responsibility: The current thresholds are broadly appropriate and consistent with equivalent thresholds set in the SSM Framework Regulation and the ECB's PISA oversight framework (for an in depth comparison see the paper linked above).

Develop a methodology for setting increased prudential requirements, drawing on the G-SIB framework: A tiered bucketing approach modelled on the G-SIB framework should be developed to ensure that the increase in prudential requirements applied to individual issuers is sufficiently risk-sensitive to contain systemic risks.

Both the underlying risk assessment and the calibration of the increase in prudential requirements, in line with the assessed risk, presuppose ample room for supervisory discretion at all levels, including in the crucial final stage of holistic synthesis of all supervisory findings.

The role of the qualitative criteria in this reformed MiCA significance regime should draw on the BCBS approach to G-SIBs. Accordingly,

Qualitative criteria must not trigger

- automatic classification of issuers as significant and
- binding application of a uniform “cliff-edge” increase of prudential requirements:

Qualitative criteria are not suitable as triggers for a legally hard-wired regulatory status and corresponding strictly binding obligations and prudential requirements. The full set of MiCA qualitative criteria (including the criteria and sub-criteria in the related delegated regulation) should be redesigned. In line with the BCBS G-SIB framework and methodology they should be integrated into a comprehensive framework governing the exercise of supervisory discretion by the EBA as regards:

- the classification of issuers as significant, including prior to the classification
- the assessment of their risk profile and of the systemic risks they pose, and
- the calibration of increased prudential requirements commensurate with the assessed risks.

Question 19. Are there any additional criteria or metrics that should be added to determine “significant” tokens?

- ☐ Yes
- ☒ No
- ☐ Don't know / no opinion / not applicable

Please explain your answer to question 1:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

No! However, the purpose of any qualitative criteria integrated in a reformed, BCBS-inspired MiCA significance regime (see our responses to questions 17 and 18) would be to assist the EBA's exercise of supervisory discretion as guidance. In this context specifically mentioned qualitative criteria would surely not form an exhaustive list excluding other qualitative aspects to be taken into account by the EBA.

2.5 Interest payment

MiCA currently prohibits the granting of interest or any interest-equivalent remuneration of stablecoins by either the issuer, offeror or crypto asset service provider. This prohibition applies to ARTs under Article 40 and to EMTs under Article 50 of MiCA.

Question 20. In your view, should the MICA prohibition on granting interest or any interest-equivalent remuneration be modified?

a) for EMTs:

- ☐ No, interest and interest-equivalent remuneration should continue to be prohibited
- ☒ Yes, interest or interest-equivalent remuneration should be allowed under defined conditions
- ☐ Yes, interest or interest-equivalent remuneration should be allowed fully
- ☐ Don't know / no opinion / not applicable

Please explain why you think interest or interest-equivalent remuneration should be allowed for EMTs, (including any benefits and risks) and specify the conditions under which it should be permitted:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Full removal of the prohibition to pay interest: The prohibition on paying interest for EMTs and ARTs is modelled on the related provision in EMD2. Accordingly, its review should not be limited to MiCA. In our view the prohibition should be removed fully not just for EMTs and ARTs under the current MiCA approach but also for the issuance of e-money under EMD2. In the current market environment we do not believe that the original rationale of the prohibition - it was aimed at preventing e-money to function as a deposit substitute potentially undermining the transfer mechanics of monetary policy - is still relevant.

Divergence from the EMD 2 prohibition in MiCA: The prohibition under MiCA goes beyond the approach under EMD2. It extends across all actors including issuers, offerors, and CASPs. At a minimum the MiCA review should eliminate this divergence. By extending the prohibition to CASPs and third parties in secondary markets, MiCA:

Runs counter to the principle of technology neutrality: It goes well beyond the prohibition under EMD2, which targets exclusively the issuer of electronic money.

Creates a material competitive disadvantage: Competition of MiCA-compliant EMTs with other types of crypto-assets, traditional financial instruments, or non-MiCA compliant global stablecoins is distorted. EU users are effectively pushed to use non-EU products that are subject to no or weaker regulatory standards and consumer protection.

Deviates from evolving regulatory standards in key jurisdictions: including the US (GENIUS Act), the UK and Singapore, which all restrict interest payments at the issuer level but allow 3rd party reward structures.

We therefore urge the Commission, if full removal of the prohibition in EU-legislation is rejected, to develop at least legislative proposals aligning the current prohibition to regulation in key international jurisdictions by allowing secondary market reward products. CASPs and other secondary market participants should be permitted to offer rewards tied to E-Money Tokens (EMTs). Permissible incentives could be restricted to activity- or transaction-based rewards (see the similar approach in the U.S. CLARITY Act).

b) for ARTs:

- ☐ No, interest and interest-equivalent remuneration should continue to be prohibited
- ☒ Yes, interest or interest-equivalent remuneration should be allowed under defined conditions
- ☐ Yes, interest or interest-equivalent remuneration should be allowed fully
- ☐ Don't know / no opinion / not applicable

Please explain why you think interest or interest-equivalent remuneration should be allowed for ARTs, (including any benefits and risks) and specify the conditions under which it should be permitted:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

2.6 Redemption

MiCA establishes distinct redemption regimes for ARTs and EMTs. For ARTs, redemption rights are primarily governed by Article 39, supported by operational and prudential requirements in Articles 36–38 and 47. For EMTs, redemption rights are set out in Article 49, with supporting provisions in Articles 46 and 47.

Question 21. Based on your experience either as a holder of EMTs or as an issuer of EMTs, how have redemption requests been processed and executed in practice by issuers or their agents? What practical problems, if any, have been encountered?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Overwhelming reliance on CASPs: Core redemption mechanics work well. However, in practice close to 100% of EMT holders choose to buy and sell their tokens through customer-facing CASPs. Direct redemptions from issuers are very rare.

Prominent role of CASP due to quality of service: CASPs are much better placed to ensure high quality customer services. Consumers utilize them because of their specialized expertise in retail user experience design and client onboarding, which also contributes to the overwhelming reliance on CASPs as the preferred offramping route. Given this prominent, customer-facing role in facilitating EMT redemptions, CASPs should be taken into account and relied upon

As a key element in recovery and redemption planning for times of stress, but also

For multi-issuance structures where they are instrumental regarding cross-border redemption flows.

Question 22. If you hold EMTs and wish to dispose of them, which of the following options would you most likely choose?

a) In a normal market situation

- ☐ I would likely spend them (e.g. on goods or services)
- ☒ I would likely sell or exchange them with a broker or at a trading venue
- ☐ I would likely turn to the EMT issuer or his agent to exercise my statutory redemption right
- ☐ Don't know / no opinion / not applicable

b) In a stressed market situation

- ☐ I would likely spend them (e.g. on goods or services)
- ☒ I would likely sell or exchange them with a broker or at a trading venue
- ☐ I would likely turn to the EMT issuer or his agent to exercise my statutory redemption right
- ☐ Don't know / no opinion / not applicable

Please explain your answer to question 22 a) and b):

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Overwhelming reliance on CASPs: As set out in our response to question 21, in practice holders of EMTs utilize CASPs for acquiring AND disposing of them. Given the quality of customer services CASP can offer we would expect them to play that prominent role also in stressed market conditions.

Question 23. For each of the redemption rights and rules listed below, please indicate whether the existing MiCA rules should be amended or specified or kept as they are.

Please consider, in particular, implications for financial stability, consumer protection, and cross-border usability.

	Weaken	Keep as is	Strengthen	Don't know - No opinion - Not applicable
Permanent right of redemption against the issuer, either at market value (ARTs) or at par (EMTs)	☒	☐	☐	☐
Timing of redemption (timeframe for redemption by the issuer)	☐	☒	☐	☐

Prohibition of redemption fees	☒	☐	☐	☐
Conditions, procedures, and transparency of redemption policies	☐	☒	☐	☐
Supervisory powers to intervene in or trigger redemption plans	☐	☒	☐	☐

Please explain your assessment to question 23, including if a different approach is warranted for significant vs non-significant tokens, or in crisis scenarios and share any suggestions for adjustments you may have:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Right of permanent and direct redemption against the issuer: As set out already in our responses to questions 21 and 22 EMT holders turn to CASPs for close to 100% of all redemption requests. Direct redemptions by issuers are rare, and their importance is nowhere close to what the statutory permanent right of redemption against issuers suggests. We therefore see ample room for significantly weakening this right and reliance instead upon CASPs as the default channel.

Operationally reasonable fees: Charging of fees should be allowed to cover compliance/onboarding costs. As for traditional e-money and other global stablecoin frameworks, fees should be capped at actual expense.

Unclaimed liabilities: Beyond the aspects referred to in the table, we urge the Commission to address the issue of unclaimed liabilities after a redemption plan concludes. Legal clarity is needed and should be provided ideally within MiCA regarding the possibility:

- To conclude a redemption period despite liabilities that - due to holders failing to claim redemption within the prescribed period - are still outstanding, and
- To either establish a ring-fenced fund with a defined claim period after which the liabilities become void,
- or in a multi-issuance structure to transfer the liabilities to the non-EU issuer entity.

2.7 Stability issues

Stablecoins have the potential to reshape part of the financial service value chain as they can offer faster, cheaper, and more direct global payment and settlement transactions by bypassing certain financial intermediaries. They can also pose risks. This subsection aims to explore the adequacy of the safeguards provided by MiCA, especially regarding redemption and resolution plans.

Question 24. Articles 46 and 47 require issuers of ARTs and EMT to prepare a recovery plan and a redemption plan in case an issuer cannot comply with reserve requirements e.g. due to significant and sudden requests for redemptions.

Please indicate whether the current MiCA requirements are fit for purpose in those regards or should be amended:

a) Current MiCA requirements for ARTs

	Weaken	Keep as is	Strengthen	Don't know - No opinion - Not applicable
Recovery plans	☐	☒	☐	☐
Redemption plans	☐	☒	☐	☐

b) Current MiCA requirements for EMTs

	Weaken	Keep as is	Strengthen	Don't know - No opinion - Not applicable
Recovery plans	☐	☒	☐	☐
Redemption plans	☐	☒	☐	☐

Please explain your assessment to question 24 a) & b), including if a different approach is warranted for significant vs non-significant tokens, and share any suggestions for adjustments you may have:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Current requirements regarding redemption and recovery plans are broadly adequate. Going forward, ensuring consistency of supervisory practices and expectations may be challenging, and we do see a role for the EBA to play in this.

Redemption capacity in multi-issuance/global circulation structures: Going forward, guidance may well be required to specify the procedures for maintaining redemption capacity within multi-issuance structures where a token is in circulation globally. Such guidance would need to be developed as part of the supervisory coordination and cooperation between the regulators of jurisdictions participating in the issuance of the token.

De-pegging indicator for recovery plans: We would also urge the Commission to clarify the use of a de-pegging indicator in recovery plans with regard to the plan's activation. It is important that this indicator does not refer to secondary market price deviations from par, as such fluctuations can be caused by general market illiquidity, liquidity events specific to an exchange, or irrational panic selling. In these cases secondary market price

deviations do not indicate an impairment of the underlying reserve. Instead, the de-pegging indicator should focus solely on the issuer's inability to redeem due to insufficient reserves, as measured by the reserve coverage ratio. Only in this case should a recovery plan be activated.

Question 25. EMTs issued by authorised e-money institutions (EMIs) could potentially operate with enhanced monetary and financial safeguards.

Please rate the appropriateness and desirability of the following policy options for EMTs issued by e-money institutions:

	1 (not at all appropriate / desirable)	2 (slightly (moderately appropriate / desirable)	3 (moderately appropriate / desirable)	4 (mostly (moderately appropriate / desirable)	5 (highly (moderately appropriate / desirable)	Don't know - No opinion - Not applicable
Allowing EMT issuers to deposit their reserve assets directly into central bank accounts	☐	☐	☐	☐	☒	☐
Providing clear rules that ensure the continuity of redemption rights (reserves are safeguarded for the benefit of token holders and are ring-fenced in insolvency, giving these holders an exclusive claim against those assets) in case of insolvency of the issuer	☐	☐	☐	☐	☒	☐
Establishing a dedicated resolution regime for EMIs issuing EMTs	☒	☐	☐	☐	☐	☐
Allowing emergency liquidity support / lender-of-last-resort (LOLR) facilities for EMIs issuing EMTs	☐	☐	☐	☐	☒	☐
Others	☐	☐	☐	☐	☐	☐

Please explain your ratings in question 25, including potential benefits, risks, or implementation challenges:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Access to central bank reserve account: We strongly support access for EMT issuers to central bank reserve accounts. Holding reserve assets directly with central banks would dramatically improve the risk profile of issuers and issued tokens. It would eliminate counterparty and concentration risk in relation to commercial banks providing issuers with banking services. The much reduced exposure to commercial banks would also significantly reduce the interconnectedness and hence the risk of contagion across the financial system.

Emergency liquidity support / lender-of-last-resort (LOLR) facilities: Complementing access to central bank reserve accounts by central bank LOLR facilities would improve the risk profile of issuers even further. Emergency liquidity support would help enormously in situations of market stress. It would be very effective in preventing and/or calming down market panic resulting in potentially dangerous price fluctuations.

Ring-fencing of reserves in insolvency: We also fully support ring-fencing of reserves in insolvency but tend to believe that the current approach under the applicable EMD2 already effectively amounts to ring-fencing.

Resolution regime for EMT-issuing EMTs not warranted: Given the existing requirements regarding recovery and redemption plans we do not see at present a need for a dedicated resolution regime, all the more since it may create unhelpful complexities and duplication with the existing requirements and applicable insolvency frameworks.

Review of prudential requirements: We note that the mitigation of systemic risk achieved by the proposed measures would have to give rise to a thorough review of the current prudential requirements and their calibration. Given the much reduced individual and system-wide risks, the current regulatory burden for issuers and issued tokens would need to be reduced significantly, in particular for issuers classified as significant.

Question 26. How appropriate is it to require EMT-issuing EMTs to hold 30-60% of their reserve assets in bank deposits?

