

Opinion of the European Banking Authority on the supervisory priorities at the end of the transition period under the EBA's No Action letter on the interplay between PSD2 and MiCA

Introduction and legal basis

1. On 10 June 2025, the EBA issued a No Action letter (NAL) in the form of an Opinion (EBA/Op/2025/08), in which it provided advice to national competent authorities (NCAs) designated as competent under the revised Directive (EU) 2015/2366 on payment services in the internal market (PSD2) on the interplay between PSD2 and the Regulation (EU) 2023/1114 on markets in crypto-assets (MiCA) with regard to the authorisation and supervision of Crypto-Asset Service Providers (CASPs) that carry out transactions using electronic money tokens (EMTs). The advice covers the period between the publication of said NAL in June 2025 and the application date of the forthcoming Payment Services Regulation (PSR) and the transposition deadline of the forthcoming PSD3.
2. The EBA advised NCAs to consider only a subset of crypto-asset services with EMTs as payment services that will require an authorisation under PSD2, to require such authorisation only after a transition period that ends on 2 March 2026, and to apply a streamlined authorisation process that makes full use of information already submitted by legal entities during their CASP authorisation process. The EBA further advised NCAs that, once the CASP or entity that benefits from one of the national transitional regimes to which MiCA refers receives an authorisation as a payment services provider, supervision and enforcement of several requirements under PSD2 should not be prioritised, (e.g., on the safeguarding of EMTs and specified requirements for the disclosure of information to consumers pertaining to the level of applicable charges).
3. The result of the EBA's advice was less burdensome for CASPs compared to another plausible interpretation of PSD2 and MiCA that would have required a dual authorisation for all types of EMT transactions, immediately so, and whereby, once the PSD2 authorisation was received,

all requirements would have applied in full. With the NAL, the EBA facilitated business continuity for CASPs that were already carrying out EMT transactions when the NAL was published.

4. The EBA is aware that, since the publication of the NAL, more than 100 CASPs have approached NCAs informally or have submitted an application for authorisation as payment service providers. As the transition period in the NAL was intentionally limited to nine months to minimise the time during which unauthorised entities could provide payment services in the EU, and given that the authorisation workload will differ between Member States, the EBA is issuing this Opinion to advise NCAs how to prioritise their authorisation efforts when the transition period ends on 2 March 2026.
5. The EBA competence to deliver this Opinion is based on Article 29(1)(a) of Regulation (EU) No 1093/2010¹, which requires the EBA to play an active role in building a common Union supervisory culture and consistent supervisory practices, as well as in ensuring uniform procedures and consistent approaches throughout the Union, including by issuing Opinions addressed to NCAs.
6. In accordance with Article 14(7) of the Rules of Procedure of the Board of Supervisors, the Board of Supervisors has adopted this Opinion, which is addressed to NCAs designated under Article 22(1) of PSD2 and Article 93(1) of MiCA.

General comments

7. By the time the NAL transition period comes to an end on 2 March 2026, three scenarios may arise for a given CASP under MiCA (or for the purpose of this Opinion: an entity that benefits from one of the national transitional regimes to which MiCA refers) that intends to continue carrying out EMT transactions that qualify as a payment service as was set out in the NAL.
8. In the first scenario, the CASP has successfully obtained an authorisation as a PI/EMI or has partnered with a PSP authorised to provide the respective services, in which case the CASP is allowed to continue carrying out EMT transactions in a way commensurate with its PSP authorisation (or, respectively, the authorisation of the partner PSP)
9. In the second scenario, the CASP has submitted an application for authorisation but has not (yet) obtained an authorisation as a PI/EMI. In this scenario, the EBA advises that the NCA under PSD2 allows the CASP to continue carrying out EMT transactions that qualify as payment services (which includes the continuation of such services on a cross-border basis) pending its decision on the application for authorisation under PSD2, provided all of the following conditions are met:
 - A. The application has been duly submitted to the NCA under PSD2 and said NCA has obtained all information and documents required under Article 5 of PSD2 and the

¹ 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).

