

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

Fields marked with * are mandatory.

Introduction

Background for this consultation

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

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

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

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

With this consultation, the Commission services therefore:

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

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

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

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

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

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

Responding to this consultation

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

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

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

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

More information on

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

About you

* Language of my contribution

- ☐ Bulgarian
- ☐ Croatian
- ☐ Czech
- ☐

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

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

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

1.1 MiCA scope & crypto-asset classification

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

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

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

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

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

5000 character(s) maximum

We support the principle that crypto-assets qualifying as financial instruments should continue to be governed by the relevant sectoral legislation, as the substance over form and technology neutrality principles underpinning the current perimeter remain sound. A tokenised bond carries the same economic characteristics and risk profile as a conventionally issued bond, and the same holds for a tokenised share, fund unit or derivative, so regulatory treatment should continue to follow economic function rather than the technology used to issue, record or transfer an instrument. Crypto assets as defined in MiCA remain different types of instruments with features and functions that are distinct from traditional types of financial instruments, so a separate regime is appropriate.

At the same time, we believe there exist some borderline cases where distinction between MiCA and MiFID is not sufficiently clear in practice and is becoming harder to sustain as trading markets converge. Many MiCA- authorised CASPs now offer tokenised derivatives, fund units and perpetual futures alongside crypto-assets, so a single platform may need a MiCA authorisation, a MiFID licence and a payment or e-money licence at once, and customers, firms and supervisors alike may be unsure which regime applies. ESMA's qualification guidelines have helped, but divergent national interpretations persist for hybrid tokens, crypto-asset derivatives and tokens conferring profit or governance rights, and further clarification would support supervisory convergence. MiFID and the post-trading framework were also built for an intermediated model with separate trading, clearing and settlement functions and fixed market hours, whereas on-chain markets can combine these functions, operate continuously and settle atomically.

This matters for European competitiveness. The UK is advancing tokenisation through its Digital Securities Sandbox and work on tokenised funds and gilts, while the UAE has built dedicated virtual asset regimes and, through ADGM, a foundations framework that allows DAOs and DeFi projects to establish a regulated legal presence onshore. In the United States, although comprehensive market structure legislation has stalled, the SEC and CFTC are actively producing rules, guidance and exemptive relief that are shaping global market practice. If the EU does not adapt, issuers, infrastructure and talent may consolidate elsewhere, undermining the Savings and Investments Union.

We are therefore supportive of the Commission exploring a more coherent framework for digital assets, including a broader Markets in Digital Assets approach, provided it does not subject identical instruments to different rules depending on whether they are tokenised. Such an outcome could complicate the recognition of hedging and netting sets under IFR and IFD, duplicate compliance for firms active in both environments, leave investors uncertain about their protections and delay projects already under way. It would also require coordinated change well beyond MiCA, touching MiFID II, MiFIR, MAR, the Prospectus Regulation, CSDR, the proposed Settlement Finality Regulation, the Financial Collateral Directive, CRR and CRD, IFR and IFD, UCITS and AIFMD, the payments framework and the DLT Pilot Regime. Several important obstacles also lie in national private law on title, collateral and insolvency, which perimeter reform alone will not resolve.

We welcome the significant progress made in the Market Integration and Supervision Package, which would make CSDR and settlement finality rules technology neutral, allow certain e-money tokens to settle the cash leg and substantially widen the DLT Pilot Regime. These proposals should be preserved in the negotiations and, once adopted, form the foundation for further work. We would encourage a two track approach with a clear timetable. In the short term, targeted MiCA amendments should deliver practical reliefs, such as a streamlined pathway allowing CASPs to extend their permissions to equivalent MiFID services, particularly custody, mirroring the notification procedure Article 60 MiCA offers investment firms and credit institutions. Additionally, the Commission could look at other sectoral legislation including the AIFMD, UCITS and other regulations where the proliferation of tokenised products and services, natively issued on-chain and otherwise via wrappers will become part of the EU financial services landscape. Other open points include workable standards on finality for public and permissionless networks, a wider range of eligible on-chain settlement assets, the

accommodation of continuous trading and legal certainty for regulated onshore structures for DeFi protocols and DAOs. In parallel, work should begin immediately on a comprehensive review of the wider digital finance framework, so that the Commission can table legislative proposals for a more integrated regime before the end of its current mandate in 2029.

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

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

5000 character(s) maximum

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

Despite the clear structural framework, several substantive borderline cases continue to challenge legal experts and supervisors, mainly because technology evolves faster than statutory definitions.

The first concerns the difference between technical and legal transferability. Under MiFID II, a transferable security must be negotiable on the capital market. Industry participants frequently note that a token's technical capability to be swapped on a decentralised exchange should not automatically make it negotiable in a legal sense, particularly where the issuer has imposed legal transfer restrictions or where the available liquidity is immaterial. Determining when a token moves from a pure utility asset to a negotiable instrument on an open market remains a fine line. A second challenge arises with hybrid and evolving governance tokens. Many governance tokens issued by decentralised autonomous organisations provide voting rights, which are a form of utility, but also give holders a share of protocol revenue, which resembles equity. Where a token accumulates treasury fees for holders, it leans strongly towards being a financial instrument, and the grey area widens where a token launches with voting features only but has a clear upgrade path towards programmatic cash distribution.

The fractionalisation of real-world assets raises similar questions. Tokenising traditional assets such as real estate, art or private credit funds splits single, illiquid assets into large numbers of fungible units. While the underlying asset may not itself be a financial instrument, the fractionalised on-chain vehicle often forms a class of securities by giving investors identical proportional rights and tradability, unexpectedly moving it out of MiCA and into the stricter MiFID II regime. Finally, tokens representing a claim on staked assets or liquidity pools, such as liquid staking tokens, carry rights to variable distributions of protocol revenue, and it is highly complex under current guidelines to determine whether these distributions represent a commercial service fee or an investment return.

We propose three clarifications. First, a materiality and liquidity threshold for negotiability should be introduced, stating explicitly that the mere existence of a technical transfer mechanism on a blockchain does not amount to negotiability on the capital market, with criteria that consider actual market depth, the intent of the issuer and applicable restrictions. Second, a dynamic classification framework should be formalised, providing a clear adaptation or grandfathering process for tokens that change over time. A token that starts as a purely operational utility asset but later adds governance or profit-sharing features should have a clear pathway to transition between regimes without halting secondary trading. Third, the joint ESA Q&As should be expanded to address specific, high-volume market archetypes, such as liquid staking tokens and fractionalised real-world assets, setting out explicitly where the boundary lies between collective investment undertakings, MiFID financial instruments and assets regulated under MiCA.

1.2 Transparency rules and ex post supervisory control regime

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

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

a) Please assess each provision below along their adequacy:

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

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

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

5000 character(s) maximum

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

We consider the conduct obligations in Article 14 of MiCA, covering honesty, fairness and professionalism, clear communication, the management of conflicts and effective systems and security arrangements, to be broadly appropriate and supportive of investor protection and market integrity. The framework provides a sound foundation that is already influencing regulatory approaches in other jurisdictions. However, our members see meaningful scope for improvement in the white paper framework.

The current framework prioritises the volume of disclosure over its accessibility and usefulness. Many white papers have become lengthy, highly technical documents that retail investors are unlikely to read or understand. We urge the Commission to introduce a more concise, standardised and user-friendly format, ideally with the core disclosure presented as a structured one-page document covering the crypto-asset, the issuer, key risks, governance arrangements, token economics and material conflicts of interest. This should be sufficient to support an informed decision and serve as a starting point for further research, rather than replacing investor due diligence. The mandatory summary under Article 6(7) currently fails to fulfil its purpose, as most of its content is taken up by standardised warnings that readers routinely skip, leaving little space for substantive information. At the same time, non-essential fields such as other services provided by the issuer, the voluntary data flag and the non-trading request are overstructured, while the fields of greatest importance to investors, such as risks, technology and the project roadmap, are insufficiently structured, allowing generic copy-paste approaches that undermine the document's value. ESMA should review and rebalance the relevant technical standards to redirect structural requirements towards essential investor-relevant content and ensure that summaries meaningfully distil the white paper rather than serving as a vehicle for boilerplate. Sustainability disclosures should likewise be reviewed so that they remain meaningful, comparable and useful to investors, as the current approach risks adding complexity without materially improving understanding or decision-making.

Where several white papers or disclosure documents exist for the same crypto-asset, investors face uncertainty as to which document governs and who is responsible for its contents. Moreover, where a CASP prepares a white paper for admission to trading without the issuer's active involvement, it may have very limited access to information about the asset's development, governance and risks. Regulatory obligations and civil liability for such intermediaries should therefore be proportionate to the information reasonably available to them and the due diligence they have been able to perform, and they should not be held to the same standard as issuers for information outside their knowledge or control.

Liability under Article 15 also needs recalibration. Article 15 extends civil liability for the contents of a white paper not only to the offeror or person seeking admission to trading, but also to the individual members of their administrative, management or supervisory bodies. This pierces the corporate veil and creates personal exposure for directors and supervisory board members that is disproportionate and inconsistent with the usual allocation of liability in EU financial regulation. It does not recognise that such persons may have had no involvement in the design, programming or implementation of the network and the associated crypto-asset, and it discourages capable people from serving as officers and directors. We recommend that Article 15 be reviewed so that personal liability is limited to cases of gross negligence or wilful misconduct, restoring a balanced and workable liability regime.

Finally, the requirement to notify the competent authority at least 20 working days before an offer or admission to trading imposes an effective delay of around one month. We recommend reducing this period to 10 working

days, which would significantly improve market access and time to market for issuers and intermediaries while preserving adequate capacity for supervisory review.

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

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

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

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

5000 character(s) maximum

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

We consider the conduct obligations in Article 14 of MiCA, covering honesty, fairness and professionalism, clear communication, the management of conflicts and effective systems and security arrangements, to be broadly appropriate and supportive of investor protection and market integrity. The framework provides a sound foundation that is already influencing regulatory approaches in other jurisdictions. However, our members see meaningful scope for improvement in the white paper framework.

The current framework prioritises the volume of disclosure over its accessibility and usefulness. Many white papers have become lengthy, highly technical documents that retail investors are unlikely to read or understand. We urge the Commission to introduce a more concise, standardised and user-friendly format, ideally with the core disclosure presented as a structured one-page document covering the crypto-asset, the issuer, key risks, governance arrangements, token economics and material conflicts of interest. This should be sufficient to support an informed decision and serve as a starting point for further research, rather than replacing investor due diligence. The mandatory summary under Article 6(7) currently fails to fulfil its purpose, as most of its content is taken up by standardised warnings that readers routinely skip, leaving little space for substantive information. At the same time, non-essential fields such as other services provided by the issuer, the voluntary data flag and the non-trading request are overstructured, while the fields of greatest importance to investors, such as risks, technology and the project roadmap, are insufficiently structured, allowing generic copy-paste approaches that undermine the document's value. ESMA should review and rebalance the relevant technical standards to redirect structural requirements towards essential investor-relevant content and ensure that summaries meaningfully distil the white paper rather than serving as a vehicle for boilerplate. Sustainability disclosures should likewise be reviewed so that they remain meaningful, comparable and useful to investors, as the current approach risks adding complexity without materially improving understanding or decision-making.

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days, which would significantly improve market access and time to market for issuers and intermediaries while preserving adequate capacity for supervisory review.

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

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

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

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

5000 character(s) maximum

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

We consider all of these issues to remain significant concerns, and they should not be viewed in isolation. In our view, they are different manifestations of the same underlying challenge. A significant amount of crypto-asset activity remains accessible to EU investors through offshore platforms, unlicensed intermediaries and protocols that present themselves as decentralised while retaining elements of centralised control, governance or coordination. Where such activity is not genuinely decentralised, it should be brought within the scope of MiCA, consistent with the criteria set out in our answer to Q61. In many cases, the persons responsible can be identified through investigations, a body of evidence and international cooperation.

Fraudulent and misleading offerings illustrate this clearly. They occur mainly on offshore platforms and on so-called DeFi platforms that operate under the radar despite not being fully decentralised, and they remain easily accessible to EU investors. The same is true of market abuse. Wash trading, artificial volume creation, pump-and-dump schemes, spoofing, layering and price manipulation continue to occur outside the perimeter of authorised EU CASPs, including on offshore centralised platforms and in purportedly decentralised environments, and understanding of these practices among supervisors is still developing. The challenge also extends beyond platforms operating entirely outside the perimeter. Many transactions involving EU investors rely on liquidity, execution venues, market makers and counterparties located outside the EU, with EU- authorised firms acting as brokers or arrangers while execution takes place elsewhere. This makes it more difficult to identify, investigate and address abuse where activity spans multiple jurisdictions, venues and counterparties, both on-chain and off-chain. At the same time, regulated firms are well equipped to meet their obligations under Title VI. Blockchain analytics already allow CASPs to detect wash trading, circular fund flows and coordinated manipulation on public blockchains through address clustering and cross-platform transaction analysis, giving them a structural advantage over traditional venues in monitoring market integrity. The gap therefore lies less in the capabilities of authorised firms than in the activity that escapes supervision altogether. Regulatory arbitrage remains a significant concern for the same reason. Retail users tend to choose products and services based on availability, liquidity, perceived returns or social media promotion rather than the regulatory status of the provider, so activity can easily migrate to offshore or less regulated environments. Promotions through social media, influencers and sponsorships reinforce this dynamic. These channels continue to promote products and services offered through offshore platforms and purportedly decentralised protocols, reaching EU investors irrespective of where the provider is located, and more enforcement is needed to address them. While MiCA has established a robust framework for authorised providers, its effectiveness will ultimately depend on the ability of supervisors to address equivalent activity targeting EU investors from outside the perimeter.

Cross-border enforcement is therefore one of the most important practical challenges. Within the EU, many firms still operate without authorisation, targeting EU investors from offshore centres, and consistent supervision and enforcement across Member States will be essential to avoid fragmentation. Outside the EU, cooperation with third-country authorities is necessary to address offshore platforms serving EU investors without authorisation and to support effective oversight of trading involving non-EU liquidity providers, market makers, counterparties and execution venues. To date, there have been few visible enforcement actions against such activity. Clear and visible enforcement is critical to send a strong message, reinforce the credibility of the MiCA framework and reduce the incentive to operate outside the perimeter while continuing to target EU investors.

Without effective supervision, enforcement and international cooperation, there is a risk that MiCA raises standards for compliant EU firms while leaving EU investors exposed to some of the highest-risk activity taking place beyond the practical reach of EU supervisors.

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

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

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

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

5000 character(s) maximum

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

While both measures may contribute to investor protection and market integrity, we do not believe there is currently sufficient evidence to justify significant additional requirements in this area. Restrictions on certain marketing practices, including algorithmic or gamified tactics for new token launches, may be appropriate where they target misleading representations or unrealistic performance expectations. Similarly, transparency around the token allocations of founders, teams and early investors, including any lock-up or vesting arrangements, can help investors understand potential conflicts of interest and token supply dynamics. We see disclosure as the more proportionate starting point, rather than mandatory lock-up periods of a fixed length that may not suit every project.

More broadly, the priority should now be effective supervision, supervisory convergence and enforcement of the existing framework rather than new obligations. Given that MiCA has only recently become applicable, regulators and market participants should first have the opportunity to assess how the current regime works in practice and whether the risks identified are adequately addressed through supervisory action. To the extent additional measures are considered, they should be proportionate, technology-neutral and aligned with the principles that apply in traditional financial markets, so that equivalent risks lead to equivalent regulatory outcomes. Ultimately, the effectiveness of any requirement will depend on supervision and enforcement, and the key challenge for investor protection and market integrity is ensuring that existing rules are applied and enforced consistently across the Union, including in relation to cross-border activity affecting EU investors.

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

5000 character(s) maximum

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

MiCA should expressly permit a white paper prepared for an offer to the public to be reused for admission to trading, and vice versa, provided it remains accurate and is updated where necessary, and it should also be possible to prepare a single white paper for both purposes from the outset. Articles 4 and 5 of MiCA, the fields in Commission Implementing Regulation (EU) 2024/2984 and the XBRL taxonomy do not currently accommodate this clearly. Alongside this, the review should create a genuinely single EU notification process, in which Title II white papers, host Member States, publication or admission dates and any subsequent modifications are submitted once through a central system and automatically distributed to the relevant NCAs and ESMA. Such a system could also enable automatic iXBRL validation and populate the ESMA register directly.

Finally, MiCA should provide certainty over when the notification period begins. The notification date should be the date on which the NCA receives a complete notification package including the white paper, and NCAs should not be able to delay the start of the statutory period by withholding acknowledgement or requesting minor corrections. Minor corrections should not restart the period, while unresolved material deficiencies could

require a new notification. This would preserve supervisory oversight without turning notification into a de facto approval process.

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

5000 character(s) maximum

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

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

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

Please explain your answer to question 8:

5000 character(s) maximum

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

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

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

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

2.1 The future role of stablecoins

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

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

Please explain your answers to question 9:

5000 character(s) maximum

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

We see stablecoins as very beneficial for EU users across most of the listed use cases, with the greatest gains where existing solutions are slow, costly, fragmented or unavailable outside banking hours. Their core advantages are near-instant settlement on a 24/7 basis, programmability, lower transaction costs and native interoperability with tokenised assets and on-chain financial services.

The strongest case is international payments. Cross-border remittances and transfers to and from third countries still rely on correspondent banking chains that are slow, expensive and opaque, and stablecoins can settle them in seconds at a fraction of the cost with end-to-end traceability. Intra-EU payments also benefit: although SEPA Instant has improved domestic and euro area transfers, stablecoins add programmability, continuous availability and a common settlement layer that works across platforms and blockchains. For retail users, person-to-person transfers become as simple as sending a message, while person-to-business payments, including e-commerce, can reduce merchant acceptance costs and speed up settlement.

Stablecoins are also very beneficial for crypto trading and liquidity provision, where they are the core settlement and quote asset, and for access to programmable and DeFi financial services, where they provide the stable unit of account that makes on-chain lending, exchange and settlement usable. They are equally well suited to the settlement of tokenised financial instruments, where they can provide the on-chain cash leg for delivery-versus-payment, enabling atomic settlement and reducing counterparty and settlement risk.

For B2B payments, wholesale payments between financial institutions and corporate treasury management, the benefits are clear but somewhat more dependent on further development. Stablecoins can reduce working-capital lock-up, enable automated invoice settlement and allow firms to move liquidity between entities and jurisdictions in real time. Broad adoption will, however, depend on integration with enterprise and banking systems, clarity on accounting, tax and prudential treatment, and interoperability with other settlement assets such as tokenised deposits and central bank money, which will coexist with stablecoins in wholesale markets. Similarly, stablecoins can widen access to financial services in underserved parts of the EU and for underbanked groups, but the EU already has high levels of account ownership, so the incremental benefit is more targeted than in regions with limited banking infrastructure.

The extent to which these benefits materialise will also depend on how existing payment infrastructures evolve, including the international interlinking of instant payment systems, and on a regulatory framework that allows stablecoins to compete and scale. Stablecoins and improved traditional infrastructure are complementary rather than mutually exclusive, and an open, well-calibrated MiCA framework is essential for EU users to capture these benefits.

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

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

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

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

5000 character(s) maximum

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

2.2 Prudential regime and capital requirements

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

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

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

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

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

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

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

5000 character(s) maximum

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

We find that it is difficult to decide on the prescribed amounts and thresholds without historical data, although very relevant since capital requirements will contribute to establishing credibility for the cryptoasset from the very start. Credibility is not something you have, it is something you earn/deserve.

The capital requirements essentially serve as a buffer to cover potential losses related to credit risk and market risk of the reserve assets, which is very sensible. It also makes sense that the requirement is proportional to the amount of reserves of the issuer.

However the 3% requirement for significant issuers is very high. It is equal to the leverage ratio requirement for banks, while the credit risk, market risk and liquidity risks of banks are significantly more pronounced. A more risk-based approach that is substantiated by historical data would be preferred.

Under MiCA, the own funds requirement for a significant EMT issuer rises from the 2% baseline to 3% of the average reserve of assets, with a further risk overlay (of 20%) and a discretionary stress-testing overlay of 20-40% under the RTS in Delegated Regulation (EU) 2025/415, pushing the effective ceiling to 2.8% for non-significant, and as high as 4.2% for significant EMTs under adverse findings.

This sits above the 3% minimum leverage ratio that anchors the bank framework under the CRR. While the EBA's 2026 stacking-order simplification streamlines the supervisory add-on layers sitting on top of the bank LR (converting the P2R-LR into a buffer and removing the P2G-LR, although leaving the 3% floor itself untouched), MiCA imposes its own overlay as a hard, non-discretionary Level 1 mechanism with no equivalent guidance/requirement bifurcation. A significant EMT issuer under stress-test-triggered adjustment can therefore face a materially stricter non-risk-weighted capital constraint than a systemically important bank facing the same exposure-based logic, despite EMT reserves being fully backed, segregated, and invested in low-risk liquid instruments. Such a risk profile arguably warrants a lighter, not heavier, floor than a bank's leveraged balance sheet.

We therefore recommend that the co-legislators reconsider the 3% own funds threshold for significant EMTs, with a view to reducing it closer to the 2% baseline applicable to non-significant issuers.

The current step-up disproportionately penalises scale rather than risk. A significant EMT's reserve composition and redemption mechanics do not change qualitatively at the significance threshold, and the stress-testing overlay under Delegated Regulation (EU) 2025/415 already provides supervisors with a risk-sensitive, case-by-case tool to address firm-specific vulnerabilities.