- ☒ 1 - Not at all appropriate / desirable
- ☐ 2 - Slightly appropriate / desirable
- ☐ 3 - Moderately appropriate / desirable
- ☐ 4 - Mostly appropriate / desirable
- ☐ 5 - Highly appropriate / desirable
- ☐ Don't know / no opinion / not applicable

Please explain your ratings in question 26 and add any suggestions for recalibration or alternative approaches:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

30/60% deposit floor to be abolished: The current deposit floor of 30% (for non-significant issuers) and 60% (for significant issuers) is misconceived, increases issuers' credit and concentration risk exposure in relation to commercial banks providing banking services and, by amplifying systemic risks, runs counter the very

objective of MiCA (for further details see our response to question 15). As mentioned before, even the EBA has flagged major issues regarding issuers' liquidity, and credit-risk as well as systemic risks due to interconnectedness and system-wide contagion.

2.8 Global stablecoins arrangements and interactions with other regulatory frameworks

Global stablecoins are stablecoins that have a wide existing or potential reach and use across multiple jurisdictions.

Question 27. What are the potential benefits of global stablecoins for different use cases?

For each use case below, please indicate on a scale of 1 to 5 how beneficial global stablecoins would be for EU holders:

	1 (not beneficial)	2 (moderately beneficial)	3 (neutral)	4 (rather beneficial)	5 (very beneficial)	Don't know - No opinion - Not applicable
International payments (cross-border remittances or transfers,)	☐	☐	☐	☐	☒	☐
Intra-EU payments (domestic and cross-border EU payments)	☐	☒	☐	☐	☐	☐
Crypto trading and liquidity provision	☐	☐	☐	☐	☒	☐
Retail payments - Person to Person	☐	☒	☐	☐	☐	☐
Retail payments - Person to Business (POI payment to merchants including e-commerce)	☒	☐	☐	☐	☐	☐
Retail payments - Business to Business	☐	☒	☐	☐	☐	☐
Settlement of tokenised financial instruments (e.g., digital bonds, securities)	☐	☐	☐	☒	☐	☐
Corporate treasury management	☐	☐	☐	☐	☒	☐

Access to programmable or smart contract-based financial services (DeFi applications)	☐	☐	☐	☐	☒	☐
Provision of financial services in underserved regions in the world	☐	☐	☐	☐	☒	☐
Other potential use cases	☐	☐	☒	☐	☐	☐

Please specify to what other potential use case(s) you refer in your answer to question 27:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Please explain your answers to question 27:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Facilitating access for EU users to global stable coins via multi-issuance models is strategically the only viable option. Global stable coins are not any longer just another product or service. Already the current scale of global stable coin rails make them effectively an increasingly critical global infrastructure for global trade. Blanket prohibition of multi-issuance would cut off EU users from that infrastructure and most likely inflict significant harm to the EU economy and its competitive position in global markets. At the same time it would not shield it from risks. It would drive activities off-shore, hence outside the perimeter of EU regulation and supervision thus depriving EU users of the protection EU regulation can offer. Effectively it would also cut off EU regulation and regulators from having a say in the regulation and supervision of global digital asset markets.

Cross-border payments and remittances: This is the area where global stablecoins deliver their most transformative value for EU users. The consequences of a blanket prohibition are in this domain the most severe.

US Dollar Dominance: The US dollar remains the dominant currency in international trade, finance, and cross-border settlement. Therefore, the overwhelming majority of global stablecoin transaction volume today is denominated in USD.

Unmatched Speed and Cost-Efficiency: EU businesses trading globally - particularly with counterparties in emerging markets, Asia, or the Americas - increasingly rely on USD-denominated stablecoin rails because traditional correspondent banking cannot compete on speed or cost. Similarly, EU residents depend on these USD-denominated corridors to send remittances to family members in third countries.

Euro-Denominated Options Lack Scale: Restricting access to global stablecoins would not lead EU users to shift to euro-denominated alternatives, as euro stablecoins do not yet exist at the necessary scale or geographic reach.

Risk of Global Isolation: Blocking these rails would exclude the EU from the world's most liquid and widely accepted payment infrastructure, cutting off EU businesses from global payment flows precisely as stablecoin-based settlement becomes mainstream in international commerce.

A Precondition for Global Digital Economy Participation: Ensuring a viable regulatory pathway for global stablecoins through EU-licensed and compliant intermediaries is an absolute requirement for EU users to participate in the global digital economy.

Strategic Disadvantage for Corporate Treasuries: EU multinationals and internationally active SMEs rely on stablecoin rails to optimize intraday cash positions, hedge currency exposure, and move value across borders in minutes rather than days. Restricting access would place EU firms at a structural disadvantage compared to global competitors operating under more permissive regulatory frameworks.

Question 28. How important is it for EU users (both people and businesses) to be able to access global stablecoins via EU-based and licenced issuers and CASPs?

	1 (not important at all)	2 (moderately important)	3 (neutral / no clear preference)	4 (rather important)	5 (highly important)	Don't know - No opinion - Not applicable
EU-based and licenced stablecoins Issuers	☐	☐	☐	☐	☒	☐
EU-based and licenced CASPs	☐	☐	☐	☐	☒	☐

Please explain your answers to question 28:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Regulated access to global stablecoins is crucial for EU users:

EU businesses need global stablecoins for cross-border payments and treasury management,

EU consumers need them to access global crypto-asset markets and make cross-border payments.

Not allowing access to global stablecoins would cause serious harm to the EU economy and to the EU's internal crypto asset market. EU-issued EMTs could not remedy this.

Threat to the success of MiCA: Without regulated EU access channels, EU businesses and consumers would either be completely cut off from global market liquidity and international payment flows or be forced to turn to unregulated offshore platforms. Both scenarios would seriously jeopardise the success of MiCA. EU users would be deprived of the consumer protection rights and local entitlements (such as redemption rights, disclosure requirements, and governance standards) that MiCA is intended to guarantee for major global stablecoins under the multi-issuance model. Furthermore, the objective of MiCA to

Provide an early regulatory framework to promote crypto asset activities in the EU, and

Establish the EU internal market as a well-regulated global hub for crypto assets
would be undermined.

Question 29. Based on your experience and assessment, how significant are the following risks associated with a multi-issuance model^[3] of global stablecoins for the EU financial system?

³Under a multi-issuer model, the global stablecoin issuer operates subject to the requirements of the EU MICA framework for stablecoins offered or held in the EU (EU establishment, EU reserve requirements, redemption obligations, EU supervision) and the requirements of third country jurisdictions, if any, where it also issues or offers stablecoins. Protection of EU holders relies on EU prudential, operational, and consumer protection safeguards set out in MICA.

	1 (irrelevant)	2 (rather not relevant)	3 (neutral)	4 (rather significant)	5 (very significant)	Don't know - No opinion - Not applicable
Run risk and reserve depletion in the EU (e.g. cross-border migration of tokens during stress leading to sudden increase of redemption pressure on EU issuers)	☐	☐	☒	☐	☐	☐
Unbalanced reserve distribution across jurisdictions (e.g. fragmentation of reserves between EU and non-EU entities)	☐	☐	☒	☐	☐	☐
Cross-border reserve transfer restrictions (e.g. third-country limitations on moving reserves during stress events)	☐	☐	☒	☐	☐	☐
Regulatory arbitrage due to fungibility of tokens (e.g. operation across regimes exploiting differences in prudential or conduct rules)	☒	☐	☐	☐	☐	☐

Supervisory monitoring and data-tracking challenges (e.g. difficulty measuring EU-holdings, especially holdings in self-custodial wallets)						
Risks resulting from the stablecoin issuer home jurisdictions not having prudential or conduct rules that meet internationally accepted standards or that are significantly lower than those set out in EU law.						
Others						

Please explain the reasoning behind your ratings in question 29. Describe the nature and importance of these risks, the underlying assumptions, market dynamics, or regulatory factors informing your view:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

The risks associated with multi-issuance structures can be managed through targeted regulatory and operational safeguards. Key areas where current safeguards would benefit from targeted strengthening are addressed below. We also reiterate that abolishing the current regulatory framework for multi-issuance structures — in other words, implementing a blanket ban — would expose the EU economy to significant risks and most likely cause significant harm (see our responses to questions 27, 28 and 30). It would drive activities and associated risks offshore, outside the scope of EU regulation and supervision. EU businesses and other users would be forced to resort to tokens that circulate globally without the protections, redemption rights or supervisory oversight provided by MiCA. This would create the very offshore financial stability risks that the European Commission's impact assessment warned against.

On balance the risks and the likely harm to the EU economy associated with a blanket ban of multi-issuance structures would by far outweigh the residual risks associated with allowing multi-issuance subject to the risk-mitigating safeguards set out below.

Active Run Risk Mitigation: Sudden cross-border redemption pressures can be mitigated using daily information on token holdings shared between CASPs and issuers (under MiCA Article 22(7)). The shared data allows the reserve to be continuously calibrated to the actual EU exposure. Additionally, dynamic reserve rebalancing using near-instant book transfers at shared global credit institutions ensures EU liabilities remain covered also under stress.

Restricted EU Redemption Rights: Restricting the right to redeem stablecoins from the EU entity strictly to verified EU residents (established via standard KYC/AML) prevents non-EU holders from accessing the EU reserve and engaging in cross-border redemption arbitrage during crisis events (see also our response to question 37).

CASP Verification Delays for Anomalous Flows: Permitting issuers to build in a temporary verification delay when a CASP attempts to redeem significantly more tokens than reported in its daily holdings submission removes the incentive and ability for global CASPs to exploit differences between global issuing entities.

Ring-Fenced Insolvency Plans: In a global wind-down, MiCA-mandated redemption plans must ring-fence the EU reserve exclusively for EU claimants. Claims are verified against a snapshot of holdings at the trigger date, backed by formal cooperation agreements between EU Competent Authorities and foreign supervisors (see also our response to question 39).

Proportionate supervisory powers: Under MiCA Article 58, competent authorities already have the discretion to manage multi-issuance risks without a ban. They can proportionally increase minimum own-funds requirements (e.g., from 2% to 3%+), mandate specific liquidity stress tests, and increase the frequency of reserve audits.

Protection of monetary sovereignty: MiCA Articles 22–24 enforce hard caps (1 million daily transactions and a €200 million daily volume limit) to prevent foreign-currency stablecoins from scaling as domestic payment instruments. Furthermore, Article 24 and Article 104 grant the ECB and EBA the authority to restrict issuance or withdraw authorization if monetary sovereignty or payment system integrity is threatened.

Question 30. MiCA does not currently prohibit multi-issuer models, nor does the EU have jurisdiction to determine how third country entities, that also have licensed entities in the EU, should be regulated in third country jurisdictions.

Given your assessment of the advantages or disadvantages of global stablecoins and multi-issuance models, do you think that MiCA should continue to be open to multi-issuance models?

- ☒ Yes, the multi-issuance model for stablecoins should be permitted under MiCA
- ☐ No, MiCA should disallow the multi-issuance model for stablecoins
- ☐ Don't know / no opinion / not applicable

Please explain the reasons for your response to question 30 and describe the potential implications for the EU market and relevant stakeholders:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

As set out in our responses to questions 27 and 28 the advantages of facilitating EU access to global stablecoins via MiCA-compliant multi-issuance models outweigh by far any related disadvantages or risks. A blanket prohibition would entail serious harm to EU users and the EU economy. While failing to effectively contain relevant risks, it would cut off the EU from the rapidly evolving global digital asset markets, and the increasingly important infrastructure that global stablecoins provide for global trade. Moreover, it would also effectively cut off EU regulation and supervision from having a say in the regulation and supervision of global crypto-asset markets. Subject to some targeted strengthening the existing regulatory safeguards are entirely sufficient to manage and mitigate the risks associated with multi-issuance structures (for further details see our responses to questions 29 and 36 to 39).

Question 31. MiCA considers that all EMTs that are pegged to or denominated in an EU currency are offered to the EU and therefore fully subject to MiCA issuer requirements.

a) Does this approach continue to be justified in view of market developments?

- ☐ Yes
- ☒ No
- ☐ Don't know / no opinion / not applicable

b) Does it discourage the international role of the euro?

- ☐ Yes

- ☒ No
- ☐ Don't know / no opinion / not applicable

Please explain your answer to question 31 a) & b):

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 32. What are the advantages and disadvantages of this approach for the EU and the international role of EU currencies?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Advantages:

The approach underlying Article 48 (1) and (2) MiCA effectively extends the full application of MiCA to all tokens pegged to or denominated in euro or another EU currency: In other terms such tokens cannot be issued legally from outside the EU and, if illegally issued in a 3rd country, EU-authorized CASPs are prohibited from providing related services. Accordingly, offshore issuance of such tokens is illegal and anyhow also commercially unviable.

“Trademark” benefit: This means that users can safely assume that these tokens are fully subject to MiCA. It effectively establishes denomination in an EU currency as some form of “trademark” guaranteeing that these tokens are issued, regulated and supervised in the EU benefiting from the full range of regulatory safeguards MiCA offers. Which can be perceived as an advantage. It does, however, compromise the international role of the euro and EU currencies since tokens denominated in these currencies cannot be issued outside the EU.

Disadvantages:

Regulatory constraints undermine use of EMTs denominated in euro or another EU currency in international trade: Since subject to the full range of MiCA requirements EMTs denominated in euro or another EU currency also have to comply with the specific location-specific requirements under Article 54(1) of MiCA. This provision stipulates that at least 30% of funds received in exchange for EMTs - 60% if classified as significant - must be deposited in separate accounts with credit institutions. According to the definition in Article 3(1)(28) of MiCA, these are credit institutions authorised under Directive 2013/36/EU, and must therefore be incorporated in the EU. The regulatory constraints imposed by the combination of mandatory EU issuance (Articles 48(1) and (2) of MiCA) and EU bank deposit floors (Article 54 of MiCA) act as a major operational hurdle for the use of these EMTs in international trade. If, for instance, a business outside the EU wants to redeem EMTs denominated in euro or another EU currency, which it has received as payment in some trade with an European counterparty, the processing of the requested redemption presupposes that the underlying reserve assets are wired outbound from the EU via traditional correspondent banking relationships. All efficiency gains stablecoins normally offer in cross-border payments, in particular, speed and reduced cost, are lost if EMTs denominated in euro or another EU currency are being used.

