EBA/Op/2025/14

9 October 2025

# Opinion of the European Banking Authority on the European Commission's amendments relating to the final draft Regulatory Technical Standards to specify the highly liquid financial instruments with minimal market risk, credit risk and concentration risk under Article 38(5) of Regulation (EU) 2023/1114

## Introduction and legal basis

On 13 June 2024, the European Banking Authority (EBA) submitted to the European Commission its final draft Regulatory Technical Standards (RTS) specifying the highly liquid financial instruments (HLFI) with minimal market risk, credit risk and concentration risk in accordance with Article 38(5) of Regulation (EU) 2023/1114 on Markets in Crypto-assets[1] (MiCA) – hereinafter `draft technical standards submitted by the EBA`. With its letter of 28 August 2025, the European Commission informed the EBA of its intention to endorse, with amendments, the draft technical standards submitted by the EBA and sent to the EBA a modified version of the standards with its envisaged changes.

The EBA's competence to deliver this opinion is based on Article 10(1), fifth subparagraph, of Regulation (EU) No 1093/2010 (EBA Regulation),[2] as the specification of the HLFI with minimal market risk, credit risk and concentration risk included in the reserve of assets is an area where the EBA has been entrusted to develop draft regulatory technical standards.

In accordance with Article 14(1) and 14(7) of the Rules of Procedure of the Board of Supervisors,[3] the Board of Supervisors has adopted this opinion which is addressed to the European Commission.

[1] Regulation (EU) 2023/1114 of the European Parliament and of the Council of 31 May 2023 on markets in crypto-assets, and amending Regulations (EU) No 1093/2010 and (EU) No 1095/2010 and Directives 2013/36/EU and (EU) 2019/1937 (OJ L 150, 9.6.2023, p. 40).

[2] Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority) amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC (OJ L 331, 15.12.2010, p. 12).

[3] Decision adopting the Rules of Procedure of the European Banking Authority Board of Supervisors of 22 January 2020 (EBA/DC/2020/307).

## General comments / proposals

1. The EBA considers substantive the amendments envisaged by the European Commission and listed below in the subsection *'substantive changes'*. In particular, the EBA notes that the European Commission's proposals are of a substantive nature and, in key areas, not aligned with the prudential objective embedded in Articles 36(1)(b) and 38(1) of MiCA. Furthermore, it is the EBA's view that several of the European Commission's proposed amendments depart from the mandate in Article 38(5) of MiCA covering the notion of investments in the reserve of assets in accordance with Article 38(1) to (4) of MiCA.
2. The EBA considers that these amendments alter the draft technical standards submitted by the EBA in a significant manner from a technical perspective and therefore provides a formal opinion as set out in Article 10(1), fifth subparagraph, of the EBA Regulation. The EBA has assessed the proposed amendments in light of its ongoing interactions with institutions and competent authorities, and has taken the view that these amendments are not necessary to ensure compatibility with the Union law and the fundamental principles of the internal market for financial services.[4]
3. Furthermore, the EBA has concerns as to how the proposed changes ensure harmonisation, reflect on proportionality and enhance legal certainty, as the changes would create inconsistencies within the prudential legislative framework, as well as create an undue burden to competent authorities while assessing the quality of HLFI composing the reserve of assets. Instead, the EBA would therefore suggest an approach ensuring consistency with Article 38 of Regulation 2023/1114 which precludes token holders to invest into non-HLFI ensuring redemption capacity of the token in situations of stress with regard to liquidity coverage requirement for credit institutions and the consistency of supervisory requirements at individual and consolidated levels.
4. The EBA agrees with the changes summarised in the subsection *'Non-substantive changes'* as they are of a drafting nature and improve the clarity of the text. The EBA considers that these amendments are editorial in nature, harmonise terminology, and streamline cross-references to MiCA, without altering the underlying policy framework.