Retaining a materially elevated flat floor on top of that overlay is therefore duplicative, and calibrating it below the bank leverage ratio benchmark would better reflect the comparatively lower balance-sheet leverage embedded in the EMT business model.

Another suggestion for an alternative calculation method would be to add a percentage of the turnover in the

secondary market to spot higher than normal activity and hence, potentially, foresee an upcoming run. This would provide a slightly more dynamic approach since it would adjust the requirement to the current situation.

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

Please rate each factor below:

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

Please explain your answers to question 12:

5000 character(s) maximum

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

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

5000 character(s) maximum

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

MiCA's ART category is best understood as covering non-single-fiat stablecoins or tokens that purport to maintain a stable value by referencing another value, right, or combination. The classification approach should

be sequential. Regulators first assess whether the token purports to maintain stable value, and only then examine what it references. A link to an underlying value that is 1:1, but not inherently stable - as would be the case for investment use cases, should therefore not, by itself, be sufficient for ART status.

MiCA's structure supports a monetary and payments-focused interpretation. Recital 18 describes EMTs as electronic surrogates for coins and banknotes and ARTs as tokens seeking to stabilize value by reference to other assets. The ECB has also characterized ARTs as presenting a "clear monetary substitution dimension." Article 22's reporting framework specifically addresses uses "as a means of exchange within a single currency area," reinforcing the focus on money-like circulation and payment-system risk.

An investment-oriented commodity token is different where it provides direct ownership or exposure to a volatile asset and does not promise a separate stable monetary value. Its principal risks are custody, title, segregation, valuation, reconciliation, and redemption—not de-pegging or monetary substitution.

The analysis must distinguish direct ownership from fund-like or synthetic structures. If the issuer pools capital, follows an investment policy, generates a pooled return, or gives holders NAV-like exposure without ownership of the underlying assets, the product may instead implicate MiFID II, AIFMD, or another financial-instrument regime and may fall outside MiCA under Article 2(4).

Accordingly, 1:1 tokenized commodities or other investment use cases that do not fall under existing MiFID II, AIFMD, or other financial-instrument regimes that fall outside MiCA should not be pulled into the ART designation. Rather, a new classification appropriately calibrated for such assets should be created to address regulatory restrictions and token holder protections for such tokenized assets.

2.3 Liquidity and reserve requirements

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

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

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

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

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

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

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

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

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

5000 character(s) maximum

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

The obligation under Article 36(1) to constitute and maintain a reserve that fully covers redemption and liquidity risks is the prudential core of the framework and should be preserved unchanged for both non-significant and significant ARTs, as should the operational and legal segregation of the reserve under Article 36(2) and (3), which makes it insolvency-remote and gives holders an effective claim at par. The custody rules in Article 37 and the auditing rules in Article 36(9) are already demanding and do not require tightening. These safeguards are reinforced by the reporting regime in Article 22, under which issuers above the relevant threshold report quarterly on the number of holders, value of tokens in issue, reserve size and transaction metrics, and by the requirement for an independent audit of the reserve at least every six months, with the results made public. This relatively intensive transparency is proportionate for ARTs because they may reference baskets of currencies, commodities or other crypto-assets, introducing valuation complexity, asset allocation risk and potential opacity that single-currency instruments do not present.

Two elements should be recalibrated towards greater flexibility rather than greater stringency. The first is the liquidity composition and maturity structure under Article 36(4) and the related RTS, which in practice restricts reserves to Level 1 assets with a zero haircut and concentrates them in a very small subset of sovereign instruments. Aligning the eligible universe more closely with the high-quality liquid asset taxonomy of the Liquidity Coverage Ratio under the CRR, as amended by CRR III, while retaining the adaptations needed to preserve full backing and redemption at par, would allow a diversified basket of euro-denominated Level 1 assets together with a limited allocation to Level 2A assets, such as high-quality covered bonds, supranational debt issued by Union institutions and short-term securities of highly rated public sector entities. A sub-limit of around 20% of total reserves on Level 2A exposures would preserve high credit quality while materially reducing concentration in a single sovereign segment.

The second element is the minimum share of reserves that must be held as bank deposits, which should be removed or substantially reduced. The requirement lacks an identified prudential objective and is absent from the stablecoin frameworks of other major jurisdictions. It is also difficult for issuers to meet in practice, as only a small number of banks currently accept sizeable deposits from crypto-asset firms. The likely result is that stablecoin deposits become concentrated in a very small number of banks, creating a correlated linkage between issuers and those institutions and a systemic feedback loop that would heighten risk in stress. Issuer deposits are concentrated wholesale funding classified as high-outflow under the bank LCR, so receiving banks must match them with their own high-quality liquid assets. These balances therefore do little to finance the real economy. Because issuers would liquidate the deposit component first in a redemption event, the requirement concentrates rather than diffuses the transmission of stress to banks, a concern the European Systemic Risk Board has linked to a growing stock of uninsured deposits as the market expands.

For significant ARTs, the enhanced liquidity management, stress testing, monitoring and reporting obligations under Article 45(3) and (4) should be reinforced, hence our rating of 4. Issuers should demonstrate, under severe but plausible system-wide scenarios that include correlated redemptions across issuers rather than purely idiosyncratic shocks, that the reserve and associated own funds can absorb peak outflows without breaching liquidity thresholds or triggering disorderly asset sales. A defined tranche of the reserve should be convertible into central bank money within one business day without material price impact, and the framework

should expressly permit secured short-term liquidity operations, including repos against eligible collateral, which expand the usable liquidity buffer without altering the fully reserved balance sheet. A modest over-collateralisation or valuation margin, requiring reserve assets to exceed outstanding liabilities by a defined amount, would absorb minor mark-to-market losses and transaction costs in stress without turning the issuer into a credit intermediary. Strengthening dynamic resilience in this way is a more effective safeguard than static allocation constraints such as the minimum deposit share.

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

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

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

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

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

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

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

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

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

5000 character(s) maximum

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

Our ratings are 3 for the reserve obligation, segregation and custody requirements, 2 for liquidity composition and maturity, 1 for the minimum deposit share and 3 for the concentration limit, for both non-significant and significant EMTs, with auditing rated 3 for non-significant and 4 for significant EMTs, and the enhanced obligations for significant EMTs rated 4.

Full backing under Article 36(1) and the legal and operational segregation of reserve assets under Article 36(2) and (3) protect holders and keep a fully reserved EMT legally and economically distinct from a deposit. Together with the custody rules in Article 37 and the safeguarding regime inherited from the E-Money Directive, they allow an EMT to offer redemption at par with an insolvency-remote claim, rather than an unsecured exposure to the issuer's balance sheet, and they should be preserved unchanged.

The liquidity composition of the reserve, by contrast, should be made more flexible. As set out in our answer to Q14, the de facto restriction to Level 1 assets should be replaced by an approach aligned with the LCR framework, permitting a diversified basket of Level 1 assets and a capped allocation to Level 2A instruments. For EMTs, concentration in a limited pool of sovereign issuers also risks compressing yields beyond fundamentals and complicating monetary policy transmission.

The most consequential recalibration in the EMT reserve regime is the removal of the minimum deposit share, for the reasons given in Q14. Three further points apply to EMTs. The higher 60% share for significant EMTs intensifies the channel through which redemption stress is transmitted to banks, shifting risk into tail scenarios. Issuer deposits are also volatile, rate-sensitive wholesale funding that issuers will move at the first doubt about a bank's credit quality, so they do not support bank funding stability. Finally, the requirement misreads flow-of-funds dynamics. When an issuer buys securities, the seller's proceeds return to the banking system as deposits, so securities holdings do not drain aggregate deposits unless issuers accumulate balances at the central bank. If a floor is nonetheless retained, temporary, well-governed breaches should be permitted in severe redemption events, with supervisory notification and remediation timelines, in the same way banks are expected to draw down and rebuild liquidity buffers.

The binding cap on exposure to any single credit institution is a coherent safeguard and can remain, but it pulls in the opposite direction to the deposit floor. The floor pushes issuers into deposits while the cap limits placements with any one bank, so at scale the two require deposits spread across many banks. In practice, only a small number of banks currently accept sizeable deposits from crypto-asset firms, so the requirements become increasingly difficult to meet together as issuance grows, and deposits end up concentrated in the few willing institutions. This reinforces the systemic feedback loop described in Q14 and interacts with the CRR III output floor, as funding volatility at a few banks holding large reserve balances could amplify procyclical pressures. Concentration risk is better managed directly, through simple caps expressed as a share of total reserves and standardised public disclosure, such as the share of reserves held with the three largest counterparties, while removing the deposit floor.

The six-monthly independent audit with public disclosure remains appropriate for non-significant EMTs. For significant EMTs, however, transparency should be strengthened, as they currently face less intensive public reserve reporting than ARTs despite a potentially comparable systemic footprint. More frequent, standardised public reporting of reserve composition, drawing on the Article 22 framework for ARTs, should apply to significant issuers only, to avoid creating barriers to entry for a competitive euro market. The enhanced liquidity

management and stress testing obligations under Article 45(3) and (4) should likewise be reinforced as described in Q14.

As long as part of the reserve is held as bank deposits, the review should also clarify their legal treatment. Once placed with a credit institution, these funds form part of its ordinary deposit base and may be managed under the prudential framework applicable to banks. The interaction between Article 36(2) and the reference to "custody" in Article 37 may suggest that cash reserves must remain segregated from the bank's balance sheet, which does not reflect MiCA's policy objective. Level 1 should therefore clarify that segregation under Article 36 (2) does not extend insolvency protection against the credit institution holding the deposit, and that "custody" in Article 37(3)(b), a concept suited to securities and crypto-assets, does not require cash deposits, which create a debtor-creditor relationship, to be held off the bank's balance sheet.

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

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

- ☐ Yes – require reserve maintenance and segregation of EMT reserve assets within the credit institution's balance sheet
- ☐ Yes – require issuance through a legally separate entity of the credit institution with full segregation of EMT reserve assets
- ☐ No – keep the current MiCA approach unchanged
- ☒ Others / alternative approach
- ☐ Don't know / no opinion / not applicable

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

5000 character(s) maximum

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

We support an alternative, significance-based approach: the current MiCA treatment should be maintained for non-significant bank-issued EMTs, while significant bank-issued EMTs should be subject to holder protection equivalent to that available for EMTs issued by electronic money institutions.

The current approach, under which credit institutions issuing EMTs are exempt from the reserve and

segregation requirements that apply to non-bank issuers under Article 58, reflects the established treatment of traditional e-money under the E-Money Directive. It also recognises that credit institutions are already subject to a demanding prudential framework under the CRR and CRD, covering capital, liquidity, governance, recovery and resolution, as well as to deposit guarantee arrangements. Unlike non-bank issuers, banks are therefore subject to robust safeguards designed to ensure solvency, resilience and liquidity. A blanket requirement to hold a fully segregated 1:1 reserve for all bank-issued EMTs would sit awkwardly with the maturity transformation and pooled funding that define the banking business model. It would effectively impose a narrow-banking constraint on these instruments, trapping liquidity that would otherwise support credit creation, and would be disproportionate and capital-inefficient for smaller issuances.

At the same time, the absence of segregation means that the holder of a bank-issued EMT is an unsecured creditor of the bank rather than the beneficiary of a ring-fenced reserve. The holder relies on deposit guarantee protection, which is capped, and on the ordinary creditor hierarchy in resolution or insolvency, rather than on an exclusive claim over identified assets. This is a materially weaker position than that of a holder of an EMT issued by an electronic money institution, whose reserve is segregated and insolvency-remote, as described in our answer to Q15. The asymmetry raises two concerns. The first is competitive neutrality, since economically equivalent instruments would offer different levels of holder protection depending only on the type of issuer. The second is the singleness of money, since the interchangeability at par of bank-issued and non-bank-issued tokens would rest on different legal foundations. The Bank for International Settlements has identified the singleness of money as a central objective in a system where stablecoins coexist with central bank and commercial bank money, and preserving it argues against an unexamined divergence in holder protection between issuer types.

These concerns matter most at scale, which is why we favour calibration by significance rather than a single uniform rule. For significant bank-issued EMTs, the framework should require holder protection equivalent to that available for EMI-issued tokens. This could be achieved either through the segregation and ring-fencing of an identified pool of reserve assets held for the exclusive benefit of token holders or, where the scale of the activity justifies it, through issuance from a legally separate entity, so that the reserve is insulated from the bank's general creditors. For non-significant bank issuances, the existing prudential, deposit guarantee and resolution framework can continue to be relied upon, supplemented by clear disclosure to holders of the legal nature of their claim, including whether and to what extent it is covered by deposit guarantee protection.

This approach preserves the singleness of money and a level playing field where those objectives matter most, without imposing disproportionate structural requirements on smaller issuances or undermining the coherence of the banking model.

2.4 Criteria for determining significance

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

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

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

- **“1” = Significantly decreased (thresholds should be much lower / classification triggered earlier)**
- **“2” = Somewhat decreased**

- **“3” = Kept as is (current MiCA thresholds are broadly appropriate)**
- **“4” = Somewhat increased**
- **“5” = Significantly increased (thresholds should be much higher / classification triggered later)**

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

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

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

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

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

5000 character(s) maximum

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

We believe the significance thresholds, for both EMTs and ARTs, are miscalibrated for the purpose that matters most, and should be raised for the application of enhanced prudential requirements.

The significance regime currently serves two distinct purposes: transferring supervision from national authorities to the EBA, and triggering substantially stricter prudential requirements. These should be separated and calibrated independently. As shown by Hansen and Bauer ("MiCA's significance regime for stablecoins: a sledgehammer to crack a nut?", 2024), the current thresholds are broadly in line with comparable EU benchmarks for supervisory transfer, such as the size criterion under the SSM Framework Regulation and the ECB's PISA oversight framework for electronic payment instruments. For prudential purposes, however, they are set far too low.

The scale of the mismatch is clear when compared with the international framework for systemically important banks. The smallest global systemically important banks have balance sheets in the hundreds of billions of euros, whereas MiCA treats an EMT with EUR 5 billion outstanding as significant and subjects it to a markedly heavier prudential regime. The threshold is also small relative to a global stablecoin market of around USD 300 billion. An issuer can therefore face the full weight of the significance regime long before it poses any meaningful financial stability risk, which acts as a barrier to building scale in the EU.

The design of the regime compounds the problem. The G-SIB framework measures systemic importance through a range of weighted indicators, including size, interconnectedness, substitutability, complexity and cross-border activity, and assigns banks to buckets with graduated additional requirements. MiCA instead applies a binary classification: once the criteria are met, the full set of enhanced requirements applies, regardless of whether an issuer barely crosses the threshold or far exceeds it. This creates a cliff edge. Crossing it doubles the minimum deposit share from 30% to 60% of reserves, which, as explained in our answers to Q15 and Q26, increases interconnectedness with a small number of banks rather than reducing risk. It also raises own funds requirements, with further add-ons possible following stress testing, even though fully reserved EMTs hold high-quality liquid assets with limited credit and market risk. The result is a strong incentive to structure activity to avoid classification rather than to reduce systemic risk. Other frameworks take a more proportionate approach: the FSB recommendations on global stablecoins rely on qualitative criteria and supervisory judgment rather than fixed quantitative triggers, and we are not aware of another jurisdiction that combines hard thresholds at this level with an automatic, uniform increase in prudential requirements.

We therefore recommend five changes. First, the two purposes should be separated. The current thresholds can broadly be retained for transferring supervision to the EBA, while a separate and substantially higher set of thresholds should apply to enhanced prudential requirements, calibrated to genuinely systemic scale. Second, the binary classification should be replaced by a graduated approach, in which additional requirements increase in steps according to an issuer's assessed contribution to systemic risk, with the EBA determining where each issuer sits. Third, the EBA should have explicit discretion to adjust prudential requirements for issuers that exceed the thresholds but do not yet pose material systemic risk. Fourth, it should be made explicit in Level 1 or Level 2 that significance is assessed on EU data only, both in multi-issuance arrangements and for global tokens distributed in the EU under any future equivalence regime. If global figures were used, the thresholds would capture tokens that neither the SSM nor the PISA benchmarks would regard as warranting heightened oversight. Fifth, interconnectedness indicators should use absolute values rather than relative market shares, so that an issuer does not become significant simply because the wider market grew more

slowly than its own circulation.

The review is an opportunity to replace a blunt, cliff-edge instrument with a proportionate, risk-based framework that captures genuinely systemic stablecoins while allowing the EU market to grow. Without these changes, EU issuers will remain at a competitive disadvantage relative to jurisdictions with more flexible frameworks, undermining the objective of a scalable and competitive European digital finance ecosystem.

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

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

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

5000 character(s) maximum

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

The qualitative criteria should be adjusted in two respects: the criteria themselves should be refocused on genuine systemic risk, and supervisors should be able to use qualitative judgment to calibrate the consequences of significance rather than simply to trigger it.

Several of the qualitative criteria in Article 43(1) measure features of an issuer's business model rather than the systemic footprint of a token. The requirement that an issuer issues at least one other ART or EMT and provides at least one crypto-asset service is a clear example: an issuer offering a euro and a US dollar token alongside a custody service may pose no greater systemic risk than one offering a single token, yet it moves closer to classification. This penalises diversification and the development of integrated EU players without a clear financial stability rationale. The designation of an issuer as a gatekeeper under the Digital Markets Act is likewise a proxy for market power in digital services, not for the risk that a particular token poses to financial stability, and should at most inform supervisory judgment rather than count automatically as one of the three criteria.

The criteria on international scale and interconnectedness are conceptually relevant, but their design needs refining. As set out in our answers to Q17 and Q30, significance should be assessed on the activity of the EU-authorized issuer. If international scale is measured by reference to the global circulation of a token issued under a multi-issuance arrangement, the EU issuer of any widely used global stablecoin would meet this criterion automatically, whatever its actual EU footprint. The criterion should instead capture the cross-border payment and remittance activity of the EU token itself. On interconnectedness, indicators should reflect actual exposures, such as concentrated reserve placements or links to systemically relevant counterparties, and use absolute values rather than relative market shares. Indicators with weak links to individual issuer risk, such as measures of portfolio overlap between the reserves of different issuers, should be removed, as similarity between high-quality liquid reserve portfolios says little about the risk any single issuer poses. There is also a circularity to address: the mandatory minimum deposit share itself creates concentrated exposures to a small number of banks, as explained in our answers to Q15 and Q26, which can then count towards interconnectedness. The regulation should not generate the very indicator it uses to classify issuers.

The more fundamental issue is how qualitative criteria are used. At present, meeting any three criteria produces the same binary outcome, whether the combination reflects genuine systemic importance or a mix of business-model features. A token that meets three qualitative criteria while operating at a scale far below any credible systemic threshold should not face the same requirements as one that far exceeds the quantitative thresholds. The international framework for systemically important banks takes a different approach: supervisory judgment is built into the assessment, authorities can adjust classifications based on qualitative information, and requirements then scale with assessed systemic importance through graduated buckets. MiCA should follow the same logic. Quantitative thresholds should act as the primary trigger, qualitative criteria should inform supervisory judgment within a graduated framework rather than counting mechanically towards a three-criteria test, and the EBA should be able to confirm or rebut significance on the basis of a reasoned assessment. To avoid tokens moving in and out of classification because of short-term fluctuations, changes in status should require criteria to be met or no longer met over a sustained period.

In short, the qualitative criteria should be narrowed to those with a clear link to systemic risk, freed from business-model proxies and circular effects, and used to calibrate proportionate requirements rather than to trigger a cliff edge.

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

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

Please explain your answer to question 1:

5000 character(s) maximum

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

MiCA already captures the relevant dimensions of scale and adoption. The priority for the review should be to make the existing framework more risk-sensitive and less mechanical, as set out in our answers to Q17 and Q18, rather than to add further criteria. Additional triggers within a binary three-criteria test would lower the effective threshold for significance and make classification even less predictable, reinforcing the cliff-edge effect we have described.

Where the framework is refined, the principle should be substitution rather than addition. In our answer to Q18, we recommend removing or downgrading criteria that measure business-model features rather than systemic risk. If the Commission wishes to introduce more targeted metrics, they should replace those criteria and be used within a graduated framework that informs supervisory judgment, not as additional automatic triggers.

Any such metrics should focus on genuine financial stability channels, consistent with how systemic importance is assessed for banks and payment systems. Four indicators would be most informative. The first is interconnectedness with the EU banking system, measured through actual exposures such as the size and concentration of reserve deposits at individual banks, bearing in mind that these exposures are currently driven in large part by the mandatory deposit share. The second is actual use in EU retail and commercial payments, as distinct from use as a settlement asset in crypto-asset trading. A token widely used by EU households and businesses to pay for goods and services raises different questions of substitutability and continuity than one used mainly on trading venues. The third is the token's share of the EU payments market, which provides a

direct measure of how disruptive a failure would be for EU payment flows. The fourth is the issuer's footprint in the markets for its reserve assets, such as its holdings relative to the outstanding volume of the specific short-term instruments it invests in, which captures the risk of fire sales in stress more accurately than headline market capitalisation.

All metrics should be calculated on EU data for the EU-authorised issuer, expressed in absolute values rather than relative market shares, and assessed over a sustained period to avoid volatile classification. Used in this way, a small number of well-targeted indicators would help supervisors distinguish tokens that are genuinely systemic from those that are simply large or widely traded, without adding to the regulatory burden or the unpredictability of the current regime.