Competing stablecoins: In contrast, frameworks like the U.S. GENIUS Act permit stablecoin issuers to hold a portion of their reserve liquidity internationally for the purpose of meeting local redemptions promptly and cheaply. Accordingly, due to the regulatory constraints imposed by the combination of Articles 48(1) and (2) and 54 of MiCA, EMTs denominated in euro or another EU currency will never be able to compete with stablecoins denominated in other currencies. These regulatory constraints will, therefore, significantly damage the international role of the euro.

Recommended Fix: To maintain the competitiveness of EU-issued EMTs denominated in euro or another EU currency and to support the euro's global status, MiCA should be amended to allow a defined portion of reserve liquidity to be held outside the EU. E.g. by
Establishing a maximum cap on non-EU bank deposit holdings.
Limiting offshore deposits specifically to EU bank subsidiaries or recognized correspondent banks of EU-authorized institutions.

2.9 Interaction with the EU's economic security and the international role of the euro

Question 33. To what extent do you believe that euro-denominated stablecoins can contribute to the following objectives?

	1 (not at all)	2 (to a small extent)	3 (to a moderate extent)	4 (to a large extent)	5 (to a very large extent)	Don't know - No opinion - Not applicable
Strengthening EU payment autonomy in retail payments	☐	☒	☐	☐	☐	☐
Strengthening EU payment autonomy in wholesale payments	☐	☐	☐	☒	☐	☐
Enhancing the international role of the euro	☐	☐	☐	☐	☒	☐

Please explain your answers to question 33:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Euro-EMTs have considerable potential to enhance the international role of the euro in

- Cross-border digital payments,
- Tokenised financial markets and
- Wholesale settlements.

This presupposes, however, that the regulatory framework ensures global competitiveness and enables worldwide scaling up. Also in this regard global supervisory cooperation and clear regulatory pathways for global tokens are absolutely crucial.

In contrast, it appears unlikely that euro EMTs will see significant use in domestic retail payments in the near future.

2.10 Current safeguards in MiCA

Question 34. MiCA provides safeguards to mitigate the risks of multi-issuance stablecoins.

For each safeguard listed below, please indicate how effective you consider it to be:

	1 (not at all effective)	2 (slightly effective)	3 (moderately effective)	4 (rather effective)	5 (highly effective)	Don't know - No opinion - Not applicable
Restriction of widely used ARTs and EMTs denominated in a currency that is not an official currency of a Member State (Articles 23, 58)	☐	☐	☐	☐	☒	☐
ECB binding opinion powers on withdrawing authorisation and limit the amounts of ARTs and EMTs (Articles 24(2)(3), 58)	☐	☐	☐	☐	☒	☐
EU establishment requirement for ART and EMT issuers (Article 16)	☐	☐	☐	☐	☒	☐
Reserve location, composition and liquidity requirements for ARTs and EMTs (Articles 36-38, 45, 54)	☐	☐	☐	☐	☒	☐
The powers of competent authorities listed in Article 94, especially to suspend or prohibit the trading of crypto-assets	☐	☐	☐	☐	☒	☐
National supervisory intervention powers (Article 105)	☐	☐	☐	☐	☒	☐
EBA temporary intervention powers (Article 104)	☐	☐	☐	☐	☒	☐

Please explain your answers to question 34:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 35. MiCA requires that the reserves of the EMTs and ARTs issued, offered or held in the EU should be held in the EU.

Can the tokens held in the EU be determined or estimated with sufficient accuracy and frequency?

- ☒ Yes, EU holdings can be determined with sufficient accuracy and frequency
- ☐ Partially, but with some limitations (e.g., delays, estimation challenges)
- ☐ No, current methods are insufficient for reliable compliance
- ☐ Don't know / no opinion / not applicable

Please explain your answer to question 35, including any specific remarks with regard to tokens held in unhosted wallets:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Sufficiently accurate and frequent determination/estimation of tokens held in the EU is possible.

Reliable Tracking of Custodial Holdings: EU token holdings can be reliably determined for assets held in custody by EU-licensed Crypto-Asset Service Providers (CASPs) using the reporting mechanisms under MiCA Articles 22 and 36. This reporting structure successfully covers the vast majority of retail and institutional token holdings.

Pragmatic Reserve Calibration for tokens subject to self-custody (unhosted wallets): It is practically impossible to reliably attribute self-custodied (unhosted) wallet addresses to specific geographic jurisdictions. Because of this inherent technological limit - acknowledged by the EBA in its related draft RTS - regulators must rely on proxies and estimations to calculate non-custodial holdings on a „best-efforts“ basis.

Mandatory dynamic rebalancing mechanism: The ongoing rebalancing of the reserves will ensure that sufficient reserves commensurate with the EU-specific circulation of tokens will be available for redemption requests at all times.

Question 36. Should MiCA redemption rights be explicitly limited to EU holders only?

- ☒ Yes
- ☐ No
- ☐ Don't know / no opinion / not applicable

Please explain your answer to question 36, specifying what criteria should be used to determine who qualifies as an EU holder, and providing a rationale for your proposed approach:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

We support limiting redemption rights to EU holders only.

Effective operational safeguard: Such limitation would represent a particularly effective operational safeguard for multi-issuance structures. It would ensure full backing of redemption claims of EU users based upon EU-specific reserves held in the EU and subject to EU legislation.

Prevention of arbitrage risks: The strict restriction to EU users would also mitigate the risk of arbitrage transactions between different issuers within a given multi-issuer structure (cross-issuer arbitrage).

Practical implementation feasible: Identification of eligible EU users should be possible based upon KYC and AML procedures and the required checks during onboarding and prior to repayment. It is crucial, however, that there is clarity regarding the eligibility criteria that need to be met to qualify for privileged redemption. In our view, residency is key and privileged redemption should extend to all EU/EEA residents. Further guidance on the application of this criterion may be needed.

2.11 Potential additional safeguards

Question 37. In a multi-issuance model, reserve assets may be located across jurisdictions and legal entities. Concerns have been expressed that in times of market stress, the transfer or rebalancing of reserves between issuers may be delayed or restricted.

Is this concern valid or substantiated in your view?

- ☐ Valid-substantiated
- ☒ Not valid-not substantiated
- ☐ Don't know / no opinion / not applicable

Please explain your answer to question 37:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Multi-issuance of global stablecoins is closely linked to the genuine cross-border nature of DLT-driven innovation of financial products and markets. While not without risk, it ultimately presents regulators once again with the well-known challenge of reconciling beneficial innovation with regulation and effective supervisory

oversight. The enormous benefits that access to global stablecoins through multi-issuance structures offers, as well as the significant harm that a ban would cause, have been set out in detail above (see our responses to questions 28–30).

Comprehensive safeguards are already in place to contain risks related to the rebalancing and swift transfer of reserves. These safeguards ensure that stablecoins circulating locally are backed by reserve assets held locally (for further targeted strengthening of these safeguards see response to question 38 and 39).

Key risks and related safeguards are:

Risk of delays in cross-border rebalancing of reserves can be mitigated: The risk of such delays, that is the risk that in times of market stress delays translate into a local shortfall of reserves can be comfortably reduced. Key regulatory and operational tools include

Daily CASP reporting and dynamic reserve rebalancing to continuously calibrate the EU-side reserve to actual EU circulation,

A targeted CASP-level redemption delay mechanism acting as a circuit-breaker for anomalous outflows, and Jointly stress-tested redemption plans (for additional safeguards see response to question 38 below).

Risks related to the transfer of reserves are not unique and not unknown: Internationally active banking groups rely upon comprehensive intragroup liquidity arrangements requiring swift cross-border transfer of funds and assets.

Close supervisory coordination and cooperation is critical but can draw on ample experience (see also response to question 38 and 39): For many years, regulators have demonstrated effective supervision of international banks and banking groups. This has been achieved through close cross-jurisdictional coordination and cooperation, covering group-wide, cross-border and cross-sectoral business models. It has also involved a wide range of dependencies, including those between separate legal entities with different regulatory statuses. Moreover, multi-issuance structures are eventually just another variant of the fundamental changes in value chains in financial markets that regulators have been facing for at least a decade.

Question 38. How effective would the following possible additional measures be in mitigating such concerns?

	1 (highly ineffective)	2 (rather ineffective)	3 (neutral / uncertain)	4 (somewhat effective)	5 (highly effective)	Don't know - No opinion - Not applicable
Introducing requirements that would favour or strengthen the redemption rights of holders of stablecoins that are genuinely circulating in the EU, as opposed to redemption rights associated with stablecoins transferred to the EU in times of stress to take advantage of MiCA protections (including redemption rights)	☐	☐	☐	☐	☒	☐
Restricting direct redemption rights in the EU to holders who are clients of EU-authorised CASPs, while holders that keep the tokens in un-hosted wallets do not have a MiCA guaranteed redemption right in the EU.	☐	☐	☐	☒	☐	☐
Differentiating redemption rights in crisis situations between retail and wholesale/professional holders	☒	☐	☐	☐	☐	☐
Requiring a dedicated liquidity buffer or additional reserve tranche specifically calibrated to cover short-term redemption spikes in the EU	☐	☒	☐	☐	☐	☐
Strengthening real-time or high-frequency reserve and liquidity reporting to EU competent authorities, including granular disclosure of reserve location and transfer constraints	☐	☐	☐	☒	☐	☐

Establishing binding cooperation arrangements between home and host supervisors to ensure rapid approval and execution of cross-border reserve transfers in stress scenarios						
Others						

Please explain your answers to question 38:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 39. If you referred in your response to question 38 to adjusting redemption rights, please provide any comments on the operational feasibility, legal implications, proportionality, or potential intended or unintended consequences of such amendments the redemption rights in MiCA as listed above or in any other way:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Strengthening of EU-related redemption rights: We fully support limiting redemption rights to EU holders of tokens. As set out before (see our response to question 36), operationally the identification of eligible EU holders is straightforward, since it can draw on existing KYC and AML processes.

Legal restriction in line with MiCA: The general principle of restricted redemption rights is already explicitly referred to in recital 54 of MiCA, which stipulates that „issuers of asset-referenced tokens that are marketed both in the Union and in third countries should ensure that their reserve of assets is available to cover the issuers’ liability towards Union holders.“

No extraterritorial scope: Requiring that EU-specific reserves must be held such as to fully match the tokens circulating and held by EU users and that these reserves must be available exclusively for the redemption rights of EU users does not have any extraterritorial effect. Holders outside the EU are not adversely affected, as they continue to benefit from the global redemption rights attached to the same token outside the EU.

Snapshot procedure for crisis situations: We note that, in a crisis situation, if for example an emergency redemption plan is activated, the operational implementation of the above principle would be helped by a digital snapshot to accurately determine the actual holdings by EU users. Issuers should be required to ensure a digital snapshot is taken immediately before activation of the plan.

Question 40. Do you see merit in introducing an equivalence regime for global stablecoins in the EU?

- ☒ Yes but only if other mitigation measures are not introduced
- ☐ Yes, in addition to mitigation measures
- ☐ No
- ☐ Don't know / no opinion / not applicable

Please provide reasons for your response to question 40, including any perceived advantages or disadvantages of equivalence regimes:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Introducing an equivalence regime (in line with and analogous to the documents referred to in question 40) is highly desirable: Formally recognised equivalence provides the legal grounds for MiCA-compliant distribution in the EU of stable coins issued in the 3rd country jurisdiction recognised as equivalent.

Subject to full reciprocity: The same would apply for access of EU issuers to the equivalent 3rd country jurisdiction and market.

Equivalence and multi-issuance are not mutually exclusive - interplay between equivalence and multi-issuance: In our view, even after the introduction of an equivalence regime, the regulatory framework for multi-issuance structures should still allow for, and be applied to, structures where the other issuer operates from a 3rd-country jurisdiction that is not (yet) recognised as equivalent. In contrast, if, or as soon as, the third-country issuer benefits from recognised equivalence of its home country jurisdiction, the specific multi-issuance safeguards (for instance those addressing reserves and the mandatory dynamic rebalancing of reserve assets) would be superseded by the reserve requirements of the equivalent jurisdiction (see also response to question 41 below). In this regard we also note that the real-life application of the regulatory framework for multi-issuance, including the required close coordination and cooperation between the involved regulators during a transitional period would surely assist the process towards full recognition of the equivalence of the 3rd-country jurisdiction.

Question 41. Equivalence regimes can rely on the third country's regime to various degrees.

How far, in your opinion, should a possible equivalence regime go in terms of relying on third-country regime?

What rights or benefits should EU issuers derive from equivalence of a third country and what rights or benefits in the EU should issuers from an equivalent jurisdiction receive in the EU?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

General principle: Reciprocal reliance on the respective other regime (the 3rd country's regime and MiCA) should extend to all conditions that need to be met

- to obtain authorisation to issue and
- for that authorisation not to be withdrawn.

This would imply relying for all prudential requirements on the respective other regime: including in particular all reserve, capital and liquidity requirements applicable under the 3rd-country regime recognised as equivalent.

Flexibility: However, in line with current practice, equivalence should be introduced in such a way as to allow recognition as equivalent:

- Only partially and/or
- Subject to specific conditions deemed necessary to ensure the protection of EU users in line with EU

standards.

Clear Separation of Liability: Since limited to the regulated activity of issuing, distribution of issued tokens would be fully subject to the respective EU/3rd country regime. Distributors handle local redemptions, but ultimate liability remains with the EU/3rd country issuer.

Close supervisory coordination and cooperation is crucial, in particular, in times of stress, when recovery or redemption plans are being executed or wind-down or insolvency proceedings instigated. This in turn presupposes robust operational arrangements and full implementation in day-to-day supervisory practices.

Question 42. What administrative simplification or burden reduction measures should be considered under titles III and IV and their implementing measures and technical standards?

Do you believe that MiCA level 1 provisions lay down proportionate rules for issuers of EMTs and ARTs?

