European Banking Authority

EBA REPONSE TO THE EC TARGETED CONSULTATION ON THE REVIEW OF MICA

24 September 2026

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List of questions covered in the EBA's response

On 20 May 2026, the European Commission published its targeted consultation on the review of the Regulation on Markets in Crypto-assets[1] (Regulation (EU) 2023/1114) (MiCA). The EBA's response has been submitted via the Survey Tool and is also set out in this report for ease of reference.

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[1] Regulation (EU) 2023/1114 of the European Parliament and of the Council of 31 May 2023 on markets in crypto-assets.

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EBA's response

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

MiCA scope & crypto-asset classification

Q1. 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?

Option selected: Yes, they should remain under the main sectoral legislation.

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?

Option selected: No, clarification is needed.

Please explain and motivate your answer to question 1:

The EBA acknowledges that the definition of 'financial instrument' is not fully harmonised by EU law. As a result, this can create some issues regarding the interplay with MiCA, in particular considering that, under national law, a token may be considered a 'financial instrument' (and not e.g. an asset-referenced token (ART) under MiCA) whereas in another Member State the same token may not be a financial instrument and may be classified as an ART.

ESA guidelines can facilitate convergence in classification. However, they cannot elaborate conclusively concepts that are not fully harmonised by EU law. As such, the EBA calls on the European Commission to take decisive steps to further harmonise the definition of 'financial instrument' at the earliest legislative opportunity.

In terms of tokenised financial instrument deployment, the EBA acknowledges that there may be areas of sectoral legislation that require targeted amendment to address inadvertent obstacles to deployment while preserving effective risk mitigation. Such amendment can be informed by experience acquired under the DLT Pilot Regime.

However, fundamentally, the EBA strongly recommends that tokenised financial instruments remain excluded from the scope of MiCA and regulated under MiFID/MiFIR/securities markets *acquis* (point (a), Article 2(4) MiCA). This is because tokenisation does not, *per se*, change the regulatory classification of an asset and the 'same risk, same rule' principle should apply.

This expression of technological neutrality is also consistent with BCBS SCO 60 (the prudential treatment of banks' exposures to crypto-assets). Should a bank have an exposure to a tokenised traditional asset, this is classified under Group 1a of the framework (subject to the satisfaction of the relevant classification conditions) and thus exposures are treated in the same way as those to non-tokenised assets. In the EU, anticipating the full implementation of BCBS SCO 60, a credit institution's exposure to a tokenised traditional asset (such as a financial instrument) is subject to the same approach (i.e. it is treated as an exposure to the traditional asset the token represents), including for the purposes of the credit risk and market risk framework (Article 501d CRR).

The EBA highlights that any departure from the current approach could give rise to significant complexities and increase compliance costs. For instance, implications could arise in terms of:

- **Scope of authorisation/regulated activity definitions**: The activities permitted to be carried out by credit institutions and other regulated financial institutions are based on terms defined in sectoral *acquis*. For example, Annex I to the CRD (activities subject to mutual recognition) cross-refers to MiFID, thus enabling credit institutions to carry out relevant activities with regard to financial instruments subject to mutual recognition. If tokenised financial instruments were no longer to be regarded as financial instruments as defined under existing *acquis*, questions would arise as to the scope of existing authorisations to carry out regulated activities. For instance, it may be necessary to define new regulated activities and for institutions to seek new authorisations.

- **Eligibility as financial collateral**: Issues may also arise as regards eligibility as financial collateral (e.g. could a tokenised security be eligible as financial collateral in the same way that a non-tokenised security may be).
- **Application of the prudential framework**: Consistent with BCBS SCO 60, the CRR currently provides that exposures to crypto-assets in the form of tokenised traditional assets shall be treated in the same way as exposures to traditional assets. Should tokenised financial instruments no longer be financial instruments and regulated as they are currently, it is unclear how those exposures should be treated by credit institutions, in particular for trading book positions and for hedging and netting purposes. It is also unclear how alignment with BCBS SCO 60 could be achieved, potentially giving rise to significant complexities for globally active credit institutions and undermining the international competitiveness of the EU.
- **Interaction between accounting rules and regulatory framework**: In the CRR, the concept of exposure value is derived from accounting values but then adjusted through prudential filters and rules. ‘Financial instrument’ is clearly defined and structured under IFRS 9 with IAS 32 and is a key bridge between IFRS 9 accounting and prudential capital calculation. A possible change of classification for tokenised financial instruments could also have major impact on the calculation of the exposure value of those instruments.

In view of these considerations, and absent any compelling case for change to the approach to the regulation of tokenised financial instruments, the EBA strongly recommends they remain excluded from the scope of MiCA and subject to existing sectoral legislation.

Q2. 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.

As at 01 September 2026, 39 electronic money tokens (EMTs) have been issued under MiCA and 0 asset-referenced tokens (ARTs) authorised pursuant to Title III MiCA.

ESA guidelines facilitate convergence in the classification of crypto-assets and feedback on existing guidelines, including under Article 97(1) MiCA, has been positive. Moreover, the EBA continues to facilitate convergence in the classification of crypto-assets via supervisory discussions, including by the establishment of case repositories for future reference. The EBA stands ready to update existing guidelines or issue other publications as appropriate based on further experience acquired.

However, ESA guidelines/other publication cannot elaborate conclusively concepts that are not fully harmonised by EU law. For instance, the absence of a fully harmonised definition of 'financial instrument' (see response to Question 1) and definition of 'deposit' (see responses to Questions 76 and 77) at EU level can only be remedied by legislative action. Such action would not only provide important clarification as to the scope of existing securities and markets and banking *acquis*, but would also help define the boundary with MiCA, which applies only to those crypto-assets that are not otherwise excluded (Article 2(4) MiCA, and joint-ESA Guidelines on templates for explanations and opinions, and the standardised test for the classification of crypto-assets (JC 2024 28)).

In terms of definitions established for the purposes of MiCA, the definitions of both 'asset-referenced token' and 'electronic money token' (points (6) and (7) of Article 3(1) MiCA) have proved challenging to apply in some cases.

In particular, in the case of potential ARTs the expression 'purports to maintain a stable value' has given rise to some discussion in relation to (a) the asset(s) referenced by the token, and (b) the composition of the reserve of assets. While Article 36 MiCA specifies the types of assets that may comprise the reserve of assets, those assets are not necessarily the same as the referenced asset(s). The EBA considers it may be necessary to assess whether restrictions should be imposed on the assets that may serve as reference assets (e.g. to limit risk or regulatory arbitrage to avoid a situation in which an ART may reference a token which meets the definition of EMT but for which no authorisation has been gained to offer to the public or admit to trading in the EU).

Commodities-linked tokens (e.g. so-called gold tokens) have proved particularly challenging to classify, often due to poor or incomplete information in the issuer's white paper regarding the description of the characteristics of the token – specifically the entitlements/rights the holder of a token is to receive. In turn, this leads to challenges in assessing (a) if the token is a financial instrument, (b) whether the token represents a right to specific property (in the sense of an identified underlying asset/assets) or to a value, (c) whether characteristics or functionalities are present which must be considered in the context of classification. For instance, although 'use as a means of exchange/payment' is not part of the definition of ART, recitals imply the use may be somehow relevant. Moreover, the structuring of some proposed crypto-assets has been attempted in such a way as to appear as ARTs when, on closer examination, they may be more appropriately classified as something else (e.g. financial instrument, EMT etc). Indeed, arbitrage attempts to circumvent the relatively stricter requirements for financial instruments and EMTs, compared to ARTs, have been identified. Some crypto-assets giving rise to classification challenges include:

- crypto-assets referencing only shares in a MMF which invests only in cash, cash equivalents and short-dated government bonds (all in the same currency) thereby raising questions as to whether the crypto-asset should be regarded as referencing a single fiat currency;
- crypto-assets referencing a pool of assets while applying complex hedging and investment strategies intended to approximate the value of a single currency and redeeming only in assets that are part of the pool (and not in fiat) raising questions as to what is the relevant reference asset – the pool or the single currency;

- crypto-assets referencing predominantly a financial instrument with only a marginal reference to an official currency, raising questions as to whether their substance is more akin to that of a financial instrument. Such structures may also undermine the objective of the prohibition of granting of interest under Article 40 MiCA;
- crypto-assets referencing EMTs.

The EBA recommends the European Commission carry out analysis of the classification issues referred to in the responses to Questions 2 and 7 as part of any exercise to evaluate the effectiveness of the existing definitions in MiCA and assess the potential need for legislative amendment or further EC interpretative guidance.

Transparency rules and ex post supervisory control regime

Q7. 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)?

The EBA has identified the following categories of crypto-asset as raising classification challenges:

- crypto-assets that purport to maintain a stable value by reference to a pool of assets approximating the value of a single currency or to financial instruments (see further details provided in Question 2);
- crypto-assets in the form of so-called 'wrapped' tokens i.e. crypto-assets that are traded on one blockchain and 'mirror' the value of another crypto-asset from a different blockchain. Such crypto-assets enable cross-chain usage of tokens that may not be 'natively' available on a specific blockchain. However, they raise classification challenges, and potential arbitrage concerns, particularly in cases where a wrapped token is potentially to be offered to the public in the EU and 'wraps' a token that purports to maintain a stable value by reference to a single fiat currency, but where neither token is authorised as an EMT.

In both cases, complex structuring and unclear rights and entitlements of token holders can give rise to significant challenges in determining the regulatory qualification of the token.

More generally, the EBA observes challenges in classifying:

- hybrid tokens when several functions or rights in one token are combined,
- synthetic exposures which give economic exposure to something without necessarily giving ownership of the underlying asset,
- crypto-assets marketed as non-fungible tokens (NFTs) but displaying features implying some degree of fungibility.

Finally, the EBA observes that, in practice, some uncertainty remains within the market as to what elements should be decisive when assessing the regulatory classification of a token, including whether a crypto-asset purports to maintain a stable value. For instance, it is currently unclear whether the assessment should be based primarily on: (i) the representations, commitments or promises made by the issuer in the white paper or other documentation; (ii) the existence of mechanisms embedded in the token design, reserve structure or issuance arrangements that are intended to maintain value stability; or (iii) some other factors, including the actual observed price behaviour of the token on secondary markets.