2.5 Interest payment

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

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

a) for EMTs:

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

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

5000 character(s) maximum

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

We support allowing remuneration for EMTs and ARTs under defined conditions, and a clearer framework for rewards. Views among our members differ on direct issuer interest, and we reflect that below.

The blanket prohibition has several harmful effects. It is procyclical: fixing the return at zero while policy rates move creates a cyclical wedge against deposits, driving flows into and out of stablecoins over the rate cycle and weakening monetary transmission. It displaces demand for yield into less transparent reward, staking and lending structures, often funded by rehypothecation and outside the prudential perimeter. It also pushes users towards tokenised money market funds for payment and settlement, even though they are designed as investments and regulated less strictly than stablecoins, which are designed and regulated as money. Finally, it is broader than the E-Money Directive, which prohibits interest by the issuer only, whereas MiCA extends it to

CASPs and third parties, effectively denying EU users reward products available on non-EU tokens. Allowing remuneration could give euro stablecoins a competitive advantage, as other major jurisdictions prohibit issuer interest.

Concerns about deposit outflows appear overstated. US evidence suggests the bank deposit base remained broadly stable between 2020 and 2025 while dollar stablecoins grew from around USD 5 billion to around USD 300 billion, a period in which yield was available on stablecoins. Any shift is likely to be gradual and rate-sensitive, as with money market funds.

For issuer remuneration, we propose a narrow pass-through of realised net income on a prescribed pool of high-quality, short-duration reserve assets, after costs, liquidity requirements, buffers and a retained margin, with disclosure and supervisory approval. This involves no additional risk-taking or leverage, so the token remains money rather than a deposit or investment, and it would pay less than the underlying assets, reflecting the token's convenience yield. For ARTs, the same logic applies where reserves are low-risk and equivalent to a single currency; for heterogeneous reserves, only a demonstrable pass-through should be allowed.

Some members consider that issuer interest should remain prohibited for now, citing the risk that stablecoins are perceived as deposits without equivalent protections, deposit migration and more volatile bank funding, reduced credit to the real economy and greater runnability if holders focus on returns. As a minimum, they support two mechanisms we endorse: an annual EBA report on the treatment of remuneration, including third-party rewards, in third countries whose tokens are materially used in the EU; and a conditional activation mechanism modelled on Article 461a CRR, under which Level 1 sets the conditions for remuneration and the Commission activates them by delegated act where it finds, after consulting the ECB, EBA and ESRB, that third-country developments have undermined EU competitiveness and activation poses no material stability risk. The obligation should be to act, not merely to report.

Whatever the outcome on issuer interest, MiCA should distinguish rewards linked to active use from returns from passive holding. The test should be whether a benefit requires the token to be used for payments, purchases, transfers or other transactions, not whether it refers to a balance or period. Cashback, loyalty points, fee rebates and waivers should be permitted, including where calculated on a balance maintained for genuine use, such as funds committed to pending orders or as collateral for open positions. A minimum holding period should be allowed where it serves a genuine loyalty or anti-gaming purpose, provided the reward remains conditional on use. This mirrors Article 12 of the E-Money Directive and the Commission's guidance distinguishing benefits linked to using a payment instrument from those linked to the amount or duration of holding, and would encourage sustained use rather than rapid in-and-out activity. Rewards accruing solely from the amount held over time would remain prohibited, and all rewards should be disclosed and not marketed as deposit interest. Moreover, issuers must be able to pay distribution, marketing, custody, integration and liquidity fees to CASPs, wallets and payment institutions. These arm's-length payments fall outside the holder-facing prohibition in Article 50(3), provided they are not linked to holding periods and no holding-period benefit is passed to holders. This should be confirmed at Level 1 or in guidance, as uncertainty deters EU distributors while non-EU issuers pay partners freely. Finally, interest on stablecoin lending must remain permitted, as for other forms of money. Lending locks up funds for productive use and differs from interest on an idle balance, and it provides important liquidity to crypto and tokenised markets.

b) for ARTs:

- ☐ No, interest and interest-equivalent remuneration should continue to be prohibited



Yes, interest or interest-equivalent remuneration should be allowed under defined conditions

- ☐ Yes, interest or interest-equivalent remuneration should be allowed fully
- ☐ Don't know / no opinion / not applicable

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

5000 character(s) maximum

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

We support allowing remuneration for EMTs and ARTs under defined conditions, and a clearer framework for rewards. Views among our members differ on direct issuer interest, and we reflect that below.

The blanket prohibition has several harmful effects. It is procyclical: fixing the return at zero while policy rates move creates a cyclical wedge against deposits, driving flows into and out of stablecoins over the rate cycle and weakening monetary transmission. It displaces demand for yield into less transparent reward, staking and lending structures, often funded by rehypothecation and outside the prudential perimeter. It also pushes users towards tokenised money market funds for payment and settlement, even though they are designed as investments and regulated less strictly than stablecoins, which are designed and regulated as money. Finally, it is broader than the E-Money Directive, which prohibits interest by the issuer only, whereas MiCA extends it to CASPs and third parties, effectively denying EU users reward products available on non-EU tokens. Allowing remuneration could give euro stablecoins a competitive advantage, as other major jurisdictions prohibit issuer interest.

Concerns about deposit outflows appear overstated. US evidence suggests the bank deposit base remained broadly stable between 2020 and 2025 while dollar stablecoins grew from around USD 5 billion to around USD 300 billion, a period in which yield was available on stablecoins. Any shift is likely to be gradual and rate-sensitive, as with money market funds.

For issuer remuneration, we propose a narrow pass-through of realised net income on a prescribed pool of high-quality, short-duration reserve assets, after costs, liquidity requirements, buffers and a retained margin, with disclosure and supervisory approval. This involves no additional risk-taking or leverage, so the token remains money rather than a deposit or investment, and it would pay less than the underlying assets, reflecting the token's convenience yield. For ARTs, the same logic applies where reserves are low-risk and equivalent to a single currency; for heterogeneous reserves, only a demonstrable pass-through should be allowed.

Some members consider that issuer interest should remain prohibited for now, citing the risk that stablecoins are perceived as deposits without equivalent protections, deposit migration and more volatile bank funding, reduced credit to the real economy and greater runnability if holders focus on returns. As a minimum, they support two mechanisms we endorse: an annual EBA report on the treatment of remuneration, including third-party rewards, in third countries whose tokens are materially used in the EU; and a conditional activation mechanism modelled on Article 461a CRR, under which Level 1 sets the conditions for remuneration and the Commission activates them by delegated act where it finds, after consulting the ECB, EBA and ESRB, that third-country developments have undermined EU competitiveness and activation poses no material stability risk. The obligation should be to act, not merely to report.

Whatever the outcome on issuer interest, MiCA should distinguish rewards linked to active use from returns from passive holding. The test should be whether a benefit requires the token to be used for payments, purchases, transfers or other transactions, not whether it refers to a balance or period. Cashback, loyalty points, fee rebates and waivers should be permitted, including where calculated on a balance maintained for genuine use, such as funds committed to pending orders or as collateral for open positions. A minimum holding period should be allowed where it serves a genuine loyalty or anti-gaming purpose, provided the reward remains conditional on use. This mirrors Article 12 of the E-Money Directive and the Commission's guidance distinguishing benefits linked to using a payment instrument from those linked to the amount or duration of holding, and would encourage sustained use rather than rapid in-and-out activity. Rewards accruing solely from the amount held over time would remain prohibited, and all rewards should be disclosed and not marketed as deposit interest. Moreover, issuers must be able to pay distribution, marketing, custody, integration and liquidity fees to CASPs, wallets and payment institutions. These arm's-length payments fall outside the holder-facing prohibition in Article 50(3), provided they are not linked to holding periods and no holding-period benefit is passed to holders. This should be confirmed at Level 1 or in guidance, as uncertainty deters EU distributors while non-EU issuers pay partners freely. Finally, interest on stablecoin lending must remain permitted, as for other forms of money. Lending locks up funds for productive use and differs from interest on an idle balance, and it provides important liquidity to crypto and tokenised markets.

2.6 Redemption

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

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

5000 character(s) maximum

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

In practice, end user redemptions are generally processed by EMT distributors rather than the issuer, with the issuer processing larger redemption requests from said distributors.

Practical problems, to the extent they are encountered, are typically operational. Banking cutoffs, non-24/7 payment rails, payment errors, and returned wires can delay settlement. In addition, redemption requests may be held when sanctions screening, transaction monitoring, KYC refreshes, or enhanced due diligence identify issues requiring manual review or additional information from the customer before processing can continue. These controls are necessary, but they can create delays, particularly where end users are slow to respond to information requests or where a payment must be repaired and reprocessed.

A further challenge arises when customers hold tokens through a third-party platform. An issuer cannot bypass that platform's account controls, withdrawal suspension, or custody arrangements, and cannot redeem tokens that are not delivered to or controlled by the issuer for burning. As a result, customers may perceive issues created by a third-party as issuer redemption failure even though the tokens are inaccessible because of an intermediary's restrictions, insolvency, or operational problems.

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

a) In a normal market situation

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

b) In a stressed market situation

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

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

5000 character(s) maximum

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

MiCA could provide greater clarity regarding the timing of redemption. While holders have a right to redeem at any time, the framework does not currently provide sufficient certainty on the timeframe within which redemption requests should be processed and settled in normal market conditions. Greater clarity would improve legal certainty for holders and facilitate consistent implementation across the EU. MiCA could specify reasonable redemption timeframes, taking into account the type of token, operational arrangements and settlement infrastructure, while preserving flexibility for exceptional circumstances and stress situations. Such clarification would strengthen consumer protection and reduce the risk of divergent supervisory or market interpretations of the "at any time" redemption requirement.

The objective should not necessarily be to impose a single uniform deadline, but rather to establish clearer expectations regarding what constitutes timely redemption under normal market conditions and what measures may be justified in exceptional circumstances.

Furthermore, it is noteworthy that the regulatory treatment of redemption rights differs significantly across major jurisdictions. Differences exist with respect to redemption timelines, with the US framework providing for redemption within a maximum of T+2 and the UK framework requiring redemption by no later than T+1 (or T+0 for systemic stablecoins). These distinctions point to the absence of a fully harmonised international approach to redemption conditions, timelines and fees.

While MiCA adopts a particularly stringent approach by requiring redemption on demand at par value and generally prohibiting redemption fees, both the US and UK frameworks provide greater flexibility regarding redemption arrangements. Under the GENIUS act, redemption conditions and applicable fees may be contractually disclosed by the issuer, whereas the UK framework allows fees that are proportionate to operational costs. MiCA establishes a strict prohibition under which the redemption of ART&EMT must not be subject to a fee. The only exception to this rule is the temporary application of liquidity fees during a stressed

market scenario, as part of an activated recovery plan under Article 46. Furthermore, the EBA Guidelines on Redemption Plans strictly regulate how costs are handled when an issuer is forced to liquidate the reserve of assets to satisfy token holders. The Guidelines acknowledge that implementing a redemption plan generates costs (such as appointing consultants, intermediaries, or executing the liquidation of the reserve). They even explicitly state that the issuer must clarify in its redemption plan that these operational costs "do not amount, even indirectly, to redemption fees". However, the EBA severely restricts how these costs are covered. The Guidelines dictate that the costs of liquidating the reserve can only be covered by the liquidation proceeds after the amount required to fully satisfy the redemption requests of all token holders has been entirely set aside. This approach creates a significant financial and operational burden for issuers. A regulatory distinction must be drawn between a "redemption fee" (a discretionary charge levied by the issuer to deter redemptions or generate profit) and "execution costs" (verifiable, third-party expenses necessary to process the transaction). When a holder redeems a token, objective costs are generated, such as blockchain network fees (gas fees), banking transfer costs, or liquidation broker costs. Passing these direct, out-of-pocket expenses to the holder is a standard financial practice to cover the mechanical reality of the transaction, not a penalty. By mandating that token holders must be paid out in full before any liquidation or operational costs are deducted from the reserve, the EBA essentially forces the issuer to absorb the entire of the execution costs. In a mass redemption scenario, or when liquidating a massive reserve, third-party costs can skyrocket. Prohibiting the issuer from discounting these inherent transactional costs from the payout threatens the issuer's operational viability.

While the EBA Guidelines correctly identify that these costs are "not redemption fees", the prohibition on passing them to the holder during the ordinary course of business or deducting them proportionately from the redeemed amount contradicts market reality. MiCA and the corresponding Guidelines should be amended to explicitly permit issuers to pass transparent, proportionate, and verifiable execution and liquidation costs to the redeeming holder. Providing this clarification would ensure that issuers are not forced to subsidize third-party network and liquidation expenses, while still fully protecting consumers from arbitrary or hidden redemption penalties. It is also important to minimise redemption fee regime differences between major jurisdictions, to avoid biased run dynamics in stress situations.

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

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

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

Timing of redemption (timeframe for redemption by the issuer)	☐	☐	☒	☐
Prohibition of redemption fees	☒	☐	☐	☐
Conditions, procedures, and transparency of redemption policies	☐	☒	☐	☐
Supervisory powers to intervene in or trigger redemption plans	☐	☒	☐	☐

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

5000 character(s) maximum

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

2.7 Stability issues

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

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

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

a) Current MiCA requirements for ARTs

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

b) Current MiCA requirements for EMTs

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

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

5000 character(s) maximum

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

MiCA's recovery and redemption plan framework is fit for purpose because it is embedded in a broader, risk-based regime that already addresses the principal risks associated with ARTs and EMTs. Holders of EMTs have a statutory right to redeem "at any time and at par value," while MiCA generally prohibits redemption fees, subject only to narrowly defined crisis tools under an activated recovery plan. Those rights are supported by reserve, safeguarding, liquidity, governance, disclosure, and supervisory-intervention requirements. Recovery and redemption plans therefore operate as contingency and orderly-exit mechanisms, not as substitutes for the prudential safeguards that apply on a going-concern basis.

The recovery-plan requirements should not be expanded for significant issuers because MiCA and the EBA Guidelines already apply proportionality and permit plans to be calibrated to the issuer's business model, risk profile, operational complexity, and token characteristics. The framework requires governance arrangements, monitoring indicators, escalation procedures, recovery options, preservation of critical services, scenario analysis, and communication with holders and authorities. In practice, a plan can include differentiated liquidity metrics, stress scenarios, reserve-reallocation measures, contingency funding, and time-limited emergency tools. The EBA Guidelines contemplate annual review for significant issuers, which provides an enhanced supervisory expectation without imposing a rigid, prescriptive template that could become disconnected from the issuer's actual risks.

The redemption-plan framework is similarly sufficient for significant issuers. Article 47 and EBA/GL/2024/13

require plans to address orderly redemption, equitable treatment of holders, continuity of critical activities, liquidity and asset liquidation, governance, third-party dependencies, communications, and applicable insolvency or resolution scenarios. The Guidelines already recognize that complexity - not size alone - may justify heightened review: annual review applies to significant EMT issuers and may also apply to issuers with multiple outstanding issuances, complex business models, or increased risk profiles where the competent authority determines that approach. This targeted mechanism is preferable to expanding requirements uniformly for every significant issuer, because it allows supervisors to address genuine structural risks while preserving proportionality for issuers whose operations are comparatively straightforward.

Additional mandatory planning requirements would risk duplicating MiCA's enhanced prudential, liquidity, reporting, governance, and supervisory regime for significant tokens, while increasing cost and reducing operational flexibility without demonstrated improvements in holder protection. The better approach is to retain Articles 46 and 47 as the baseline, require plans to be credible, tested, current, and operationally actionable, and use existing supervisory powers to require targeted enhancements where an issuer's structure, multi-issuance model, third-party dependencies, or risk profile warrants them.

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

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

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

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

5000 character(s) maximum

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

We rate continuity of redemption rights 5, and central bank accounts for reserve assets, a dedicated resolution regime, emergency liquidity support and, under others, direct access to payment systems 4.

Banks deliver the singleness of money largely because of the support they receive from the central bank, including access to central bank accounts, payment systems and liquidity facilities. These tools are central to confidence in the banking system, yet they are mostly unavailable to stablecoin issuers. If central banks attach high importance to the singleness of money, as they rightly do, they should extend comparable, carefully calibrated support to EMTs as a new form of money whose real economic benefits will drive significant adoption. Senior central bankers, including Ulrich Bindseil and Biagio Bossone, have made similar arguments. Our ratings reflect this principle, balanced against the need to preserve monetary policy control and the independence of the Eurosystem.

Clear rules under which reserves are safeguarded for the benefit of token holders and ring-fenced in insolvency, so that holders have an exclusive claim over those assets, are the most important safeguard on this list. This is what makes a fully reserved token robust, gives substance to redemption at par and distinguishes an EMT from an unsecured claim. It is the same principle that underpins our answers to Q15 and Q16.

Allowing EMT issuers to hold reserve assets at the central bank would give them access to the safest and most liquid settlement and store-of-value asset, remove dependence on intermediaries that impose charges and conditions, and reduce the concentrated interconnectedness between issuers and a small number of banks that the minimum deposit requirement currently creates, as described in our answer to Q15. The current position is more restrictive: under its July 2024 policy, the Eurosystem opened TARGET to non-bank payment service providers for settlement purposes, but limits balances to settlement needs and does not provide accounts for safeguarding users' funds. A calibrated reform would allow limited access for reserve safeguarding and liquidity management, with capped and tiered remuneration and quantitative limits where appropriate, preserving monetary policy control and the boundaries of central bank functions. We rate this 4 rather than 5 to reflect the case for a measured design and the fact that access ultimately rests with the ECB and national central banks acting independently.

For significant issuers, a dedicated resolution regime is also appropriate. As tokens reach scale, the orderly wind-down or transfer of an issuer under stress becomes a financial stability issue, not only a matter of private loss allocation. A predictable framework, with clear treatment of the segregated reserve and continuity of redemption, reduces the risk of disorderly asset sales and contagion to reserve asset markets and the banking sector. The bank recovery and resolution framework offers a template that can be adapted to the narrower balance sheet of an EMI.

On emergency liquidity support, we see a case, prospectively rather than immediately, for a central bank liquidity backstop limited to significant, systemically relevant issuers. If euro EMTs reach a scale at which a run and associated fire sales of reserve assets could cause significant contagion, significant issuers could qualify for a variant of the facilities already available to certain non-bank financial institutions such as central counterparties, or for emergency liquidity assistance to solvent institutions facing temporary liquidity problems. The purpose is not to protect an issuer that has contributed to a run, but to prevent fire sales whose costs fall on the wider financial system. Such a facility should be a backstop, not a business-as-usual funding channel, priced like the marginal lending facility as recourse when market funding fails, and governed by a clear public

framework on conditions, collateral and haircuts. Because this should follow the growth of the market, MiCA should include a review clause to reassess central bank access as issuers become systemically important, mirroring the differentiated regimes already used for systemically important payment and clearing systems.

Finally, EMT issuers should be able to access central bank payment systems directly, building on the Eurosystem's opening of TARGET to non-bank payment service providers. This would remove the risks of tiering through commercial banks and support smoother interoperability between stablecoins and other forms of money.

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

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

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

5000 character(s) maximum

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

As this question addresses the minimum deposit requirement directly, we summarise our position here; the detailed reasoning is set out in our answers to Q14 and Q15.

The requirement lacks an identified prudential objective, is absent from the stablecoin frameworks of other major jurisdictions and produces effects contrary to its apparent purpose. An issuer deposit is non-operational wholesale funding from a financial customer, which attracts an outflow assumption close to 100% under the bank LCR. The receiving bank must therefore hold an almost equivalent amount of high-quality liquid assets against it, so the deposit does not finance lending to the real economy. It also does not protect aggregate bank funding: when an issuer buys securities instead, the seller's proceeds return to the banking system as deposits. The floor dictates only the form that funding takes, and it chooses the least stable form, a concentrated and flighty wholesale claim on a small number of banks.

Under stress, the effect is to transmit rather than contain risk. Issuers liquidate the deposit component first in a redemption event, so banks face a sudden withdrawal of wholesale funding at the moment the token is under pressure. The 60% share for significant EMTs enlarges this at-call claim and raises the probability that a run on a single token becomes a funding shock for the banks holding its reserves. Because only a few banks currently accept sizeable deposits from crypto-asset firms, these deposits are concentrated by construction, and the risk is pushed into precisely the correlated, system-wide scenarios in which resilience matters most.

We recommend removing the minimum deposit share and replacing the 30% and 60% thresholds with a principle-based requirement that reserves be held in diversified, high-quality liquid assets denominated in the

reference currency, aligned with the LCR framework as described in Q14. Concentration should be managed directly, through simple caps on exposure to any single bank, sovereign or supranational issuer, expressed as a share of total reserves, and through standardised public disclosure, such as the share of reserves held with the three largest counterparties. Caps should apply to securities as well as deposits, since a homogeneous reserve structure can also grow large enough to affect a specific market segment under stress. If a floor is retained for transitional reasons, it should be breachable on a temporary, supervised basis during severe redemption events, consistent with how banks draw down liquidity buffers under stress, so that issuers can use the most liquid part of their reserve without breaching a static allocation rule at the worst possible moment.