	1 (strongly disagree)	2 (rather disagree)	3 (neutral)	4 (rather agree)	5 (strongly agree)	Don't know - No opinion - Not applicable
Authorisation of ARTs and EMTs issuers	☐	☒	☐	☐	☐	☐
Prudential requirements	☒	☐	☐	☐	☐	☐
Governance arrangements	☐	☐	☐	☒	☐	☐
Obligations in respect of specific crypto-asset services	☐	☐	☐	☒	☐	☐

Please explain your answers to question 42:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 43. Do you believe that below specified MiCA level 2 acts lay down proportionate and simple-to-apply rules for ART and EMT issuers, taking into account their different size, scope of activity and risk profile?

	1 (strongly disagree)	2 (rather disagree)	3 (neutral)	4 (rather agree)	5 (strongly agree)	Don't know - No opinion - Not applicable
RTS on complaint handling by issuers of ARTs (Article 31(5))	☐	☐	☐	☒	☐	☐
RTS on the minimum content of governance remuneration (Article 45 (7)(a))	☐	☐	☐	☒	☐	☐
RTS on the information to be submitted in an application for authorisation to issue ARTs (Article 18(6))	☐	☐	☒	☐	☐	☐
COM Delegated Act on ART/EMT significance criteria (Article 43 (11))	☒	☐	☐	☐	☐	☐
RTS on own funds for issuers of ARTs and EMTs (Article 35(6))	☒	☐	☐	☐	☐	☐

Please motivate your answers to question 43 and briefly explain what the problems are for your highest-rated issue(s) and suggest how they should be addressed (e.g. legislative clarification, supervisory guidance, industry standards):

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

RTS on own funds (Article 35(6))

Overly rigid, one-size-fits-all capital rules: The RTS apply a static percentage of average reserve assets (2% for standard EMT issuers, rising to 3% for significant EMTs) without any mechanism to lower requirements based on an issuer's actual risk profile. This departs sharply from the EMD2 approach, which allows competent authorities to increase but also to reduce base capital requirements by up to 20%. A proportionate, risk-adjusted and risk-sensitive approach based upon supervisory discretion and regulatory agility within a clearly set legislative frame is needed. A rigid capital figure over-capitalizes low-risk issuers that hold 100% High-Quality Liquid Assets (HQLA) or central bank reserves and use simple redemption structures. Conversely, it risks under-capitalizing operationally complex issuers whose nominal reserve figures conceal higher risk exposures.

Accordingly, the RTS and as appropriate MiCA itself should be amended to set the frame for a flexible, risk-adjusted mechanism analogous to EMD2 and going forward to the read-across of EMD2 requirements into PSD3. This would establish a baseline capital floor while granting regulators discretion to reduce requirements for demonstrably low-risk issuers or increase them where reserve or operational risk warrants.

Delegated Act on significance criteria (Article 43(11))

Disproportionately low significance thresholds: MiCA's quantitative €5 billion significance threshold is set strikingly low when compared to standard financial systemic risk benchmarks. For example, the threshold for direct ECB supervision under the Single Supervisory Mechanism (SSM) is €30 billion in total assets, while the smallest Global Systemically Important Bank (G-SIB) holds a balance sheet of several hundred billion—over 100 times larger than MiCA's trigger. As a consequence the current rules identify tokens as "significant" at a stage of growth where actual systemic impact or contagion risk remains highly implausible. Since the global stablecoin market is already at approximately \$300 billion and growing rapidly, this rigid threshold will automatically sweep in an expanding share of issuers regardless of their individual risk profiles.

Destructive "cliff-edge" effect: This far too low calibration of the threshold is all the more fatal given the consequences of crossing it. Besides triggering a supervisory transfer to the EBA classification as significant entail an abrupt jump in prudential requirements—including doubling the minimum bank deposit reserve ratio from 30% to 60% and inflating own funds requirements—all simultaneously without any gradual transition or supervisory discretion.

Proposed tiered framework: The regime should be revised to raise quantitative thresholds to reflect true systemic relevance, introduce progressive "buckets" (modeled on the BCBS G-SIB framework) so rules scale incrementally with size, and grant the EBA qualitative discretion to override significance classification if actual systemic risk is low (see also our response to question 17).

Question 44. Do issuers identify any need to further standardise reporting requirements for issuers/information flow between CASPs and issuers for the purposes of MiCA?

- ☒ Yes
- ☐ No
- ☐ Don't know / no opinion / not applicable

Please explain your answer to question 44:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Persistent Reporting Inconsistencies: Despite Level 2 specifications regarding templates, CASP data submissions to issuers suffer from major gaps and formatting inconsistencies, making data reconciliation difficult and expensive.

Mandated Standardized Template: To resolve formatting issues, the EBA should mandate a single, machine-readable standard template developed in consultation with industry.

Automated Data Sharing via APIs: For high-frequency and confidential data, CASPs should be required to submit data points directly through issuer-provided API endpoints whenever that option is available.

NCA Involvement to Ensure Compliance: CASP reports should be submitted concurrently to both the issuer and the CASP's NCA. Currently, issuers are forced to act as supervisors by chasing missing data or requesting corrections; involving NCAs directly would enforce compliance and ensure consistent data quality.

PART 3. The appropriateness of the legal framework for crypto-asset service providers (CASPs)

MiCA created a legal framework for crypto-asset service providers. While provisions governing crypto asset service providers have been in operation only since the end of 2024 and a transitional period for service providers that were already on the market is still in place in a number of Member States, a substantial number of crypto asset service providers have now been authorised across a range of Member States and service categories (currently, there are around 170 CASPs listed in the ESMA register – including both authorised CASPs and other entities that have notified to their national competent authorities their intention to provide crypto-asset services. These authorisations or notifications come from 18 different Member States).

This section accordingly seeks stakeholders' feedback on the adequacy of the current scope of crypto-asset services regulated under MiCA and seeks views on the merits of simplification of the framework, any risks not properly accounted for and on the functioning of certain CASP business models in light of MiCA.

3.1 Crypto-asset services

Question 45. Is the list of crypto-asset services as defined in Article 3(16) of MiCA adequate to effectively cover crypto-asset markets and provide sufficient legal clarity for businesses?



Yes

☐ No

☐ Don't know / no opinion / not applicable

Please explain your answer to question 45:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 46. If additional services should be added, what should those be and what requirements should be applied to these services and service providers?

If you believe that certain services should be removed, please specify which ones and why:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Adequacy of Current Service Definitions: The existing list of regulated crypto-asset services is sufficient.
Ambiguity: We do see some practical difficulties regarding the distinction between exchanging crypto-assets (for funds or other crypto-assets) and executing orders. Since these two activities are similar in practice, clarification for instance through formal regulatory guidance would be beneficial.
Staking Services: While staking could be added as a separate crypto-asset service, creating a stand-alone category is in our view not a matter of urgency, since staking is already treated as an ancillary component of custody in most current operational setups.

Question 47. Would the introduction of appropriateness test for the crypto-asset services of reception and transmission, execution and placing of crypto-assets increase the protection for CASP clients, especially retail clients?

☐ Yes

☒ No

☐ Don't know / no opinion / not applicable

Please explain your answer to question 47:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 48. The provision in the EU of crypto asset services covered by MiCA requires that the service provider is authorised under MiCA and complies with its requirements.

Do you have evidence of non-EU authorised crypto asset services providers continuing to offer their services in the EU?

- ☒ Yes
- ☐ No
- ☐ Don't know / no opinion / not applicable

Question 48.1 How do they promote their services in the EU?

What tools would supervisors or enforcement authorities have, or should they have, to stop non-authorised service providers from offering their services in the EU or to EU customers?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Global Accessibility Without Local Promotion: Non-EU regulated CASPs can onboard EU users onto their global platforms, even when they do not actively market or promote their services inside the EU. Since crypto-asset products and related communications in crypto-asset markets are inherently global and borderless, drawing a clear regulatory line allowing to determine where a promotion is aimed at EU users is challenging. The EU regulatory approach regarding the so-called “reverse solicitation” exemption is in our view extremely difficult to police and enforce, not least since it is targeted at 3rd country firms operating outside the EU perimeter.

Strategic Policy Goal for EU policymakers: Given these difficulties we encourage EU policymakers to develop a regulatory approach and framework providing a recognized regulatory status without full application of MiCA for as many major global CASPs—and as much global market share—as possible.

3.2 Prudential requirements for CASPs

Article 67 of MiCA provides that prudential safeguards for crypto-asset service providers shall be equal to an amount or at least the higher of an amount of permanent minimum capital or one quarter of fixed overheads of the preceding year, reviewed annually.

Question 49. Is the prudential regime for crypto-asset service providers appropriate to capture the risks associated with the provision of crypto-asset services, or would it be warranted to adjust the prudential stance, e.g. by aligning it with the requirements for own funds applicable to investment firms (including K-factors) that provide services that are broadly similar?

- ☒ It is appropriate to capture the risks associated with the provision of crypto-asset services
- ☐ It would be warranted to adjust the prudential stance
- ☐ Don't know / no opinion / not applicable

Please explain your answer to question 49:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 50. Is the amount of minimum capital provided for each class of CASP listed in Annex IV of MiCA adequate or should it be recalibrated?

Please rate each minimal requirement on a scale from 1 to 5, where:

- **1 = Significantly decreased (much lower than current MiCA requirements)**
- **2 = Somewhat decreased (moderately lower than current MiCA requirements)**
- **3 = Kept roughly as is (current MiCA calibration is broadly appropriate)**
- **4 = Somewhat increased (moderately higher than current MiCA requirements)**
- **5 = Significantly increased (much higher than current MiCA requirements)**

	1 (significantly decreased)	2 (somewhat decreased)	3 (kept roughly as is)	4 (somewhat increased)	5 (significantly increased)	Don't know - No opinion - Not applicable
Minimum initial capital for Class 1 (EUR 50.000)	☐	☐	☒	☐	☐	☐
Minimum initial capital for Class 2 (EUR 125.000)	☐	☐	☒	☐	☐	☐
Minimum initial capital for Class 3 (EUR 150.000)	☐	☐	☒	☐	☐	☐



Please explain your answers to question 50, indicating, if necessary, how the amount of minimum capital should it be recalibrated:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

3.3 Multi-function groups

MiCA recognises and supports multi-function groups in which issuers, crypto-asset service providers (CASPs) may provide multiple MiCA-scope crypto-asset services, or may also carry out other types of financial activity, based on proper governance and management of the conflicts of interest this may generate.

Question 51. Should the current approach be maintained or should there be enhanced oversight and coordination in relation to entities that in addition to providing crypto-asset services, offer (1) other unregulated services or (2) other types of regulated services, (3) a combination of crypto-asset services? What kind of action would be appropriate?

- ☒ The existing approach should be maintained
- ☐ There should be enhanced oversight and coordination in relation to such entities
- ☐ Don't know / no opinion / not applicable

Please explain your answer to question 51:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Depending on their activities, CASPs may already be subject to multiple EU licensing and regulatory frameworks. Adding further layers of legislation would be counterproductive all the more since, as a matter of principle, proportionality and some discretionary leeway for regulators are an integral element of all EU regulation. If legislation is to be reviewed, it should be with a view to ensure sufficient regulatory agility allowing swift and proportionate supervisory responses. Crypto-asset markets remain highly dynamic and regulators need to exercise discretion and develop case-by-case, risk-adjusted supervisory practices that are proportional to the specific risk profile of individual firms and their business activities.

3.4 Reporting

Apart from the obligation to report any reasonable suspicion regarding an order or transaction where there might exist circumstances indicating that market abuse has been committed, is being committed or is likely to be committed, there are no formal reporting obligations for CASPs in MiCA.

Question 52. Should CASPs report regularly their activities?

	Yes	No	Don't know - No opinion - Not applicable
Direct holdings of crypto-assets by CASPs	☐	☒	☐
Large exposures to derivatives with crypto-assets as the underlying asset	☐	☒	☐
Volumes of leveraged contracts and the extent to which leverage is actually used on trading platforms	☐	☒	☐
Information on counterparty risk	☐	☒	☐

Please explain your answer to question 52:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

3.5 Environmental and sustainability reporting

MiCA strengthens transparency on the environmental impact of crypto-assets. It does so by

- requiring white papers to contain information on the main adverse impacts on the climate and other environment-related adverse impacts of the consensus mechanism used to issue the crypto-asset
- requiring CASPs to make that information prominently available for each crypto-asset where they provide services

Question 53. Based on your experience to date, how do you assess the current environmental/sustainability disclosure regime under MiCA (including the relevant Level 2 RTS)?

- ☐ Fully appropriate and proportionate

- ☐ Broadly appropriate, with limited areas for clarification
- ☒ Partially appropriate, but improvements could be considered
- ☐ Not appropriate
- ☐ Don't know / no opinion / not applicable

Please explain your answer to question 53:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Progress via Level 2 RTS: We welcome the Level 2 Regulatory Technical Standards (RTS), which help reduce the significant reporting burden and related compliance costs compared to MiCA's original disclosure requirements. However, for the targeted end-users the sustainability section in crypto-asset white papers is still overly complex and too long. In its current form it represents excessively complex disclosure that eventually may well run against the very objective of transparency since it fails to assist end-users in exercising informed market discipline. A single, clearly presented data point would do significantly more to inform users and businesses than the current approach of disclosing multiple approximative data points derived from complex and often contested methodological heuristics.

Duplicative Compliance Costs: Moreover, in practice, the majority of issuers and CASPs outsource sustainability disclosures for the exact same underlying assets to the same small pool of third-party data vendors. The costs across the industry are significant without any gain in depth, breadth and quality of the information provided to end users.

To address these issues we strongly recommend reforms:

Single indicator disclosure: Disclosures should be simplified to a single indicator such that information to be included in white papers would focus primarily on electricity consumption as the primary and most user-relevant environmental indicator complemented as appropriate by a simple traffic-light rating system (green / amber / red) calibrated to actual consumption levels, and

Central ESMA Data Publication: ESMA should set up centralized data publication based on a direct contractual relationship between ESMA and third-party data providers generating centrally published sustainability metrics for the top 50 to 100 crypto-assets by market capitalization. Issuers and CASPs could then reference this audited, centralized dataset rather than contracting 3rd party data providers independently. ESMA could fund this centralized service through modest fees on major issuers and CASPs. This approach would have three core benefits:

Cross-industry harmonization,

Reduced compliance burden for smaller market participants, and

Higher credibility of ESG data.