The EBA is working with supervisors on convergence actions and anti-circumvention efforts to mitigate the risks of arbitrage as more 'boundary' cases emerge. However, the EBA considers that any wider review by the European Commission of the definitions used for the purposes of establishing the perimeter of MiCA should take account of the need to address the above issues, with the goal of simplifying the classification process and addressing arbitrage considerations.

Separately, see further the responses to Questions 76 and 77 on tokenised deposits, including classification challenges.

Part 2: Requirements applying to ARTs and EMTs and their issuers (MiCA Titles III and IV)

Prudential regime and capital requirements

Q11. To what extent do you think the calculation methods are relevant and appropriately calibrated?

Option selected: Score '4' (mostly relevant/appropriately calibrated).

MiCA capital/own funds elements	Relevant	Appropriately calibrated
Minimum own funds of EUR 350,000	'4'	'4'
2% of the average reserve of assets	'4'	'4'
25% of the fixed overheads to the preceding year	'4'	'4'
Additional own funds for "significant" tokens	'4'	'4'

Please explain your responses to the preceding question, including your reasoning and any suggestions for recalibration or alternative approaches (e.g. greater risks sensitivity, differentiation by business model, or interaction with reserve and liquidity requirements).

The EBA considers that the calculation methods are broadly relevant and appropriate in terms of establishing basic minimum requirements under Titles III and IV of MiCA based on the limited experience acquired from the application of the EMT regime (Titles III and IV entered into application in mid-2024; as at 01 September 2026, 39 EMTs have been issued, of which 36 have been issued by electronic money institutions; and no experience has been acquired with the prudential elements of Title III MiCA (ARTs)).

Going forward, the EBA recommends the European Commission take steps to clarify the interplay between the capital/own funds requirements under Titles III and IV of MiCA and those applicable with respect to other types of financial services carried out by non-banks (e.g. where an entity is an issuer of an ART or EMT and a CASP or other type of financial institution). Not only could such clarification exercise be used to assess and implement any changes with a view to simplification, such clarification could (and should) address the questions that have arisen over whether requirements are to apply commensurately or cumulatively.

The EBA also recommends the European Commission give consideration to the introduction of (a) a new calculation method that is risk-based; and (b) more extensive powers for the competent authority to impose additional own funds requirements as deemed appropriate taking account of the individual business model (e.g. Article 35(3) MiCA already provides for some discretion but this is framed by reference only to issuance activities). Both approaches would allow for the full spectrum of the issuer or CASP activities and associated risks (including sophisticated technological and cyber security risks) to be taken into account when establishing own funds requirements beyond the minimum to reflect any additional and specific risks arising from the business model. This would have the effect of enhancing risk-sensitivity while maintaining proportionality. Joint EBA-ESMA Guidelines could be considered to support consistency in the application of any such supervisory discretions in order to protect the level playing field.

For instance, the EBA is aware that some CASPs (and potentially issuers of ARTs and EMTs) are adopting increasingly complex business models, e.g. CASPs may:

- use their own balance sheet for crypto-asset borrowing or lending activities (see also the response to Question 67 regarding intermediated and facilitated borrowing and lending activities); or
- undertake crypto-asset investment on own account.

In both cases, these activities may expose the balance sheet of the CASP to credit and market risk and to risks arising from leverage, none of which is captured in the current regime in terms of basic or supplemental requirements. The introduction of a risk-based approach would enable such risks to be taken into account while enhancing the proportionality of the regime as requirements would be further tailored to the activities and risks of the entity concerned.

More generally, given the global nature of stablecoins, in carrying out its cost benefit analysis, the EBA recommends the European Commission have regard to own funds requirements in other major jurisdictions, to support competitiveness and ensure a level playing field, while preserving prudential standards and effective risk management.

Finally (and relevant to Questions 49 and 50 which fall outside direct scope of EBA's response), the EBA supports wider proposals for clarification to Title V MiCA capital/own funds requirements, specifically regarding:

- the alignment of capital requirements for CASPs with those set out in the IFR/IFD (including to delete the list of variable costs that can be deducted for the purposes of the calculation of the total fixed overheads, so that further variable costs can be deducted in line with the approach under the IFR/IFD (Article 67 MiCA));
- the need for assessment as to whether the current approach is sufficient to take account of the risk profile where a CASP carries out multiple services in Class 2 (or Class 3), because, at present, the amount is the same whether one or more services is carried out within the class and thus the calibration does not necessarily take account of the specific risks involved from these any other services carried out in combination).

Should the definition of crypto-asset services change over time, and new services be added, the implications in terms of capital/own funds requirements would also need to be considered.

Q13. 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.

As at 01 September 2026 0 asset-referenced tokens (ARTs) have been authorised pursuant to Title III MiCA. However, based on the potential cases of ARTs to-date assessed in the context of supervisory convergence discussions, the EBA considers that the primary use for ARTs is likely to be 'investment', rather than as an alternative means of exchange. This is because of the nature of the reference assets in the potential cases (e.g. commodities such as gold, financial instruments, real estate performance etc). Of course, a person may choose to receive, by way of consideration, an ART in the same way a person may choose to receive any other type of asset in exchange for good or service. However, this does not equate to an ART being generally regarded as a means of exchange/alternative means of payment. Similarly, possible use as non-cash collateral does not equate to such. (See further remarks in the context of the EBA's response to Question 7 regarding the benefit of clarification to the definition of ART as an investment instrument; ultimately it may also be considered whether, in fact, ART is essentially a redundant category and should be assimilated into the concept of 'financial instrument'.)

In terms of use of ARTs as a means of investment, the following are possible rationales for why ARTs might be considered: (a) potential for fractional ownership, (b) possible improved market depth/liquidity, including from potential global investor access, (c) lower costs, including due to possible lower operational costs due to DLT 'running rails', (d) possible enhanced transaction transparency, consistent with broader potential advantages offered by the technology involved.

As noted in the response to Questions 1, 2 and 7, challenges in applying the definitions of 'financial instrument' and 'asset-referenced token' may be posing obstacles to the emergence of tokenised investment products, in particular delaying product launch due to protracted processes involving legal opinions and supervisory dialogues to establish the ultimate regulatory classification of the token(s) concerned.

Liquidity and reserve requirements

Q15. 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?

Option selected: Score '3' (current framework is appropriate) and, for one requirement, Score '2' (current requirement could be somehow relaxed):

Requirement element	EMTs	Significant EMTs
Obligation to constitute and maintain a reserve of assets covering redemption and liquidity risks (Art 36(1))	'3'	'3'
Legal and operational segregation of reserve assets from the issuer's own estate	'3'	'3'

and from other token reserves (Art 36(2)–(3))		
Liquidity composition and maturity structure of the reserve (Art 36(4), RTS)	'3'	'3'
Minimum amount of deposits held (30% and 60%) (Art 36(4), RTS)	'2'	'2'
Auditing requirements (Art 36(9))	'3'	'3'
Custody requirements (Art 37)	'3'	'3'
Enhanced liquidity management, stress testing, monitoring, and reporting obligations for significant EMTs (Art 45(3)–(4))	'3'	'3'
Excessive exposure / concentration between bank and token (Article 36(4) MiCA) Do you consider the 1.5% binding limit adequate? (RTS)	'3'	'3'

Please, explain your responses, including your reasoning and any suggestions for recalibration or alternative approaches.

On the whole, the EBA considers the requirements broadly appropriate and suggests the requirements should remain unchanged until greater experience has been acquired with their application. However, the EBA acknowledges that the minimum percentage of reserves required to be held in the form of deposits (30% for EMTs and 60% for significant EMTs issued by electronic money institutions) increases interconnectedness with the EU banking sector which, while supporting the issuer's prompt access to liquidity needed to meet 'at any time' redemption requests and preserving bank funding, may pose vulnerabilities stemming from:

- **the issuer** e.g. in the event reserve assets in the form of deposits are withdrawn rapidly at scale, potentially resulting in liquidity stress for the credit institution(s) concerned notwithstanding diversification and concentration limits under MiCA (in particular the EBA's technical standards as referred to below) and liquidity requirements under the Liquidity Coverage Ratio (LCR)/ Net Stable Funding Ratio (NSFR);
- **the credit institution** e.g. in the event the institution was to encounter financial difficulties this could result in the issuer facing delays in accessing, or losses regarding, reserves held as deposits with that institution.

In this light, the EBA acknowledges that there may be benefit in the European Commission carrying out a careful and rigorous cost benefit analysis to assess (from an issuer, bank and broader financial sector/financial stability perspective) whether the minimum amount in the form of deposits could be reduced taking account of any further experience acquired with the application of the regime (see further the response to Question 26). Indeed, a framework based on minimum daily and weekly liquidity buckets, supplemented by maturity limits and diversification overall may be more risk sensitive than a fixed percentage held as deposits.

However, in any scenario, this is subject to 'other' (i.e. non-deposit) permitted reserve assets being of a sufficiently high quality and liquid nature to enable redemption requests to continue to be satisfied within the relevant timeframe(s) (see further the response to Question 23) and being clearly specified in the legal framework. In this respect the EBA refers to its draft regulatory technical standards of June 2024 on liquidity requirements of the reserve of assets under Article 36(4) MiCA, and the regulatory technical standards to specify the highly liquid financial instruments with minimal market risk, credit risk and concentration risk under Article 38(5) MiCA, and recommends these are adopted without material amendment to ensure non-deposit reserve assets are of a sufficiently liquid nature. The EBA emphasises the remarks set out in its October 2025 Opinions on the European Commission's proposed material amendments and repeats its concern that the changes, if adopted, would have the effect of 'watering down' the quality of the other reserve assets, and depart from the notion of liquid financial instrument used for the purposes of the CRD/CRR. Overall, the changes could undermine capability to meet redemption needs, particularly in times of stress. This impact could be further compounded if the minimum amount to be held in the form of deposits were to be reduced.

Longer-term the European Commission could also consider, from the perspective of legal certainty and supervisory consistency, assessing whether the reserve assets framework for ARTs and EMTs should be defined exclusively in MiCA (e.g. instead of deferring some elements to the EMD) to minimise the risk of unintended differences in the treatment of functionally similar stablecoins arrangements. Such an approach would also improve transparency for issuers, token holders and competent authorities by ensuring that the core rules governing reserve composition, liquidity management and asset segregation are contained within a single legislative framework.

