

**Question ID**2024\_7078

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**Legal act**Regulation (EU) No 2023/1114 (MiCAR)

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**Topic**Other MiCAR topics

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**Article**48

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**Paragraph**2

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**COM Delegated or Implementing Acts/RTS/ITS/GLs/Recommendations**Not applicable

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**Article/Paragraph**N/A

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**Name of institution / submitter**Law firm (Eurius) on behalf of a licensed EMI (Quantoz Payments)

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**Country of incorporation / residence**The Netherlands

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**Type of submitter**Law firm

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**Subject matter**Issuers of EMTs and scope of application AML requirements

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**Question**

To what extent should electronic money institutions (EMIs) that issue e-money tokens (EMTs) under MiCAR comply with the obligations in relation to anti-money laundering and terrorist financing under Directive 2015/849/EU (as amended, AMLD5)? More specifically, should holders of EMTs be

considered as clients of the EMI within the meaning of AMLD5, so that the relevant KYC requirements apply on an ongoing basis in respect of holders of EMTs (not only at the time of issuing but also following trading on the secondary market)?

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### **Background on the question**

MiCAR does not specifically address the applicability of AML regulations to issuers of EMTs. If an issuer of EMTs is required to know the identity of the current holder of the EMTs on an ongoing basis, this has implications for their tradability on the secondary market. If the issuer needs to know the identity of the holder of the EMT on a continuous basis (including customer due diligence in respect of any successive new holders) and continuous monitoring needs to take place, it will need to be involved in any transfer of the EMTs following the initial issue. It is important to create clarity on this to the market.

As a result of MiCAR, the scope of AMLD5 has been enlarged based on Article 38 of the revised Regulation 2023/1113/EU (TFR). A new category of obliged entities has been added to AMLD5, namely crypto-asset service providers (CASPs). However, distribution of EMTs can also take place without the involvement of a regulated CASP, as in the case of peer-to-peer transactions or exchanges that operate outside the scope of MiCAR regulation. The position of the CASP should further be distinguished from the position of the EMI or credit institution issuing EMTs. The latter financial institutions have independent obligations under AMLD5. Also, under MiCAR and TFR, there is no reporting obligation from the CASP to the issuer for EU denominated EMTs as to the identity of a new holder of the EMT (i.e. following a transaction).

In view of the application from next June 30 2024 of the new regime under MiCAR for issuing EMTs, it is requested that answers to the above questions be provided urgently. It is of great importance that a uniform application will be followed in this regard, given its substantial practical impact on the actual characteristics of the product range to be developed in the market with regard to EMTs.

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### **Submission date**

03/05/2024

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### **Final publishing date**

22/05/2026

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### **Final answer**

Yes, according to Article 48(2) MiCAR, EMTs can only be issued by EMIs or credit institutions. Since EMIs and credit institutions are obliged entities under Directive (EU) 2015/849 as amended by Directive (EU) 2018/843 (AMLD5), it follows that they should comply with the customer due diligence rules prescribed for obliged entities under the Union AML/CFT framework. No exception can be found in MiCAR or Directive (EU) 2015/849 as amended by Directive (EU) 2018/84 with regard to AML/CFT obligations for issuers of EMTs.

Disclaimer: This answer clarifies provisions already contained in the applicable legislation. They do not extend in any way the rights and obligations deriving from such legislation, nor do they

introduce any additional requirements for the concerned operators and competent authorities. The answers are merely intended to assist natural or legal persons, including competent authorities and Union institutions and bodies in clarifying the application or implementation of the relevant legal provisions. Only the Court of Justice of the European Union is competent to authoritatively interpret Union law. The views expressed in the internal Commission Decision cannot prejudge the position that the European Commission might take before the Union and national courts.

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## **Status**

Final Q&A

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## **Answer prepared by**

Answer prepared by the European Commission because it is a matter of interpretation of Union law.

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## **Note to Q&A**

*Please note that from 1 January 2026, responsibility for all EU-level anti-money laundering and counter-terrorist financing (AML/CFT) tasks has moved from the European Banking Authority (EBA) to the Anti-Money Laundering Authority (AMLA).*

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