## Specific comments

### Substantive changes

#### Substantive change 1: Ensuring consistency of Recital 5 with Article 36 and Article 38 MiCA on immediate and reliable convertibility

5. The European Commission's amendment proposal to Recital 5 of the draft technical standards submitted by the EBA could be read as allowing issuers to purchase and hold referenced assets that are non-HLFI directly with reserve funds. Such an interpretation would be incompatible with Article 38(1) of MiCA and would undermine the *"minimal [...] risk"* standard that underpins immediate and reliable convertibility of reserves. This would undermine also the prudential objective in Article 36(1)(b) of MiCA to ensure that reserves

[4] See recital 13 of Regulation (EU) No 1093/2010, supra note 2.

backing tokens shall be immediately and reliably convertible to cash to ensure maintaining levels of liquidity buffers which are adequate to face any possible imbalance between liquidity inflows and outflows under gravely stressed conditions

6. The EBA considers the need to clarify unequivocally that reserve of assets may be invested only in assets meeting the HLFI conditions set out in Article 38 of MiCA as well as in the draft technical standards submitted by the EBA. Any non-HLFI referenced assets may be held solely when contributed in kind at issuance, as under that sole circumstance it does not create liquidity risk for the issuer. This maintains economic coherence with: (i) Article 36(1) of MiCA, point (b) of MiCA, which requires that reserves are composed and managed to address the liquidity risks associated to the permanent rights of redemption of the holders; (ii) Article 39(1) of MiCA, which requires that the reserve assets are immediately and reliably convertible into funds without material loss; and (iii) Article 38(1) of MiCA which limits investments to HLFI capable of being liquidated rapidly with minimal adverse price effect.

7. Funds might be redeemed at all times, including under stress. This necessitates holding the reserve of assets invested in HLFI, so that monetisation remains reliable in stress and no liquidity externalities arise. Conversely, where the referenced asset is contributed in kind at issuance, the issuer may redeem in kind (or in funds, at its option) without creating liquidity risk. For these reasons, Recital 5 as amended by the European Commission could be read as permitting issuers to purchase and hold referenced assets directly with reserve funds. It is the EBA's view that the reserve of assets should be invested exclusively in HLFI, as defined in Article 38(1) of MiCA and further specified in the draft technical standards submitted by the EBA.

8. The draft technical standards submitted by the EBA has been built following the mandate in Article 38(5) of MiCA, which requires to take into account the liquidity coverage requirement (LCR) as referred to in Article 412 of Regulation (EU) No 575/2013[5] and as further specified in Commission Delegated Regulation (EU) 2015/61 (LCR Delegated Regulation).[6] The introduced derogations proposed by the European Commission would lower the prudential floor for assets that shall be at least as liquid and readily monetisable as High Quality Liquid Assets (HQLA). In particular, there is no market structure or policy rationale for defining the liquidity related to the reserve of assets more leniently than for the LCR. Both rely on the same markets, which during stress periods exhibit the same liquidity conditions. Divergence would create regulatory arbitrage, weaken harmonisation, and risk over-stating the realisable liquidity of reserves precisely when redemptions surge. The deletion of part of Recital 5 as proposed by the European Commission is meant to remove any implication that reserve funds could be invested in non-HLFI referenced assets.

[5] Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and amending Regulation (EU) No 648/2012 ( OJ L 176, 27.6.2013, p. 1).

[6] Commission Delegated Regulation (EU) 2015/61 of 10 October 2014 to supplement Regulation (EU) No 575/2013 of the European Parliament and the Council with regard to liquidity coverage requirement for Credit Institutions (OJ L 11, 17.1.2015, p. 1).

### Substantive change 2: Preventing regulatory arbitrage and liquidity risk from Money Market Funds and Undertakings for Collective Investment in Transferable Securities

9. The European Commission's proposal to (i) treat all money market funds (MMFs) as HLFI regardless of their underlying portfolios – as laid down in Article 2(4) of the European Commission's amendment proposal of the draft technical standards submitted by the EBA; (ii) introduce a 10% concentration limit framed to the issuer rather than the manager – as laid down in Article 5(3)(b); and (iii) carve out MMFs from look-through for concentration purposes – as laid down in Article 5(3), is not supported by MMFs performance during stress periods.