Q16. 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?

Option selected: No, keep the current MiCA approach unchanged.

Please explain your response, including your reasoning and any suggestions for other/alternative approaches.

Credit institutions are not required to maintain segregated reserves for EMTs, consistent with the regulation for 'traditional' e-money (Article 7 EMD). The EBA considers that this approach should remain unchanged at present in accordance with the principle of technological neutrality (i.e. tokenisation *per se* does not change the economic features of the product in question nor those of the financial intermediary involved).

Moreover, the EBA highlights that credit institutions are subject to prudential requirements that are substantially more stringent than for electronic money institutions (EMIs) and thus are already subject to rigorous prudential requirements that facilitate effective balance sheet management. In particular, credit institutions are subject to the Liquidity Coverage Ratio (LCR) and Net Stable Funding Ratio (NSFR) both of which are intended to ensure the prudent management of liquidity needs over, respectively, a 30-day and 12-month period taking account of stress conditions. Neither of these requirements apply to EMIs.

The EBA highlights that the current approach is consistent with credit institutions' transformation activities while it does not prevent them from establishing a subsidiary to carry out issuance of EMTs should they consider it appropriate (e.g. for operational or branding purposes). Indeed as at 01 September 2026 3 credit institutions issue EMTs directly, and 1 has established a subsidiary to carry out issuance activities. There is also a proposal among a consortium of EU banks to establish a special purpose vehicle for EMT issuance.

Should the European Commission carry out a cost benefit analysis to inform any decision as to whether to maintain the current position for credit institutions or require reserve segregation, it is relevant to highlight that a requirement for credit institutions to segregate reserves for EMTs:

- for cases where the LCR run-off rate of the funds received is not 100%, would impact the ability of credit institutions to use funds received in exchange for EMTs for lending and thus could disincentivise issuance by credit institutions;
- could lead to a potential 'double counting' should credit institutions be required to maintain segregated reserves absent clarification as to the exclusion of EMT liabilities from the calculation of the LCR and NSFR. For example, absent clarification it could be argued credit institutions would need to maintain segregated reserves *in addition* to assets for the purposes of the LCR as liabilities to EMT holders would be counted toward the outflow calculation but assets in the reserves could not be counted toward meeting the requirement (due to the fact they are held as reserves for the benefit of token holders and are thus encumbered);
- could pose additional administrative and compliance costs, due to the need to manage the assets outside regular balance sheet processes, thereby potentially disincentivising issuance;
- would provide token holders with an identifiable and ring-fenced pool of assets, including in the context of insolvency. However, this would place token holders at preferred position compared to other unsecured creditors (including depositors) and thus may require public policy justification.

Additionally, it is relevant to consider that segregation could delineate risks from the rest of the credit institution's balance sheet (e.g. potentially limiting recourse in the context of 'excess' redemptions in the event the token is part of a multi-issuance scheme). However, should shortfalls in reserve assets arise for any reason, it is possible that the credit institution may still 'step-in' to address the issues (e.g. for reputational reasons) (the same also applies with respect to subsidiarisation).

The EBA also suggests any cost benefit analysis take account of the option of introducing supervisory discretion to require the separation of EMT issuance from a credit institution to a subsidiary authorised as an EMI if appropriate to insulate the core banking operations from any risks posed from the EMT business taking account of the scale of the activities or other features. A requirement to carry out issuance via a subsidiary could create an enhanced distinction between EMTs and deposits and could better insulate the credit institution's balance sheet from any potential impacts from reserve management, redemption dynamics or operational incidents (in particular should the institution participate in a third-country multi-issuer scheme). It could also simplify supervisory assessments and recovery planning, albeit as a subsidiary of the credit institution, the EMI would still be taken into account for the purposes of bank group recovery/resolution planning (under the BRRD).

Criteria for determining significance

Q17. Do you think the following quantitative criteria thresholds used to classify EMTs or ARTs as "significant" should be adjusted? If so, how?

Option selected: Score '3' (kept as is (current MiCA thresholds are broadly appropriate)) for all quantitative criteria.

Please explain your responses, including your reasoning and any suggestions for recalibration or alternative approaches.

The EBA is conducting the significance assessment process for the first time in 2026. The EBA will transmit any lessons learned to the European Commission following the completion of its assessment and stands ready to support any future Commission review of the criteria once further experience has been acquired.

More broadly, in the context of any future review of the significance criteria taken as a whole, the EBA considers it may be helpful for the European Commission to consider:

(i) the introduction of a new criterion on multi-issuance reflecting the potential for risk transfer to the EU from global/international activities (see the response to Question 19);

(ii) clarifications to existing criteria, e.g. to point (a) of Article 43(1) with respect to the notion of 'holder' – see further the response to Question 35 on the definitions of 'EU holder'/'held in the EU') and to point (c) of Article 43(1) (proposal that 'and' should be replaced with 'or' in the context of the following aspect of the criterion: 'the average number and average aggregate value of transactions') and to point (f) of Article 43(1) ('financial system' includes both EU and international financial system considerations);

(iii) the balance between qualitative and quantitative criteria and follow up on any further clarifications based on lessons learned after the first significance assessment; and

(iv) any need to further adjust (e.g. revisiting the thresholds in points (b) and (c) of Article 43(1) or strengthen the criteria taking account of needs to protect EU consumers and maintain the prudential resilience and financial stability of the EU financial system (e.g. with additional methodologies taking account of any broader legislative developments (e.g. on the definition of 'EU holder' – see further the response to Question 35)).

Q18. Do you think the qualitative criteria used to classify EMTs or ARTs as "significant" under MiCA should be adjusted?

Option selected: Yes.

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

See responses to Questions 17 and 19.

Q19. Are there any additional criteria or metrics that should be added to determine "significant" tokens?

Option selected: Yes.

If 'yes', please specify which criteria or metrics and explain why.

The EBA considers measures should be taken to strengthen the MiCA framework with respect to third-country multi-issuance so that these schemes are subject to a dedicated regulatory and supervisory regime (see further the response to Question 29). In this context, consideration could be given to the introduction in Article 43(1) MiCA of a new criterion referring to participation in a multi-issuance scheme, and the potential transfer of global risk to the EU. This would allow the EBA, on a case-by-case basis, to assess if participation is sufficiently material (applying a risk-based approach) as to justify, along with the satisfaction of two or more other criteria, a classification of significance (i.e. based on the EBA's holistic assessment against all applicable criteria).

The EBA stands ready to support the European Commission on any further analysis as may be appropriate to inform any potential new criterion.

Interest payment

Q20. In your view, should the MiCA prohibition on granting interest or any interest-equivalent remuneration be modified?

Option selected: Yes, interest and interest-equivalent remuneration should continue to be prohibited (for both ARTs and EMTs).

If you selected "allowed", please explain your reasons (including any benefits and risks) and specify the conditions under which remuneration should be permitted.

N/A (see further response to Question 67).

Redemption

Q23. 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 useability.

Option selected: 'Keep as is' for each of the following:

- Permanent right of redemption against the issuer, either at market value (ARTs) or at par (EMTs)
- Prohibition of redemption fees
- Conditions, procedures, and transparency of redemption policies disclosed to holders
- Supervisory powers to intervene in or trigger redemption plans

Option selected: 'Strengthen' for the following:

- Timing of redemption (timeframe for redemption by the issuer)

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

The EBA considers that the requirements are fit-for-purpose taking account of (limited) experience acquired in the application of MiCA to-date. However, the EBA recommends the European Commission consider several points for legislative clarification:

- **Timeframe for redemption**: MiCA confers on holders of ARTs and EMTs a permanent right of redemption (respectively at market value, and at par). Neither the recitals nor operative provisions of MiCA establish the maximum timeframe for redemption in 'business as usual' conditions. The EBA considers the maximum period could benefit from clarification due to a range of emerging market practices within the EU and globally (T+1, T+2, T+4) in order to provide holders with more legal certainty and consistency as to the maximum redemption timeframes in business-as-usual circumstances (MiCA refers to 'at any time'). Such consistency should also apply in the context of third-country multi-issuer schemes where maximum redemption periods should be aligned to mitigate behavioural incentives to 'run' against one or other issuer. For tokens with large, cross-border volumes more granular expectations on standard processing times and crisis procedures would improve predictability for users and support orderly handling of redemption waves, thereby contributing to both financial stability and cross-border usability. Additionally, clarity regarding the maximum period for redemptions can further reinforce liquidity requirements (see further response to Question 15), in particular to ensure sufficient available assets that can be liquidated to meet realistically the redemption timeframe. Finally, in further clarifying the redemption timeframe, regard should be had to BCBS SCO 60 conditions (in particular, for Group 1b crypto-assets).
- **Redemption fees**: While redemption fees are prohibited under MiCA on a business as usual basis, the EBA considers that there would be benefit in keeping under review the application of the prohibition, including as regards potential attempts by issuers to impose 'through the back door' fees (for instance, regarding a requirement for a specific wallet to be opened with the issuer in order to process the redemption request) in case changes or clarifications are needed.
- **Conditions, procedures and transparency of redemption policies**: These rules may benefit from being further strengthened, notably via more standardised disclosure requirements. Harmonised user-friendly templates for redemption policies (including cross-border channels, crisis procedures and contact points) would improve comparability for consumers and supervisors and support the practical usability of EMTs/ARTs across Member States.
- **Supervisory powers to intervene in or trigger redemption plans**: These powers should be strengthened and clarified for significant ARTs/EMTs, while keeping the general framework for non-significant tokens broadly unchanged. For significant tokens clearer rules on home/host supervisory coordination, information flows and interaction between MiCA redemption plans and bank resolution tools would enhance financial stability and protect token holders in stress scenarios, without undermining their underlying redemption rights.
- **Definition of 'held in the EU'/'EU holder'**: See further the response to Question 35.

Stability issues

Q24. 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.

Option selected: Keep as is.

	ARTs	EMTs
Recovery plans	'Keep as is'	'Keep as is'
Redemption plans	'Keep as is'	'Keep as is'

Please explain your assessment, including if a different approach is warranted for significant vs non-significant tokens, and share any suggestions for adjustments you may have.