2.8 Global stablecoins arrangements and interactions with other regulatory frameworks

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

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

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

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

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

Please explain your answers to question 27:

5000 character(s) maximum

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

We consider global stablecoins very beneficial across payments, crypto markets and programmable finance, and rather beneficial for tokenised securities settlement and corporate treasury, where the benefits are significant but depend on further market and legal developments. Their value derives primarily from global fungibility: a single instrument transferable peer-to-peer, near-instantly, 24/7 and across borders and blockchains, without complex correspondent banking chains. Those benefits are only fully realised where holders are protected by a robust issuer framework under MiCA or equivalent standards and access them through licensed CASPs, as we set out in Q28.

Payments (very beneficial across all categories). International payments and remittances are the clearest use case, where stablecoins settle in seconds at a fraction of the cost and time of correspondent banking, with transparent end-to-end tracking. Intra-EU payments also benefit: euro-denominated stablecoins offer instant, programmable settlement that works outside banking hours and across Member States on shared infrastructure, complementing SEPA Instant. For retail payments, person-to-person transfers become as simple as sending a message, and person-to-business payments, including e-commerce, can lower merchant acceptance costs and speed up settlement. For business-to-business payments, stablecoins reduce working-capital lock-up, enable automated invoice settlement and simplify payments to international suppliers. For merchant and business uses to scale, the MiCA framework should avoid unduly restricting the use of widely held stablecoins as a means of exchange.

Crypto trading and liquidity provision (very beneficial). Stablecoins are the core settlement and quote asset of crypto markets, allowing users to move in and out of positions without leaving the blockchain, and providing a common unit of account and deep liquidity across venues and chains. Global fungibility is what makes this possible: fragmenting stablecoin liquidity along jurisdictional lines would widen spreads and worsen execution for EU users.

Access to programmable and DeFi financial services (very beneficial). Stablecoins are the primary way users access on-chain lending, exchange and settlement, and the stable unit of account that makes these services usable. Consistent with our answer to Q59, access to this open infrastructure is a significant benefit for EU users and firms.

Financial services in underserved regions (very beneficial). Anyone with a phone and a blockchain address can hold and transfer a stable digital dollar or euro, giving people in regions with limited banking access or unstable local currencies a store of value and a payment channel. This also benefits EU residents sending remittances and EU firms operating in those markets.

Settlement of tokenised instruments (rather beneficial). Stablecoins can provide the on-chain cash leg for delivery-versus-payment settlement of digital bonds and securities, supporting atomic settlement and reducing counterparty and settlement risk. We score this slightly lower only because adoption at scale depends on the development of tokenised markets, legal certainty on settlement finality and interoperability with other settlement assets, including tokenised deposits and central bank money, which will coexist with stablecoins.

Corporate treasury management (rather beneficial). Stablecoins allow firms to move liquidity between entities and jurisdictions in real time and to manage cash positions around the clock. The benefit is clear, but broad corporate adoption will depend on clarity around accounting, tax and prudential treatment, and on the availability of institutional-grade custody and hedging solutions within the regulated perimeter.

Overall, the EU can best capture these benefits by remaining open to global stablecoins issued under robust, enforceable standards, while supporting euro-denominated stablecoins that can compete in the same global networks.

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

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

Please explain your answers to question 28:

5000 character(s) maximum

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

We consider it highly important that EU users, both individuals and businesses, have access to global stablecoins, issued by entities subject to MiCA or equivalent regulatory standards and made available through licensed CASPs.

The EU must remain open to global stablecoins. Their economic benefits derive primarily from global fungibility. As peer-to-peer transferable instruments, they can be sent to virtually anyone with a blockchain address in seconds, across borders, on a 24/7 basis and without relying on complex correspondent banking chains. This makes them well suited to cross-border payments, treasury operations and liquidity management in a globalised economy. The same fungibility underpins their role in digital asset markets, where they serve as settlement assets across multiple blockchains, supporting interoperability and preserving value uniformity across platforms and jurisdictions. This is especially relevant for tokenised capital markets, where seamless settlement across infrastructures is a core requirement. For EU firms engaged in international trade, cross-border investment or global financial markets, access to globally fungible stablecoins translates into faster settlement, fewer operational frictions, better liquidity management and, ultimately, greater productivity and competitiveness.

Restricting or effectively excluding global stablecoins would carry tangible economic and strategic costs at a moment when digital finance, tokenisation and cross-border market infrastructure are still taking shape. It would cut the EU off from global digital markets by mandating a local-only stablecoin market, and deprive EU firms of the efficiency and competitiveness gains described above. It would deny EU users access to digital money in its latest technological form, including the US dollar, which is widely used for cross-border payments, trade invoicing and FX transactions. It would harm the international role of the euro by constraining the use of euro-denominated stablecoins, which depend on the same global networks for reach and liquidity. It would be a missed opportunity for the EU to shape global standards and market practices. And it would push users and firms towards non-compliant offshore solutions, reducing rather than increasing protection.

Openness must go hand in hand with robust and enforceable standards. The primary source of protection for holders lies in the regulatory framework applicable to the issuer: redemption rights, reserve management, governance, disclosures, recovery and redemption planning, and prudential supervision all depend fundamentally on the issuer and the legal framework governing the stablecoin. Ensuring that stablecoins available to EU users are issued under MiCA or an equivalent framework is therefore critical for consumer protection, financial stability and market integrity.

Licensed CASPs are equally important as the regulated channel through which EU users access these instruments. They provide AML/CFT compliance, operational safeguards, custody and customer protection at the point of access, and give EU supervisors visibility over the flows between the EU and global markets. However, their role complements rather than replaces issuer regulation: the existence of a regulated issuer remains the key determinant of the level of protection available to holders.

The objective should therefore be an EU market that is open to global stablecoins while ensuring they are issued under robust and enforceable regulatory standards and distributed through licensed intermediaries. This combination preserves the benefits of global fungibility for EU users and firms while maintaining the protections MiCA was designed to deliver.

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

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

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

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

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

5000 character(s) maximum

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

We support multi-issuance models for global stablecoins. They are the mechanism through which EU users can access globally fungible stablecoins issued by an EU-authorised entity under MiCA, preserving the benefits set out in our answers to Q27 and Q28. In our view, the risks listed are real but manageable, and several are overstated. They call for targeted, risk-based safeguards rather than restrictions on the model itself. We acknowledge that views among our membership are not uniform, and some members attach greater weight to these risks, in particular run risk, reserve fragmentation and reliance on third-country frameworks, which they consider could become significant absent robust safeguards. Our association's overall assessment, reflected in our ratings, is set out below.

Run risk and reserve depletion (3). The concern that holders would migrate to the EU issuer in stress and deplete EU reserves assumes that reserves are static and redemptions instantaneous. In practice, a fully backed global reserve reduces run risk: if redemption pressure creates a shortfall in one jurisdiction, there is a corresponding surplus elsewhere that can be reallocated. Redemption requests close to 100% of issuance in the short term are highly unlikely even in stress; experience shows that redemptions occur over days or weeks, and holders not already onboarded by the EU issuer must complete onboarding before redeeming, giving issuers a window to rebalance. The appropriate safeguard is to require issuers to demonstrate that they can reallocate reserves promptly, for example through global custodians and pre-agreed intragroup arrangements, supported by liquidity buffers and stress testing.

Unbalanced reserve distribution (3). Reserve distribution across jurisdictions is a matter of liquidity management rather than solvency, provided the overall reserve fully backs the tokens in circulation. It can be addressed through transparent reporting of reserve location and composition, clear allocation of liabilities between issuers, and supervisory visibility over the global reserve.

Cross-border reserve transfer restrictions (5). We consider this the most significant risk, as it determines whether the reallocation mechanism described above works in practice. Third-country supervisory intervention, insolvency proceedings, sanctions, capital controls or ring-fencing could impede transfers in stress. This is precisely where safeguards should focus: legally enforceable reallocation arrangements, holding reserves with custodians able to move assets across jurisdictions, and cooperation agreements between the EBA, national competent authorities and third-country supervisors.

Regulatory arbitrage (2). Fungibility of the token does not by itself create arbitrage. Each issuer in a multi-issuance arrangement is a legally distinct entity subject to the rules of its own jurisdiction, and the EU-authorised issuer remains fully subject to MiCA for its issuance and redemption obligations. The fact that the same token is issued by EU and non-EU entities does not make them a single entity, nor does it place the non-EU issuer outside the rules that apply to it. Clear allocation of responsibility between issuers, rather than restrictions on fungibility, is the appropriate response.

Supervisory monitoring and data-tracking challenges (3). Measuring EU holdings is difficult, particularly in self-custodial wallets, but this challenge is not specific to multi-issuance and applies to any freely transferable crypto-asset. It can be mitigated through issuer and CASP reporting, on-chain analytics and supervisory data-sharing, and should not be used to justify restrictions that would fragment liquidity.

Third-country standards (4). The level of protection depends fundamentally on the framework applicable to each issuer, so it matters that non-EU co-issuers are subject to prudential and conduct standards that meet internationally accepted standards and are comparable to MiCA. This supports an approach based on recognition of comparable third-country regimes and supervisory cooperation, consistent with our answer to Q28, rather than a prohibition of multi-issuance.

Overall, we believe the EU should explicitly accommodate multi-issuance within MiCA, subject to a proportionate framework built around clear allocation of liabilities, demonstrable reserve reallocation capacity, transparent reporting, stress testing and cross-border supervisory cooperation. Excluding the model would not remove the underlying tokens from global markets; it would cut EU users off from regulated access to them and weaken the EU's influence over how these arrangements develop.

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

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

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

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

5000 character(s) maximum

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

Yes, MiCA should continue to permit multi-issuance, subject to proportionate, outcomes-based safeguards, and the MiCA review should complement it with further options for accessing global stablecoins over time. An outright prohibition would be disproportionate: it would fragment liquidity, cut EU users off from widely used global stablecoins, harm the international role of euro-denominated stablecoins and push activity towards unregulated offshore alternatives, depriving users of MiCA's protections entirely.

Equivalence and multi-issuance do different things. Equivalence determines which foreign regimes the EU recognises, and so governs access. Multi-issuance determines where the holder's claim sits, and so governs recourse. Under multi-issuance, EU holders have a redemption right against an EU-authorized issuer, enforceable under EU law and backed by reserves held by that issuer under the supervision of EU authorities, without depending on a foreign supervisor's cooperation in a crisis. This keeps a supervised counterparty inside the Union and gives EU users access to globally fungible tokens on the same terms as single-issuer EU stablecoins.

The value of multi-issuance rests on two features, which should form the core of the framework. First, EU holders must have a genuine claim against the EU issuer, redeemable under EU law and independent of the non-EU entity. Comparable third-country standards on reserves, redemption, governance and supervision remain a necessary baseline for the non-EU leg, but they are a floor rather than a substitute for this claim. Second, the assets must follow that claim. The primary tool should be regular, potentially daily, rebalancing of reserves and liabilities across issuing entities so that each leg is self-funding in normal conditions, with a contractually binding reserve-channelling arrangement as a backstop for sudden or residual imbalances. Issuers should be able to demonstrate this capacity to supervisors, supported by stress testing, transparent reporting and cooperation agreements with third-country authorities. These safeguards should be outcomes-based and should not exclude alternative structures that demonstrate equivalent protection for EU holders.

The framework should preserve a clear link between the MiCA obligation, the entity subject to it and the supervisory consequences. Issuing the same fungible token does not make EU and non-EU issuers a single entity, and a non-EU co-issuer is not subject to MiCA merely because it participates in the arrangement. Obligations, supervision and any enforcement, including the turnover used to calculate fines, should attach to the EU-authorized issuer. The global significance of a token is a separate question from which entity is responsible for a particular obligation. Cross-border elements, such as reserve-channelling, should be secured through binding arrangements between the issuers and supervisory cooperation, not by extending EU liability to third-country entities. Coordination between the EBA and national competent authorities should also avoid duplicative supervision and enforcement for the same conduct.

Multi-issuance should not be the only route for safely granting EU users access to global stablecoins. Other jurisdictions are developing a wider range of approaches, which broadly fall into three models. The first is limited access, where overseas stablecoins may be offered through regulated local intermediaries and used in crypto markets and cross-border payments, with restrictions on certain domestic uses, such as payments or collateral, where necessary. The second is multi-issuance, as under MiCA today, where the stablecoin is issued locally and backed by reserves corresponding to local holdings, with the same permitted use cases as domestic stablecoins. The third is deference, where, subject to a mutual recognition arrangement, the host jurisdiction relies on the home regime and any local reserve functions as a liquidity buffer rather than full local backing. Approaches in the US, UK and Singapore show movement in this direction.

Equivalence and deference are the right long-term objective, but building such arrangements will take several years. Multi-issuance is the practical option now, and it will retain its value afterwards, as it provides EU holders with an EU-law claim. The review should therefore keep multi-issuance, set out how the EU will develop recognition and deference arrangements with comparable jurisdictions, and allow these options to coexist. This would let the EU maximise the benefits of global stablecoins while protecting EU users, and shape international standards rather than follow them.

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

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

- ☒ Yes
- ☐ No
- ☐

Don't know / no opinion / not applicable

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

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

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

5000 character(s) maximum

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

Yes, the approach remains justified as an anti-arbitrage principle, but it should not operate as an unlimited extraterritorial rule. In its current, unqualified form, it risks discouraging the international use of the euro, and the review should clarify its scope.

Euro-denominated EMTs have direct implications for EU monetary sovereignty, consumer protection and financial stability. Third-country issuers should not be able to circumvent MiCA where their tokens are offered, distributed, admitted to trading or otherwise made available to EU users. This is consistent with international developments: the US GENIUS Act confirms that major jurisdictions are establishing robust regulatory perimeters for stablecoins, while also providing a pathway for foreign issuers based on comparable home-country regimes, registration and supervisory cooperation.

Article 48(2) MiCA deems any EMT referencing an official currency of a Member State to be offered to the public in the Union. Denomination alone therefore triggers the full EMT regime, regardless of whether the token has any genuine connection to the EU market. This risks two unintended effects. First, it creates legal uncertainty for issuers and users of euro-denominated tokens whose activity is entirely outside the Union. Second, it discourages third-country issuers and markets from adopting euro-denominated stablecoins at all, as doing so would bring them within MiCA, while tokens denominated in other currencies face no equivalent rule. If the EU wants the euro to play a larger role in digital finance, cross-border payments and tokenised markets abroad, as set out in our answers to Q27 and Q33, the regulatory perimeter should not make the euro a less attractive denomination than competing currencies.

MiCA should preserve a clear link between the regulatory obligation, the entity subject to it and the activity it regulates. Where MiCA intends to reach activity outside the Union, it does so expressly; for example, Commission Delegated Regulation (EU) 2024/1506 expressly allows the same token issued outside the Union to be considered when assessing an issuer's international significance. Absent such an express basis, the scope of MiCA should rest on genuine EU market activity rather than on the currency of denomination alone. Where there is no active offer to the public in the Union, no admission to trading on an EU platform and no distribution to EU users, euro denomination should not, by itself, trigger the full EMT regime. We recommend clarifying the interaction between the general concept of an offer to the public and the specific deeming rule for EMTs denominated in EU currencies, for example by replacing the automatic presumption with a nexus-based test or a rebuttable presumption.

Where this matters in practice. Clarification is particularly relevant for limited or closed-loop environments, intragroup arrangements, pilot projects and use cases in third-country markets where a token may be denominated in euro without being offered to the public in the Union. It is also relevant for multi-issuance arrangements, where the question of which entity is subject to MiCA obligations should follow EU market activity and legal responsibility, consistent with our answer to Q30.

Greater clarity would enhance legal certainty, support innovation, reduce the risk of divergent interpretations among competent authorities and support the international role of the euro, while preserving MiCA's core objectives of consumer protection, financial stability and prevention of regulatory arbitrage. Wherever euro-denominated tokens are offered to EU users, MiCA should continue to apply in full.

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

5000 character(s) maximum

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

The principle remains justified as an anti-arbitrage safeguard, but in its current form it goes too far and does discourage the international role of the euro. The review should narrow its scope and address its interaction with the reserve requirements.

Euro-denominated EMTs have direct implications for EU monetary sovereignty, consumer protection and financial stability, and third-country issuers should not be able to circumvent MiCA where their tokens are offered, distributed, admitted to trading or otherwise made available to EU users. This is consistent with international developments: the US GENIUS Act confirms that major jurisdictions are setting robust regulatory perimeters for stablecoins, while also providing a pathway for foreign issuers based on comparable home-country regimes, registration and supervisory cooperation. We note, however, that the arbitrage risk is limited in practice. An unregulated offshore euro EMT is not a commercially viable strategy, as EU CASPs, banks and other market participants could not provide services in relation to it.

Article 48(2) MiCA deems any EMT referencing an official currency of a Member State to be offered to the public in the Union. Denomination alone therefore requires issuance by an EU-authorized electronic money institution or credit institution, regardless of any genuine connection to the EU market, and MiCA does not contemplate multi-issuance for EU-currency EMTs. Where there is no active offer to the public in the Union, no admission to trading on an EU platform and no distribution to EU users, euro denomination should not by itself trigger the full EMT regime. This creates uncertainty for limited or closed-loop environments, intragroup arrangements, pilot projects and third-country use cases, and deters non-EU markets from adopting euro-denominated stablecoins while tokens in other currencies face no equivalent rule. We recommend clarifying the interaction between the concept of an offer to the public and the deeming rule, for example by replacing the automatic presumption with a nexus-based test or a rebuttable presumption.

The effect is compounded by Article 54 MiCA, which requires at least 30% of funds received (60% for significant EMTs) to be deposited with EU-authorized credit institutions. Together, these provisions create a hard jurisdictional perimeter: issuance must occur within the EU, and a substantial share of reserve liquidity must remain at EU banks at all times. This is a structural constraint in cross-border payments, where the euro's international role could most credibly grow. If a business in Singapore wishes to redeem a euro stablecoin for fiat, the reserve assets must first move through correspondent banking from the EU, subject to pre-funded nostro accounts, counterparty cut-off times and T2 operating hours. A redemption arising during Asian or US hours may not reach final euro settlement until the EU window reopens, a delay of up to a full business day, negating the efficiency euro stablecoins are meant to deliver. By contrast, the GENIUS Act and comparable regimes allow issuers to hold a portion of reserve liquidity outside the home jurisdiction to meet redemptions in a timely way. Euro issuers cannot, leaving euro EMTs structurally disadvantaged against US dollar stablecoins in global corridors.

Since euro stablecoins derive much of their value from cross-border use, MiCA should be amended to permit a defined portion of reserve liquidity to be held outside the EU, subject to safeguards. Workable options include a maximum cap on non-EU bank deposits, or limiting such holdings to non-EU subsidiaries of EU banks or recognised correspondent banks of EU-authorized institutions. Together with a clearer, nexus-based scope for Article 48(2), this would support the international role of the euro and the competitiveness of EU-issued stablecoins, while preserving MiCA's core objectives of consumer protection, financial stability and prevention of regulatory arbitrage. Wherever euro-denominated tokens are offered to EU users, MiCA should continue to apply in full.

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

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

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

Please explain your answers to question 33:

5000 character(s) maximum

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

We support the use of euro-denominated stablecoins across all of these areas, including domestic retail payments, and MiCA should enable rather than constrain it. Our scores reflect where we expect the largest

contribution to the specific objectives listed: in cross-border payments, tokenised financial markets and wholesale settlement. How far that potential is realised depends less on the technology than on whether the regulatory framework allows euro stablecoins to compete and scale globally.

International role of the euro (very large extent). This is where euro stablecoins can make the greatest difference. Today, the vast majority of stablecoin activity is denominated in US dollars, which means the digital rails increasingly used for cross-border payments, trade settlement, treasury operations and on-chain markets are being built around the dollar. Euro stablecoins offer a way for the euro to be present on those rails: as a settlement asset for tokenised bonds and securities, as a 24/7 treasury and liquidity tool for multinational firms, as a payment instrument in cross-border and remittance corridors, and as a unit of account in programmable financial services. Each of these extends the euro's reach to users and markets that do not hold euro bank accounts and may never interact with EU payment infrastructure directly.

First, euro stablecoins must be competitive with their dollar counterparts. As set out in our answer to Q31, the combination of Article 48(2) and the EU bank deposit requirement in Article 54 currently ties reserve liquidity to the EU and slows redemptions outside EU operating hours, putting euro issuers at a structural disadvantage in precisely the corridors where the euro could grow. Second, they must be able to scale globally, which requires supervisory cooperation with third-country authorities and workable regulatory pathways for globally issued tokens, including multi-issuance and, over time, recognition and deference arrangements, as discussed in our answer to Q30. Without these, euro stablecoins risk remaining a largely domestic product, and the international role of the euro in digital finance will continue to be ceded to other currencies.

Wholesale payment autonomy (large extent). Euro stablecoins can play a meaningful role in wholesale settlement, particularly as tokenised markets develop. They can provide an on-chain cash leg for delivery-versus-payment settlement, support atomic and round-the-clock settlement, and enable programmable payment flows between institutions. Used on EU-regulated infrastructure and issued by EU-authorized entities, they would help ensure that the settlement of tokenised euro assets does not come to depend on non-euro settlement instruments. We see this role as complementary to the Eurosystem's work on settlement in central bank money on DLT, and to tokenised commercial bank deposits: different settlement assets will coexist, and interoperability between them will be key.