3.6 Other issues

Question 54. Given that crypto-asset service providers are entities subject to the regulatory framework of the Digital Operational Resilience Act (DORA), are there any additional issues/challenges that need to be addressed in relation to cybersecurity?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Within the comprehensive regulatory framework set by DORA we do not believe that CASPs' exposure to risks related to cybersecurity calls for more specific requirements. We acknowledge, however, that CASPs' risk profile regarding cybersecurity threats, the understanding and management of these risks as well as supervisory practices responding to cybersecurity risks and related risk management standards in the market will evolve and over time may suggest turning supervisory expectations into regulatory requirements.

Question 55. The Payment Services Directive has been substantially reviewed recently, bringing notably more clarity on the interplay between the MiCA rules applying to the transfer services in relation to e-money tokens and the rules under the payment services framework which apply to the provision of payment services. As a result, the PSD3/R will clarify which crypto-asset services may qualify as payment services, including targeted exclusions from the scope of PSD3/R for specific types of transactions /exchanges involving EMTs, and will specify the authorisation process under PSD3 in cases where CASPs are required to obtain a PSD3 authorisation.

Do you consider these changes bring sufficient clarity or are there other issues that remain to be addressed?

- ☐ Yes
- ☒ No
- ☐ Don't know / no opinion / not applicable

Please explain your answer to question 55:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Recent supervisory guidance and the PSD3/PSR package have made welcome progress by creating targeted exclusions for specific crypto-asset transactions and by clarifying authorisation pathways for CASPs requiring a PSD3 license. However,

Unresolved Dual-Licensing Burden: A fundamental issue remains because the custody and transfer of EMTs are still classified as payment services under PSD3/PSR. Accordingly, CASPs offering EMT custody or transfer must obtain both a MiCA authorisation and a payment services authorisation. The resulting dual-licensing effectively requires costly and burdensome duplicate capital reserves, governance frameworks, supervisory relationships, and compliance infrastructure for what is economically a single integrated service. This dual-licensing requirement runs against the core regulatory principle that a single economic activity should be covered by a single regulatory framework (EBA: "one economic activity, one regulatory framework").

Legislative Fix: The issue needs to be addressed as a matter of urgency by legislation if deemed necessary:

Explicit Carve-Out: MiCA should be clearly established as the sole applicable regime (lex specialis) for EMT custody and transfer. Introducing an explicit carve-out in PSD3/PSR is one option. Clarification in MiCA

confirming that MiCA authorisation is sufficient, is another option.

Exhaustive EMI Licensing: Alternatively, consideration should be given to supervisory licensing practices clearly stating exhaustive coverage of EMT services by authorisation as an EMI. In our view the character of MiCA as a *lex specialis* taking precedence over the more general regulation of payments is obvious and strongly suggests adopting the proposed exhaustive EMI licensing in supervisory practices.

Risks of Inaction: Failure to resolve this apparent overlap will continue to suppress euro stablecoin issuance and adoption, put EU CASPs at a disadvantage against international competitors operating under streamlined regimes, and undermine the EU's goal of becoming a premier jurisdiction and global hub for regulated stablecoins.

Question 56. Do MiCA provisions governing crypto asset service providers sufficiently allow, or unduly restrict, access for EU consumers and investors to non-EU and global crypto asset trading and liquidity pools?

- ☒ Yes
- ☐ No
- ☐ Don't know / no opinion / not applicable

Question 56.1 What are the advantages and disadvantages of focusing on EU liquidity or full access to global liquidity?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Also in this regard MiCA's cutting off the EU from global crypto-asset markets will cause considerable harm to the wider EU economy, crypto-asset markets and EU end users. Under the current approach, access for EU consumers and investors to global crypto-asset trading and liquidity pools is unduly restricted, with material consequences for the quality, cost, and transparency of trading for EU users:

Regulatory barriers impacting multilateral trading venues: Under MiCA, licensing, operational, and governance mandates for multilateral trading platforms are far more burdensome than those for bilateral brokers or OTC dealers. As a consequence, in practice, a majority of EU exchanges have opted to operate as bilateral broker or execution venue that execute trades on behalf of clients, rather than as multilateral trading platform that bring buyers and sellers together directly. Moreover and even more importantly, shared order books with global trading platforms are prohibited for EU trading platforms. In combination these regulatory impediments result in the bilateral broker model being the path of least regulatory resistance.

Increased Intermediary Friction, Expenses, Reduced Transparency and Opaque Price Formation: Outcomes for EU crypto-asset markets and end users in particular are clearly suboptimal. Being forced to go through a costly, additional intermediary layer, EU users are cut off from the deeper global markets, which have deeper liquidity pools and better and more transparent price-finding mechanisms. EU bilateral brokers must pull liquidity from major external venues, adding their own markups or spreads on top of wholesale rates. While multilateral venues enable transparent market-wide price discovery through real-time bid-ask spreads, bilateral broker platforms present aggregated prices that blend venue costs and broker fees without itemized breakdowns. As a result, EU consumers face higher total trading costs alongside reduced pricing visibility.

Competitive Disadvantage for EU Consumers and CASPs: The resulting competitive disadvantages for both EU end users and EU based CASPs relative to their global peers are obvious. For the latter, MiCA's overly restrictive regulatory approach makes effective competition with non-EU platforms impossible.

Equivalence Regime for Direct Global Order Routing: Also in this regard legislative reform to open access to

global crypto-asset markets is needed as a matter of urgency. As for issuing stablecoins, an explicit equivalence or recognition framework for non-EU multilateral trading venues that meet high regulatory standards should be introduced in MiCA. Under that regime, EU-authorized CASPs should be allowed to route orders directly into globally liquid order books. This would deliver the same depth of liquidity, price efficiency, and tight spreads to EU consumers while upholding MiCA's core consumer protection and market integrity principles.

Question 57. Do you believe that the below specified groups of MiCA level 1 provisions lay down proportionate and simple-to-apply rules for CASPs, taking into account their different size, scope of activity and risk profile?

	1 (strongly disagree)	2 (rather disagree)	3 (neutral)	4 (rather agree)	5 (strongly agree)	Don't know - No opinion - Not applicable
Authorisation of crypto-asset service providers	☐	☐	☐	☒	☐	☐
Prudential requirements	☐	☐	☐	☒	☐	☐
Governance arrangements	☐	☐	☒	☐	☐	☐
Obligations in respect of specific crypto-asset services	☐	☒	☐	☐	☐	☐
Other Title V rules	☐	☐	☒	☐	☐	☐

Please explain your ratings in question 57 and suggest how rules could be made simpler and more proportionate (e.g. legislative clarification, supervisory guidance, industry standards):

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 58. Do you believe that below specified MiCA level 2 acts lay down proportionate and simple-to-apply rules for CASPs, taking into account their different size, scope of activity and risk profile?

	1 (strongly disagree)	2 (rather disagree)	3 (neutral)	4 (rather agree)	5 (strongly agree)	Don't know - No opinion - Not applicable
RTS on complaint handling for CASPs (Article 71(5))	☐	☐	☒	☐	☐	☐
RTS on offering pre-trading and post-trading data to the public (Article 76(16)(a))	☐	☐	☒	☐	☐	☐
RTS on content and format of order book and records to be maintained (Article 76(16)(b))	☐	☒	☐	☐	☐	☐
RTS on records to be kept of all crypto-asset services, activities, orders and transactions undertaken (Article 68 (10)(b))	☐	☒	☐	☐	☐	☐
RTS on the continuity and regularity in performance of crypto services (Article 68 (10)(a))	☐	☐	☒	☐	☐	☐

Please explain your ratings in question 58 and suggest how rules could be made simpler and more proportionate:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

PART 4. Policy areas beyond the current scope of MiCA

The following sections seek feedback from stakeholders on these areas, as well as some additional topical issues that are not currently directly regulated by MiCA

4.1 Decentralised finance

This section refers to decentralised finance (DeFi), understood as software programs deployed on blockchains or other types of DLT that operate autonomously without intermediaries and offer financial functionalities such as trading, lending, borrowing or portfolio management. In the broader sense, DeFi also refers to any blockchain-based application, including an application that does have an identifiable intermediary or person exercising control over its operation.

MiCA excludes from its scope 'crypto-asset services that are provided in a fully decentralised manner without any intermediary (MiCA Recital 22: "Where crypto-asset services are provided in a fully decentralised manner without any intermediary, they should not fall within the scope of this Regulation").

This section seeks feedback on whether and how to complement MiCA as regards DeFi considering potential opportunities and challenges.

Question 59. In case you are aware or make use of DeFi currently beyond the regulatory perimeter of MiCA, what are the main services you (would) use and for which of them do you consider they bring benefits compared to similar intermediated digital assets services?

a) Exchange services

- ☐ DeFi applications present **limited interest** and are **moderately used** for this service
- ☒ DeFi applications present **important potential benefits** for this service but their **use remains limited** due to some non-mitigated weaknesses
- ☐ DeFi applications present **important benefits** for this service and are **already significantly used**, despite **important non-mitigated weaknesses**
- ☐

DeFi applications present **important benefits** for this service, they are **already significantly used** and **present limited risks**

- ☐ Don't know / no opinion / not applicable

b) Payments and transactions services

- ☒ DeFi applications present **limited interest** and are **moderately used** for this service
- ☐ DeFi applications present **important potential benefits** for this service but their **use remains limited** due to some non-mitigated weaknesses
- ☐ DeFi applications present **important benefits** for this service and are **already significantly used**, despite **important non-mitigated weaknesses**
- ☐ DeFi applications present **important benefits** for this service, they are **already significantly used** and **present limited risks**
- ☐ Don't know / no opinion / not applicable

c) Trading and investment services

- ☐ DeFi applications present **limited interest** and are **moderately used** for this service
- ☒ DeFi applications present **important potential benefits** for this service but their **use remains limited** due to some non-mitigated weaknesses
- ☐ DeFi applications present **important benefits** for this service and are **already significantly used**, despite **important non-mitigated weaknesses**
- ☐ DeFi applications present **important benefits** for this service, they are **already significantly used** and **present limited risks**
- ☐ Don't know / no opinion / not applicable

d) Lending and borrowing services

- ☐ DeFi applications present **limited interest** and are **moderately used** for this service
- ☐ DeFi applications present **important potential benefits** for this service but their **use remains limited** due to some non-mitigated weaknesses
- ☒ DeFi applications present **important benefits** for this service and are **already significantly used**, despite **important non-mitigated weaknesses**
- ☐

DeFi applications present **important benefits** for this service, they are **already significantly used** and **present limited risks**

- ☐ Don't know / no opinion / not applicable

e) Custody services

- ☐ DeFi applications present **limited interest** and are **moderately used** for this service
- ☐ DeFi applications present **important potential benefits** for this service but their **use remains limited** due to some non-mitigated weaknesses
- ☒ DeFi applications present **important benefits** for this service and are **already significantly used**, despite **important non-mitigated weaknesses**
- ☐ DeFi applications present **important benefits** for this service, they are **already significantly used** and **present limited risks**
- ☐ Don't know / no opinion / not applicable

Please detail the benefits or weaknesses you associate with the use of DeFi applications for these different services in question 59, and the actions you would consider appropriate to optimise these benefits or address the possible issues they raise:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

EMA members observe extensive use of stablecoins (in particular USDC and EURC) as settlement assets in DeFi exchange services (in particular automated market making) and lending/borrowing protocols. Services are provided mainly to institutional and sophisticated users. Key benefits driving these use cases are:

- Possibility of programmable settlement,
- 24/7 availability,
- Composability of applications, protocols, and smart contracts

There are, however, risks related to smart contract vulnerabilities, governance and operational security.

Question 60. What do you consider to be the main risks associated with DeFi?

	1 (strongly disagree)	2 (rather disagree)	3 (neutral)	4 (rather agree)	5 (strongly agree)	Don't know - No opinion - Not applicable
Operational risk	☐	☐	☐	☒	☐	☐
Money laundering and terrorist financing risk	☐	☐	☒	☐	☐	☐
Market abuse	☐	☐	☐	☒	☐	☐
Investor protection risk (information asymmetry, no redress, opacity of functioning)	☐	☒	☐	☐	☐	☐
Financial stability	☒	☐	☐	☐	☐	☐

Please explain your answers to question 60:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Operational risk: in particular smart contract risks and oracle price feed manipulation

Money laundering / terrorist financing: public blockchain pseudonymity vs complete, immutable traceability of on-chain ledger histories, and KYC/AML at fiat gateways (CASPs).

Market abuse risk: exposed to technology-native manipulation practices (e.g. Maximal Extractable Value (MEV) exploitation, automated liquidity pool manipulation).

Investor protection risk: DeFi protocol code, collateral ratios, and transaction logs are transparent and auditable on-chain in real time.

Financial stability risk: DeFi scale remains modest (under 4% of total crypto market cap), in addition over-collateralisation with automated liquidations contains systemic risk.

Question 61. In case you consider the criteria for establishing whether a DeFi application is not fully decentralised not sufficiently clear, which of them should do you consider should be used to assess the degree of decentralisation?

	1 (strongly disagree)	2 (rather disagree)	3 (neutral)	4 (rather agree)	5 (strongly agree)	Don't know - No opinion - Not applicable
Existence of an identifiable intermediary (person or group of persons) providing a crypto-asset service	☐	☐	☐	☒	☐	☐
Presence of control by an identifiable person e or group of persons (e.g. via admin keys) over the key functionalities of a DeFi protocol (e.g. upgradeability of protocol)	☐	☐	☐	☐	☒	☐
Significant concentration of governance power over the key functionalities of a DeFi protocol	☐	☐	☒	☐	☐	☐
Custody of user assets by the DeFi protocol	☐	☐	☐	☐	☒	☐
DeFi protocol code is not open source	☐	☐	☐	☒	☐	☐
Marketing of a DeFi protocol by an identifiable entity or person	☐	☒	☐	☐	☐	☐
Other	☐	☐	☐	☐	☐	☐

Please explain your answers to question 61:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 62. Do you believe that risks to users of fully decentralised DeFi protocols should be indirectly accounted for by MiCA, e.g. by requiring CASPs to conduct due diligence over DeFi protocols they connect their clients with, or in any other way?