The EBA notes that the EMT requirements are being applied but have not yet been tested via market events (as at 01 September 2026 0 ARTs have been authorised under Title III MiCA). In this context the EBA considers insufficient experience has been acquired to consider any changes. However, the EBA refers to its response to Question 51 (multi-function groups) for broader observations about the potential need to strengthen arrangements, including in the context of stress events, for non-bank groups containing issuers.

Looking ahead, the EBA considers the European Commission could assess if there would be benefit in extending the crisis management toolkit to non-bank issuers (e.g. to facilitate a transfer of business, including reserve assets to a third party for reasons of consumer/investor protect, the resilience and stability of the financial system, and orderly wind-down).

More generally, further mechanisms to better coordinate recovery and redemption planning with broader crisis management planning and procedures (e.g. under the BRRD) could be considered in order to ensure sufficient *ex ante* information and coordination with resolution authorities (in the case of the stress of an issuer, or a credit institution or other entity holding reserve assets).

The EBA will continue to promote convergence in the application of recovery and resolution planning, including regarding the application of triggers for redemption plans, as part of its broader supervisory convergence activities under MiCA.

Q25. 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 on a scale of 1 to 5:

Option selected: '3' (moderately appropriate/desirable), with the exception of the reference to access to central bank accounts and emergency liquidity support/lender of last resort, where the EBA defers to the central banking community and thus will not record a response (by selecting the 'no opinion' option) via the EU Survey Tool.

Policy option	Rating selected
Allowing EMT issuers to deposit their reserve assets directly into central bank accounts	'no opinion'

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	'3'
Establishing a dedicated resolution regime for EMIs issuing EMTs	'3'
Allowing emergency liquidity support / lender-of-last-resort (LOLR) facilities for EMIs issuing EMTs	'no opinion'
Others	N/A

If your answer is "Others", please elaborate.

N/A

Please explain your ratings, including potential benefits, risks, or implementation challenges.

The EBA is of the view that all of the options indicated should be subject to a detailed cost benefit analysis by the European Commission (and, as relevant, by the central banking community) before any decision is taken as to whether or not to introduce legislative amendments or clarifications as appropriate.

Focussing on two of the options (redemption rights/rights in insolvency, and resolution regimes), the EBA notes:

- MiCA contemplates that reserves of assets for ARTs "*shall be legally segregated from the issuers' estate… so that creditors of the issuer have not recourse to the reserve of assets, in particular in the event of an insolvency*" (Article 36(2) MiCA), as also extended to significant EMTs issued by electronic money institutions (EMIs) (point (a), Article 58(1)) and therefore analysis is required to assess whether any amendment is needed to strengthen the effect of safeguarding reserve assets with respect to non-significant EMTs issued by EMIs in the event of issuer insolvency. With regard to EMTs issued by credit institutions, this element could be considered as part of the cost benefit analysis recommended in the response to Question 16).
- MiCA imposes extensive recovery and redemption planning requirements on issuers. Redemption plans can be triggered by the relevant authority. However, there may be merit in considering whether a more extensive toolkit should be made available to relevant authorities, e.g. with regard to non-bank issuers issuing significant ARTs/EMTs, for instance to extend available tools to facilitate the transfer of a failing issuer's ART/EMT business to another issuer, taking inspiration from the powers available under the BRRD. See further the response to Question 24.

Q26. How appropriate is it to require EMT-issuing EMIs to hold 30–60% of their reserve assets in bank deposits?

Option selected: Moderately appropriate/desirable.

Please explain your ratings and add any suggestions for recalibration or alternative approaches.

As noted in its response to Question 15, bank deposit holdings increase interconnectedness with the banking sector. Therefore, the EBA acknowledges that there may be benefit in the European Commission carrying out a rigorous cost benefit analysis to review whether the minimum amount in the form of deposits could be reduced (*ex ante* or at the discretion of the supervisor) taking account of any further experience acquired with the application of the regime.

In any scenario, this is subject to the ‘other’ (non-deposit) permitted reserve assets being of a sufficiently high quality and liquid nature to enable redemption requests to continue to be satisfied within the relevant timeframe(s) (see further the response to Question 23).

In this respect the EBA refers to the draft RTS of June 2024 on liquidity requirements of the reserve of assets under Article 36(4) MiCA and the RTS to specify the highly liquid financial instruments with minimal market risk, credit risk and concentration risk under Article 38(5) MiCA and recommends these are adopted without material amendment to ensure non-deposit reserve assets are of a sufficiently liquid nature.

Indeed, the EBA recalls its October 2025 Opinions on the European Commission’s proposed material amendments to the RTS and repeats its concern that the changes, if adopted, would have the effect of ‘watering down’ the quality of the other reserve assets and depart from the notion of liquid financial instrument used for the purposes of the CRD/CRR. Overall, the changes could undermine capability to meet redemption needs particularly in times of stress. This impact could be further compounded if the minimum amount to be held in the form of deposits were to be reduced.

Should the European Commission choose to carry out a cost benefit analysis to inform any future decision as to whether to maintain or reduce the minimum amount of reserves (for ARTs or EMTs) to be held in the form of deposits, the EBA notes the following considerations could be assessed in terms of potential ‘pros’ and ‘cons’ of any reduction:

For issuers:

Pros:

- broader flexibility for the issuer to invest in alternative (permitted) reserve assets, potentially boosting returns and supporting sustainability of the business model and enhancing competitiveness of EU market for issuance activities;
- reduction in direct interlinkages with credit institutions.

Cons:

- potential constraints on availability of ‘other’ reserve assets (depending on ultimate permitted composition) in stress conditions – e.g. withdrawals from MMFs (if permitted reserve assets) can take >4 days to process, even under ‘business as usual’ scenarios.

For credit institutions:

Pros:

- mitigation of potential contagion channels between credit institutions and issuers.

Cons:

- reduction in a funding source for credit institutions. At the same time, deposits from issuers differ from retail deposits as they are considered more sensitive and pose liquidity risks (and, for this reason, are subject to a high outflow rate for the purposes of LCR and NSFR calculation and therefore are 'expensive' for banks to take).

Market more broadly:

For completeness, it is noted that:

- a change to the minimum deposit amount could result in closer alignment with emerging approaches in stablecoin regulation in other leading financial centres, albeit those regimes and the MiCA regime need to be viewed in the broader context of the role the stablecoins are expected to play in the financial system taking account other available digital payment solutions (e.g. in the Euro area the digital euro project and projects Pontes and Appia are in progress, whereas in some other jurisdictions where no CBDC is to be introduced and/or no steps are being taken toward DLT-compatible central bank settlement solutions stablecoins are expected to take on a more relevant role);
- increased flexibility for the issuer to choose how it invests reserve assets could give rise to level-playing field considerations;
- credit institutions are highly regulated with extensive requirements, such as the LCR, which are intended to ensure that risks relating to deposits, including non-operational deposits from financial institutions are subject to relevant outflow rates (e.g. 100%) to ensure effective management of liquidity risk;
- a requirement for a substantial portion of the reserves to be held in deposits can enable the issuer to avoid immediate sell-off of securities and other reserve assets in times of stress, thereby potentially mitigating 'fire-sale' risks. A similar outcome could also be achieved by the investment of reserves in overnight reverse repos.

The EBA stands ready to support the European Commission in any analysis of the issues referred to above.

Finally, the EBA considers that any consideration of reserve asset composition should also take account of any potential interaction with the DGSD with regard to funds required to be safeguarded in the form of deposits in accordance with Article 54(a) MiCA, with clarity provided as appropriate.

Global stablecoins arrangements and interactions with other regulatory frameworks

Q29. Based on your experience and assessment, how significant are the following risks associated with a multi-issuance model of global stablecoins for the EU financial system?

Please rate each risk on a scale from 1 (Irrelevant) to 5 (Very significant).

Risk	Rating (option selected)
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)	'4 (significant)'
Unbalanced reserve distribution across jurisdictions (e.g. fragmentation of reserves between EU and non-EU entities)	'4 (significant)'
Cross-border reserve transfer restrictions (e.g. third-country limitations on moving reserves during stress events)	'4 (significant)'
Regulatory arbitrage due to fungibility of tokens (e.g. operation across regimes exploiting differences in prudential or conduct rules)	'4 (significant)'

Supervisory monitoring and data-tracking challenges (e.g. difficulty measuring EU-holdings, especially holdings in self-custodial wallets)	'4 (significant)'
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.	'4 (significant)'
Others	N/A

If your answer is "Others", please elaborate.

N/A

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

As observed in the ESRB 2025 Recommendation on third-country multi-issuer stablecoin schemes (TCMIS) (ESRB/2025/9), the articles of MiCA do not explicitly refer to such schemes whereas they do refer to multi-issuance by EU entities (e.g. Article 37(2) MiCA). This gives rise to questions on the permissibility of the model (e.g. QA 2024_7068 and 2024_7069) which remain unanswered by the European Commission.

Currently, two EMIs participate in TCMIS (both re USD denominated EMTs). In one case the market cap is relatively limited.

TCMIS can pose risks:

- **EU holders**: the split of reserves between issuers may mean that reserves are not located in the same jurisdiction as the issuer to whom redemption requests are addressed potentially leading to shortfalls and losses if 'rebalancing mechanisms' are not in place or prove ineffective;
- **Prudential resilience (EU issuer)**: an unexpectedly large redemption volume against the EU issuer may lead to prudential stress should the issuer have to liquidate assets to meet any EU reserve shortfalls absent effective rebalancing;
- **Contagion (custodians/market)**: reserve assets may be liquidated rapidly, leading to pressures on custodians or on markets (due to fire sales) leading to potential contagion;
- **Arbitrage**: where reserve asset requirements are not aligned across jurisdictions, issuers may arbitrage to invest the maximum possible in the most profitable assets. This may have the effect of misaligning the operational (including geographic) availability of assets vs redemption demand.

The risks may be exacerbated due to regulatory and commercial factors. For instance, risks may be elevated where a relevant third country has not implemented, or is at the early stages of implementing, the FSB's Recommendations for the Regulation, Supervision and Oversight of Global Stablecoin Arrangements (see the FSB October 2025 Thematic Peer Review Report) because token holders may 'migrate' redemption requests to the issuer subject to higher standards of regulation. Similarly, differences in redemption T&Cs arising from commercial considerations can create behavioural incentives for token holders to orientate redemption requests to the issuer with preferable T&Cs (e.g. no redemption fee, speed of processing redemptions etc). Such redemption requests may be direct or may involve a sale of tokens via CASPs that operate cross-border and can re-assign rapidly token holdings from one corporate entity to another thereby almost instantaneously becoming EU holdings (where EU redemption is perceived as advantageous).