EBA Guidelines on the authorisation of payment institutions (EBA-GL-2017-09), whether provided directly by the applicant or, where applicable, by the NCA under MiCA, with a view to allow the NCA to assess the application;

- B. the applicant responds to queries from the NCA under PSD2 in an exhaustive, transparent and expeditious manner;
- C. the NCA under PSD2 has checked that the applicant has not been subject to any supervisory measures, nor has it infringed any requirements under MiCA (or national VASP regimes) or other EU law (such as on anti-money laundering) that would be material and relevant for an authorisation under PSD2, including by interacting with the respective NCA under MiCA (or national VASP regimes) where needed;
- D. based on its preliminary assessment, the NCA under PSD2 has no reason to expect the applicant is not able to comply with PSD2, and there are reasonable grounds to expect that the application will be approved within a very short time frame. In the specific case of crypto-asset service providers benefitting from a national framework that has set the end of the (separate) transition period under Article 143(3) MiCA to the maximum permissible date of 1 July 2026, the respective NCA under PSD2 is advised to ensure that aforementioned very short time frame does in any case not extend beyond said 1 July 2026 deadline, or the date on which such entities are granted or refused authorisation pursuant to Article 63 MiCA, whichever occurs earlier.

The preliminary assessment referred to at the beginning of condition D does not prevent the NCA under PSD2 from eventually rejecting the application.

10. Should the NCA under PSD2 in this second scenario decide to allow a CASP to continue carrying out EMT transactions, the NCA is advised to ensure that, while awaiting the outcome of their authorisation process, the CASP
 - A. ceases all marketing activities related to EMTs that qualify as a payment service, and
 - B. does not provide to any *new* clients services with EMT that qualify as a payment service.
11. NCAs under PSD2 are advised to coordinate the possible imposition of these restrictions with NCAs under MiCA, for example by inserting corresponding restrictions to existing CASP authorisations and/or by referring the case to the respective enforcement departments.
12. The restrictions specified in paragraph 10 do not apply to crypto-asset service providers that are permitted under national law transposing Article 143(3) MiCA to continue providing their services until 1 July 2026, or the date on which such entities are granted or refused authorisation pursuant to Article 63 MiCA, whichever occurs earlier.

13. In a third scenario, where the CASP has not submitted an application, or it has submitted an application but has not met one or more of the conditions articulated under scenario 2, the NCA under PSD2, if needed in coordination with the NCA under MiCA and/or other national enforcement authorities, is advised to require the CASP, as of 2 March 2026:
 - A. to cease the activity of providing EMT services that qualify as a payment service under PSD2; and
 - B. to offboard clients of EMT services that qualify as a payment service under PSD2.

Specific Comments

14. Regarding scenario 1 referred to in paragraph 8, in order to meet the PSD2 requirements, a CASP would need either to obtain authorisation to provide payment services itself, or for example to act as an agent of a PSP that is authorised to provide the respective payment services. In the latter case, NCAs are advised to assess whether the partner PSP requires authorisation under Article 59 of MiCA.
15. Furthermore, when assessing whether CASPs require authorisation under PSD2, NCAs are reminded that the execution of transfers involving EMTs may qualify as a payment service (e.g., payment service 3 of Annex I to PSD2 (execution of payment transactions)), regardless of whether the custodial wallets offered by the CASP qualify as payment accounts. As clarified in para. 71 of the NAL, “PSD2 does not make an exception for payment transactions executed from/to different payment accounts held by the same payment service user, even if they are serviced by the same PSP. Therefore, first-party transfers of EMTs would still qualify as payment transactions and therefore be subject to PSD2 rules”. For example, where a CASP provides custody and administration of EMTs and executes transfers of EMTs on behalf of clients, including transfers to the same client as part of the pay-out leg of custody, such transfers may themselves constitute payment transactions requiring authorisation under PSD2, irrespective of whether or not the custodial wallet qualifies as a payment account.

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

Done at Paris, 12 February 2026

[signed]

[José Manuel Campa]

Chairperson

For the Board of Supervisors