10. MMFs have exhibited liquidity stress in systemic episodes (fees, gates, suspensions, limited secondary-market liquidity, including during COVID-19), and may hold assets whose liquidity can deteriorate sharply in stress. MMF redemptions typically need time to liquidate underlying assets and, in stress, can face large outflows and deteriorating market liquidity, as seen in the ESMA Report on the EU MMF Market 2023,[7] which notes that, after the entry into application of Regulation (EU) 2017/1131[8] (MMF Regulation), EU MMFs experienced intense stress in March 2020 with large redemptions and a deterioration of liquidity, prompting further reform work. For these reasons, the European Systemic Risk Board (ESRB), following its assessment of the MMF Regulation, issued a series of recommendations to the European Commission to strengthen MMF resilience, which the Commission has not endorsed to date.[9] This post-MMF Regulation evidence supports excluding MMFs from the HLFI list.

11. The European Commission's proposal to treat MMFs as HLFI implies applying two different market-liquidity standards to the same underlying instruments even though the purpose of the highly liquid qualification is the same, namely to ensure that the investments can be liquidated rapidly with minimal adverse price effect. MMFs are not eligible HQLA under LCR Delegated Regulation for LCR's purposes. Under European Commission's proposal, banks subject to the LCR Delegated Regulation could not rely on MMFs to cover stressed outflows from redemption, whereas issuers of token subject to MiCA could. This distortion puts an unlevel playing field with banks, and creates regulatory arbitrage risk. Considering that MMF held in the reserve of asset to be liquid in stress, and yet that the same MMF held by a bank is not, to bear risks under similar market conditions would be inconsistent. Furthermore, if a bank were to set up an issuer of tokens under MiCA and invest the reserve of assets in MMFs, the same MMF could qualify as HLFI at the level of the issuer, while not qualifying as HQLA for LCR purposes at the consolidated banking-group level. Such a mismatch would result in an incoherent treatment of the

[7] ESMA Market Report: EU MMF Market 2023 (link).

[8] Regulation (EU) 2017/1131 of the European Parliament and of the Council of 14 June 2017 on money market funds (OJ L 169, 30.6.2017, p. 8).

[9] ESRB Compliance report: Recommendation of the European Systemic Risk Board of 2 December 2021 on reform of money market funds (link).

same redemption risk. For these reasons, the EBA considers that MMFs should not be recognised as HLFI.

12. The European Commission's per-issuer caps provide a starting point, but (a) framing the MMF 10% limit to the issuer rather than the manager, and (b) removing the 5% per-management-company cap for undertakings for collective investment in transferable securities (UCITS) materially increase concentration and correlation risk. This approach has two consequences. First, by capping the recognition of MMFs as HLFI within the reserve of assets, the European Commission implicitly acknowledges that their "highly liquid" nature is not fully reliable. Second, by relaxing the per-manager limits for UCITS, the amendments materially increase concentration and correlation risk. When a single manager operates multiple funds, stress in one fund can spill over to the others. In such a scenario, simultaneous investor redemptions could force the manager to sell assets across several funds at once, thereby amplifying fire-sale dynamics.

13. Under Article 38(5) of MiCA, the EBA was mandated to specify HLFI and calibrate concentration limits taking due account of the relevant thresholds laid down in Article 52 of Directive 2009/65/EC's[10] (UCITS Directive) diversification and concentration rules and the liquidity coverage requirement as referred to in Article 412 of Regulation (EU) No 575/2013 and as further specified in LCR Delegated Regulation. The European Commission proposes that an explicit concentration limit is applied to MMFs only, but not to UCITS more broadly, especially given that many EU MMFs are UCITS funds under the MMF Regulation.

14. Consistency with those regulatory frameworks argues for manager-level diversification by re-introducing a 5% per-management-company limit for all UCITS exposures held in the reserve. It is EBA's view that the European Commission's proposed amendments depart from safeguards embedded in the UCITS Directive and the LCR Delegated Regulation, and make circumvention easier (e.g., splitting exposures across multiple funds run by the same manager). Furthermore, the European Commission's removal of the look-through, another safeguard embedded in the LCR Delegated Regulation, permits circumvention of concentration limits that would otherwise apply if the underlying instruments were held directly. Thus, the EBA also considers that the regulatory technical standards should retain look-through for all collective investment undertakings to ensure that concentrations reflect the risk of the underlying instruments.