The EBA considers that the current risks can be partly mitigated through tools available under MiCA, albeit the ultimate effectiveness depends on the scale of any multi-issuance and other factors concerning the specific stress event. For example:

- Article 45(4) MiCA and the EBA's Guidelines on liquidity stress testing (EBA/GL/2024/08) enable supervisors, based on stress test results, to require an issuer to hold additional own funds and reserves in the EU. Indeed reserves must be sufficient to cover: (i) the tokens in circulation in the EU at that moment, and (ii) the tokens expected to be transferred to the EU for redemption in stress, the calibration of which is done in the liquidity stress test;
- Article 46(3) MiCA enables supervisors to require the implementation of recovery plan actions and redemption plans, potentially limiting redemptions (see the EBA Guidelines on redemption plans (EBA/GL/2024/13)).

However, the EBA notes that should the number and/or scale of TCMIS change it is conceivable that risks could become 'very significant' and may not be capable of being managed effectively under MiCA. As such, the EBA considers measures should be taken to strengthen MiCA, should TCMIS be permissible, so that these schemes are subject to a dedicated regulatory and supervisory regime.

Consideration should be given to the introduction of measures enlisted in the ESRB's Recommendation (e.g. introduction of a new significance criterion and an equivalence regime as a baseline for market access (see further the responses to Question 19 and 40)) as well as additional supervisory tools and backstop powers for EU authorities to mitigate and manage crisis situations. For example, issuance should be subject to a prior supervisory non-objection process where the token is planned to be issued by an entity already holding the relevant authorisation as a credit or electronic money institution. Behavioural/economic incentives for redemption in the EU should be eliminated (see further the response to Question 23). Redemption arrangements should be enforceable and transparent at all times with EU safeguards to ensure this outcome. Enhanced supervisory cooperation and information-sharing across relevant jurisdictions should be mandated. Higher own funds could also be considered.

The EBA stands ready to support the European Commission on any further analysis as may be appropriate to inform future measures.

Current safeguards in MiCA

Q34. 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 on a scale where 1 means 'Not effective at all' and 5 means 'Highly effective'.

Safeguard	Rating (option selected)
Restriction of widely used ARTs and EMTs denominated in a currency that is not an official currency of a Member State (Articles 23, 58)	'2 (slightly effective)'
ECB binding opinion powers on withdrawing authorisation and limit the amounts of ARTs and EMTs (Articles 24(2)(3), 58)	'2 (slightly effective)'

EU establishment requirement for ART and EMT issuers (Article 16)	‘2 (slightly effective)’
Reserve location, composition and liquidity requirements for ARTs and EMTs (Articles 36–38, 45, 54)	‘2 (slightly effective)’
The powers of competent authorities listed in Article 94, especially to suspend or prohibit the trading of crypto-assets	‘2 (slightly effective)’
National supervisory intervention powers (Article 105)	‘2 (slightly effective)’
EBA temporary intervention powers (Article 104)	‘2 (slightly effective)’

Please explain your answer to question 34:

The EBA observes that while the safeguards provide a degree of risk-mitigation, the ultimate effectiveness depends on the scale of any multi-issuance and other factors concerning the specific stress event.

For instance, the EU establishment requirement is of limited effectiveness in a multi-issuance context for the reasons explained in the response to Question 29. The presence of an EU issuer does not necessarily ensure that reserves, risk management arrangements or redemption dynamics are effectively located within the EU. Multi-issuance structures may therefore undermine the objective of ensuring that key functions and risks remain subject to effective EU supervision.

Similarly, the effectiveness of intervention powers under Articles 94, 104 and 105 MiCA may be constrained where significant elements of the stablecoin arrangement are located outside the EU. Measures directed at the EU issuer alone may not be sufficient to address risks originating from non-EU participants within the same stablecoin scheme.

More generally, the limited effectiveness of these safeguards reflects the fact that MiCA was not specifically designed to address third-country multi-issuer stablecoin arrangements. This reinforces the need for greater legal clarity regarding the permissibility of such arrangements and supports further consideration of the measures set out in the October 2025 ESRB Recommendation as well as other elements to which reference is made in this response (e.g. see responses to Questions 24, 29, 40 and 43).

Q35. 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?

Option selected: Partially, but with some limitations (e.g., delays, estimation challenges).

Please explain your reply to the above question, including any specific remarks with regard to tokens held in unhosted wallets.

The EBA observes that the notions of ‘held in the EU’/ ‘EU holder’ are not defined in MiCA and thus would benefit from legislative clarification. Clear definition(s) would serve as a foundation for a holistic reporting regime to ensure issuers and supervisors have a unified basis on which reserve and other requirements may be established.

By way of context, MiCA does not provide a holistic mandate to establish reporting requirements for issuers of ARTs and EMTs and for CASPs (as identified by the EBA in the co-legislative process and recalled in its September 2023 Technical Advice in response to the European Commission's Call for Advice on two delegated acts under MiCA: criteria for the classification of ARTs and EMTs as significant and the fees that are to be charged by EBA to issuers of significant ARTs and EMTs).

Indeed, the existing mandate for implementing technical standards under Article 22(7) MiCA is insufficient to impose reporting obligations with respect to all relevant data points (e.g. data for the purposes of assessing compliance with own funds and liquidity requirements and for the purposes of significance assessments).

To address the gaps, the EBA has adopted own initiative EBA Guidelines on templates to assist competent authorities in performing their supervisory duties regarding issuers' compliance under MiCA (EBA/GL/2024/16). However, such an approach is sub-optimal for the following reasons:

(a) the EBA cannot impose requirements directly on CASPs absent a clear legal mandate, thus the Guidelines are addressed to competent authorities (responsible for ART/EMT supervision) and to issuers of ARTs and EMTs – this means the issuers have to seek, via contractual agreements, some information from CASPs which is a weaker and more convoluted basis compared to being able to impose requirements directly on CASPs;
(b) industry has to look at two sets of measures (the Article 22 ITS and own initiative Guidelines) rather than a single set of measures, which adds complexity.

More generally, the Guidelines relate to data points within the EBA's remit (i.e. for Title III and IV purposes) – thus for Title V purposes there remains no 'fix' unless ESMA were to also bring forward own initiative Guidelines as a temporary solution.

For these reasons, the EBA considers it vital that any future revision of MiCA includes a comprehensive mandate(s) to establish cohesive reporting requirements for issuers and for CASPs (including regarding CASP-held information relevant for ART/EMT supervision). Any reporting obligations should be subject to the principle of proportionality, for instance, with some components differentiated depending on the scale of the issuance activity, and encompass only those data points appropriate for supervisors to validate compliance by issuers (and CASPs) with requirements under MiCA and to perform all relevant supervisory functions.

Finally, other aspects related to data could also benefit from clarification, in particular, regarding the application of Article 22(1)(d) MiCA (*estimation of the number of the average number and aggregate value of transaction per day … that are associated to its uses as a means of exchange within a single currency area*) as both the geographic attribution and purpose of transactions is very difficult to ascertain based on blockchain data.

Potential additional safeguards

Q37. 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?

Option selected: Valid-substantiated.

Please explain your response

The EBA agrees this concern is valid. The current MiCA framework includes some powers and tools for supervisors to mitigate the risk of potential 'under-funding' of EU reserves vs ultimate redemption requests (see further the response to Question 29) but effectiveness depends on factors such as the reliability of reporting requirements (see further the response to Question 35) and overall scale of any actual vs estimated redemption requests to the EU entity.

The EBA encourages the European Commission to assess the costs and benefits of potentially introducing a framework in the context of multi-issuer schemes enabling issuers to impose tiered redemption fees or timelines (based on amount to be redeemed by a holder) to manage redemption, including in stress scenarios.

The EBA stands ready to support the European Commission on any follow-up analysis further to consultation feedback.

Q40. Do you see merit in introducing an equivalence regime for global stablecoins in the EU?

Option selected: Yes, in addition to mitigation measures.

Please provide reasons for your response, including any perceived advantages or disadvantages of equivalence regimes.

The EBA considers there may be merit in introducing an equivalence regime in addition to other mitigation measures.

In terms of advantages of equivalence regimes, they can provide an objective and transparent basis on which a third country regulatory regime can be 'benchmarked' against an EU regime. Should such a third country regime be considered equivalent (e.g. in terms of reserve asset composition, redemption rights under MiCA among other elements that are necessary in order for a holistic assessment of equivalence to be carried out) this could provide some assurance as to the entitlements, rights and treatment of EU holders. Coupled with an assessment that a third country regulatory regime does not pose obstacles to effective supervisory information exchange and cooperation, this could provide a 'baseline' for EU market access.

In terms of disadvantages, equivalence assessment processes can be lengthy and, at times, potentially complicated due to external factors undermining their objectivity in supporting market access. Moreover, at present, relatively few third countries have taken substantial steps toward implementing the Financial Stability Board's Recommendations for the Regulation, Supervision and Oversight of Global Stablecoin Arrangements (see further the FSB's October 2025 Thematic Peer Review on the Global Regulatory Framework for Crypto-asset Activities) thus the practical utility may be somewhat limited in the near-term, albeit the expectation is jurisdictions will continue to advance implementation efforts.

The EBA considers any equivalence regime should be considered a 'baseline' for EU market access, with discretions retained in the framework for EU authorities (e.g. the EC, ECB, EBA etc) to offer binding opinions on a case-by-case basis on any particular risks posed by a stablecoin arrangement to the EU (e.g. in terms of financial stability, monetary policy, functioning of payment systems etc) on the basis of which:

(a) market access could be denied;

(b) market access could be made subject to specific conditions, including specific supervisory measures to mitigate the risks posed.

Moreover, an equivalence framework should not undermine the safeguards in MiCA (for reasons of prudential resilience, monetary policy, financial stability), and powers for EU supervisors to address observed risks should be retained. An equivalence framework should also be supported by strong measures for supervisory cooperation between EU and third country authorities should be in place to ensure proactive and timely dialogue with regard to any business model changes or issues that may impact operations in the EU.