Retail payment autonomy (small extent). We support the use of euro stablecoins in domestic retail payments, and they can bring real benefits to consumers and merchants: instant, 24/7 settlement, lower acceptance costs, programmable payments and seamless integration with on-chain commerce and digital wallets. Our score reflects their likely contribution to payment autonomy specifically, rather than their value. EU consumers and merchants are already served by instant payments, card schemes and national and pan-European solutions, so euro stablecoins are likely to grow alongside these as an additional, competitive option rather than replace them in the near term. Adoption will depend on merchant acceptance, wallet integration and a regulatory framework that does not unduly restrict their use as a means of payment. As adoption grows, their contribution to autonomy in retail payments could increase, particularly in cross-border person-to-person transfers, payments by EU residents abroad and on-chain commerce.

Overall, the EU has a real opportunity to strengthen the euro's global position through stablecoins, but only if MiCA is calibrated to make euro-denominated stablecoins globally competitive and scalable, rather than confined to the domestic market.

2.10 Current safeguards in MiCA

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

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

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

Please explain your answers to question 34:

5000 character(s) maximum

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

Taken together, these safeguards form a robust, layered framework. Supplemented by the operational measures described below, they are sufficient to make multi-issuance stablecoins safe for EU markets, without prohibition or further structural restriction, consistent with our answers to Q29 and Q30.

Supervisory backstops (highest ratings). We rate the ECB's binding opinion powers, national supervisory intervention powers under Article 105 and the EBA's temporary intervention powers under Article 104 as highly effective. They are discretionary, respond to risks as they actually materialise and can be scaled to the threat identified. This is the outcomes-based intervention supervisors need in fast-moving stablecoin markets, and it allows risks to be addressed where they arise rather than through ex ante restrictions on the model itself. To maximise their effectiveness, these powers should be exercised predictably and transparently, with clear criteria and coordination between authorities to avoid overlapping or conflicting interventions.

Structural safeguards (high ratings). The reserve location, composition and liquidity requirements are central to protecting EU holders, as they ensure that the EU issuer holds high-quality, liquid reserves against its obligations to EU holders. This is what gives EU holders a genuine claim against the EU issuer, as set out in our answer to Q30. Their effectiveness does not depend on rigid calibration. As explained in our answer to Q31, allowing a defined portion of reserve liquidity to be held outside the EU under strict conditions would improve cross-border redemptions without weakening protection. The EU establishment requirement ensures there is always a supervised counterparty within the Union. The Article 94 powers, including suspending or prohibiting trading, provide an important tool in stress, although their effect is limited to regulated venues and they are more blunt than issuer-level measures.

Restrictions on widely used non-EU currency tokens (moderate rating). The thresholds in Articles 23 and 58 are primarily designed to protect monetary sovereignty rather than to address the specific risks of multi-issuance, such as reserve depletion or cross-border transfer restrictions. They are also blunt, as they restrict the use of widely held stablecoins as a means of exchange regardless of how well the arrangement is managed, and risk limiting the payment benefits described in our answer to Q27. We therefore see them as of limited effectiveness for the risks in question.

The listed safeguards should be read together with operational protections available in practice. These include regular, up to daily, CASP-to-issuer reporting of EU holdings combined with dynamic rebalancing of reserves, clear allocation of redemption responsibilities between issuers, with EU-side liquidity protections for EU holders; redemption plans based on a real-time snapshot of holdings, enhanced prudential tools for significant tokens under Article 58, and cross-border supervisory cooperation between NCAs, the EBA and third-country authorities. A particularly targeted tool is a CASP-level redemption delay mechanism for anomalous outflows materially above reported daily EU holdings. It directly addresses cross-issuer arbitrage, which is the principal concern in multi-issuance structures, without affecting ordinary redemptions.

Overall, these safeguards and operational measures make the risk profile of multi-issuance stablecoins manageable. This balance does not justify restricting a model that is, at present, the main viable pathway for most of the global stablecoin market to operate within MiCA's perimeter and to offer EU users access to regulated, globally fungible stablecoins.

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

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

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

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

5000 character(s) maximum

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

EU holdings can be determined with confidence for part of circulation, estimated for another part and not observed at all for the rest. BC4EU members, including firms providing Travel Rule infrastructure and blockchain analytics, have mapped the capabilities currently available.

For tokens held in custody by an EU-authorized CASP for its customers, the EU-held balance is a measurable book entry. The CASP holds verified residence data from customer due diligence and knows each customer's balance at any time. This is the substantial, supervisable share of circulation and the only segment where "held in the EU" is directly observable. However, while Article 22(3) MiCA (applicable to EMTs via Article 58(3)) requires CASPs to provide certain transaction data to issuers, it does not require them to report standing balances or their residence distribution. Estimates of EU circulation therefore depend on the quality of CASP data, and the CASP's home NCA should share responsibility for that reporting rather than leaving issuers to police gaps and corrections.

The Travel Rule carries geographic data in one direction only. Under Article 14(1) of Regulation (EU) 2023/1113 (TFR), originator information may include country of address, but under Article 14(2) the required beneficiary information (name, distributed ledger address or account number, and LEI where applicable) includes no geographic information. When an EMT moves from an EU to a non-EU institution, the receiving institution and its jurisdiction can be identified from the Travel Rule record and confirmed through blockchain analytics. The beneficiary's residence is known only where they are sending CASP's own customer. Any later change of ownership on the receiving institution's internal books may leave no on-chain trace. If "held in the EU" is anchored to the location of the holding institution, outbound flows are observable and EU holdings can be reconstructed from them; if it is anchored to holder residence, even this is not measurable where the beneficiary is a third party.

Where an EU CASP transfers to a self-hosted address of its own customer, residence is known. For third-party addresses, it depends on how the CASP applies Article 19a of Directive (EU) 2015/849, which requires risk-mitigating measures without prescribing the data to collect. Where a self-hosted wallet never interacts with a CASP, no obliged entity holds any residence data on the holder. However, geolocation is not impossible. Blockchain analytics providers can estimate the geographic distribution of self-hosted holdings using inferences such as network signals and observations, timezone analysis, and behavioral heuristics derived from on-chain

interaction patterns. These estimates range from deterministic (where direct network observation is available) to probabilistic, and their confidence varies by case, but they narrow the uncertainty significantly. Industry data indicates that only around 36% of self-custody wallet transactions involve a CASP (GDF, June 2026), which underlines the importance of these estimation techniques for the remaining share. Blockchain analytics can also carry forward a geographic attribution while tokens stay within a cluster controlled by the same party, though it cannot detect a change of control through a transfer of private keys.

These limitations are not a barrier to compliance if obligations are calibrated to what can be measured. Reserve-location and rebalancing obligations should be based primarily on CASP-reported custodial holdings and the estimates of with self-hosted wallet holdings captured on a best-efforts, proxy basis. On frequency, CASP reporting is timely enough to keep the EU-side reserve appropriately sized, with rebalancing providing a second layer of protection. High-frequency re-estimation of self-hosted holdings would add cost without improving accuracy.

The Commission and EBA should formalise a harmonised methodology for estimating EU circulation, anchored on standardised CASP-to-issuer reporting that includes standing balances by residence, with a clear supervisory role for the CASP's NCA. The Commission should also clarify the legal weight of this figure. The principle that reserves should correspond to the share held in the Union appears to rest on the recitals rather than an operative provision: Articles 37 and 54 require reserves to be held with EU-regulated institutions but do not scale the amount to EU-held volume. Clarifying whether and where the EU-held share is legally operative is as important as improving how it is measured.

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

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

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

5000 character(s) maximum

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

MiCA redemption rights should be explicitly limited by holder residence as a general rule. Stablecoins are fungible and may move rapidly between hosted and self-custodial environments, while holder jurisdiction cannot always be identified reliably. Making statutory redemption rights dependent on residence at the time of redemption could therefore create operational complexity and legal uncertainty as to the rights attaching to otherwise identical units of the same token.

In multi-issuance structures, the framework should instead focus on the responsible issuing entity, the applicable token terms, the relevant reserve or liquidity arrangements and the distribution model. Where additional protection for EU circulation is considered necessary, this can be addressed through appropriately calibrated EU-side liquidity, reserve allocation, reporting and supervisory cooperation rather than by making the existence of the redemption right depend dynamically on holder location. MiCA's redemption rights framework

should be explicitly limited to EU/EEA-resident holders. As argued in our responses to Questions 29, 30, and 34, jurisdictional ring-fencing of redemption rights is one of the most operationally effective safeguards available for multi-issuance EMTs.

The EU-side reserve maintained by a multi-issuer or foreign stablecoin distributor is sized to correspond to projected EU circulation - not to the token's total global outstanding supply. If non-EU holders were permitted to redeem against that EU reserve, it could create an immediate mismatch between reserve sizing and redemption exposure, undermining the reserve's function as a liquidity buffer for Union holders. Explicit limitation to EU holders also eliminates the cross-issuer arbitrage risk inherent in multi-issuance structures.

As to qualifying criteria, the determination of EU holder status should be operationalised at EU EMI/CI entity level through existing KYC/AML procedures, which already require residence and identity verification for onboarded customers. Concretely, a holder should qualify as an EU holder for the purposes of redemption rights where they are a natural or legal person resident or established in a Member State or EEA country, as verified at the point of redemption/onboarding.

2.11 Potential additional safeguards

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

Is this concern valid or substantiated in your view?

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

Please explain your answer to question 37:

5000 character(s) maximum

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

It is true that in a multi-issuance structure, reserve assets are held across jurisdictions and legal entities, and that in an acute stress scenario cross-border transfers could in principle face operational delays, settlement friction, or regulatory restrictions in non-EU jurisdictions. This is not an implausible concern, and it has been raised in good faith by the ECB and ESRB in their published assessments. However, the concern is not substantiated as a basis for restricting multi-issuance.

The existing and available safeguard framework directly addresses this risk. Daily CASP reporting and dynamic reserve rebalancing requirements ensure that the EU-side reserve is continuously calibrated to actual EU circulation and not adjusted reactively under stress. The targeted CASP-level redemption delay mechanism for anomalous outflows provides a further circuit-breaker, creating a buffer of time within which reserve recalibration can occur before a disorderly redemption event materialises. Redemption plans, stress-tested jointly with the NCA/EBA and the home-country supervisor, must account explicitly for rapid increases in Union-

side redemptions and specify reserve recalibration mechanisms. These tools substantially reduce the practical window in which a cross-border rebalancing delay could translate into a real shortfall for EU holders.

Additionally, concern applies with equal or greater force to the reserve structures of many existing financial institutions operating across borders and is managed routinely through intragroup liquidity arrangements, central bank access, and supervisory coordination, none of which is unique to stablecoins. The relevant question is not whether cross-border reserve transfers carry operational risk in theory, but whether that risk is disproportionate to the safeguards in place.

Most fundamentally, the alternative must be weighed honestly. Over 99% of the global stablecoin market consists of foreign-denominated, foreign-regulated tokens issued outside the EU. If MiCA cannot accommodate these tokens, whether through multi-issuance or an equivalence framework then the practical result is that EU consumers will likely continue to access and use these tokens through unregulated channels, EU businesses are denied a viable settlement infrastructure for cross-border payments, and EU-based CASPs are structurally disadvantaged relative to non-EU competitors who can offer a full range of stablecoin products. That outcome brings regulatory exclusion of the dominant form of stablecoin activity from MiCA's perimeter and ultimately represents a far more serious and substantiated risk to EU consumers, EU businesses, and the international competitiveness of EU crypto-asset markets than the theoretical rebalancing delays this question contemplates.

The appropriate regulatory response is to maintain and strengthen the operational safeguards already available, not to treat a manageable structural feature of global stablecoin markets as grounds for prohibition.

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

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

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

Please explain your answers to question 38:

5000 character(s) maximum

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

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

5000 character(s) maximum

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

Limiting redemption against the EU issuer to EU holders is operationally feasible, because redemption always runs through an onboarded relationship. A holder redeeming directly with the EU issuer must pass its KYC and CDD checks, which establish residence or place of establishment. A holder redeeming through an EU CASP has already been verified by that CASP. Eligibility can therefore be confirmed at the point of redemption, even though, as explained in our answer to Q35, the EU-held share of total circulation cannot always be measured in advance. In a worst-case scenario where the redemption plan is triggered, a snapshot of holdings on a given date can be taken, with claims brought forward by CASPs for their customers and by self-custodial holders, whose eligibility is then verified as part of the claims process.

MiCA grants consumer protections, including redemption rights, to EU users and holders. Like other EU financial services legislation, it does not generally have extraterritorial reach, with the exception of the treatment of euro EMT issuance as an offer to the public in the Union. It should therefore be legally possible to limit redemption rights against the EU issuer to EU holders and EU liabilities. Non-EEA holders would not lose protection: in a multi-issuance arrangement, they continue to benefit from the redemption rights attached to the same token under the regime of the non-EU issuer. Any such limitation should be set out expressly in MiCA or its implementing measures, rather than relying on the recitals alone, to ensure legal certainty.

The main intended consequence is to align redemption exposure with the reserves held for EU holders, removing the risk that non-EU holders redeem against an EU reserve sized for EU circulation, and eliminating cross-issuer arbitrage in stress. To avoid unintended consequences, the limitation should apply to where the claim is made, not to the token itself, so that every unit remains fully fungible and redeemable somewhere. Eligibility criteria should be clear and based on residence or establishment at the time of redemption, verified through existing KYC procedures, with clear treatment for edge cases such as EU residents abroad and legal entities with establishments in several jurisdictions. Holders should be clearly informed, through the white paper and CASP disclosures, which issuer they can redeem against. Applied this way, the limitation is proportionate: it protects the integrity of the EU reserve without reducing the protection available to any holder.

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

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

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

5000 character(s) maximum

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

A well-designed equivalence regime would reduce regulatory fragmentation, support the international role of EU currencies and give third-country stablecoins operating under comparable regimes a structured pathway into the EU. Global stablecoins issued outside the EU represent the overwhelming majority of the market by value, and whatever model MiCA adopts must give them a viable and pragmatic route into its perimeter. Equivalence should complement, not replace, the safeguards in MiCA and the multi-issuance route discussed in our answers to Q29, Q30 and Q34.

We propose a two-tier framework drawing on the EU's established equivalence architecture under EMIR, CSDR, CRR and Solvency II. First, a Commission determination at regime level, based on comparable outcomes rather than line-by-line compliance, covering reserve requirements (including full backing by high-quality liquid assets and segregation), redemption rights, governance and risk management, liquidity management, AML/CFT, consumer protection, supervisory powers and effective enforcement. Second, EBA recognition of individual issuers from equivalent jurisdictions, conditional on cooperation and information-sharing arrangements between the EBA and the relevant third-country supervisor, or active progress towards them. EU authorities should be able to suspend or withdraw equivalence or recognition where standards are no longer met.

Under this model, recognised stablecoins would be distributed in the EU through a locally authorised CASP, EMI or credit institution acting as distributor rather than co-issuer. The distributor would be subject to EU conduct, distribution and holder-protection requirements and would meet ordinary-course EU redemptions from locally available liquidity, without assuming liability for the global supply. Ultimate liability in stress and wind-down would remain with the primary issuer, supervised in its home jurisdiction under an equivalent regime.

Equivalence should concern the outcomes for EU holders: enforceable holder priority, credible redemption rights, effective supervisory cooperation and sufficient local liquidity to meet ordinary-course redemptions. It should not require duplicative reserve localisation or overlapping prudential requirements. Replicating balance sheets market by market would fragment a single token's backing into a growing number of local reserve pools, multiplying counterparties, legal interfaces, settlement dependencies and reconciliation points, and is more likely to increase risk than to improve resilience.

Equivalence and multi-issuance are not mutually exclusive, and both should remain available. Equivalence is the more efficient long-term destination for many global stablecoins, while multi-issuance remains the main viable pathway under MiCA today and, as explained in our answer to Q30, offers EU holders a directly enforceable claim against an EU issuer that some issuers and users will continue to value. Its risks can be

substantially mitigated through the safeguards described in our answers to Q29 and Q34, including frequent CASP reporting, dynamic rebalancing, targeted redemption delay mechanisms for anomalous outflows and redemption gates in stress. The Commission should pursue both tracks in parallel: develop the equivalence framework as a priority while strengthening multi-issuance safeguards. Once equivalence is in force, a transitional window of at least 24 months should allow existing operators to migrate if they choose, with existing distribution continuing under a time-limited permission pending EBA recognition.

The US GENIUS Act already provides a pathway for foreign issuers from comparable regimes. An EU regime aligned with these standards could support reciprocal recognition of EU-issued EMTs in the US and wider regulatory interoperability. This is urgent. On 14 July 2026, the UK and US Treasuries published the first recommendations of their Transatlantic Taskforce for Markets of the Future, under which UK and US authorities, including the Bank of England, CFTC, FCA and SEC, will seek common approaches to tokenised assets and stablecoin use as CCP collateral, alongside a joint stablecoin statement and coordinated positions at the Basel Committee. The EU is not party to this process, yet its equivalence framework will eventually have to assess the very regimes it is shaping. To avoid becoming a rule-taker, the Commission should pursue comparable EU-US and EU-UK dialogue before these standards harden.

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

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

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

5000 character(s) maximum

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

A reciprocal equivalence regime for global stablecoins should go far enough to remove the requirement for local EU issuance. That is the central operational burden that multi-issuance currently imposes, and removing it is the primary structural advantage a well-designed equivalence and recognition framework would deliver. The foreign-regulated issuer should remain the primary issuer, regulated primarily under its home-country framework, with the Commission's equivalence determination providing the regime-level gateway and EBA recognition providing the entity-level authorisation to distribute in the EU.

However, equivalence should not mean an absence of local regulatory substance. A locally authorised EU entity, such as a CASP, EMI or credit institution acting as EU distributor, should remain in the structure. That entity should be governed by MiCA distributor-level requirements, including governance standards, AML/CFT obligations and ongoing supervisory reporting to the relevant NCA and the EBA. Where proportionate to its role, it should maintain or facilitate access to sufficient locally available liquidity to meet ordinary-course EU-side redemption demand. This should be framed as a liquidity requirement calibrated to expected local redemption flows, not a 1:1 reserve obligation duplicating the foreign issuer's global reserve or its prudential obligations. EU holders should have legally enforceable redemption rights against the recognised primary issuer, with the EU distributor facilitating access to that redemption mechanism. The white paper should be adapted to reflect the

cross-border nature of the arrangement, including prominent disclosure that the token is not issued under MiCA and that the primary supervisory authority is a non-EU body.

The EU distributor should not be recast as a co-issuer of the global token. Its role is better understood as that of the recognised EU operating or distribution entity within a broader same-brand framework. It would be subject to EU conduct, distribution and holder-protection requirements, and responsible for meeting ordinary-course EU-side redemptions from locally positioned liquidity, but it would not assume residual liability for the full global circulating supply. Ultimate liability in stress and wind-down should remain with the foreign-regulated primary issuer that issued the token and carries the core reserve and prudential obligations. The EU framework would rely on recognition, supervisory coordination and cross-border insolvency mechanisms to ensure those obligations are effective for EU holders. This approach gives EU authorities meaningful local oversight and enforceable local protections without creating dual liability, double capitalisation or reserve fragmentation.

For EU-regulated issuers, a reciprocal benefit should follow. Where a third country has granted equivalence to MiCA, EU-authorised EMT issuers should be able to access that market on equivalent terms, subject to that jurisdiction's entity-level recognition process.

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

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

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

Please explain your answers to question 42:

5000 character(s) maximum

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

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

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

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

5000 character(s) maximum

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

Our ratings for Level 2 reflect the concerns set out for Level 1 in Q42: governance and conduct rules are broadly proportionate, while the prudential framework is not. At Level 2, our strongest concerns relate to the RTS on own funds and the Delegated Act on significance criteria, both of which we rate 1. The RTS on complaint handling and on governance and remuneration are broadly proportionate and workable, and we rate them 4. The RTS on information for ART authorisation applications is rated 3: its content is reasonable, but the volume of information required and the length of the process could be streamlined.

The own funds framework applies a fixed percentage of average reserve assets, 2% for issuers and 3% for significant issuers, which competent authorities can increase but not reduce to reflect an issuer's actual risk profile. This departs from the E-Money Directive, which allows competent authorities to require up to 20% more or permit up to 20% less own funds depending on the risk characteristics of an institution's activities. A fixed percentage over-capitalises low-risk issuers whose reserves consist entirely of short-dated government securities or central bank balances and whose redemption arrangements are simple and transparent, while it may under-capitalise issuers with more complex reserves, cross-border dependencies or larger operational footprints, whose headline reserve figure understates their risk. Because the requirement scales with reserves rather than with operational risk, it also becomes disproportionately costly as a fully reserved issuer grows, even though its risk profile does not change. We recommend introducing, through Level 1 or a revised RTS, a risk-based adjustment mechanism modelled on the E-Money Directive: a baseline requirement, with competent authority discretion to lower it for demonstrably low-risk issuers according to defined criteria and EBA guidance, and to raise it where operational complexity or reserve risk warrants. This would make the framework more proportionate without weakening the overall prudential floor.

The Delegated Act on significance criteria should be revised for the reasons set out in our answers to Q17 and Q18. Although the quantitative thresholds are set in Level 1, the Delegated Act determines how the qualitative criteria on international scale and interconnectedness are measured, and several of its choices amplify the cliff-edge effect of the regime. In particular, it allows the same token issued outside the Union to be taken into account when assessing international scale, so the EU issuer in a multi-issuance arrangement may meet this criterion automatically because of global circulation, regardless of its actual EU footprint. Interconnectedness indicators should reflect actual exposures, use absolute values rather than relative market shares, and exclude measures with weak links to individual issuer risk, such as portfolio overlap between issuers' reserves. More broadly, significance should be assessed on EU data for the EU-authorized issuer, and classification should be based on a sustained breach rather than short-term fluctuations. These changes would reduce the risk that issuers are pushed into the full significance regime, with its doubled deposit share and higher own funds requirements, at a scale far below genuine systemic relevance.