## Non-substantive changes

15. The European Commission has also provided several drafting amendments to the draft regulatory technical standards submitted by the EBA under Article 38(5) of MiCA, which are intended to improve readability and to clarify the link of certain provisions with the legal mandate. The EBA considers that these amendments do not imply a change in policy and therefore represent non-substantive changes.

[10] Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) (OJ L 302, 17.11.2009, p. 32).

16. The drafting amendments include:

- A new Article 1 (“Scope”) clarifying the addressees of the draft technical standards, namely: (a) issuers of asset-referenced tokens; (b) electronic money institutions issuing e-money tokens.
- Article 2 (“Financial instruments other than derivatives that are to be considered highly liquid financial instruments”) has been reformulated for greater clarity, with the exception of paragraph 4, which the EBA does not support.
- Article 3 (“Derivatives that are to be considered highly liquid financial instruments”) has been reformulated.
- Article 7 has been redrafted to improve clarity.
- The recitals have been aligned with the amended articles to ensure consistency and readability, without altering the substance of the policy framework.

## Conclusions

For the reasons above, the EBA has revised the substantive changes to Recitals 4 and 5, Article 2(4), points (b) and (c) of Article 5(1) and Article 5(3) of the draft regulatory technical standards submitted by the EBA, and has accepted the remaining changes on other parts that are not considered substantive. The EBA accordingly submits the amended draft RTS to the European Commission in the form set out in the Annex.

This opinion will be published on the EBA’s website.

Done at Paris, 9 October 2025

[Signed]

José Manuel Campa

Chairperson

For the Board of Supervisors

# Annex

# EXPLANATORY MEMORANDUM

## 1. CONTEXT OF THE DELEGATED ACT

Article 38(5) of Regulation (EU) 2023/1114 ('the Regulation') empowers the Commission to adopt, following submission of draft regulatory technical standards ('RTS') by the European Banking Authority ('EBA'), and in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010, delegated acts to specify the financial instruments that can be considered highly liquid and bearing minimal market risk, credit risk and concentration risk, in which issuers of asset-referenced tokens may invest a part of the reserve of assets, and to devise suitable limits to determine concentration requirements of the cited highly liquid financial instruments.

In accordance with Article 10(1) of Regulation (EU) No 1093/2010 establishing the EBA, the Commission is to decide within three months of receipt of the draft RTS whether to endorse the draft submitted. The Commission may also endorse the draft RTS in part only, or with amendments, where the Union's interests so require, having regard to the specific procedure laid down in that Article.

## 2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

In accordance with the third subparagraph of Article 10(1) of Regulation (EU) No 1093/2010, the EBA has carried out a public consultation on the draft RTS submitted to the Commission in accordance with Article 38(5) of the Regulation. A consultation paper was published on the EBA internet site on 8 November 2023, and the consultation closed on 8 February 2024. Together with the draft RTS, the EBA has submitted an explanation on how the outcome of these consultations has been taken into account in the development of the final draft RTS submitted to the Commission. Broadly, respondents supported the draft RTS specifying the highly liquid financial instruments (HLFI). Concerns were raised with regards to the concentration limits of government bonds in the case of e-money tokens (EMTs) that are referenced to official currencies other than euro. The EBA took into account and assessed the comments received. The EBA provided clarification for example on the process to follow in the case of assets being considered as highly liquid financial that might cease meeting any requirement in this Regulation and also on the list of highly liquid financial instruments in the case of token referenced to others than official currencies, the application of concentration limits to UCITS units or the consideration of tokenised liquid assets as highly liquid financial instruments.

Together with the draft technical standards, and in accordance with the third subparagraph of Article 10(1) of Regulation (EU) No 1093/2010, the EBA has submitted its impact assessment, including its analysis of the costs and benefits, related to the draft RTS submitted to the Commission.