Finally, any equivalence should be subject to strict reciprocity.

Q42. 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?

Option selected: Score ‘3’ (neutral).

MiCA Level 1 requirements for ARTs and EMTs	Rating selected
Authorisation of ART and EMT issuers	‘3’
Prudential requirements	‘3’
Governance arrangements	‘3’
Obligations in respect of specific crypto-asset services	‘3’

Q43. 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?

Option selected: Score ‘3’ (neutral).

MiCA Level 2 acts for ART and EMT issuers	Rating selected
RTS on complaint handling by issuers of ARTs (Article 31(5))	‘3’
RTS on the minimum content of governance remuneration (Article 45(7)(a))	‘3’
RTS on the information to be submitted in an application for authorisation to issue ARTs (Article 18(6))	‘3’
COM Delegated Act on ART/EMT significance criteria (Article 43(11))	‘3’
RTS on own funds for issuers of ARTs and EMTs (Article 35(6))	‘3’

Please motivate your answers 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)

The EBA considers the Level 1 and 2 requirements are generally fit-for-purpose taking account of the (limited) experience to-date in applying the requirements. The EBA emphasises that it is important that issuers are subject to robust authorisations, governance and complaints handling arrangements consistent with other types of regulated financial institution. It is also relevant to recall that many firms are new entrants and/or are firms from outside the EU and need to anchor appropriate governance and risk capabilities in the EU commensurate with any new authorised activities. As such, the requirements set out important standards to ensure issuers of ARTs and EMTs are subject to common minimum standards, which of course are more stringent in the case of credit institution issuers pursuant to EU banking regulation.

In terms of technical standards applicable to issuers of ARTs, no experience has yet been acquired. However, the EBA will keep under review the requirements, in particular to consider elements relating to proportionality including size and scope of operations (e.g. in the context of the application of technical standards concerning authorisation).

With regard to specific requirements, the EBA draws attention to its responses to the following questions:

- Question 11 (own funds)
- Question 19 (significance criteria)
- Question 44 (reporting requirements)
- Question 51 (multi-function groups)
- Question 86 (other relevant issues)

In particular, the EBA notes that some Level 2 mandates under MiCA are not aligned with the approach under other sectoral *acquis* on similar topics (e.g. complaints handling, where MiCA requires technical standards, and other sectoral acquis refer to Guidelines). Ideally the form of mandates (technical standards vs Guidelines) would be aligned, including so as to smooth application where entities carry out two or more financial services and, in the interests of efficiency and simplification, enable institutions to adopt a uniform complaints handling procedure (including timeframe in which complaints are to be handled) (see further response to Question 86).

The EBA also takes the opportunity to note that, in some circumstances, ART/EMT issuance may be commenced without a need for specific authorisation and simply following the notification to the competent authority of the white paper a minimum of 20 working days prior to publication (e.g. as is the case in relation to an existing electronic money institution (Article 48(1) MiCA)). This procedural arrangement does not provide a sufficient period for supervisory review/interaction with respect to what could be a very significant change to the institution's operating model. As such, the EBA recommends the European Commission assess the appropriateness of existing procedures for institutions already holding the relevant institutional status under Titles III and IV MiCA to ensure supervisors have meaningful opportunity and associated tools to ensure issuers have the necessary expertise, systems, controls etc. to manage such activities. Indeed, this point is of additional relevance in the context of multi-issuer schemes, including potential significance assessments prior to commencement of operations (e.g. where a credit institution or electronic money institution intends to issue a token or the same kind as one issued by a non-EU issuer (i.e. join a multi-issuer scheme)), where it is important to ensure that all relevant authorities have the opportunity to assess the potential risk management and broader supervisory implications.

Q44. Do issuers identify any need to further standardise reporting requirements for issuers/information flow between CASPs and issuers for the purposes of MiCA?

Option selected: Yes.

Please explain:

See further the response to Question 35.

Comprehensive and harmonised reporting requirements for CASPs are needed, designed not only for conduct and market monitoring purposes but also to support the supervisory oversight of ART/EMT issuers, given the central role that CASPs play in the distribution, custody and transfer of crypto-assets. Such reporting should provide supervisors (and, as appropriate, resolution authorities – see further response to Question 24) with reliable and standardised information. Effective supervision cannot rely on fragmented information, ad hoc data requests or rough market estimates, it requires a normalised and comprehensive reporting framework that allows authorities to identify emerging risks, monitor developments on a continuous basis and take timely supervisory and enforcement actions.

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

Multi-function groups

Q51. 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?

Option selected: There should be enhanced oversight and coordination in relation to such entities.

Which of the following enhanced oversight and coordination mechanisms do you consider may be appropriate?

Note, as multiple options can be selected, all (with the exception of ‘other’) options are selected:

- Group-level reporting to a centralised authority
- Enhanced supervisory cooperation between ESAs/NCAs
- Operation of new supervisory colleges
- Consolidated supervision

Please specify to what other mechanism(s) you refer in your answer to question 51.1:

N/A (as ‘other’ option not selected)

Please explain your answer to question 51.1 and provide any comments on the operational feasibility, legal implications, proportionality, or potential unintended consequences of the measures above:

The EBA is aware that different types of groups may choose to offer crypto-asset products and services within the EU.

Some groups may be well-established and may be active primarily in the traditional financial sector (e.g. banking groups). Others may be newer entrants combining two or more types of financial service (e.g. payments and crypto-asset activities) or may be exclusively active in the crypto-asset sector (e.g. potentially with subsidiaries issuing crypto-assets, including potentially EMTs and/or ARTs, and carrying out different types of regulated crypto-asset service, such as exchange, trading, custodian wallet provision, or currently unregulated activities such as crypto-asset lending). Many non-bank groups may originate from, or be primarily active, outside the EU.

Entities within groups carrying out different types of financial service may be interconnected via controlling persons, financial (e.g. intra-group lending), operational (e.g. common IT platforms for customer onboarding, KYC, AML/CFT etc) and reputational connections (e.g. common branding, client referral mechanisms between one entity and another). Moreover, conflicts of interest may arise across business lines, potentially impacting customers. For a broader discussion of the potential risks, see the ESRB's October 2025 report on crypto-assets and decentralised finance.

However, the regulatory and supervisory arrangements for non-bank mixed-activity groups are largely non-existent and supervisors have to rely on *ad hoc* information-sharing and coordination. The lack of structured frameworks to facilitate group-wide surveillance, in particular of groups carrying out a diverse range of financial services at scale and/or high levels of complexity, undermines the ability of supervisors *ex ante* to identify risks and to take coordinated (and even potentially joint) supervisory actions to mitigate or manage risks as they materialise. In particular:

- Consolidated supervision arrangements exist only for banking groups and do not apply to any other type of mixed activity financial group (e.g. as pointed out in the EBA's response to the European Commission's Call for Advice on PSD2, no consolidated supervision applies to payments groups, which may also be active in EMT issuance/crypto-asset service provision).

- The conglomerates supervision framework applies only to certain types of groups carrying out traditional banking/insurance/investment activities and pre-dates the emergence of crypto-asset activities.

- The supervisory college framework in MiCA (Article 119) is focussed on a specific type of crypto-asset activity: the issuance of significant ARTs and significant EMTs and is not capturing wider financial services carried out within the group.

Moreover, while MiCA envisages arrangements between EU and third country authorities (Article 107, 126 and 127), no structures exist to ensure fully formalised and structured cooperation between third country authorities notwithstanding the large non-EU footprint of many relevant groups.

As such, the EBA echoes earlier advice to the European Commission that consideration be given to the introduction of new tools/structures to support joined-up supervision of relevant non-bank mixed activity groups carrying out financial services activities (see further the EBA's 2022 response to the Call for Advice on PSD2 and the joint-ESA response to the Call for Advice on digital finance, and the ESRB's October 2025 report on crypto-assets and decentralised finance). Any analysis should take account of (a) the principle of proportionality, including regarding the nature, scale and complexity of the activities undertaken; (b) the need to dovetail any new structures for coordinated supervision with applicable regulatory and supervisory frameworks (including the PSD3/R and the EU-level supervisory arrangements with respect to issuers of significant EMTs/ARTs and, subject to the outcome of the negotiation of the MISP legislative proposals, CASPs).

In the first instance, the EBA proposes any consideration focus on:

- group-level reporting (e.g. basic financial and prudential metrics, volume/value of activities, assets etc, intra-group financial exposures etc);
- structured arrangements – such as supervisory colleges, leveraging experience acquired in the context of banking and resolution colleges, to support regular group-wide dialogue between supervisors (e.g. on changes to the business model (new or scaled activities), intra-group dependencies and potential vulnerabilities);
- potential powers to require the establishment of intermediate parent undertakings in the EU for groups originating (or with a substantial presence) outside the EU.

Such tools/structures could be considered individually or to apply in parallel, taking account of the principle of proportionality.

Please explain your answer to question 51:

N/A

Other issues

Q55. 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? If so, please explain your response.

Option selected: Yes.

As at 01 September 2026, the texts of the PSD3/R have not been published in the Official Journal. Accordingly, the EBA's remarks below are based on its understanding of the outcome of the political negotiations, as reflected in the draft compromise texts emerging from the technical trilogues concluded in April 2026, rather than the final legislative texts.

Overall, the EBA welcomes the steps taken during the PSD3/R negotiations to clarify the interplay between MiCA and payment services legislation. Several of the amendments address issues previously identified by the EBA in its Opinion on the interplay between PSD2 and MiCA in relation to crypto-asset services (CASPs) that transact electronic money tokens (EMTs) (EBA/Op/2025/08) as requiring legislative action, and are broadly consistent with the clarifications and recommendations set out in that Opinion.

While the PSD3/R do not remove the double authorisation requirement for CASPs providing payment services with EMTs, they provide greater legal certainty regarding the delineation between crypto-asset services and payment services. In particular, they clarify which crypto-asset services qualify as payment services under PSD3, and introduce targeted exclusions from the scope of PSD3/R. Excluded activities include exchanges of EMTs for funds or crypto-assets carried out by a CASP as defined in MiCA (where the CASP acts in its own name as buyer or seller of those EMTs) and exchanges of EMTs for EMTs or crypto-assets carried out by a CASP intermediating between buyers and sellers.