Across the Level 2 framework, the cumulative burden also matters. The number and granularity of RTS and ITS applicable to issuers is high, with some overlap between them and with reporting under other frameworks. We recommend harmonised reporting templates with a single submission shared between the relevant authorities, standardised CASP-to-issuer reporting of EU holdings as proposed in our answer to Q35, proportionate recovery and redemption plan requirements for non-significant issuers, and a streamlined process for non-material white paper updates. Where the underlying problem lies in Level 1, as with the significance thresholds

and the minimum deposit share, the review should address it through legislative amendment rather than relying on Level 2 to compensate.

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

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

Please explain your answer to question 44:

5000 character(s) maximum

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

Further standardisation of the information flow between CASPs and issuers would improve data quality, reduce costs on both sides and strengthen the supervisory picture of how tokens are used in the EU.

Despite the Level 2 work on reporting templates, the data issuers receive from CASPs still varies considerably in format, granularity and timing, which makes reconciliation difficult and costly. The problem runs both ways: CASPs dealing with several tokens receive differing requests from each issuer, while issuers must reconcile inconsistent submissions from many CASPs. We recommend a single, machine-readable template developed by the EBA with input from both issuers and CASPs, similar in approach to the white paper templates, covering data fields, definitions, formats and submission deadlines. Given the frequency and sensitivity of the data, the standard should also provide for secure, automated transmission, with CASPs required to submit through an issuer's API where the issuer offers one, based on a common technical specification so that CASPs do not need to build a separate integration for each issuer.

As explained in our answer to Q35, Article 22(3) requires CASPs to provide certain transaction data to issuers but not standing balances or their distribution by holder residence. Yet issuers need exactly this information to size EU reserves, meet rebalancing obligations and assess EU circulation. The standard template should therefore include periodic reporting of EU-resident holdings by CASP, at a frequency proportionate to the issuer's size and significance. Where possible, it should draw on data CASPs already collect for customer due diligence and Travel Rule purposes, to avoid creating parallel data sets.

Responsibility for data quality should also be clarified. Issuers currently have to act as de facto supervisors of CASP reporting, chasing missing data and requesting corrections without any power to enforce them. CASP reports to issuers should also be shared with the CASP's national competent authority, which should be responsible for monitoring the completeness and accuracy of that reporting. This would raise compliance rates and give supervisors direct visibility of the data underpinning EU circulation estimates, without placing an enforcement role on issuers.

Finally, issuer reporting to authorities should be streamlined through a single submission shared between the relevant national competent authority, the EBA and, where needed, the ECB, so the same data does not have to be reported several times in different formats. Standardisation in this way would reduce costs across the ecosystem while improving the reliability of the information on which supervision depends.

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

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

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

3.1 Crypto-asset services

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

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

Please explain your answer to question 45:

5000 character(s) maximum

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

The list of crypto-asset services defined in Article 3(16) of MiCA is broadly adequate to cover the crypto-asset markets and to provide a workable legal perimeter for businesses. Given that MiCA has only recently become fully applicable and that firms and supervisors are still embedding its requirements, materially expanding the service list at this stage would be premature. Such expansion risks creating regulatory uncertainty, increasing authorisation complexity and capturing activities that are better addressed through supervisory guidance or through the dedicated review of activities that remain deliberately outside MiCA's current scope, such as decentralised finance, staking, lending and certain NFT-related activities.

The ten services broadly mirror the activity-based structure of MiFID II while accommodating crypto-native functions such as transfer services and the custody of cryptographic keys. This design correctly concentrates regulatory obligations on centralised intermediaries, where consumer protection, market integrity and counterparty risks naturally arise, without burdening decentralised protocol development. Rather than continuously amending primary legislation, the priority should be to use ESMA and EBA Level 3 tools, such as guidelines, supervisory Q&As and convergence measures, to resolve emerging ambiguities quickly and flexibly.

Legal certainty would be significantly enhanced if that guidance addressed a number of boundary areas. The first concerns the trading-related services, namely the respective scope of reception and transmission of orders, execution of orders and operation of a trading platform, particularly for routing, aggregation and smart order routing models, as well as the practical distinction between exchange of crypto-assets for funds and execution of orders on behalf of clients, which currently gives rise to overlapping interpretations for certain business models. Guidance should also clarify the boundary between custody and administration of crypto-assets and the provision of third-party technology software, including non-custodial wallet-as-a-service software, and the application of safeguarding and segregation obligations where CASPs temporarily transfer client crypto-assets to third-party trading venues to execute client orders, including in pre-funding models, where diverging supervisory interpretations are already generating operational uncertainty.

Further clarity is needed on the relationship between MiCA transfer services and payment services involving e-money tokens, including whether transfer services extend to off-chain or internal book-entry transfers within a CASP or between intermediaries, so as to prevent duplicative authorisation obligations. The distinction between placing of crypto-assets and marketing, listing support, launchpad activity or technical distribution services should be clarified, as should the boundary between crypto-asset advice and general educational or informational services, research, market commentary and token information pages. Guidance should also address how MiCA's conduct, conflict-of-interest and market integrity expectations apply to proprietary trading firms, liquidity providers and market makers, which play an essential role in price formation and market liquidity.

Finally, guidance should set out the demarcation between regulated CASP activity and genuinely decentralised or self-custodial arrangements. Where firms rely on decentralisation to avoid MiCA obligations despite retaining material control over a protocol or service, effective enforcement should be applied.

Any future review should continue to follow an activity-based, technology-neutral approach, ensuring that economically equivalent activities presenting comparable risks are subject to equivalent regulatory outcomes, and should exhaust supervisory guidance tools before considering amendments to the service list itself.

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

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

5000 character(s) maximum

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

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

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

Please explain your answer to question 47:

5000 character(s) maximum

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

We do not support the introduction of a mandatory appropriateness test for the crypto-asset services of reception and transmission, execution of orders, and placing of crypto-assets under MiCA.

MiCA already establishes a comprehensive conduct-of-business framework for CASPs, including obligations to act honestly and fairly, to provide clear and non-misleading information, to disclose risks, and to manage conflicts of interest. These obligations, consistently enforced, are the appropriate foundation for retail client protection in this market. The immediate priority should be the rigorous implementation and supervision of these existing rules, not the introduction of additional layers drawn from a different regulatory framework.

An appropriateness test is a MiFID II instrument, designed specifically for financial instruments which are products that are complex, leveraged, illiquid, or structurally difficult for retail clients to understand. Crypto-assets qualifying as financial instruments are already subject to MiFID II, including its appropriateness requirements. For MiCA-scope crypto-assets, which are notably simpler products than the financial instruments for which the test was designed, a mandatory appropriateness assessment would represent a regulatory mismatch. Imposing it uniformly across reception/transmission, execution, and placing services would risk treating all spot crypto-assets as inherently complex investment products (an outcome inconsistent with MiCA's differentiated framework).

There is no clear evidence that appropriateness assessments materially reduce consumer harm in digital asset markets. In practice, such assessments rely on standardised questionnaires and self-declarations that are relatively easy to circumvent and do not capture behavioural factors such as overconfidence or loss aversion. Passing a static test cannot substitute for genuine risk management and may create a false sense of security for both firms and clients.

A further concern is regulatory arbitrage due to the reality of crypto markets being inherently borderless and global. Retail participation in the EU is already relatively low, and adding compliance friction to regulated CASPs without a corresponding improvement in actual client outcomes risks driving retail activity towards offshore, unregulated providers where protections are far weaker. This would undermine, rather than advance, the goals of retail investor protection.

If the Commission determines that additional client protection measures are warranted for specific, genuinely higher-risk crypto-asset services such as those involving leverage, borrowing, rehypothecation, or complex structured exposures then a proportionate, risk-based, and evidence-grounded approach should be adopted, narrowly targeted to those categories and avoiding duplication of existing MiCA obligations. Any such extension

should be preceded by a rigorous impact assessment demonstrating that the measure would deliver materially better outcomes proportionate to its costs and the global nature of these markets.

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

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

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

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

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

5000 character(s) maximum

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

We believe there is clear evidence that crypto-asset service providers not authorised under MiCA continue to attract EU customers through global digital channels. This creates an unlevel playing field for authorised firms that have invested in EU compliance and exposes EU retail users to providers operating with potentially lower standards of governance and investor protection. Non-authorised providers use a sophisticated range of digital tools to reach the EU market, including social media influencers, referral and affiliate programmes, search engine advertising and sponsorship of international industry events. The global accessibility of mobile applications and websites, often combined with the misuse of grandfathering provisions or grey area distribution models, allows these firms to maintain a significant EU footprint without local authorisation.

The priority for the Commission and NCAs should not be the immediate creation of new enforcement powers, but the proactive and coordinated use of the extensive toolkit already available under MiCA and existing EU law. We recommend a balanced approach that reinforces the integrity of the MiCA perimeter while ensuring proportionality and due process. Supervisors should complement traditional marketing monitoring with technology-enabled market intelligence, using blockchain analytics, Travel Rule data and the analysis of liquidity flows to identify where EU customer orders are actually being executed. Significant order flow from the EU towards non-authorised venues is a vital indicator for supervisory inquiry, and on-chain fund flow analysis can quantify EU user activity on non-authorised platforms and provide an evidence base for targeted enforcement action, as recommended in the FATF's seventh targeted update of July 2026.

Greater clarity on reverse solicitation is also needed. Under Article 61(1) of MiCA, the authorisation requirement does not apply where a client established or situated in the Union initiates, at its own exclusive initiative, the

provision of a crypto-asset service by a third-country firm. ESMA's guidelines on reverse solicitation (ESMA35-1872330276-2030) clarify how this exemption applies, including in digital distribution contexts, but the distinction between active solicitation and organic online visibility must be clearly defined and consistently enforced to provide legal certainty. NCAs should also make active use of existing mechanisms such as mystery shopping to verify whether non-EU firms are bypassing onboarding restrictions for EU residents, and the Commission should facilitate stronger engagement with digital gatekeepers, including app stores, social media platforms and advertising networks, to ensure they do not facilitate the promotion of unauthorised services.

The success of MiCA depends on consistent enforcement across all Member States to prevent regulatory arbitrage within the Union. We therefore support the use of ESMA's existing convergence tools, such as peer reviews under Article 30 of the ESMA Regulation and the Union Strategic Supervisory Priorities, so that non-compliant operations are addressed uniformly. Enforcement must also be paired with a commitment to making the EU-authorised framework commercially viable. Where regulated CASPs can offer competitive, high-quality services and access to global liquidity, the incentive for EU users to seek offshore alternatives is naturally diminished.

The focus should therefore remain on the effective implementation of the current framework, using data-driven monitoring and cross-border cooperation to ensure that the MiCA authorisation requirement is respected in substance as well as in form.

3.2 Prudential requirements for CASPs

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

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

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

Please explain your answer to question 49:

5000 character(s) maximum

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

We consider the existing prudential regime for CASPs under MiCA, which combines baseline minimum initial capital requirements with the Fixed Overheads Requirement (FOR), to be proportionate, effective, and fully appropriate for capturing the operational and financial risks across diverse business models.

The current framework provides a simple, understandable, and scalable baseline. This is particularly vital for the EU's digital asset ecosystem, as it ensures that smaller or specialized CASPs can enter the market without facing the prohibitive barriers to entry that complex prudential models often create. We strongly encourage the Commission to maintain this current framework rather than introducing complex capital add-ons or aligning the regime with the Investment Firm Regulation (IFR) "K-factor" approach.

The K-factor requirements were designed for traditional investment firm market structures and do not map appropriately onto the unique risk profile of crypto-asset services. CASP risks are primarily driven by factors such as custody safeguarding, cyber resilience, wallet governance, and technology dependencies, rather than the traditional balance-sheet measures targeted by IFR. Mechanically importing K-factors would ignore these technological nuances and risk treating CASPs as traditional investment firms, which is inconsistent with MiCA's bespoke nature.

Furthermore, maintaining predictable, risk-sensitive prudential standards is essential to preserving the EU's global competitiveness. We observe that jurisdictions applying complex capital regimes (such as the UK's K-factor model) can disproportionately burden scaling entities, requiring them to hold significantly higher amounts of capital than an equivalent EU CASP conducting the same activities. Introducing such mechanics under MiCA would impose an unnecessary liquidity drag, disadvantage EU-licensed entities against international peers, and potentially stifle the growth of the Single Market at a time when the industry is already seeing significant market consolidation and rising entry thresholds.

While we support the Commission's focus on market integrity, we believe that risks associated with high-growth or high-risk activities (such as large-scale custody or the operation of significant trading platforms) are better addressed through MiCA's existing conduct-of-business rules, operational resilience requirements (DORA), and robust supervisory oversight, rather than through a wholesale shift toward investment-firm prudential rules. The priority should remain the consistent implementation of the current MiCA safeguards, which provide a balanced and stable environment for innovation.

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

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

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

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



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

5000 character(s) maximum

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

The minimum capital requirements in Annex IV of MiCA are broadly appropriate and should be kept roughly as they are for all three CASP classes. The current calibration provides a clear and proportionate baseline that recognises the differences in risk between service classes (with custody and exchange services, which involve direct exposure to client assets, appropriately subject to the highest requirement) while remaining simple, understandable and scalable. At this stage of MiCA implementation, with the framework only fully applicable since the end of 2024 and transitional periods that only ended a few months ago in several Member States, there is insufficient evidence that an across-the-board increase or decrease in minimum capital would materially improve client protection. The current model is also preferable to a more complex prudential architecture at this point in the regime's lifecycle.

The existing prudential architecture, permanent minimum capital combined with the Fixed Overheads Requirement under Article 67, should not be replaced by a wholesale application of the Investment Firms Regulation K-factor framework. The principal risks of CASPs differ materially from those of investment firms: they are driven primarily by custody and safeguarding of client crypto-assets, wallet governance, cybersecurity, operational resilience, technology dependencies and market integrity, rather than by the trading-book and balance-sheet exposures that K-factors were designed to capture.

Minimum capital should moreover not be treated as the primary safeguard against all CASP risks. For most CASPs, the most important protections for clients are robust governance arrangements, safeguarding and segregation of client assets, operational resilience, cybersecurity, market integrity controls and clear client disclosures. Capital is important, but it cannot substitute for strong wallet controls, custody governance, incident response and effective systems and controls.

If recalibration is considered in the future, it should be evidence-based, activity-based and risk-sensitive, and linked to crypto-specific risk indicators rather than traditional investment-firm measures. Relevant indicators could include the value of client assets under custody, custody concentration, operational scale, wallet architecture, dependence on critical ICT third-party providers, settlement volumes, material market-making or liquidity-provision exposures, and the systemic relevance of any trading platform operated by the CASP. Any such refinements should be targeted at genuinely higher-risk activities (for example, large-scale custody or systemically relevant trading venues) rather than applied uniformly.

Finally, the Commission should avoid increasing minimum capital across the board. Such an approach would disproportionately affect smaller and specialised firms, raise entry barriers to the regulated EU perimeter, and risk consolidating the market around the largest incumbents without a corresponding improvement in client protection. Preserving proportionate, predictable capital requirements is essential to maintaining the attractiveness of the EU as a jurisdiction for digital asset businesses while ensuring that client protection rests primarily on the conduct, safeguarding and operational resilience requirements that address the risks CASPs actually generate.

3.3 Multi-function groups

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

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

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

Question 51.1 Which of the following enhanced oversight and coordination mechanisms do you consider may be appropriate?

Please select as many answers as you like

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

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:

5000 character(s) maximum

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

While members hold differing views on the immediate necessity of new supervisory layers, there is a consensus that the inherently cross-border, digital, and interconnected nature of crypto-asset groups requires a high degree of supervisory coordination.

We support enhanced supervisory cooperation between the ESAs and NCAs as the primary mechanism for addressing these risks. We would, however, note that the question places "enhanced oversight" and "enhanced coordination" side by side, although in supervisory terms these can be quite different things. Enhanced coordination concerns how authorities share information and align their approaches. Enhanced oversight, by contrast, may mean different things to different authorities, ranging from additional reporting to more intensive or intrusive supervision. Each NCA already determines the level of supervision applicable to the entities it authorises, based on its own operational model and supervisory approach, whether proactive, reactive, or

enhanced. Entities offering more than one service under MiCA or other regulatory frameworks are also already supervised in respect of each of those activities. For these reasons, our support is directed at enhanced coordination rather than at a general call for enhanced oversight, whose meaning and practical implications could vary significantly across Member States.

This cooperation should focus on strengthening information sharing and promoting supervisory convergence rather than introducing entirely new supervisory structures, such as supervisory colleges or consolidated supervision, which may be premature. Given that MiCA has only recently become applicable, the immediate priority must be its consistent implementation.

Enhanced cooperation is essential because crypto-asset groups frequently combine regulated and unregulated activities across multiple jurisdictions. Competent authorities require sufficient visibility over a group's broader business, including activities outside the MiCA perimeter, where those activities share infrastructure, liquidity, or governance with a regulated EU entity. The objective of this cooperation is not to extend the substantive requirements of MiCA to unregulated services, but to ensure supervisors can effectively monitor conflicts of interest, contagion risks, and the integrity of the regulatory perimeter.

However, we caution against the introduction of "Group-level reporting" or "Consolidated supervision" at this stage. CASPs are already navigating a complex multi-licence environment, including MiCA, MiFID II, and the EMI/PI frameworks, and are supervised under each of these regimes. Adding further supervisory layers without demonstrated evidence of coordination gaps would increase compliance costs and administrative complexity without a commensurate benefit to retail protection or financial stability.

Therefore, we advocate for a phased, evidence-based approach. The focus should be on intelligence-led cooperation, potentially extending to Financial Intelligence Units (FIUs) and third-country regulators where appropriate, to ensure that supervisors have a complete picture of the risks facing interconnected groups. Any further move toward more formal supervisory structures should only be considered if practical experience demonstrates genuine gaps that existing cooperation mechanisms cannot address.

3.4 Reporting

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

Question 52. Should CASPs report regularly their activities?

	Yes	No	Don't know - No opinion - Not applicable
Direct holdings of crypto-assets by CASPs	☐	☒	☐
Large exposures to derivatives with crypto-assets as the underlying asset	☐	☒	☐

Volumes of leveraged contracts and the extent to which leverage is actually used on trading platforms	☐	☒	☐
Information on counterparty risk	☐	☒	☐

Please explain your answer to question 52:

5000 character(s) maximum

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

We do not support new blanket reporting obligations at this stage, and consider that targeted reporting should be introduced only where a demonstrable supervisory need has been established. We are not opposed in principle to structured reporting by CASPs, and we recognise the supervisory value of understanding custody exposure, concentration, leverage and counterparty risk in certain market segments. However, MiCA has only recently become fully applicable, and NCAs already hold extensive powers to request information from authorised CASPs on an ad hoc or periodic basis. Before introducing standing periodic reporting obligations, the Commission should establish, in consultation with ESMA and the NCAs, that existing information-gathering tools are insufficient for identified supervisory purposes and that the specific data requested would be systematically used in supervision.

Should new reporting be introduced, it should be proportionate, with obligations calibrated to the size, business model and risk profile of each CASP rather than a one-size-fits-all template. It should also be modular and linked to the CASP's authorised activities, so that custody-related metrics apply to custodians, while leverage and liquidation metrics apply only to firms that actually offer leveraged or derivative-like products where legally permitted. Reporting should be decision-useful, with metrics that supervisors demonstrably use, avoiding the experience of some traditional finance reporting regimes, such as Annex IV reporting under the AIFMD, where data frequently becomes outdated before it is processed. It should not duplicate data already collected under DORA, the AML and Travel Rule frameworks or the Article 22 reporting flow between CASPs and issuers. Finally, reporting burdens should not add to the consolidation pressures and rising barriers to entry already observed in the EU market, nor place EU-authorised CASPs at a disadvantage relative to their international peers.

Incident reporting and the reporting of suspected market abuse should remain event-driven and based on materiality. Any new templates should be developed through the standard ESMA Level 2 process, supported by a proper cost-benefit assessment.

3.5 Environmental and sustainability reporting

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

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

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

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

Please explain your answer to question 53:

5000 character(s) maximum

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

We support the objectives of MiCA's environmental and sustainability disclosure regime. Transparency on the main adverse climate and environment-related impacts of consensus mechanisms is a legitimate regulatory goal that supports informed decision-making, and compliance costs are manageable for most firms. However, implementation experience to date shows that targeted improvements are needed.

The regime should first be genuinely technology-neutral. As currently framed, disclosure of impacts "of the consensus mechanism" risks turning the choice of consensus mechanism into a proxy for environmental performance and implicitly ranking technologies, which sits uneasily with the technology-neutrality principle underpinning this consultation. Two networks using the same consensus mechanism can differ by orders of magnitude in footprint per unit of useful activity, and a mechanism-level label does not capture this. Disclosure should therefore rest on consistent metrics that allow like-for-like comparison across infrastructures, without favouring or penalising any category of consensus mechanism, and should inform rather than direct the choice of technology. It should also give a holistic and balanced picture that reflects operational realities, including renewable energy adoption, the use of stranded or curtailed power, and offsetting or mitigation measures. We recommend a dedicated optional indicator for offsetting mechanisms, rather than merging them into sources and methodologies, and optional disclosure of low-carbon energy sources not classified as renewable under EU law, such as nuclear energy or otherwise vented or flared methane. A one-sided presentation neither improves investor awareness nor incentivises investment in environmentally friendly protocols.