- ☒ Yes
- ☐ No
- ☐ Don't know / no opinion / not applicable

Question 62.1 Please specify how should MiCA account for risks from fully decentralised DeFi applications.

For the purpose of this question, certification of a DeFi application should be understood as verifying that it robustly mitigates against smart contract vulnerabilities, operational risk in general and functions in accordance with its publicised performance:

	1 (strongly disagree)	2 (rather disagree)	3 (neutral)	4 (rather agree)	5 (strongly agree)	Don't know - No opinion - Not applicable
CASPs should be able to connect their clients to any decentralised DeFi application, subject to giving appropriate warnings and disclosures on risks	☐	☐	☐	☐	☒	☐
CASPs should be liable for certain types of incidents when they have provided access to the relevant DeFi application and clients have been affected	☒	☐	☐	☐	☐	☐
CASPs should only facilitate connection of their clients to decentralised DeFi applications that are certified and service global (permissionless) liquidity	☒	☐	☐	☐	☐	☐
CASPs should only facilitate connection of their clients to decentralised DeFi applications that are certified and service only verified liquidity (verified pools)	☒	☐	☐	☐	☐	☐

CASPs should only facilitate connection of their clients to decentralised DeFi applications that service global liquidity	☒	☐	☐	☐	☐	☐
CASPs should be required to discontinue or discourage connecting clients to DeFi protocols that are strongly associated with illicit activity based on blockchain analytics	☐	☐	☐	☒	☐	☐
CASPs should not facilitate connection to decentralised DeFi applications	☒	☐	☐	☐	☐	☐
Public bodies should be required, or private organisations incentivised to publish whitelists or blacklists of DeFi protocols based on their risk profile	☐	☒	☐	☐	☐	☐
Other	☐	☐	☐	☐	☐	☐

Please explain your answers to question 62.1, including your reasoning and any suggestions for improvement, recalibration, or alternative approaches:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

As a matter of principle, DeFi protocols should remain unregulated. Regulated CASPs must operate as pathway and to some extent as gatekeeper providing their clients with access to decentralised applications. The CASP as the key intermediary, subject to transparency obligations, is best placed as the point of contact for customers to interact with DeFi protocols. Eliminating this regulated intermediary would not protect EU consumers but instead redirect them to direct, non-custodial access routes with eventually less protection, and less disclosure and guidance for informed decisions. Accordingly:

CASPs should not be prohibited from facilitating access to DeFi applications, as this would remove the regulated intermediary layer without eliminating consumers' access to DeFi. Instead the regulatory approach should focus on proportionate obligations targeted at these access points.

Accordingly, CASPs should be required to provide clear, prominent and meaningful risk disclosures when facilitating access to DeFi applications, thus assisting customers' informed decision-making rather than restricting access. In contrast, CASPs should not be held directly liable for incidents arising from DeFi protocols they do not control, operate or govern; accountability should instead focus on appropriate disclosures and proportionate due diligence.

Mandatory public certification of DeFi protocols should not be a precondition for access. Given the technical complexity and rapidly evolving nature of DeFi applications, industry-led audits and other market-based assurance mechanisms provide a more effective since more flexible approach (see also our response to question 63).

Existing blockchain analytics and application of CASPs' AML/CFT compliance tools can provide a proportionate means of addressing DeFi-based illicit-finance risks without imposing blanket restrictions on access. Given the pace of DeFi developments centralised white- or blacklisting presupposes ongoing monitoring to inform maintenance and timely updates. This approach is, therefore, ineffective and risks disseminating outdated information that can mislead users. More useful market signals would be provided by CASP-level transparency and guidance, including listings maintained by CASPs.

Question 63. Do you support introducing certification schemes for DeFi protocols and smart contracts?

- ☐ Yes, for all DeFi protocols and smart contracts providing any of the crypto-assets services defined under MiCA, and possibly also other services not in MiCA's scope such as lending and borrowing
- ☐ Yes for the DeFi protocols and smart contracts providing some of the crypto-assets services defined under MiCA
- ☒ No
- ☐ Don't know / no opinion / not applicable

Please explain your answer to question 63:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Mandatory certification schemes for DeFi protocols or smart contracts should not be introduced. Given the technical complexity and rapidly evolving nature of DeFi, regulators are not well placed to develop and maintain the expertise required for ongoing assessments of smart contract security, protocol architecture and liquidity design. Regulatory certification would also have to address the problem of exposing certifying bodies to potentially significant liabilities where certified protocols subsequently experience failures or exploits.

Even if it were possible to overcome the challenges set out before, regulatory certification would still most likely Create a false sense of security, as even audited protocols can remain exposed to vulnerabilities and other risks, and thus

Result in reliance on regulatory discipline jeopardising market discipline as exercised by (regulated and unregulated) market participants.

In addition, it may also

Create high barriers to entry,

Favour established protocols and, as a consequence

Constrain innovation and competition.

At least at this stage a voluntary, industry-led approach based on reputable smart contract audits, transparent publication of audit results and market-based assessment is the better alternative. Regulatory requirements should rather focus on regulated intermediaries such as CASPs at the point of client access.

Question 64. Which of the following statements about potential certification schemes of DeFi protocols do you agree with?

	1 (strongly disagree)	2 (rather disagree)	3 (neutral)	4 (rather agree)	5 (strongly agree)	Don't know - No opinion - Not applicable
Instead of a full CASP licence, DeFi protocols that are not fully decentralised should be required to obtain a certification before or soon after making the protocol available to the public	☒	☐	☐	☐	☐	☐
To obtain their certificate, DeFi protocols that are not fully decentralised should be required to integrate specific compliance tools in the design of their protocols	☒	☐	☐	☐	☐	☐
DeFi protocols and software developers offering the possibility to create and use non-custodial wallets should be required to obtain a certificate before making these wallets available to the public	☒	☐	☐	☐	☐	☐
DeFi protocols and software developers offering the possibility to create and use non-custodial wallets should be incentivised to obtain a certificate	☒	☐	☐	☐	☐	☐

Please explain your answers to question 64:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

The arguments put forward in our response to question 63 against mandatory regulatory certification remain fully valid for all defi protocols and software developers covered in the table above. Any form of 'light-touch' regulation, including certification, as well as some targeted regulation of software (e.g. for self-hosted wallets) or other business-critical technology, is by design limited in terms of reach and effectiveness by design. However, it still incentivises reliance on regulatory discipline at the expense of market discipline. Accordingly, we reemphasise that regulation and its application in ongoing supervisory practices should focus on regulated intermediaries such as CASPs at the point of client access.

Question 65. Which of the following statements about potential certification schemes of DeFi protocols or smart contracts do you agree with?

	1 (strongly disagree)	2 (rather disagree)	3 (neutral)	4 (rather agree)	5 (strongly agree)	Don't know - No opinion - Not applicable
Certificates should be issued by qualified private sector entities	☒	☐	☐	☐	☐	☐
Certificates should be issued by qualified public sector entities	☒	☐	☐	☐	☐	☐
Any interested party (e.g. persons providing connectivity to or participating in governance of DeFi protocols) should have the possibility to ask for the certification of a fully decentralised DeFi protocol	☒	☐	☐	☐	☐	☐
Only fully decentralised DeFi protocols that reach a certain significance (e.g. based on total value locked) should be required to obtain a certificate	☒	☐	☐	☐	☐	☐
CASPs should not be allowed to connect clients with DeFi protocols that are not certified	☒	☐	☐	☐	☐	☐

Please explain your answers to question 65:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

See our responses to questions 63 and 64.

4.2 Staking, lending and borrowing of crypto-assets

This section seeks stakeholders' feedback on staking, lending and borrowing of crypto-assets, currently not addressed in MiCA regulation ([EBA-ESMA joint report on recent developments in crypto-asset markets - January 2025](#)). Staking is the process of immobilising crypto-assets to support the operations of proof-of-stake and proof-of-stake-like blockchain consensus mechanisms in exchange for the granting of validator privileges that can generate block rewards. The provision of staking services often implies that the crypto-assets, or the private keys giving access to them, are held by the staking service provider in custody. Thus, the provision of staking services is ancillary to custody services which are fully covered under MiCA. The provision of staking services therefore requires that the staking service provider is authorised under MiCA to provide custody and administration of crypto-assets on behalf of clients, as set out in Article 75 MiCA. Furthermore, CASPs should obtain an explicit consent from the clients to stake their crypto-assets, as it may have an impact on their clients' ability to access them.

Respondents are asked to provide concrete examples to support answers provided, and, where possible, quantitative and qualitative information.

Question 66. Do you think the current approach whereby staking services are not separately regulated is adequate?

- ☒ Yes
- ☐ No
- ☐ Don't know / no opinion / not applicable

Please explain your answer to question 66:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 67. Do you think that lending and borrowing of crypto-assets should be regulated?

- ☒ Yes
- ☐ No
- ☐ Don't know / no opinion / not applicable

What do you believe should be the main elements of regulatory requirements applicable to lending and borrowing and why?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Lending and borrowing of crypto-assets should be subject to a regulatory framework based upon proportionate safeguards including prudential requirements to address consumer and, once the scale of business activities warrants it, systemic risks.

Key elements of that regulatory framework are:

Mandatory disclosure of terms, collateral requirements, and liquidation conditions;

LTV ratio limits for retail clients to help mitigate excessive collateral and liquidation risks;

Segregation of client assets;

Risk-sensitive capital requirements for lending service providers.

4.3 Non-fungible tokens

Under MiCA Article 2(3), crypto-assets that are unique and not fungible with other crypto-assets (NFTs) are out of the scope of the regulation.

Question 68. In your view, does the current state of the NFT market and the risks and opportunities associated with it justify regulating providers of services related to these tokens?

- ☐ Yes
- ☒ No
- ☐ Don't know / no opinion / not applicable

Please explain your answer to question 68:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

4.4 Prediction markets and perpetual futures

One of the most marked developments in crypto markets since MiCA was adopted is the emergence of DLT-based prediction markets and the volume of trading activity in perpetual futures on crypto-assets.

Prediction markets where parties take a bet on a future development in almost any area, often far removed from financial assets or services, are increasingly conducted on or are structured through DLT, smart contracts and crypto-assets.

Question 69. Do prediction markets present opportunities or risks for EU consumer and investors?

- ☒ Yes
- ☐ No
- ☐ Don't know / no opinion / not applicable

Please elaborate on your answer to question 69:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Prediction markets, if well-designed, can offer efficient price discovery mechanisms. They by effectively aggregate dispersed information and generate probabilistic signals on future events. Across a broad range of economically most relevant future events (e.g. weather events, political and geopolitical developments including electoral outcomes, macroeconomic indicators, commodity and other market prices, etc.) they often offer more accurate forecasts than experts. They may also provide hedging opportunities for sophisticated market participants. If DLT-based additional benefits of these markets include heightened transparency, composability and global accessibility.

Prediction markets can expose to material risks for consumers, particularly where event contracts have gambling-like characteristics. ESMA's public statement "On the application of the national product intervention measures on binary options to event contracts" (ESMA35-243228190-8148, 3 July 2026) confirmed that "event contracts with an event question related to an underlying mentioned in Section C(4) to (10) of Annex I of MiFID II classify as financial instruments". The statement highlights that such contracts may be subject to national product intervention measures prohibiting their marketing, distribution or sale to retail clients.

These and other risks associated with prediction markets warrant careful regulatory consideration

Question 70. Should prediction markets, where they are DLT enabled and facilitated through smart contracts be governed by MiFID or MiCA?

- ☒ By MiFID
- ☐ By MiCA
- ☐ Don't know / no opinion / not applicable

Please explain your answer to question 70:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

The key principles of “substance over form” and “technology neutrality” must apply. Products on DLT-enabled prediction markets that according to their substance qualify as financial instruments fall under MiFIDII (see ESMA’s July 2026 public statement cited above). The full range of MiFIDII requirements applies to these products and the provision of related investment services.

The mere use of smart contracts, DLT or other technologies cannot trigger the application of MiCA.

Question 71. What substantive requirements should be considered for service providers that provide prediction market services?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

As a matter of principle and depending upon the classification of the serviced product as either financial instrument or crypto-asset the requirements for providers of prediction market services are either those of MiFID II or MiCA.

Question 72. Should perpetual futures on crypto-assets and services towards such perpetual futures be governed by MiCA or MiFID.

- ☒ By MiFID
- ☐ By MiCA
- ☐ Don’t know / no opinion / not applicable

Please explain your answer to question 72:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

The regulatory status of perpetual futures referencing crypto-assets is determined by section C(10) of Annex I to MiFID II. They are classified as financial instruments. Therefore, the products and the related investment services are fully subject to MiFID II.

Question 73. What substantive requirements should be considered for perpetual futures on crypto-assets and service providers providing service for such perpetual futures?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Requirements for perpetual futures should be calibrated according to their specific structural characteristics, rather than applying the rules for CFDs or traditional futures directly:

Unlike traditional futures, perpetuals have no expiry or delivery obligations. Instead, funding rates provide a continuous price-anchoring mechanism.

They also differ from CFDs in that they are usually traded on multilateral venues with transparent order books, standardised terms, and automated margining and liquidation. Accordingly, we disagree with ESMA's public statement, 'On identifying derivatives within the scope of the national product intervention measures on CFDs' (ESMA35-243228190-8024, 24 February 2026), which equates perpetual futures with CFDs and suggests that the same product intervention measures should apply. Typical features of CFDs - i.e. bilateral, OTC products traded in a broker-dealer environment with opaque provider pricing, discretionary financing charges, and structural conflicts of interest between provider and client - are not present in perpetual futures and the related markets.

Instead, investor protection for perpetual futures should address negative balance protection, proportionate leverage limits, clear risk disclosures and transparency regarding margin, liquidation and funding rates.