Furthermore, PSD3 and PSR introduce specific provisions concerning the authorisation process applicable to CASPs seeking authorisation as a payment institution (PI); clarify the application of safeguarding requirements to PIs performing payment transactions with EMTs; further clarify the requirements relating to disclosure of fees and maximum execution time for payment transactions with EMTs; and disapply the requirements on open banking interfaces for such transactions.

However, some new elements introduced during the legislative process and included in the compromise texts may give rise to interpretative questions in their practical application and supervision. For example, PSR introduces a targeted amendment to Article 60 MiCA allowing PIs to provide crypto-asset services in relation to EMTs that are deemed equivalent to the payment services for which they are authorised, subject to a notification procedure rather than a separate CASP authorisation.

While the EBA welcomes these amendments, it is noted that the proposed equivalence provisions may blur the distinction between payment services under PSD3 and crypto-asset services under MiCA. For example, even if limited to the purposes of Article 60(4a) MiCA, the equivalence of ‘custody and administration of crypto-assets on behalf of clients’ with the payment service of ‘enabling cash to be placed on or withdrawn from a payment account’, and of the ‘exchange of crypto-assets for funds and other crypto-assets’ with the payment service of ‘execution of payment transactions’, may be difficult to reconcile with the clarification reflected elsewhere in the PSR framework that neither of those MiCA services is, in itself, a payment service.

More fundamentally, the proposed approach may give rise to regulatory asymmetries between PIs and CASPs. While a CASP would generally need a PSD2/PSD3 authorisation to provide payment services, a PI would be permitted to provide certain MiCA crypto-asset services relating to EMTs without obtaining a CASP authorisation. Such asymmetrical treatment should ideally be avoided or, alternatively, its rationale and scope clarified.

In addition, further clarification would be welcome regarding the safekeeping of clients’ funds under MiCA, where such funds are held by entities authorised both as CASPs and as payment institutions under PSD3. Article 70(5) MiCA disapplies the safekeeping requirements set out in Article 70(2) and (3) to such entities, while the safeguarding requirements under PSD3 apply only to funds received in connection with the provision of payment services, including funds received in exchange for the issuance of electronic money. Clarification would therefore be welcome to ensure that client funds received in connection with crypto-asset services that do not constitute payment services do not fall outside both the MiCA safekeeping regime and the PSD3 safeguarding regime.

Going forward, pending the publication of PSD3/PSR, the EBA will continue to monitor the application of its Opinions of June 2025 and February 2026 and continue its supervisory convergence work with competent authorities in relation to issues identified in practice concerning the PSD2/MiCA interplay. This will enable the EBA to provide further advice on any changes that may be needed to the PSD3/PSR.

Part 4: Policy areas beyond the current scope of MiCA

Staking, lending and borrowing of crypto-assets

Q67. Do you think that lending and borrowing of crypto-assets should be regulated?

Option selected: Yes.

If your reply is positive, what do you believe should be the main elements of regulatory requirements applicable to lending and borrowing and why?

Since 2023 the EBA has been analysing crypto-asset borrowing, lending and DeFi developments, building on the EBA's crypto-asset market monitoring and analysis since 2013.

The EBA observes that crypto-asset borrowing and lending, including using so-called stablecoins, is growing in volume and value and is carried out in a large number of Member States via intermediated and decentralised (DeFi) means.

For example, the January 2025 EBA-ESMA joint report on recent developments in crypto-asset markets (EBA/Rep/2025/01) identified that crypto borrowing and lending is being intermediated in at least 16 Member States; crypto-asset staking activities are also observed.

Moreover, DeFi lending protocols are being used for crypto-asset borrowing and lending include EMTs (EBA 2026 analysis, the key findings of which will be published later this year). Increasingly CASPs are facilitating client access to DeFi via interfaces (typically access to DeFi has required relatively sophisticated knowledge, but interfaces provided via CASPs, as well as the use of general-purpose AI to encode access gateways, is making access easier). Access facilitation by CASPs to DeFi is further blurring the boundary between centralised and decentralised finance.

Analysis carried out by the EBA identifies that two stablecoins dominate in borrowing and lending activities commensurate to the market capitalisation of these tokens. One is an EMT issued by an EMI, the other meets the definition of EMT but is prohibited from being offered to the public and admitted to trading in the EU as the issuer has chosen not to seek authorisation under MiCA.

The lending of an EMT can provide opportunities to earn 'yield' in a context where issuers and CASPs are prohibited from offering interest (Articles 40 and 50 MiCA) and thus the activities may pose regulatory arbitrage risks. Additionally, the EBA and ESMA have identified a series of potential consumer protection risks. For example, the EBA and ESMA have identified that marketing materials and disclosures (if any) may provide to consumers:

- misleading information on opportunities and risks;

- insufficient information on (a) pricing and fees, (b) interest rates or yields, (c) changes to collateral requirements, (d) actions the provider may take, and (e) rights and liabilities.

Moreover, risks may arise from:

- highly leveraged market making that can lead to 'collateral chains' and contagion risks;
- the absence of creditworthiness checks and, as a consequence, credit risk assessment, leading to potential over-indebtedness;
- commingling of crypto-assets leading to particular issues in the event of under collateralisation and risks of losses to consumers;
- risks of losses due to frauds and scams, operational outages and hacks, and poor records-keeping (in the case of intermediated borrowing/lending).

In light of these considerations the EBA recommends the European Commission carry out a robust cost benefit analysis to consider legislative changes (a) extending the list of CASP services in MiCA to include intermediating borrowing and lending, and (b) establishing requirements for CASPs where they facilitate client access to DeFi lending protocols (e.g. via interfaces or via CASP products that provide exposure to DeFi). Such analysis should take into account the nature and scale of the activities, the extent of retail participation, and the materiality of the identified risks. Potential requirements for consideration include:

- **suitability tests**: crypto-asset borrowing and lending activities may entail high risks, and thus may be appropriate only for certain types of user;
- **leverage limits**: caps on leverage may be appropriate for some/all users;
- **disclosure requirements**: it is essential that users understand the risks associated with crypto-asset borrowing and lending prior to carrying out these activities, as such detailed disclosure requirements could be considered;
- **specific additional disclosures where access is being facilitated to DeFi protocols**: as DeFi borrowing and lending entails additional risks, any CASP facilitating access to DeFi protocols could be subject to additional requirements to warn users of these risks and to signpost that the activities via truly decentralised protocols are unregulated and thus no safeguards apply;
- **prohibitions on access to borrowing and lending involving crypto-assets that meet the definition of ART/EMT under MiCA but for which no authorisation has been obtained**: CASPs could be prohibited from intermediating or facilitating access to borrowing/lending activities involving such crypto-assets in order to mitigate risks of regulatory arbitrage;
- **a certification regime for DeFi lending protocols**: such a regime could encompass, as a minimum, an assessment as to the robustness of the protocol (i.e. resilience to cyber-attack).

The EBA stands ready to support the European Commission in any cost benefit analysis as may be considered appropriate.

Tokenised deposits

Q76. What factors, if any, constrain the development and uptake of tokenised deposits in the EU?

Since 2023 the EBA has been analysing the emergence of tokenised deposits in the EU and internationally as part of the EBA's innovation monitoring activities.

The EBA observes that it is always necessary to 'look behind the label' to identify what a token represents (i.e. a substance over form approach) and, in turn, how a token may be classified for the purposes of financial services regulation. In particular, the EBA's Guidelines on a common assessment methodology for granting authorisation as a credit institution (EBA/GL/2021/12) emphasise characteristics of deposits and other repayable funds, regardless of technological form. For instance, a token may be 'native' and record exclusively on the DLT a balance that represents a deposit claim against the bank, or may be 'non-native' and represent on the DLT a claim against a balance which is recorded on a traditional deposit ledger. In the former case, the token can usually be considered a deposit (and thus regulated as per any other type of deposit), whereas in the latter case a more detailed assessment is required to determine what the token represents and, in turn, the appropriate regulatory classification (deposit, EMT, Title II MiCA crypto-asset etc).

Analysis by the EBA indicates a growing appetite among credit institutions to deploy tokenised deposits. EBA Spring 2026 RAQ data indicates 26% of respondent credit institutions expect to deploy tokenised deposits within the next 3 years, compared to only 16% in 2024. Foreseen use cases include on-chain settlement (including cross-border), client corporate treasury management and trade finance.

Although industry interest in deploying tokenised deposits/deposit tokens is growing, 'live' or 'pilot' cases remain somewhat limited. The EBA has identified via desk-based research, engagement with NCAs and the industry, several possible reasons, of which one is 'regulatory' in nature.

Regulatory uncertainty

- As set out in the EBA's 2024 report on tokenised deposits, the absence of a harmonised definition of 'deposit' for the purposes of the CRD/CRR creates 'boundary' challenges with MiCA (see further the response to Question 77) exacerbating classification challenges and creating complexities and delays in the context of credit institution/supervisory dialogue and processes (e.g. regarding changes to the business model, operational risk etc).
- Absent a harmonised definition, the EBA continues monitoring and convergence activities to promote consistency in the regulatory classification of tokenised deposits/deposit tokens and will report in Q4 2026 on latest developments and indicative features that can help inform regulatory classification.

Interoperability, scalability and operational issues

- To-date many use cases relate to intra-bank transfers (i.e. transfers of tokenised deposits between clients of the same bank) reflecting the relative simplicity of operating within a single institution's compliance and operational frameworks. However, a growing number of initiatives are exploring interbank and cross-border use cases. To-date, challenges arise with respect to addressing matters relating to interoperability, which can pose a barrier and risk isolated tokenised deposit ecosystems.
- Continued EBA actions to promote supervisory convergence in classification and enhance supervisory familiarity with operational structures are expected to help promote consistency in supervisory expectations toward some of these issues. In terms of interbank

settlement, Eurosystem projects - namely Pontes and Appia – and others (e.g. the BIS Project Agora) are expected to facilitate the development of applications among banks by enabling interoperability with existing/new systems for settlement of DLT-based transactions (including transactions involving tokenised deposits/deposit tokens) using central bank funds.