## 3. LEGAL ELEMENTS OF THE DELEGATED ACT

The provisions of this delegated act specify the financial instruments that can be considered highly liquid and bearing minimal market risk, credit risk and concentration risk, in which issuers of asset-referenced tokens may invest a part of the reserve of assets, and to devise suitable limits to determine concentration requirements of the cited highly liquid financial instruments.

The definitions, methodology and limits in these draft RTS build on the 2022 Basel standards on the prudential treatment of crypto assets exposures[1] as well as on the new international regulatory developments, as well as the UCITs Directive 2009/65[2] and the Commission Delegated Regulation (EU) 2015/61 (LCR Delegated Regulation).[3]

These draft RTS set the highest quality liquid assets in the LCR, with no regulatory haircut to compensate for market, credit and liquidity risk, as eligible highly liquid financial instruments with minimal market risk, credit risk and concentration risk, i.e., 0% haircut and uncapped level 1 assets in the LCR. In addition, and in order to ensure a minimum diversification by asset class, these draft RTS envisage level 1 extremely high-quality covered bonds in the LCR as highly liquid financial instruments in the reserve of assets but capped at 35% of the reserve of assets. To strike the right balance between ensuring that the specified financial instruments are highly liquid and seeking for correlation between them and the assets referenced, in the case of asset-referenced tokens referencing assets other than official currencies, the draft RTS establish that financial instruments referenced by the token or derivatives relating to them, are eligible as highly liquid financial instruments.

The draft RTS consider that highly liquid financial instruments in the reserve of assets need to overall meet the general and operational requirements as envisaged in the LCR framework with some specificities. The draft RTS take into account the UCITs framework when setting concentration limits of highly liquid financial instruments by issuer. Furthermore, they require unwinding securities financing transactions involving reserve assets for the computation of the reserve of assets of the issuer of tokens and any regulatory limit on them.

[1] https://www.bis.org/bcbs/publ/d545.pdf.

[2] OJ L302 of 17 November 2009, p. 32.

[3] OJ L11 of 17 January 2015, p. 1.

**COMMISSION DELEGATED REGULATION (EU) …/...**

**of XXX**

**supplementing Regulation (EU) 2023/1114 of the European Parliament and of the Council with regard to regulatory technical standards specifying the highly liquid financial instruments with minimal market risk, credit risk and concentration risk**

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2023/1114 of the European Parliament and of the Council of 31 May 2023 on markets in crypto-assets, and amending Regulations (EU) No 1093/2010 and (EU) No 1095/2010 and Directives 2013/36/EU and (EU) 2019/1937,[4] and in particular Article 38(5), fourth subparagraph, thereof, Whereas:

(1) Pursuant to Article 54, point (b), of Regulation (EU) 2023/1114, the requirements laid down in Article 38(1) of that Regulation apply not only to issuers of asset referenced tokens, but also to electronic money institutions issuing e-money tokens.

(2) In accordance with Article 38(5), point (c), of Regulation (EU) 2023/1114, when specifying highly liquid financial instruments with minimal market risk, credit risk and concentration risk, as provided for in Article 38(1) of that Regulation, it is necessary to take into account Commission Delegated Regulation (EU) 2015/61,[5] which provides criteria to identify specific categories of assets that could be considered liquid assets in the liquidity buffer of the liquidity coverage ratio if they meet certain general and operational requirements. Certain level 1 liquid assets are posing minimal market risk, credit risk and liquidity risk, and are therefore not subject to any haircuts under Delegated Regulation (EU) 2015/61. For that reason, those assets should be included as highly liquid financial instruments in the reserve of assets.

(3) To keep the market, credit and concentration risk of the reserve assets at a low level, level 1 liquid assets in the form of extremely high quality covered bonds referred to in Delegated Regulation (EU) 2015/61 should only be specified as highly liquid financial instruments at a percentage not exceeding 35 % of the value of the reserve assets.

(4) Taking into account Article 36(1), point (a), and Article 38(5), points (a) and (b), of Regulation (EU) 2023/1114, when specifying the highly liquid financial instruments, it is necessary to cover the risks associated with the assets referenced. Therefore, to ensure that the value of the referenced assets is correlated to the value of the reserve assets of such token, it should also be possible to invest reserve assets

[4] OJ L 150, 9.6.2023, p. 40, ELI: http://data.europa.eu/eli/reg/2023/1114/oj.