Obligations should also be allocated proportionately. CASPs are intermediaries and typically do not control the consensus mechanisms of the assets they list or support. They should be expected to make reasonable, best-efforts disclosure based on information from issuers, foundations, public sources and reputable third-party data providers, but should not be responsible for independently verifying every protocol-level metric for networks outside their control. Shifting the primary obligation to issuers is not workable for crypto-assets other than ARTs and EMTs, as those issuers are not regulated parties under Title II. The CASP-based obligation should therefore be retained but calibrated in this way, with proportionality for smaller CASPs and clear treatment of assets without an identifiable issuer. Environmental data for decentralised networks involves estimation and methodological uncertainty, so the goal should be comparable and transparent disclosure rather than false precision.

Updating and enforcement should be made consistent. At present, CASPs must update disclosures in case of material changes or at least annually, while white paper preparers need only update on material changes. This

asymmetry is unbalanced and legally uncertain, as "material" is undefined and individual assets may cross the threshold daily. We propose a symmetrical, standardised updating requirement, for example at least quarterly, with the possibility to refresh disclosures as a whole at regular intervals. We also observe a race to the bottom, as several disclosures in the market do not comply with Commission Delegated Regulation (EU) 2025/422 despite the existing best-efforts requirement, which points to inconsistent enforcement. Consistent enforcement by NCAs is needed to protect firms that have invested in professional, compliant disclosures.

Finally, technical standardisation and usability for retail investors should be improved. Decimal precision requirements should be standardised, for example with a maximum of ten decimal places or the ability to use alternative units within the same metric system, together with a corresponding update of the MiCA XBRL taxonomy, to avoid misleading values such as "0.00000 tons" caused by inappropriate unit choices. The optional metric on usage of natural resources should be standardised to the industry-standard measure of land use in square metres. Presentation should also be made more accessible for retail investors, with concise, digestible summaries rather than dense technical tables and a clear statement that the disclosure is not exhaustive and that further analysis is recommended.

3.6 Other issues

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

5000 character(s) maximum

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

DORA provides a strong horizontal framework for ICT risk management, incident reporting, resilience testing and third-party risk. The Commission should therefore avoid creating duplicative cybersecurity obligations under MiCA unless a clear crypto-specific gap is identified. That said, the issuance and intermediation of any tokenised asset, whether a crypto-asset, e-money, a deposit or a financial instrument, face distinctive cybersecurity risks that may merit targeted guidance. These include private key compromise, wallet infrastructure failure, smart contract vulnerabilities, weaknesses in MPC or HSM governance, insider threats, weak transaction signing controls, address poisoning, phishing, account takeover, blockchain reorganisation risk, bridge vulnerabilities, oracle dependencies and the compromise of critical third-party service providers.

We do not recommend amending DORA to introduce new digital-asset-specific obligations. Instead, the European Supervisory Authorities should provide targeted supervisory guidance explaining how DORA's existing requirements apply to the specific operational risks of crypto-assets and tokenised real-world assets. This is consistent with DORA's technology-neutral design, as guidance can be specific about relevant risks, failure scenarios and control objectives without prescribing a particular technology or creating a separate set of legal obligations.

Such guidance would be most useful if it addressed the governance of private keys, including HSM and MPC arrangements, together with the policies, segregation of duties and approval workflows for transaction signing. It should also cover governance controls over token administration functions such as issuance, minting, burning, freezing, redemption and transfer restrictions, as well as smart contract deployment, upgrades and administrative keys. Guidance on human-readable transaction information, transaction simulation and controls against blind signing would help address some of the most common attack vectors. On incidents, it should clarify how wallet compromise, smart contract exploits and blockchain network disruptions are classified, and

how DORA incident reporting interacts with client communication obligations under MiCA. It should also set expectations for testing, scenario analysis and recovery in continuous 24/7 markets, including for key loss, compromised signing devices, failure of token administration functions and disruption of relevant blockchain infrastructure. Where CASPs connect to decentralised finance, guidance should address the testing of operational dependencies on bridges, oracles and other decentralised infrastructure with which there is no contractual relationship. Finally, it should clarify the treatment of permissionless networks, open-source software and other public blockchain infrastructure.

On this last point, it is particularly important that open, permissionless blockchain networks are not treated as ordinary ICT third-party service providers where there is no contractual outsourcing relationship and no ability to direct the network. Like the open-source software that DORA already accounts for, permissionless blockchains are open infrastructures with no single controllable service provider, and treating them as outsourcing would create unworkable obligations. The regulatory focus should instead be on how a CASP uses and controls its own systems, wallets, interfaces, custody arrangements and client services, rather than on responsibility for base-layer networks outside the firm's control.

The Commission and the ESAs should also confirm that certain crypto-specific controls may be recognised as evidence of sound ICT and operational resilience practices under DORA. These include multi-party computation, hardware security modules, segregated signing environments, whitelisting of withdrawal addresses, transaction risk scoring, real-time monitoring of anomalous wallet activity, independent smart contract audits where relevant and secure software supply chain management.

Such guidance should explicitly extend to all crypto-assets, including EMTs and ARTs, as well as to tokenised deposits and tokenised financial instruments. It is the reliance on tokenisation techniques that determines the relevant operational resilience risks and risk management choices, and all tokenised assets should therefore be subject to the same cybersecurity expectations.

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

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

☐ Yes



No

☐ Don't know / no opinion / not applicable

Please explain your answer to question 55:

5000 character(s) maximum

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

While the PSD3 and PSR reforms are a welcome step towards clarifying the interplay between MiCA and the payment services framework for activities involving e-money tokens, our members agree that further clarity is still needed to ensure a coherent, innovation-friendly and non-duplicative regulatory environment. The main concern is the risk of dual or duplicative authorisation for CASPs providing EMT-related services, together with the potential for inconsistent application across Member States. Despite the introduction of targeted exclusions and a streamlined authorisation process, the fundamental classification criteria, particularly those set out in the EBA's No Action Letter, remain unchanged. This creates operational friction, legal uncertainty and a risk of divergent supervisory practices, especially as CASPs and NCAs are already making business and enforcement decisions under the current MiCA and PSD2 framework.

Further EU-level guidance or legislative refinement should first provide a clear delineation of regulatory perimeters, setting out unambiguously when EMT-related activity falls under MiCA alone, when payment services authorisation is required, and how overlapping requirements interact where MiCA already provides equivalent protections. MiCA should remain the principal authorisation route for CASPs providing EMT-related crypto-asset services, with PSD3 and the PSR applying only to genuinely payment-like activities, such as the use of EMTs to pay merchants for goods and services. Non-payment EMT activity, including custodial safekeeping, first-party transfers, conversion and trading-related transfers, should remain outside the payment services perimeter. Where a CASP authorised under MiCA provides EMT transfer functionality that is ancillary to its crypto-asset services, any additional authorisation requirement should be clearly defined, proportionate and non-duplicative, and closely connected EMT services should, where possible, be covered by a single licence under either MiCA or PSD3, not both.

Clarity is also needed for the complex user journeys that CASPs increasingly offer. Many combine EMT transfers, crypto-asset transfers, fiat settlement, merchant acceptance, custody, exchange and payment initiation within a single service, and the same activity may appear to fall under MiCA or payment services rules depending on how a transaction is structured. Guidance should therefore address internal and off-chain EMT transfers, transfers between CASPs, merchant settlement, conversion between EMTs and other assets, and cross-border transactions.

These points matter for proportionality and competitiveness. Requiring two licences for closely linked activities creates unnecessary operational complexity, duplicate authorisation processes and a risk of cumulative capital and prudential requirements for the same activity. This is disproportionate and could hinder stablecoin adoption and the competitiveness of the EU digital asset sector. Similarly, where MiCA already imposes robust custody, safeguarding and operational standards, additional payment services obligations should not be imposed unless clearly justified by the nature of the activity. Requirements designed for centrally operated payment systems, such as fixed execution times, payee verification and open banking obligations, are often ill-suited to DLT-based EMT transfers.

We therefore call on the Commission, the EBA and NCAs to provide harmonised EU-level guidance and, where necessary, legislative refinement to ensure that EMT custody and transfer by MiCA-authorised CASPs is clearly and proportionately regulated, avoiding duplicative authorisation and operational friction. The goal should be a

coherent framework that allows EMTs to function as digital settlement assets while preserving appropriate user protection and supporting innovation.

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

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

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

5000 character(s) maximum

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

Access to global liquidity should be preserved and, where it measurably improves execution quality, expanded, always under the principle of global liquidity with local accountability.

The principal advantage of concentrating trading in EU-only liquidity pools is supervisory simplicity. Confining order matching, execution and market conduct to EU-regulated venues would give competent authorities direct oversight of order books, trading behaviour and market integrity controls without relying on cooperation with third-country supervisors, and could in theory support a self-contained EU venue ecosystem. These advantages are outweighed by significant disadvantages. Crypto-asset markets are inherently global, operate continuously and depend on deep, cross-border liquidity, with price formation taking place simultaneously across venues worldwide. EU-only liquidity would be thinner, less efficient and less resilient. Restricting EU users to EU-only pools would fragment markets, widen spreads, increase execution costs and slippage, reduce the range of trading pairs, weaken price discovery, make best execution harder to achieve and place EU-authorized firms at a structural disadvantage relative to peers in more open jurisdictions.

The current framework already allows EU-authorized CASPs to access non-EU liquidity through broker and order execution models, and this access must not be restricted or geographically isolated. However, the available options are limited in efficiency. The complexity of operating a multilateral trading facility, and the absence of a workable pathway for shared order books, have pushed much EU trading into bilateral broker and back-to-back execution models, so EU users pay more and see less price transparency than users in comparable jurisdictions. These structures can also give supervisors less visibility than a transparent framework would. Restricting direct access to global order books does not remove offshore exposure. It shifts activity into execution chains that are harder to supervise and encourages sophisticated users to access offshore platforms directly, reducing both client protection and oversight.

Full access to global liquidity, intermediated through EU-authorized CASPs, delivers better execution, deeper markets, tighter spreads and more competitive services while keeping the client relationship, and therefore regulatory accountability, inside the EU perimeter. It also strengthens the incentive for global firms to seek MiCA authorisation on commercially viable terms rather than operating outside the perimeter.

The Commission should therefore pursue two complementary steps. First, it should reinforce safeguards for

existing broker models through governance, disclosure, execution quality monitoring, conflicts management and supervisory convergence. Second, it should assess, in a phased and evidence-based way, whether a carefully designed, principles-based framework for shared or cross-border liquidity arrangements could improve both execution quality and supervisory visibility, drawing on precedents such as the approach of the Hong Kong Securities and Futures Commission and on potential equivalence or recognition mechanisms.

Under either route, the EU-authorised CASP must remain fully accountable to its competent authority for its client-facing obligations, including best execution where applicable, conflicts of interest management, market abuse monitoring, custody safeguards, disclosures and operational resilience, even where execution, liquidity provision or order matching involves affiliated or third-country infrastructure. The EU entity should retain genuine ownership of client relationships and governance, to prevent thin wrapper structures. Firms should maintain documented execution and liquidity access policies, carry out risk-based due diligence on third-country venues and liquidity providers, benchmark execution quality against independent venues, manage intra-group conflicts transparently, limit concentration on single offshore entities and maintain credible exit and contingency plans. Access must measurably improve execution outcomes rather than function as automatic routing to an offshore affiliate. Supervisors should have unified surveillance, end-to-end access to the data needed to reconstruct the complete execution chain and effective cooperation with third-country authorities, so that oversight does not stop at the boundary of the EU legal entity.

The Commission should avoid rules that require the artificial localisation of liquidity. The policy focus should not be where liquidity is located, but governance, transparency, conflicts management, execution quality and supervisory access to information, which best serves investor protection, market integrity and the EU's competitiveness.

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

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

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

5000 character(s) maximum

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

MiCA Level 1 provisions for CASPs are broadly proportionate and provide a strong, harmonised foundation for the EU crypto-asset market. The authorisation framework, prudential requirements, governance arrangements and most service-specific obligations are generally appropriate and have improved legal certainty, which justifies our rating of 4 for most categories. However, several areas would benefit from further simplification and clarification so that the rules remain proportionate and practical for firms of different sizes and business models.

Authorisation requirements should be applied proportionately according to business model. A custody provider, a trading platform, an adviser and a transfer service provider should not face identical information expectations where their risks differ materially, and application forms and supervisory expectations should be modular and linked to the services for which authorisation is sought. Service-specific obligations should also be clarified for integrated business models, in which routing, matching, custody, transfer, conversion, staking, settlement and listing may be operationally connected. Supervisory guidance should help firms understand when obligations apply separately and when one activity is ancillary to another.

The Commission should also avoid duplicative obligations across MiCA, DORA, AML/CFT rules, PSD3 and the PSR, and sectoral financial services legislation. Simplification should focus on aligning reporting, incident notification, safeguarding and operational resilience expectations to reduce unnecessary administrative burden. Proportionality should be embedded not only in Level 1 but also in supervisory practice. Smaller CASPs and firms with limited activity should be able to comply through simpler policies, templates and reporting processes, while larger or more complex firms may appropriately face more detailed expectations. The EU should consider targeted exemptions and streamlined proportionality rules for SMEs and smaller platforms, particularly regarding prudential capital requirements and fixed overhead buffers, drawing on precedents in the Investment Firms Regulation and the CRR and CRD frameworks.

The cumulative weight of implementing measures is a particular concern. While MiCA Level 1 established a relatively concise framework, its implementation through several dozen Level 2 and Level 3 measures, running to thousands of pages, has added requirements that in places go beyond the original legislative intent. Measures on sustainability disclosures, the sharing of personal data, transfer services and the guidelines on advice and information have been widely criticised for imposing disproportionate friction, particularly on smaller firms. These measures should be realigned with the parameters set in Level 1, giving the market flexibility in how it meets its regulatory obligations.

Without timely simplification to ease this administrative strain, the EU risks stifling digital asset innovation and weakening market competitiveness. We support the ongoing simplification agenda of the Commission and ESMA and recommend that future recalibration focus on evidence-based, proportionate and activity-linked requirements.

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

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

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

5000 character(s) maximum

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

We recognise that the MiCA Level 2 acts for CASPs are directionally appropriate and support the key objectives of market integrity, client protection and operational resilience. However, they differ substantially in how proportionate and simple they are to apply across different business models and risk profiles.

The RTS on complaint handling under Article 71(5) is broadly proportionate and supports consumer protection. It should remain flexible, allowing firms to use existing complaint systems provided EU complaints can be identified, escalated and reported appropriately. The RTS on continuity and regularity under Article 68(10)(a) is also generally appropriate, particularly as it complements DORA, but it should avoid duplicating ICT-specific obligations. Pre- and post-trade transparency under Article 76(16)(a) is important for market integrity, but the requirements must reflect the global, multi-venue and decentralised nature of crypto-asset markets. EU trading platforms should provide meaningful transparency, without the rules implying that a single EU venue reflects the full market for a globally traded asset.

The RTS on order book records and record-keeping under Articles 76(16)(b) and 68(10)(b) give rise to the greatest divergence of views. Some members see them as supporting supervisory convergence, while others consider that the adopted standards, Commission Delegated Regulations (EU) 2025/416 and (EU) 2025/1140, impose rigid formats modelled on MiFID II, such as JSON and ISO 20022, that do not fit high-frequency 24/7 crypto trading, automated market makers or hybrid decentralised models. Members have identified concrete issues, including mandatory static fields such as tax identification numbers, overlap with DAC8 and CARF reporting, and potential conflicts with GDPR data minimisation and retention principles. We therefore urge a shift towards modular, technology-neutral templates, proportionality for smaller firms and strict avoidance of duplicative data fields. CASPs should be able to meet these requirements through electronic records, audit logs, blockchain references and other reliable digital means.

More broadly, simplification should include templates that are modular by CASP activity and risk profile, proportionate treatment of smaller firms, and the removal of duplicative data fields across the RTS, DAC8 and DORA. Supervisors should accept digital dashboards and system-generated records, and there should be clear rules on the retention, confidentiality and supervisory use of trading data. Further ESMA Q&As would also help promote consistent implementation across NCAs.

We do not support introducing new blanket periodic reporting mandates at this stage, nor a full redesign of the framework. Instead, we recommend ongoing monitoring of implementation, with a focus on outcome-based, proportionate and technology-neutral requirements that accommodate the specific characteristics of crypto-asset markets.

PART 4. Policy areas beyond the current scope of MiCA

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

4.1 Decentralised finance

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

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

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

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

a) Exchange services

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

b) Payments and transactions services

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

c) Trading and investment services

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

d) Lending and borrowing services

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

e) Custody services

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

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

5000 character(s) maximum

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

As a preliminary point, the consultation uses "DeFi protocols" and "DeFi applications" inconsistently and gives two definitions of "DeFi application". The first describes software running autonomously on a blockchain without intermediaries, while the second widens this to "any blockchain-based application", including ones with an identifiable person in control. The second is too broad to be workable and does not reflect how the term is used in industry, academia or earlier regulatory debates. We propose a narrower, technically grounded definition of DeFi as financial infrastructure implemented through smart contracts on public, permissionless blockchains, whose core functionality can be accessed and used without reliance on a central operator and without any party taking custody of users' assets. The degree of decentralisation, including governance concentration, upgradeability and administrative controls, should be assessed separately as an indicator of control rather than built into the definition. The different layers of this composable system, namely the protocol, interface or access, and service layers, carry different risks and controls, and getting this distinction right is a precondition for a coherent discussion of what, if anything, needs regulating and at which layer.

All the listed services can outperform their intermediated counterparts, as users access peer-to-peer financial services on public, permissionless blockchains while keeping control of their assets. Trading on DeFi protocols settles without a central counterparty holding assets, with liquidity and pricing visible on-chain, continuous liquidity, lower transaction costs and faster settlement. Volumes are high and the infrastructure has been stress-tested. In November 2022, when several centralised exchanges and lenders became insolvent, froze withdrawals and suspended trading, major decentralised exchanges kept operating without interruption, maintaining liquidity and narrow spreads on popular pairs. For payments and transactions, DeFi offers near-instant, low-cost, continuous and cross-border settlement, with programmability that intermediated rails do not easily provide, and adoption is meaningful and growing, particularly for stablecoin settlement. In trading and investment, the benefits are real and usage is growing, although weaknesses such as leverage, reliance on price oracles and smart contract risk are more material here than for the other services and are the focus of the mitigations below. Lending and borrowing is not regulated under MiCA even in intermediated form, so there is no like-for-like EU comparator, but DeFi lending is typically over-collateralised, solvent in real time and fully auditable on-chain, which compares favourably with the opaque intermediated lending models that failed in 2022. Finally, non-custodial software enables self-custody, and permissionless access allows users to connect directly with DeFi protocols, limiting their dependence on intermediaries.

The weaknesses are real but are largely the other side of the property that delivers these benefits. Because no single party controls the infrastructure, no single party can misuse user assets, and the same design means there is no single point of unilateral intervention. Where risks resemble traditional intermediary risk, they arise at the service and access layers rather than in the underlying infrastructure, which is where MiCA already reaches.

We therefore do not believe these emerging infrastructures should be regulated now. The EU need not be the first jurisdiction to regulate DeFi, and existing EU financial frameworks remain sufficient to provide protection as the space grows. DeFi is early in its development and shows considerable promise, tokenisation in particular, with substantial potential for European capital markets and the wider economy, so room should be left for innovation. Premature regulation risks freezing the field, entrenching today's design choices and pushing activity outside the EU. The EU should instead rely on technology-native and market-led mitigation, which is

improving quickly through security auditing and formal verification, more robust oracle and liquidation design, greater resilience and openness at the access layer, and clearer disclosure of where a product sits in the stack and which protections it carries. Responsibility should be allocated by function, so that obligations follow what a party does rather than its mere presence in the stack, since building on shared infrastructure is not the same as controlling it. Softer tools, notably user education, should be prioritised as risk mitigation, with the EU supporting and monitoring developments and revisiting further measures only if and when evidence shows they are needed.

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

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

Please explain your answers to question 60:

5000 character(s) maximum

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

Our assessment follows the layered approach set out in our answer to Q59: risks should be located at the layer where they arise (protocol, access or service) and measured against intermediated finance as it actually operates, not against an idealised version of the existing system. Several of the listed risks are not unique to DeFi, so the relevant comparison is like-for-like with traditional and centralised crypto markets.

Operational risk (agree) is the most genuine DeFi-specific risk, chiefly smart contract vulnerabilities, oracle failures and flawed liquidation design. However, it is transparent and auditable in a way that intermediated systems are not, since code and transactions are publicly visible and can be independently verified. It is being addressed through fast-moving technical practice such as security audits, formal verification, bug bounties and more robust oracle design. The non-custodial design also means an operational failure does not sit on top of a custodial loss, as it can with an intermediary that commingles or misuses client assets.