- In terms of blockchains, most cases to-date use private blockchains for maximum compliance assurance. However, possible deployment on public blockchains (applying controls implemented at application and access layer e.g. using whitelisted KYC-bound protocols) are expected to expand use cases.
- Moreover, integration of tokenised deposit systems with legacy infrastructures and core-banking systems (e.g. for CDD and transactions monitoring) typically takes considerable time (and potentially cost) as credit institutions tend to be risk averse when integrating new technology rails and require extensive testing prior to deployment. These considerations may contribute to longer deployment timelines and higher implementation costs than for some other tokenised products.

Q77. 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:

Tokenised deposits are excluded from MiCA (point (b), Article 2(4)) and thus deployment remains regulated pursuant to sectoral *acquis* (the CRD/CRR). However, MiCA defines 'deposit' by reference to the DGSD (point (50), Article 3(1)). This approach gives rise to questions as to the regulatory treatment of those tokenised deposits that are deposit balances excluded from the scope of the DGSD and thus the approach does not fully clarify the 'boundary' between MiCA and the CRD/CRR. Moreover, the DGSD does not provide an exhaustive definition of 'deposit' (rather, the DGSD enlists certain types of deposit that are *not* to be regarded as a deposit for the purposes of DGSD) and the definition has no specific relevance to the scope of the CRD/CRR.

Indeed, while the CRR defines 'credit institution' as 'an undertaking the business of which is to take deposits or other repayable funds from the public and to grant credits for its own account' (point (1) of Article 4(1)), no definition of 'deposit' is provided. Absent a definition in the CRD/CRR, some Member States have defined deposit in national law, but some variations arise (see the EBA's 2014 Opinion and Report on the definition of credit institution).

Accordingly, the EBA calls on the European Commission to develop a harmonised definition of 'deposit' for the purposes of the CRD/CRR, which could then provide an appropriate foundation for a definition of 'tokenised deposit', and help clarify the boundary between the CRD/CRR and MiCA (see further the EBA's 2024 Report on tokenised deposits, which cross-refers to the 2014 and 2020 EBA opinions and report on the definition of credit institution).

As the EBA has stated in its 2020 Opinion "*A truly common notion of credit institution [of which the reference to 'deposit' forms an integral part], … is an indispensable premise to a uniform regulation of market access, to a level playing field of prudential regulation and ultimately to EU market integration of banking and financial services. The current lack of harmonisation of key elements of the notion of credit institution is therefore in contradiction with the very essence of the Single Rulebook, as set out in previous EBA advice to the Commission on this important issue. In the light* *of this, the EBA reiterates its advice to the Commission to give consideration to the clarification of the notion*.".

The EBA recognises that defining the term 'deposit' will require careful comparative analysis and stands ready to support the European Commission in any necessary work, including by updating the EBA's own analysis of the approach of Member States to the terms 'deposit' (and 'other repayable funds') for the purposes of the CRD/CRR and other relevant contexts. The EBA also stands ready to support the Commission in considering important intersections with the prudential treatment of banks' exposures to crypto-assets, including tokenised traditional assets such as deposits (e.g. relevant to Article 5a(5) CRR).

Q78. Do tokenised deposits raise any specific issues under the CRD/CRR framework?

Option selected: Yes.

Please indicate what issues arise and what regulatory or supervisory action may be appropriate to address the issue(s) identified:

As noted in the response to Question 77, tokenised deposits require a case-by-case assessment to determine regulatory qualification based on the individual characteristics of the token.

The qualification process is made more complex due to the absence of a definition of 'deposit' for the purposes of the CRD/CRR (i.e. the perimeter of banking regulation and thus, the 'boundary' with MiCA).

In the near-term, to help facilitate convergence in the regulatory classification of tokenised deposits/deposit tokens, the EBA is continuing efforts to facilitate awareness-raising and alignment in classification decisions taking account of national definitions as relevant.

However, longer term, the EBA recalls the need for a harmonised definition of 'deposit' for the purposes of the CRD/CRR to clarify the perimeter of banking regulation (and the application of the requirements therein) and, in turn, the scope of MiCA.

Ongoing efforts will also be required to facilitate consistency in 'intra-MiCA' classification (Title II MiCA crypto-assets, EMTs) for those tokens that confer a claim with regard to a deposit balance recorded in a traditional ledger but are not, of themselves, deposits. This can be achieved through EBA supervisory convergence actions and public communications as appropriate (Q&As, reports, qualification guidelines) based on market developments and experience acquired in qualifying such tokens.

Indeed, in 2026/27 the EBA will continue monitoring the emergence of tokenised settlement assets and facilitate convergence discussions as appropriate to ensure consistency of treatment and to mitigate regulatory arbitrage and promote a level playing field.

More broadly, the development of tokenised deposits may increasingly depend on common infrastructures, interoperability mechanisms and third-party technology providers. As the market develops, supervisors may therefore need to monitor potential concentration, outsourcing and operational dependency risks arising from such arrangements, while ensuring that institutions remain capable of managing those risks within existing prudential frameworks. Public-led projects, notably the Eurosystem's Pontes initiative, help avoid and address these issues.

Please explain your answer to question 78:

N/A

Q79. Do tokenised deposits raise any questions and challenges from a deposit insurance perspective?

Option selected: No.

Please indicate which supervisory or regulatory action is appropriate to address the issues identified:

The EBA has not identified any specific issues regarding deposit guarantee schemes.

Whether or not the deposit guarantee scheme applies depends on the classification of the token in question (see further response to Questions 76 and 77 regarding classification challenges absent a harmonised definition of 'deposit' for the purposes of the CRD/CRR, and the need for a case-by-case assessment of tokens to determine regulatory classification based on the individual characteristics of the token).

Please explain your answer to question 79:

N/A

Final open question

Q86. 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.

The EBA takes the opportunity to highlight three additional points:

Alignment of mandates

In developing technical standards and Guidelines under MiCA, the EBA has observed (i) differences in the formulation of Articles and mandates on similar topics in other sectoral *acquis* (e.g. on authorisations, governance-related considerations and complaints handling); (ii) intra-MiCA variations in the wording of similar mandates conferred on EBA and ESMA (e.g. in the context of conflicts of interest, where Article 72 should be aligned with 32). These variations have a material impact, limiting the ability of the EBA to align regulatory expectations for ART and EMT issuers with those applicable to other types of financial institution in similar contexts.

For example, the EBA's Opinion on the European Commission's amendments relating to the final draft regulatory technical standards on the information to be included in the application for authorisation to offer to the public and to seek admission to trading of asset-referenced tokens under Article 18(6) MiCA (EBA/Op/2025/03), expressed concerns about the formulation of Article 18(5)(a) of MiCA (information relating to management and shareholders or members with qualifying holdings), which limits the information the EBA can further define in the technical standards for the purposes of assessing good repute. The EBA highlighted that "*the notion of good repute is a horizontal concept and should be aligned to the same standard across the financial sector. Consequently, the EBA recommends the European Commission amend Article 18(5)(a) and (c) of MiCA at the next available opportunity …* [with the aim of] *removing the limitations relating to the scope of the assessment of good repute (in order to include assessment of absence of penalties also* *in areas other than commercial law, insolvency law, financial services law, anti-money laundering and counter terrorist financing, fraud or professional liability) so that supervisors may confidently carry out a comprehensive assessment of applicants, and of their ability to comply with the relevant requirements of MiCA.*".

The EBA takes the opportunity to reiterate this proposal, as well as the broader proposal to ensure effective alignment of Article and mandate drafting within and beyond MiCA on policy issues of horizontal relevance to ensure consistent, effective and proportionate risk management on core elements relating to authorisations, governance, risk management (including expectations regarding policies and procedures) as well as on other elements, for instance those pertaining to AML/CFT.

Finally, the EBA observes that:

- Article 73 MiCA should be updated to refer to 'third-party risk management' instead of 'outsourcing', and a mandate could be considered so as to align risk management expectations for non-ICT related services with those for other types of financial institutions (e.g. see the EBA's Guidelines on the sound management of third-party risk with regard to non-ICT related services, which include issuers of ARTs and EMTs already);
- Article 34(13) MiCA confers on the EBA a mandate to develop Guidelines on internal governance-related considerations for issuers of ARTs (issuers of EMTs are subject also to similar requirements pursuant to sectoral *acquis*). However, no similar mandate exists for CASPs. This appears to be an oversight to be addressed at a relevant legislative opportunity.

<u>Procedure for issuing opinions on the classification of crypto-assets</u>

Based on the experience to-date, the procedure under Article 20(5) MiCA for the issuance of opinions on the classification of crypto-assets purporting to be ARTs could benefit from further refinement, notably to extend the deadline for the issuance of Opinons (in this case and under Article 97(3)). In particular, the deadline for the EBA to deliver its opinion under Article 20(5) is very challenging. The deadline is even shorter in the case of Article 97(3) opinions and, while not tested yet, is expected to pose challenges. Finally, as the request for an opinion under Article 20(5) follows the notification of the draft decision pursuant to Article 20(4), the application has already been assessed as complete by the competent authority. This may limit the ability of the EBA to form a fully informed opinion where additional factual clarification is necessary and should be remedied such that the EBA can request (via the NCA) additional information as appropriate from the issuer to help inform classification Opinions.

<u>Infringements</u>

Annex V and VI to MiCA (infringements for which penalties may be imposed) require review to ensure all relevant infringements are enlisted (e.g. for comparison see Annex III to Regulation (EC) 1060/2009).

References

European Banking Authority

- Technical Advice (September 2023) informing EC delegated act on significance criteria

- EBA MiCA technical standards and guidelines, including EBA own initiative guidelines

- Opinions on European Commission proposed material changes to EBA MiCA RTS:
  - Opinion RTS to further specify the liquidity requirements of the reserve assets
  - Opinion RTS to specify the highly liquid financial instruments with minimal market risk, credit risk and concentration risk
  - Opinion RTS on the information to be included in an application for authorisation to offer to the public and seek admission to trading of ARTs
  - Opinion RTS on conflicts of interest for issuers of ARTs

- Opinions relating to the interplay between MiCA and the PSD2:
  - Opinion (end to the transition period)
  - Opinion (the 'no action letter')

- Report on tokenised deposits (December 2024) and Opinion and report (2014) and Opinion (2020) on the perimeter of credit institutions and need for a harmonised definition of 'deposit'

- Report (jointly with ESMA) on recent developments in crypto-asset markets (January 2025)

European Systemic Risk Board (ESRB)

- Recommendation and report (October 2025) on crypto-assets, including multi-function groups

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