[5] Commission Delegated Regulation (EU) 2015/61 of 10 October 2014 to supplement Regulation (EU) No 575/2013 of the European Parliament and the Council with regard to liquidity coverage requirement for Credit Institutions (OJ L 11, 17.1.2015, p. 1, ELI: http://data.europa.eu/eli/reg_del/2015/61/oj).

in financial instruments tracking the referenced assets or derivatives relating to the referenced assets. Those financial instruments should be considered as highly liquid financial instruments for the purposes of the reserve of assets.

(5) To avoid overestimating the amount of the reserve assets, and in line with the rules on the composition of liquidity buffer set out in Article 17 of Delegated Regulation (EU) 2015/61, an unwinding mechanism for secured funding, secured lending or collateral swap transactions should be set out for the determination of the amount of the reserve of assets.

(6) While consistency between this Regulation and Delegated Regulation (EU) 2015/61 should be maintained to the extent appropriate, proportionality should also be ensured. Against that background, Articles 7 and 8 of Delegated Regulation (EU) 2015/61 should generally apply to financial instruments in which reserve assets are invested to be regarded as highly liquid, however some exceptions should also apply. In particular, the restriction that those financial instruments are not issued by entities of the official financial sector, laid down to prevent contagion within that sector, should not apply due to the specificities of a reserve of assets of asset referenced tokens and e-money tokens. Furthermore, as Regulation (EU) 2023/1114 requires the currency matching between the denomination of the reserve assets and the denomination of the assets referenced by the tokens, the operational requirement for currency consistency under Article 8(6) of Delegated Regulation (EU) 2015/61 is not relevant and should not apply when specifying the highly liquid financial instruments with minimal market risk, credit risk and concentration risk in accordance with Regulation (EU) 2023/1114. For that same reason, some exemptions to the general and operational requirements applicable to certain level 1 liquid assets which are not subject to any haircut according to Delegated Regulation (EU) 2015/61 should also not apply, to take into account the quantitative limits set out in Regulation (EU) 2023/1114 to their inclusion in the reserve of assets.

(7) Issuers of asset-referenced tokens and e-money tokens should calculate the market value of the highly liquid financial instruments considering the cash-inflows and outflows that would derive from derivatives hedging their market risk, including interest rate risk or currency risk, and the difference between the market value of the highly liquid financial instruments and the market value of the assets referenced. That is particularly relevant for tokens that are not referenced to official currencies, which may be more volatile than the tokens referenced to official currencies.

(8) According to Article 38(5), second subparagraph, of Regulation (EU) 2023/1114, suitable limits to determine concentration requirements are to be devised. Therefore, it is necessary to lay down concentration limits for the different assets in which part of the reserve of assets can be invested. To lay down those concentration limits, the relevant thresholds laid down in Article 52 of Directive 2009/65/EC of the European Parliament and of the Council[6] should be taken into account as provided for in Article 38(5) of Regulation (EU) 2023/1114.

[6] Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (OJ L 302, 17.11.2009, p. 32, ELI: http://data.europa.eu/eli/dir/2009/65/oj).

(9) The specification of the highly liquid financial instruments with minimal market risk, credit risk and concentration risk should take into account the developments of the work in the Basel Committee on Banking Supervision framework with respect to the composition of the reserve assets of stablecoins.

(10) To ensure that assets remain highly liquid, and to take into account that both actual breaches of the conditions to consider an asset highly liquid and market expectations of such breaches may negatively affect an asset's liquidity, issuers should be required to take action where a highly liquid financial instrument ceases to fulfil the conditions set out in this Regulation, or where an issuer of asset-referenced tokens or e-money tokens has evidence that such compliance is likely to cease.

(11) This Regulation is based on the draft regulatory technical standards, developed in cooperation with the European Securities and Markets Authority and the European Central Bank, submitted to the Commission by the European Banking Authority.