Since clearly classified as financial instruments the MiFID II regime should apply regarding authorisation and conduct requirements (including market abuse, best execution and reporting obligations).

4.5 Tokenised deposits

The terms 'tokenised deposit' and 'deposit tokens' are not defined terms and are sometimes used interchangeably ([EBA Report on tokenised deposits - December 2024](#)). For the purposes of the following questions, 'tokenised deposits' are digital representations of traditional commercial bank deposits recorded on a blockchain or distributed ledger, allowing for programmable, instant 24/7 settlements.

Question 74. Tokenised deposits could be deployed in support of a range of use cases across payments, capital markets, and on-chain financial activities.

Based on your experience and expectations, please assess the potential relevance and benefit of tokenised deposits for each of the following use cases in the EU:

	1 (not relevant / no meaningful benefit)	2 (low relevance / limited benefit)	3 (moderate relevance / moderate benefit)	4 (high relevance / high benefit)	5 (very high relevance / transformative benefit)	Don't know - No opinion - Not applicable
Person to person payments	☒	☐	☐	☐	☐	☐
Retail POI payments (domestic, day-to-day point of interaction transactions)	☒	☐	☐	☐	☐	☐
Intra-EU cross-border payments (non-POI)	☒	☐	☐	☐	☐	☐
International payments and remittances (third countries)	☒	☐	☐	☐	☐	☐
Settlement of tokenised securities and other financial instruments	☐	☐	☒	☐	☐	☐
Delivery-versus-payment (DvP) and atomic settlement	☐	☐	☒	☐	☐	☐
Intraday liquidity management (real-time funding and liquidity optimisation)	☐	☐	☐	☒	☐	☐

Treasury and liquidity management services for corporates and financial institutions	☐	☐	☒	☐	☐	☐
Programmable payments and smart-contract-based use cases	☐	☐	☐	☒	☐	☐
On-chain collateral or margining in regulated markets	☐	☐	☐	☒	☐	☐
Improved settlement speed and operational efficiency	☐	☐	☒	☐	☐	☐
Reduction of counterparty and settlement risk	☒	☐	☐	☐	☐	☐

Please explain your answers to question 74:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 75. Please select one or two use cases and benefits above that you consider most promising in the EU:

Maximum 2 selection(s)

Please select as many answers as you like

- ☐ Person to person payments
- ☐ Retail POI payments (domestic, day-to-day point of interaction transactions)
- ☐ Intra-EU cross-border payments (non-POI)
- ☐ International payments and remittances (third countries)
- ☐ Settlement of tokenised securities and other financial instruments
- ☐ Delivery-versus-payment (DvP) and atomic settlement
- ☒ Intraday liquidity management (real-time funding and liquidity optimisation)
- ☐ Treasury and liquidity management services for corporates and financial institutions
- ☐ Programmable payments and smart-contract-based use cases
- ☐ On-chain collateral or margining in regulated markets
- ☒ Improved settlement speed and operational efficiency
- ☐ Reduction of counterparty and settlement risk

Please explain why the case(s) you selected in your answer to question 75 are the most promising in the EU:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Tokenised deposits have the same legal and arguably regulatory status as conventional deposits. The tokenisation facilitates programmability and settlement finality, which suggests use of tokenised deposits primarily for intragroup settlement with upfront defined counterparty and credit relationships. In this intragroup context they allow reducing settlement latency and avoiding frictions regarding reconciliations.

They would also support dynamic intragroup liquidity management. Balances across group entities could be pooled, swept, and redeployed automatically and continuously in response to real-time liquidity demands.

Question 76. What factors, if any, constrain the development and uptake of tokenised deposits in the EU?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

In line with our response to question 75, we see as the main constraint of tokenised deposits that they are inevitably linked to the depositor as a customer of the deposit-taking bank. Due to this link they cannot circulate freely.

This closed-network structure limits their use in open, permissionless and composable on-chain environments. They may well offer significant benefits for intragroup use cases where participants and counterparty relationships are already established. Whether use cases can be developed beyond these closed environments remains to be seen.

Question 77. If you identify any regulatory issue(s) in your answer to the previous question, please indicate what regulatory action is appropriate to address the issue(s) identified:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

We do not see any specific regulatory action that could alleviate the current constraints. These constraints are directly linked to the legal and regulatory status of a deposit made by a depositor to a deposit-taking bank. The tokenisation does not allow a deposit to escape this closed relationship and circulate freely. Conversely, a freely circulating tokenised product could no longer qualify as a deposit.

Question 78. Do tokenised deposits raise any specific issues under the CRD /CRR framework?

- ☐ Yes
- ☐ No
- ☒ Don't know / no opinion / not applicable

Question 79. Do tokenised deposits raise any questions and challenges from a deposit insurance perspective?

- ☐ Yes
- ☐ No

☒ Don't know / no opinion / not applicable

4.6 Legal treatment of tokens

Legal certainty in the treatment of tokens in the EU and in the Member States is crucial in supporting predictable outcomes in financial markets in Europe and is vital to avoid stifling innovation, both in relation to MiCA crypto-assets (crypto-assets) as well as for the tokenisation and issuance of financial instruments in the form of tokens, currently governed by MiFID/R or asset management regulation (DLT financial instruments). Tokens in this section generally refer to both DLT financial instruments and crypto-assets, unless specified otherwise. In relation to legal certainty in the treatment of tokens, at least several issues have been noted by stakeholders, supervisors and academics. These include questions on whether tokens can be objects of property, which rules apply to the title and transfer of tokens, their treatment in the event of insolvency, custody relationships, and security rights in crypto-assets.

There are different ways to categorise tokens depending on the type of rights they confer to the holder. There are two general types of tokens, native tokens and non-native tokens. Native tokens tend to represent an asset (such as a share or security) that **only exists on-chain** (i.e. without a physical or traditional paper-based equivalent). Non-native tokens tend to **represent an on chain right over an asset that is legally constituted and represented elsewhere (off chain)** allowing this right to be held and transacted on DLT. Regarding non-native tokens, legal uncertainties may arise because, depending on the legal framework and the way the token was created, the tokenisation often leads to the simultaneous existence of two assets: the token representing the asset and the asset that the token asset represents^[4]. Native tokens too may raise important legal questions about their nature as many jurisdictions of today do not explicitly recognise existence of on-chain assets and it is often unclear if and how they fall under current rules on taxonomy and creation of traditional financial assets.

One of the key questions concerning legal certainty is whether holding (or controlling) a token on a blockchain constitutes ownership, and whether holding (or controlling) a non-native token constitutes ownership or merely a claim on the underlying asset that it represents. MiCA contains clear requirements for issuers or offerors of crypto-assets but it does not directly regulate the ownership of such assets, which remains a matter of (national) property laws. Similarly, MiFID does not define the proprietary nature of financial instruments or transfer of ownership, which is left to the discretion of national laws. Some Member States have implemented specific regulations to ensure legal certainty for tokens, including to provide for statutory “bridges” that synchronise the technical state of the ledger with the legal status of the asset.

⁴ In “complete tokenisation” possession can equate to legal ownership over the asset it represents if the legal system recognises the token as the asset’s representation; the “indirect tokenisation” where the legal ownership depends on the intermediary entity or legal structure, not just the token; and the “incomplete tokenisation” where the token might only act as evidence or an interface to rights that are legally held off-chain. [X. Lavayssière, “Legal Structures of Tokenised Assets”. European Journal of Risk Regulation.](#)

Question 80. Is there legal uncertainty as to the private law treatment of issuance, holding and transfers of tokens, under national law?

- ☒ Yes
- ☐ No
- ☐ Don't know / no opinion / not applicable

Question 80.1 Which of the following issues are most significant?

--	--	--	--	--	--	--

	1 (none or not significant)	2 (low)	3 (moderate)	4 (high)	5 (very high)	Don't know - No opinion - Not applicable
Issuing a crypto-asset token in compliance with national law	☐	☒	☐	☐	☐	☐
Issuing a tokenised financial instrument in compliance with national law	☐	☒	☐	☐	☐	☐
Transferring ownership (acquisitions, dispositions, earmarking etc) over a token, including good faith acquisition / bona fide ownership	☐	☐	☐	☐	☒	☐
Recognising ownership in a token towards third-parties	☐	☐	☐	☒	☐	☐
Using tokens as collateral	☐	☐	☐	☒	☐	☐
Possibility to differentiate						

between native and non-native tokens in national law						
Recognising tokens as objects of property						
Rights of token holders in intermediated custody chains						
Enforcement and exercise of rights arising from /over tokens or the underlying assets						
Custody of tokens						
Treatment of tokens in insolvency proceedings including intermediary risk						
Others						

Please explain your answers to question 80.1 and provide examples from national law. In particular specify if any of the answers is specifically

referring to native or non-native tokens and specify if any of the answers would be different depending on if the token is recording a tokenised financial instrument or crypto-assets:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Legal uncertainty regarding the private law treatment of tokens remains a material barrier, particularly regarding Property status,
Title and transfer rules, and
Insolvency treatment.

For native tokens, uncertainty remains as to whether they are recognised as property under national civil law. For non-native tokens, the interaction between the on-chain representation and the underlying off-chain asset creates additional uncertainty around legal title, divergence between the two, and applicable law.

Differences in national treatment create legal risks for cross-border transactions and reduce legal predictability for tokenised markets. E.g.:

In Germany, the Electronic Securities Act of 2021 provides a clear framework for certain tokenised securities (tokenised bearer bonds and fund units) subject to registration on qualified DLT systems. However, crypto-assets including EMTs and ARTs are outside its perimeter. They also do not benefit from statutory ownership recognition under the property concept of the German civil law. Contractual or trust-based structures are required, which, however, are fraught with legal uncertainties, particularly in insolvency.

In France, while the PACTE Act and Ordonnance 2017-1674 provide frameworks for certain tokenised financial instruments, broader questions remain regarding the civil law treatment of crypto-assets. In particular, it remains unclear how the rules on bona fide purchasers apply to tokens transferred following theft or fraud, including whether a subsequent purchaser can acquire good title.

As an important complement to MiCA EU-level harmonisation of property recognition, transfer rules and insolvency treatment would provide the legal certainty that is a critical prerequisite for thriving financial markets.

Question 80.2 What is the urgency with which each issue should be addressed by regulators?

	1 (none or not urgent)	2 (low urgency)	3 (moderate urgency)	4 (high urgency)	5 (immediate / critical)	Don't know - No opinion - Not applicable
Issuing a crypto-asset token in compliance with national law	☐	☒	☐	☐	☐	☐
Issuing a tokenised financial instrument in compliance with national law	☐	☒	☐	☐	☐	☐
Transferring ownership (acquisitions, dispositions, earmarking etc) over a token, including good faith acquisition / bona fide ownership	☐	☐	☐	☐	☒	☐
Recognising ownership in a token towards third-parties	☐	☐	☐	☒	☐	☐
Using tokens as collateral	☐	☐	☒	☐	☐	☐
Possibility to differentiate between native and non-native tokens in national law	☐	☐	☒	☐	☐	☐
Recognising tokens as objects of property	☐	☐	☐	☐	☒	☐
Rights of token holders in intermediated custody chains	☐	☒	☐	☐	☐	☐
Enforcement and exercise of rights arising from /over tokens or the underlying assets	☐	☐	☒	☐	☐	☐

Custody of tokens	☐	☐	☒	☐	☐	☐
Treatment of tokens in insolvency proceedings including intermediary risk	☐	☐	☐	☒	☐	☐
Others	☐	☐	☐	☐	☐	☐

Please explain your answers to question 80.2 and provide examples from national law. In particular specify if any of the answers is specifically referring to native or non-native tokens and specify if any of the answers would be different depending on if the token is recording a tokenised financial instrument or crypto-assets:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 81. Would you recommend increasing the legal certainty in the treatment of tokens through EU law?

- ☒ Yes
- ☐ No
- ☐ Don't know / no opinion / not applicable

Question 81.1. What are the 3 most important elements that should be addressed in EU law?

Please explain your answer and provide examples:

Most important element number 1:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

As highlighted in our response to question 80 we would welcome EU-level harmonisation of property recognition, title and transfer rules and insolvency treatment. Complementing the harmonised crypto-asset regime MiCA introduced, this additional layer of harmonisation would provide EU-wide legal certainty regarding key concepts of private law that are critical for crypto-asset markets and the effective protection of crypto-asset users. Expanding upon the comments in our response to question 80:

Legal recognition and property status: EU law should clarify whether, and under what conditions, DLT-based ownership of tokens qualifies for the legal status of property, fully subject to proprietary rights. This is particularly important for native tokens, as they may not be covered by traditional concepts of property under national civil law.

Most important element number 2:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Title, transfer and bona fide acquisition: EU law should establish clear rules on when ownership of a token is acquired or transferred, including the treatment of good-faith purchasers and transfers following theft or fraud. This would provide greater certainty where on-chain records show a transfer but the underlying legal title is disputed.

Most important element number 3:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Insolvency treatment: EU law should clarify the rights of token holders and the treatment of tokens in insolvency, including when holders have a proprietary right to recover their assets rather than merely a contractual claim against the service provider. This is particularly important where due to legal uncertainties under national civil law contractual or trust-based arrangements are required to establish rights over tokens.

Question 81.2 Can legal certainty (ownership or entitlement, transfer and enforceability of rights recorded as tokens) be achieved under EU law in one of the following manners?

	1 (strongly disagree)	2 (rather disagree)	3 (neutral)	4 (rather agree)	5 (strongly agree)	Don't know - No opinion - Not applicable
Implementation of a 28th regime recognising legal effects of DLT registers holding tokens, including good-faith acquisition rules and rules on opposability/enforceability to third parties (erga omnes effects)	☐	☐	☐	☒	☐	☐
Full harmonisation of private law treatment of tokens in Member States	☐	☐	☒	☐	☐	☐
Partial harmonisation of private law treatment of tokens in Member States	☐	☐	☐	☐	☒	☐
Introducing a conflict of law regime for tokens under EU law	☐	☐	☐	☒	☐	☐
Other model	☐	☐	☐	☐	☐	☐

Please explain your answers to question 81.2 and provide examples, in particular from national law. Where you favour full or partial harmonisation or the introduction of a conflict of laws regime, please specify which legal instrument would be most appropriate for that purpose (a new Regulation or the use of existing regimes, such as MiFID or MiCA). Also consider if there are risks with establishing an ownership regime at EU level and how these risks could be mitigated:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Full harmonisation would be desirable but is unlikely to be achievable within a realistic legislative timeframe, given the divergence between Member States' civil laws and civil law traditions. Therefore, at this stage partial harmonisation should be aimed for, complemented by a conflict-of-laws regime. Alternatively, a 28th optional regime could be considered.