(12) The European Banking Authority has conducted open public consultations on the draft regulatory technical standards on which this Regulation is based, analysed the potential related costs and benefits and requested the advice of the Banking Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1093/2010 of the European Parliament and of the Council,[7]

HAS ADOPTED THIS REGULATION:

[7] Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC (OJ L 331, 15.12.2020, p. 12, ELI: http://data.europa.eu/eli/reg/2010/1093/oj).

*Article 1*
*Scope*

This Regulation applies to the following issuers of asset referenced tokens and e-money tokens

(a) issuers of asset-referenced tokens;

(b) electronic money institutions issuing e-money tokens;

*Article 2*
*Financial instruments other than derivatives that are to be considered highly liquid financial instruments*

1. Financial instruments other than derivatives, in which reserve assets are invested, shall be considered highly liquid financial instruments with minimal market risk, credit risk and concentration risk as referred to in Article 38(1) of Regulation (EU) 2023/1114, where all of the following conditions are met:

    (a) the financial instruments belong to one of the following categories:

        (i) level 1 assets referred to in Article 10 of Delegated Regulation (EU) 2015/61 that are not subject to any haircut;

        (ii) level 1 assets qualifying as exposures in the form of extremely high quality covered bonds, as referred to in Article 10(1), point (f), of Delegated Regulation (EU) 2015/61, up to 35 % of the value of the reserve of assets;

        (iii) in case of a reserve of assets of tokens that reference at least one asset that is not an official currency, financial instruments tracking those referenced assets;

    (b) the financial instruments comply with the requirements set out in paragraph 2;

    (c) the issuers of the asset-referenced tokens or e-money tokens comply with the requirements set out in paragraph 3.

2. The financial instruments shall comply mutatis mutandis with the requirements laid down in Article 7 of Delegated Regulation (EU) 2015/61.

    By way of derogation from the first subparagraph, the following provisions shall not apply:

    (i) Article 7(7), point (aa), of Delegated Regulation (EU) 2015/61;

    (ii) Article 7(4) of Delegated Regulation (EU) 2015/61, in the case of financial instruments referred to in point (iii) of letter (a) of paragraph 1, including in the case of crypto-assets qualifying as financial instruments referred to in Article 2(4), point (a), of Regulation (EU) 2023/1114.

3. The issuers of the asset-referenced tokens or e-money tokens shall comply mutatis mutandis with the requirements laid down in Article 8 of Delegated Regulation (EU) 2015/61.

By way of derogation from the first subparagraph, the following provisions shall not apply:

(i) Article 8(1), second subparagraph, points (a)(iii) and (b);

(ii) Article 8(4), second subparagraph, of Delegated Regulation (EU) 2015/61, for financial instruments referred to in Article 10(1), points (c), (d), (e) and (g), of that Delegated Regulation;

(iii) Article 8(6) of Delegated Regulation (EU) 2015/61.

*Article 3*
*Derivatives that are to be considered highly liquid financial instruments*

Derivatives in which reserve assets of tokens that reference at least one asset that is not an official currency are invested shall be considered highly liquid financial instruments with minimal market risk, credit risk and concentration risk as referred to in Article 38(1) of Regulation (EU) 2023/1114, where those derivatives meet all of the following criteria:

(a) the underlying assets of those derivatives are assets that are referenced by those tokens;

(b) the derivatives concerned comply with Article 4 of this Regulation.

*Article 4*
*Valuation of highly liquid financial instruments when using hedging derivatives*

The net liquidity outflows and inflows from an early close-out of the hedge, including from derivatives hedging the difference between the change of the market value of reserve assets and the change of the market value of the assets referenced by the token, shall reduce or increase, as the case may be, the valuation of the highly liquid financial instruments.

*Article 5*
*Concentration limits by issuer of highly liquid financial instruments*

1. The market value of the highly liquid financial instruments referred to in Articles 2 and 3 that are issued or guaranteed by a single entity, or by entities with close links shall not be higher than:

   (a) 35 % of the market value of the reserve of assets for financial instruments referred to in Article 10 of Delegated Regulation (EU) 2015/61 that are not subject to any haircut;

   (b) 10 % of the market value of the reserve of assets for financial instruments that qualify as exposures in the form of extremely high quality covered bonds as referred to in Article 10(1), point (f), of Delegated Regulation (EU) 2015/61;

   (c) 5 % of the market value of the reserve of assets, for all other financial instruments, including money market instruments or crypto-assets that qualify as financial instruments, as referred to in Article 2(4), point (a), of Regulation (EU) 2023/1114. This limit applies to the market value of units in undertakings for collective investment in transferable securities (UCITS) with a single management company or with management companies with close links.