For partial harmonisation targeted amendments to MiCA and the DLT Pilot Regime for tokenised financial instruments are preferable. EU-level rules should focus narrowly on the three priority areas identified in our responses to questions 80 and 81. These are:

Property status,
Title and transfer rules, and
Insolvency treatment.

A conflict-of-laws regime would be a necessary complement, but not a standalone solution, as it cannot resolve situations where the applicable national law does not recognise tokens as property.

Any EU ownership regime should avoid unintended interference with existing collateral, repo and secured transaction frameworks under the Financial Collateral Directive and national civil law. To that end the regime should be narrowly scoped and explicitly coordinated with existing EU financial market legislation.

Question 82. There are different “ownership models” that could be used to increase legal certainty over tokens.

Please indicate maximum two models listed below that you think EU law could apply if it were to improve the legal certainty of tokens in the EU:

Maximum 2 selection(s)

Please select as many answers as you like



MODEL 1: The token is the asset by law, the law recognises a ledger-based asset and the ownership rights are constituted directly by the ledger entry.

✓ **MODEL 2:** The token is the asset by law, where the law recognises that e.g. securities (dematerialised or physical) can be replaced by an entry into a DLT register and by this “replacing” (immobilisation) of the securities the function of the initial security is substituted by entry into a DLT register and the ownership rights are constituted by the representation on the ledger.

✓ **MODEL 3:** Token is the asset by law. In this case the law does not actively regulate legal aspects such as what property is or how transfer of ownership occurs etc. but instructs on the legal consequences of entries in a DLT register (this is often called a functional approach). The law could at EU level stipulate who may exercise rights, i.e. the person recorded in the DLT register as holder of a tokenised asset, that these rights have full third-party effect and protects from competing claims. This also creates legal certainty for collateral use. The EU law would create a uniform rule of “digital entitlement” that functions across all Member States’ property law structures.

□ **MODEL 4:** The token is the legal carrier of rights associated with a related (often off-chain) asset. The law defines tokens as legal objects that do not create new rights, but can –like a “container” –represent various kinds of rights, such as membership rights, ownership, intellectual property rights, usage rights or rights of lien etc. The token would represent the rights stemming from the underlying assets and the law would ensure that the transfer of a token on the ledger legally transfers ownership of the rights stemming from the underlying asset.

([Inspired by Lichtenstein Law](#). Art 2 TVTG defines token as a piece of information on a TT System which can represent claims or rights of memberships against a person, rights to property, or other absolute or relative rights.

Art 5 TVTG states that the TT Key holder has the power of disposal over the Token. It is further assumed that the person possessing the power of disposal over a Token also has the right to dispose of the Token. For every previous holder of the power of disposal, it is presumed that he was the person possessing the right of disposal at the time of this ownership).

- ☐ **MODEL 5:** Any other legal ownership structures, for example based on the approaches taken by different countries, including France, Germany, Luxembourg or adopted in other jurisdictions or internationally, that could be implemented in EU law.
-

You selected:

MODEL 2: *The token is the asset by law, where the law recognises that e.g. securities (dematerialised or physical) can be replaced by an entry into a DLT register and by this “replacing” (immobilisation) of the securities the function of the initial security is substituted by entry into a DLT register and the ownership rights are constituted by the representation on the ledger.*

MODEL 2 - a) What would be the legal interoperability of any such EU level measure with national private laws of Member States, or at least laws of the Member State that you are familiar with?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

MODEL 2 - b) Is it preferable to establish constitutive rules of ownership based on the asset being recorded on chain or functional rules regulating the effects of recording an asset on chain?

- ☐ Constitutive rules of ownership based on the asset being recorded on chain
- ☒ Functional rules regulating the effects of recording an asset on chain
- ☐ Don't know / no opinion / not applicable

Please explain your answer to MODEL 2 b):

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

MODEL 2 - c) Are the different ownership models better suited for native or non-native tokens?

- ☐ For native
- ☒ For non-native tokens
- ☐ Don't know / no opinion / not applicable

Please explain your answer to MODEL 2 c):

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

MODEL 2 - d) Can the same ownership model be implemented for all types of tokens (crypto-assets and DLT financial instruments)?

- ☐ Yes
- ☐ No
- ☐ Don't know / no opinion / not applicable

MODEL 2 - d) What would need to be different depending on the type of the token?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Please explain your answers for MODEL 2 and provide examples:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

You selected:

MODEL 3: Token is the asset by law. In this case the law does not actively regulate legal aspects such as what property is or how transfer of ownership occurs etc but instructs on the legal consequences of entries in a DLT register (this is often called a functional approach). The law could at EU level stipulate who may exercise rights, i.e. the person recorded in the DLT register as holder of a tokenised asset, that these rights have full third-party effect and protects from competing claims. This also creates legal certainty for collateral use. The EU law would create a uniform rule of “digital entitlement” that functions across all Member States’ property law structures.

MODEL 3 - a) What would be the legal interoperability of any such EU level measure with national private laws of Member States, or at least laws of the Member State that you are familiar with?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

MODEL 3 - b) Is it preferable to establish constitutive rules of ownership based on the asset being recorded on chain or functional rules regulating the effects of recording an asset on chain?

- ☐ Constitutive rules of ownership based on the asset being recorded on chain
- ☒ Functional rules regulating the effects of recording an asset on chain
- ☐ Don't know / no opinion / not applicable

Please explain your answer to MODEL 3 b):

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

MODEL 3 - c) Are the different ownership models better suited for native or non-native tokens?

- ☒ For native
- ☐ For non-native tokens
- ☐ Don't know / no opinion / not applicable

Please explain your answer to MODEL 3 c):

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

MODEL 3 - d) Can the same ownership model be implemented for all types of tokens (crypto-assets and DLT financial instruments)?

- ☐ Yes
- ☒ No
- ☐ Don't know / no opinion / not applicable

MODEL 3 - d) What would need to be different depending on the type of the token?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Please explain your answers for MODEL 3 and provide examples:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 83. Comparing national laws of Member States, what are the main differences in how national laws governs the issuance, holdings and transfers of tokens? Please explain your answer and provide examples:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Property recognition: Member States differ significantly in whether tokens can be recognised as property. The German civil law does not generally treat crypto-assets as Sachen, leaving crypto-assets outside the eWpG framework without standard property-law treatment, while France has no general statutory property recognition beyond specific blockchain rules for certain financial instruments. Luxembourg's 2021 blockchain law provides a broader approach by recognising DLT register entries as constitutive of legal title.

Transfer rules: Traditional civil law systems generally require agreement and delivery for the transfer of property, but the legal meaning of "delivery" for token transfers remains uncertain in many Member States. Germany's eWpG provides certainty for covered securities by treating register entry as equivalent to delivery, while other jurisdictions rely more heavily on contractual arrangements.

Insolvency treatment: Member States differ in whether token holders have a proprietary claim or merely a personal claim against an insolvent CASP or custodian. Where tokens are not recognised as property, holders may rank as unsecured creditors, making the absence of EU-level harmonisation on insolvency treatment a significant commercial gap and legislative priority.

4.7 Questions on conflicts of law

Financial Collateral Directive (FCD) and Settlement Finality Directive (SFD) entails targeted conflict of law rules, mainly applicable to financial instruments hence broadly relevant for DLT financial instruments, however the current regime leaves a potential gap where the token does not qualify under the scope of FCD and SFD or where existing conflict rules do not easily lend its application to tokens. As noted in the [UNIDROIT Principles on digital assets and private law](#) the usual connecting factors for choice-of-law rules, such as the location of persons, offices, activity, or assets have less of a useful role for DLT financial instruments and crypto-assets and the approach would rather be to identify connecting factors relevant to such instruments and assets.

Question 84. Should EU law introduce a conflict of law rule for tokens?

- ☒ Yes
- ☐ No
- ☐ Don't know / no opinion / not applicable

Question 84.1 please explain why the current conflict of law rules applicable in EU are not enough or sufficiently clear in its application to tokens?

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Question 84.2 If the EU would introduce conflict of law rules for proprietary aspects of tokens, what would be the preferred connecting factors?

Rank the below listed connection factors from 1 to 5 (1 being the most relevant connecting factor and 5 the least relevant connection factor).

Connecting factors without a ranking will be considered not relevant:

at most 5 answered row(s)

	1	2	3	4	5
The law of the state specified in the token or in the principles (if any) expressly specified in the token	☒	☐	☐	☐	☐
The law of the state specified in the rules or in the principles of the system on which the token is recorded	☐	☒	☐	☐	☐
The law of the state in which the legal entity operating the DLT-based system on which tokens are recorded	☐	☐	☐	☐	☒
In relation to a token for which there is an issuer, the law of the state where the issuer is established	☐	☐	☒	☐	☐
In relation to tokens for which there is an issuer, the law of the state under whose supervision the issuer operates	☐	☐	☐	☒	☐
In relation to tokens for which there is a provider of the technologies creating or issuing the tokens, the law of the state under whose supervision such technology operates	☐	☐	☐	☐	☐
Where a token shall be registered, the law of the state under whose supervision the register is maintained	☐	☐	☐	☐	☐
The law of the state of the relevant operating authority/administrator (PROPA), meaning a state authority or a body (e.g., a foundation) that takes over the administration of the system onto which the token is registered	☐	☐	☐	☐	☐

The law of the state of the primary residence of the encryption private master keyholder (PREMA), meaning the seat of a body that holds a system-relevant master key, with the help of which coercive transactions can be carried out, for example, based on a court order	☐	☐	☐	☐	☐
Any other?	☐	☐	☐	☐	☐

Please explain your answers to question 84, 84.1 and 84.2 and provide examples.

In answering this question, please consider if the suggested scope of the conflict of law rule in your view is the right one, and whether there are aspects missing:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

Rated 1: The law of the state specified in the token or in the principles (if any) expressly specified in the token. Express designation directly within the token's smart contract or documentation provides the highest predictability for all secondary market participants.

Rated 2: The law of the state specified in the rules or in the principles of the system on which the token is recorded

If the token itself is silent, the underlying DLT network/system governance rules provide a uniform, systemic governing law for all assets recorded on that ledger.

Rated 3: In relation to a token for which there is an issuer, the law of the state where the issuer is established. Where token and system rules are silent, connecting property rights to the state of the issuer's statutory establishment grounds the token in a verifiable corporate regime.

Rated 4: In relation to tokens for which there is an issuer, the law of the state under whose supervision the issuer operates

A reliable alternative when statutory establishment is ambiguous, aligning property law with regulatory oversight.

Rated 5: Where a token shall be registered, the law of the state under whose supervision the register is maintained

Effective for centralized or permissioned ledgers, though less adaptable to fully decentralized public networks.

Question 85. If there are any other issues relating to legal certainty which are not mentioned above, please describe them here:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

We're not aware of other issues relating to legal certainty.

4.8 Final open question

Question 86. Interested parties that wish to bring other relevant issues, not raised in this consultation, to the Commission's attention, should feel free to communicate them here:

5000 character(s) maximum

including spaces and line breaks, i.e. stricter than the MS Word characters counting method.

The concept of “offer to the public” under MiCA is insufficiently defined, creating divergent market practice, particularly regarding secondary-market sales of EMTs by CASPs. Some CASPs treat listing and selling an EMT to clients as an offer to the public requiring issuer consent, while others consider it a client service that does not require consent, resulting in inconsistent application and legal uncertainty. The Commission should clarify, through a MiCA amendment or binding ESMA/EBA guidance, that any sale of a crypto-asset, including an EMT, by a CASP to an EU client constitutes an offer to the public and therefore requires prior written issuer consent. This would create a consistent framework across distribution channels and give issuers an enforceable mechanism to control intermediaries distributing their tokens in the EU, including the ability to withdraw consent where specific risks emerge. The ability to withdraw consent in situations such as anomalous redemption flows or cross-border arbitrage could provide a targeted intervention tool complementing the broader supervisory powers under Articles 23 and 24. This approach would also align with the proposed equivalence framework for EMTs issued in an equivalent 3rd-country jurisdiction. Secondary-market offers of these EMTs would require the written consent of the 3rd-country issuer.

The issuance caps under Articles 22 and 23 should be reconsidered as they are not sufficiently technology-neutral or risk-sensitive. Equivalent transaction or issuance restrictions do not apply to other forms of non-EU currency-denominated e-money or payment instruments, creating a potentially technology-discriminatory treatment of EMTs and ARTs. The fixed thresholds of one million transactions per day or €200 million in average daily transaction volume create cliff-edge effects and may incentivise issuers to artificially limit activity rather than respond to actual risk. The hard-coded caps should be replaced with a risk-adjusted framework allowing the ECB and relevant NCAs to intervene based on the actual systemic, monetary or payment-system risks posed by an issuer or token.

The concept of being used “widely as a means of exchange” is not clear enough. The resulting uncertainty over which transactions and trading volumes should count towards the thresholds has led to divergent reporting practices among CASPs and issuers. In order to ensure consistent supervisory application a clear definition should be provided in either MiCA or in the related Level 2 implementing instrument. The problem also demonstrates that inflexible quantitative thresholds based on not sufficiently specific definitions of the relevant transactions should be replaced by discretionary powers allowing cases-by-case risk-adjusted and risk-sensitive interventions.

Additional information

Should you wish to provide additional information (e.g. a position paper, report) or raise specific points not covered by the questionnaire, you can upload your additional document(s) below. **Please make sure you do not include any personal data or any information that might identify you in the file you upload if you want to remain anonymous.**

The maximum file size is 1 MB.

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