2. The risk exposure to a counterparty in an OTC derivative contract as defined in Article 2, point (7), of Regulation (EU) 648/2012 of the European Parliament and of the Council[8] that is considered to be highly liquid in accordance with Article 3 of this Regulation, or that is used for hedging highly liquid financial instruments as referred to in Article 4 of this Regulation, and that is unmargined, shall not exceed:

   (a) 10 % of the market value of the reserve of assets where the counterparty is a credit institution;

   (b) 5 % of the market value of the reserve of assets in all other cases.

3. For the purposes of paragraphs 1 and 2, issuers of tokens shall look through to the underlying exposures of collective investment undertakings (CIUs), as defined in Article 4(1), point (7), of Regulation (EU) No 575/2013, whose units are included in the reserve of assets.

*Article 6*
*Unwind mechanism*

1. Issuers of asset-referenced tokens and e-money tokens shall consider the impact on the reserve of assets of the termination of secured funding, secured lending, or collateral swap transactions entered into using reserve assets on at least one leg of the transaction, where the transaction matures within 5 working days.

   The reserve of assets shall be adjusted with an increase of its value, by an amount equivalent to the market value of the cash or other reserve assets to be received at the maturity of the transactions referred to in the first subparagraph, and with a decrease of its value by an amount equivalent to the market value of the cash or other reserve assets to be posted at the maturity of those transactions.

2. Issuers of asset-referenced tokens and e-money tokens shall apply paragraph 1 of this Article to:

   (a) determine the amount of the reserve of assets referred to in Article 36(1) of Regulation (EU) 2023/1114;

   (b) apply the percentages of reserve of assets referred to in Articles 2 and 3 of Commission Delegated Regulation (EU) 2025/xxx [C(2025)600] ;

   (c) apply the concentration limits by deposit counterparty referred to in Article 6 of Delegated Regulation (EU) 2025/xxx [C(2025)600];[9]

   (d) apply the concentration limits by issuer of highly liquid financial instruments set out in Article 5 of this Regulation.

[8] Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories, (OJ L 201, 27.7.2012, p. 1, ELI: http://data.europa.eu/eli/dir/2011/61/oj).

[9] Commission Delegated Regulation (EU) 2025/xxx supplementing Regulation (EU) 2023/1114 of the European Parliament and of the Council with regard to regulatory technical standards for specifying the liquidity requirements for the reserve of assets of issuers of asset-referenced tokens and of certain emoney tokens (JO L, xxx/xxx, ELI: xxx,) [OP please insert reference to C(2025)600].

3. For the purposes of point (a), paragraph 1 shall apply without prejudice to the application of Article 2(1), point (a)(ii) and Article 2(3).

*Article 7*
*Changes in characteristics of highly liquid financial instruments*

1. Where a highly liquid financial instrument ceases to fulfil the conditions set out in this Regulation, or where the issuer of the asset-referenced token or e-money token, or the competent authority has evidence that such instrument is likely to cease to fulfil those conditions, that issuer where having invested reserve assets in that financial instrument shall prepare a detailed restoration plan.
2. The issuer of the asset-referenced token or e-money token shall submit the plan referred to in paragraph 1 to the competent authority within five working days following the cessation or the evidence referred to in that paragraph, or, where the competent authority requests the issuer to submit that plan, within five working days following that request. The issuer of the asset-referenced token or e-money token shall deploy that plan to restore compliance.
3. Paragraphs 1 and 2 shall be without prejudice to legislative provisions on supervisory, investigatory or other administrative powers of competent authorities, including the withdrawal of any authorisation.

*Article 8*
*Entry into force*

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

*For the Commission*
*The President*
*Ursula VON DER LEYEN*