Money laundering and terrorist financing risk (neither agree nor disagree) exists in the crypto-asset sector and for DeFi specifically. However, the technology also allows for unique tools to mitigate the risk. Blockchain analytics can trace fund flows through protocol interactions, identify exposure to sanctioned or high-risk counterparties, and assess protocol-level risk profiles, enabling risk-based engagement rather than blanket avoidance. That being said, public ledgers are transparent and traceable, so flows are more visible than in other value transfer systems. Where fiat enters and exits, that activity already runs through regulated, AML-bound intermediaries under MiCA and the AML framework. The risk is real but concentrated at the regulated edges rather than intrinsic to the infrastructure, and should therefore be addressed at the service level, not the protocol level.

Market abuse needs reframing rather than a simple yes or no. The concept presupposes a venue or operator responsible for policing conduct, which does not map cleanly onto open infrastructure. Some abusive practices exist, such as front-running and wash trading, but on-chain transparency makes much of this more detectable than in opaque intermediated markets, and design-level issues are being mitigated. We consider the most efficient and effective responses to be technology native rather than regulation driven, and we encourage developers to build, and the market to adopt, embedded compliance at the protocol level, including mechanisms that prevent front-running and wash trading. There is also a lack of reliable data on the scale and impact of mempool-based trading practices. Before any regulatory engagement on this point, the starting point should be better quality data, and any assessment should be positioned relative to the prevalence of comparable practices in traditional markets.

Investor protection risk (disagree) bundles three different things that pull in different directions. The "opacity of functioning" framing is the wrong way round: open-source code and on-chain data make DeFi more transparent than intermediated finance, not less. The real gaps are practical comprehension, as users may not fully understand the products they interact with, and limited redress. Both are addressable through better disclosure, user interfaces, tooling and user education, and through existing rules at the service layer where an identifiable provider exists, rather than through licensing of the underlying infrastructure.

Financial stability risk (strongly disagree) is the weakest of the listed risks at present. At current scale, and given limited interconnection with the traditional financial system, DeFi does not present a material financial stability risk. This can be revisited as tokenisation and adoption grow and interconnections deepen, but it does not justify action now. We note that during the 2022 market stress the failures and contagion originated in centralised, intermediated entities, while major DeFi protocols continued to operate and liquidate positions as designed.

Finally, we caution against intervention tools that assume a central point of control. Mandatory "kill switch" style requirements, as debated for smart contracts in the context of the Data Act, were not a practicable solution then and would not be one now. Imposed on permissionless infrastructure, they would either be unenforceable or would create exactly the single point of control, and associated operational and security risk, that the non-custodial design avoids. Responsibility should follow the function a party performs, consistent with our answer to Q59.

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

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

Please explain your answers to question 61:

5000 character(s) maximum

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

Consistent with our answers to Q59 and Q60, we do not believe any set of criteria can produce a clean, binary determination of whether a DeFi application is "fully decentralised". Decentralisation is a matter of degree across different layers of the stack, and the assessment should focus on whether an identifiable party performs a regulated function, not on the architecture as such. Our scores reflect which criteria are sound, administrable tests of that question and which are not.

We strongly agree that an identifiable intermediary providing a crypto-asset service and custody of user assets are the right criteria. They map directly onto concepts MiCA already uses for CASP authorisation and provide an objective threshold rather than a matter of degree. They should operate together as the threshold gate for regulation. Our score on custody depends on a precise reading of the term. We understand custody as the ability of an identifiable party to unilaterally move, freeze or seize a specific user's assets without that user's consent. That is the clearest marker of intermediation and should be dispositive. It should not be read as covering assets held in smart contracts by design, such as liquidity pools or lending markets, where no party can exercise that control. Treating those as "custody by the protocol" would capture virtually all non-custodial infrastructure and defeat the purpose of the test.

We score control via admin keys in the middle because the criterion bundles two distinct concepts with very different regulatory implications. Control over individual user assets is custody in the sense above and should be treated as dispositive. Upgradeability of the code itself is a largely systemic phenomenon: every blockchain, including Bitcoin, can in principle be changed through coordinated action of its participants, and a mechanism to evolve a protocol's rules is no more evidence of intermediation than a legislature's power to amend the law makes it a custodian of individual property. What matters is whether an identifiable party can exercise upgrade power unilaterally, without timelocks, multisig or community checks, and whether the change can reach into individual users' assets rather than only the protocol's forward-looking rules. We recommend the criteria distinguish explicitly between these two limbs.

We disagree that concentration of governance power should be a standalone or additive criterion. Governance rights, such as voting on protocol parameters, are not the same as operational control, such as custody, freezing assets, blocking transactions or unilateral shutdown. Conflating them produces false positives, where a protocol is treated as centralised because governance tokens are concentrated even though no one can act on user assets, and false negatives, where real control points such as front-end gatekeepers or oracle and dependency providers go unaccounted for because they sit outside the governance and admin-key framing. Governance concentration should at most be a rebuttable indicator, relevant only where it translates into unilateral operational effect.

We score open-source status and marketing low as independent triggers. Open-source status speaks to auditability, not to the existence of an intermediary: a protocol can be fully open-source and centrally controlled, or closed-source and genuinely decentralised. Similarly, public communication by a foundation or development team should not by itself indicate a regulated intermediary. Absent solicitation of clients for a specific service, treating it as decisive risks penalising legitimate communication about open-source infrastructure.

More broadly, the criteria as framed risk collapsing distinct regulatory objectives, namely market conduct, prudential custody and technical robustness, into a single pass/fail decentralisation determination. Many DeFi protocols function as financial infrastructure for exchange, lending or settlement rather than as intermediaries providing a service. PSD2 already excludes providers of purely technical services that never take possession of funds, and the same logic should apply here: an identifiable intermediary and custody should function as the

threshold gate, with the other factors informing the scope of any obligations rather than forcing a binary outcome.

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

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

Please explain your answer to question 62:

5000 character(s) maximum

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

No. We do not think MiCA should indirectly regulate fully decentralised DeFi protocols by imposing a due diligence obligation that requires CASPs to certify that a protocol is decentralised or safe merely because they connect clients to it. Risks to users are already addressed through the obligations CASPs owe their clients under MiCA, including the duty to act honestly, fairly and professionally in their clients' best interests, and no further DeFi-specific mandate is needed.

This should not prevent CASPs from applying proportionate, risk-based diligence where they actively curate, recommend or integrate particular protocols. Deciding which protocols to expose clients to, and how to assess them, is ultimately a matter of each CASP's risk appetite and commercial judgment, and CASPs should be free to choose the most effective way to do it, including reasonable reliance on independent technical audits, security research and other reputable third-party analysis, including blockchain analytics to mitigate ML/CTF risks.

A formal requirement would in essence recreate the decentralisation determination the consultation is already trying to design directly, relocated one step downstream and outsourced to a private party with no clearer criteria to apply. CASPs would face the same problems we describe in Q61, such as threshold gaming, binary answers to a question of degree and the conflation of governance with control, but would now bear liability for getting that judgment wrong. In practice, CASPs would avoid connecting clients to any protocol unable to produce a formal compliance opinion. This would concentrate DeFi access around a small number of protocols able to afford that overhead, the opposite of the openness and competitive risk management the ecosystem currently benefits from, and would likely become a bureaucratic exercise generating documentation without a corresponding improvement in user protection.

CASPs are already well placed to draw on the open, permissionless risk research that exists across DeFi today. Security researchers, risk curators, oracle providers and analytics providers publish detailed, continuously updated public assessments of protocol risk, often in more depth than a static compliance review could achieve, and this work benefits users regardless of jurisdiction. A due diligence mandate risks undermining that resource by pushing protocols and contributors towards narrower, defensive practices to avoid being characterised as an intermediary or control point, and pushing CASPs towards checkbox reviews rather than genuine engagement with the research available. The more durable outcome is for this independent risk

ecosystem to grow and compete openly, with CASPs expressly permitted and encouraged to rely on it.

Rather than new obligations, we would support industry-led best practices for CASPs that integrate DeFi protocols. Good practice could include: drawing on independent audits and reputable third-party risk assessments proportionate to the scale of the integration, clear disclosure to clients of where a product sits in the stack, which protocol it relies on and which protections do and do not apply, ongoing monitoring of material changes such as upgrades, governance decisions or security incidents, and internal processes for pausing or limiting an integration where risks change. Guidance of this kind, developed with industry, would improve user outcomes without imposing a decentralisation determination on CASPs or constraining the open infrastructure itself.

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

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

Please explain your answer to question 63:

5000 character(s) maximum

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

Overall position: a disclosure-and-conduct model, not a gatekeeping model. We support only the first option and disagree strongly with every option that turns the CASP into a gate, whether through liability, certification, liquidity filters, prohibition or list-based access. Consistent with our answers to Q59 to Q62, obligations should attach to control and conduct, not to presence in the stack. MiCA made a deliberate choice in Recital 22 to leave fully decentralised provision outside its scope; reintroducing it one layer downstream would contradict that choice and the proportionality principle in Article 5 TEU.

Since by selecting NO in Q62 we are not able to provide more details on the specific proposals suggested, below are our member views on each of those in case the EU decides to move forward with such a model.

Connection subject to warnings and disclosures (agree). This is the only option that could be proportionate to what a CASP actually does: routing a client to a non-custodial protocol is connectivity and information, not control over code it cannot alter, pause or direct. CASPs retain discretion, as set out in Q62, to apply their own risk-based judgment on which protocols to offer. Disclosure should be technically specific rather than generic, covering audit and formal verification status, oracle dependencies, the liquidation and collateral model, the upgradeability surface (whether an admin key, timelock or multisig exists and whether it can reach user assets), and where the product sits in the stack and which protections apply. This addresses the real gap, which is comprehension, not opacity, while preserving access to global liquidity and the competitive pricing and low slippage it brings.

CASP liability for incidents (strongly disagree). This decouples liability from control and fault. A CASP does not author, deploy, upgrade or hold assets within an autonomous protocol, so liability for smart contract failures, oracle manipulation or third-party exploits would be strict liability for outcomes it cannot prevent. It would also duplicate and distort DORA, which already governs CASP resilience at the layer the CASP controls. The predictable result is defensive de-risking, concentration of access around a few incumbents, and routing moving to non-EU front-ends, leaving EU users with the same protocols and fewer accountable intermediaries.

Certification and liquidity conditions (strongly disagree on all three). Certification of a permissionless protocol is conceptually unstable: a certificate is a point-in-time attestation, while the protocol stays accessible through forked front-ends, aggregators and direct contract calls. Gating the CASP front-end does not gate the protocol; it relocates access outside the perimeter while creating false assurance, and there is no legal person to hold the certificate. The "verified pools" variant is the most damaging, as enforcing it on an AMM requires a permissioned pool factory or a routing allowlist, breaking composability and smart order routing and leaving EU users with fragmented liquidity, wider spreads and worse execution. A global-liquidity condition is a blunt proxy that does not map to the actual risks. Each option entrenches the largest protocols, penalises new entrants and forfeits the tokenisation benefits identified in Q59.

No connection at all (strongly disagree). This is a de facto prohibition and the least proportionate option. The infrastructure remains globally accessible, so activity migrates to unregulated or non-EU channels, worsening user outcomes and reducing supervisory visibility at the fiat on/off-ramps where oversight is effective.

Whitelists and blacklists (strongly disagree). Protocol risk changes with every upgrade, oracle change or governance vote, so a static list is stale on publication and becomes a single point of failure and a target for gaming. Analytics are probabilistic, producing false positives and negatives, and a protocol with no legal person has no route to contest a listing, raising legal certainty, due process and Article 16 Charter concerns. Incentivised private lists add capture and competition risks. The better approach is the open, competitive risk-research ecosystem described in Q62.

Illicit activity (deliberately unscored). This row differs in kind and should not sit on the same scale. CASPs are already bound by EU sanctions and AML rules, and where analytics indicate a well-founded sanctions or laundering nexus, existing law already requires action. We suggest recalibrating the row to preserve that obligation at the regulated fiat edge without converting probabilistic analytics into an access-gating tool.

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

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

Please explain your answers to question 64:

5000 character(s) maximum

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

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

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

Please explain your answers to question 65:

5000 character(s) maximum

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

We strongly disagree with all four statements. Consistent with our answer to Q63, we do not support certification schemes for DeFi protocols or smart contracts. This question raises two distinct populations, each with its own difficulty: protocols that are not fully decentralised, for which certification is presented as a lighter alternative to CASP authorisation, and developers of non-custodial wallet software, which performs no financial service.

Certification instead of a CASP licence (strongly disagree). MiCA has no sliding scale of decentralisation; its operative test is whether an identifiable person provides a crypto-asset service. Where such a person controls a protocol and offers a service through it, MiCA already applies and authorisation is the correct instrument. Where decentralisation is incomplete only in a looser sense, such as concentrated governance tokens or a team that communicates publicly, no service is provided, and certification would reach activity Recital 22 deliberately excluded. Certification is also not a substitute for a licence: it verifies technical robustness, while authorisation covers conduct of business, safeguarding, prudential requirements, governance and complaints handling. Offering one instead of the other would leave users of genuinely intermediated services with less protection than MiCA already provides. Nor would it be lighter: it would carry recurring costs and require the same control determination we explained at Q61 cannot be made reliably, without the passport, settled obligations, single supervisor or appeal route that make authorisation worth its burden. Tying it to launch or "soon after" would capture almost every new deployment, since protocols typically begin with developer-held controls and progressively transfer them to timelocks, multisigs and distributed governance, imposing costs where value at risk is lowest.

Compliance tools built into protocol design (strongly disagree). This row moves from attesting what a protocol is to prescribing how it is built. A contract able to block or freeze gives some party unilateral power over user assets, which is the marker of intermediation we identified at Q61; the requirement would manufacture the intermediary MiCA declined to create. On-chain screening relies on probabilistic analytics, so hard-coded gates would deny legitimate users access to their own assets with no one to appeal to, while composability means restrictions are bypassed through wrappers, aggregators, alternative front-ends and forks. Deployed code also cannot follow amendments to the law without an upgrade mechanism, and an upgrade key reaching user assets is the same control point, so developers would face an unworkable choice. The debate on kill switches for smart contracts under the Data Act illustrated how difficult such intervention capabilities are to reconcile with autonomous code. As set out at Q59 and Q60, the better route is technology-native: privacy-preserving credentials, permissioned pools alongside permissionless ones and richer disclosure at the access layer let users who want gated venues choose them.

Mandatory certification of non-custodial wallets (strongly disagree). A non-custodial wallet is a key management tool: it stores keys locally under the user's control, signs what the user authorises and broadcasts transactions. It holds no assets and intermediates nothing, so certifying it would treat the deliberate absence of intermediation as intermediation. Requiring certification before publication would act as a prior restraint on publishing code, engaging Articles 11 and 16 of the Charter, and most wallet software is open source, maintained by distributed and often non-EU contributors with no legal person able to apply, so it would bind EU developers while missing its target. Self-custody was the most effective protection against the 2022 intermediary failures; restricting it would push users to custodial or unofficial alternatives and delay urgent security patches pending re-certification. Password managers and browsers face no prior certification; crypto wallets should not be treated more strictly.

Incentivised certification of wallets (strongly disagree). An incentive strong enough to change behaviour

becomes a de facto requirement, typically through adjacent rules such as CASPs integrating only certified wallets or an official register, but without the procedural safeguards of a formal obligation. Open-source projects would still be unable to apply, so certification would reflect corporate form and compliance budget rather than safety, creating a misleading signal. If the objective is better wallet security, which we share, funding independent audits and security research, open standards developed with industry, and clear disclosure on key management, recovery options and transaction simulation would improve information without conditioning supply, consistent with our approach in Q62(1).

4.2 Staking, lending and borrowing of crypto-assets

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

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

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

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

Please explain your answer to question 66:

5000 character(s) maximum

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

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

- ☐ Yes

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

Please explain your answer to question 67:

5000 character(s) maximum

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

No. There is no equivalent EU regime for lending generally, and singling out crypto-assets would be a stark departure from the Union acquis.

Lending and borrowing are not, as such, harmonised regulated activities at EU level. Lending is captured by EU law only in specific circumstances: where it is funded by deposits or other repayable funds from the public (CRR /CRD, where the regulated activity is the deposit-taking, not the lending); where the borrower is a consumer (Consumer Credit Directive, Mortgage Credit Directive), or where it is provided as an ancillary service alongside an investment service (MiFID II, Annex I, Section B, where granting credits or loans to an investor to allow a transaction cannot be authorised on a standalone basis). Outside these cases there is no EU authorisation requirement, no EU conduct regime, and no EU prudential regime. SFTR imposes transparency on securities financing transactions. it does not license the activity.

Creating a bespoke authorisation or conduct regime for crypto-asset lending would therefore subject the lending of crypto-assets to materially stricter treatment than the lending of cash, securities or any other asset class. That is the inverse of "same activity, same risk, same rules", and it is difficult to reconcile with the principles of technological neutrality and proportionality (Article 5 TEU), or with the Better Regulation and simplification agenda and the Savings and Investments Union's objective of broadening non-bank sources of finance.

Additionally, MiCA has applied in full only since 30 December 2024. There is not yet a body of post-MiCA EU evidence demonstrating consumer detriment or financial stability risk arising from crypto-asset lending that existing rules fail to address. Legislating in advance of that evidence risks imposing costs on authorised EU firms while displacing activity to third-country venues, which reduces rather than improves supervisory visibility and consumer outcomes.

4.3 Non-fungible tokens

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

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

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

Please explain your answer to question 68:

5000 character(s) maximum

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

We do not consider that the current state of the NFT market justifies bringing all NFT-related services under MiCA or a new regulatory regime, and the existing exclusion in Article 2(3) MiCA for crypto-assets that are unique and not fungible with other crypto-assets should be preserved. Genuinely unique NFTs, such as digital art, collectibles, gaming items, memberships, identity credentials and access rights, serve primarily non-financial purposes and do not present the systemic or financial risks that would warrant broad financial regulation. The NFT market remains relatively small, highly fragmented and largely non-financial, with no evidence of material systemic or contagion risk. For these assets, the appropriate focus should remain on consumer protection, intellectual property, fraud prevention and platform transparency, and existing EU consumer, intellectual property, AML, DSA and GDPR rules already provide a robust framework for addressing risks outside the financial regulatory perimeter.

At the same time, regulatory treatment should depend on economic substance rather than the NFT label, consistent with MiCA, ESMA and EBA guidance and international practice. An asset should not escape regulation merely because it is called an NFT if it is in fact issued in a fungible series or gives holders common financial exposure. We therefore support targeted guidance from the Commission and ESMA on NFTs issued in large series or collections with interchangeable economic characteristics, fractionalised NFTs, NFTs conferring rights to revenue, profit share, yield or redemption, NFTs used as wrappers for financial instruments or fund interests, and NFTs marketed primarily as investments, as well as on the obligations of service providers that custody, trade or promote such NFTs to retail clients. This combination of a preserved exclusion for genuinely unique NFTs, substance-based clarification for investment-like or economically fungible NFTs, and continued reliance on existing non-MiCA rules would provide legal certainty without extending financial regulation beyond where it is needed.

4.4 Prediction markets and perpetual futures

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

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

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

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

Please elaborate on your answer to question 69:

5000 character(s) maximum

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

Prediction markets present both significant opportunities and real risks for EU consumers and investors, and both dimensions deserve careful consideration in the MiCA review.

The opportunities are substantial and already demonstrable. Prediction markets acting as peer-to-peer derivative marketplaces where event contracts trade between participants function primarily as public information goods. The vast majority of users access these platforms to obtain continuously updated, event-specific probability forecasts that can improve risk management and decision-making for consumers, investors and policymakers alike. Because each contract is tied to a single, precisely defined event, prediction markets produce a form of data (direct, real-time probability estimates) that traditional financial instruments cannot replicate. They also offer unique hedging value: event contracts enable direct exposure to specific risks such as policy decisions or geopolitical developments that other instruments, including currencies and indices, can only address indirectly through imperfect proxies.

From a legal and regulatory standpoint, event contracts are derivatives. Where the underlying event references financial variables covered by Section C(4)–(10) of Annex I of MiFID II, classification as a MiFID II financial instrument follows. The risks associated with prediction markets, namely around consumer protection, market integrity, transparency, operational resilience and data quality are broadly similar to those present in peer-to-peer derivatives markets that MiFID II already addresses. Prediction markets are structurally different from binary options, in particular because they are peer-to-peer (there is no institutional "house" on the other side of the trade) and because liquid markets allow contract holders to exit positions before settlement, supporting ongoing price formation rather than locking participants into a single speculative exposure. Blockchain-based prediction markets also present unique surveillance advantages: every transaction creates an immutable, publicly auditable record, enabling cross-platform fund flow tracing, address clustering to identify related positions, and near-real-time detection of abnormal trading patterns, capabilities that exceed what is available in traditional intermediated markets.

We therefore support regulating event contracts under the existing EU financial services framework, with MiFID II as the primary perimeter. This approach avoids regulatory arbitrage and the risks that would arise if event contracts could be structured to fall under either MiFID or MiCA, with differing outcomes for users and regulators.

While existing financial market rules provide the right baseline, supervisors should ensure that surveillance methodologies are calibrated to prediction markets' structural characteristics. Prediction market contracts are bounded between \$0 and \$1, meaning that conventional percentage-based surveillance assumptions may generate false positives and negatives without appropriate adjustment. Contracts may also be inter-related or multiple mutually exclusive outcomes tied to the same event, requiring cross-symbol analysis beyond standard single-instrument monitoring. Contract resolution, which may depend on oracle mechanisms or designated information providers, should be subject to clear transparency and integrity standards. Competent authorities and ESMA should issue supervisory guidance addressing these calibration requirements within the MiFID II framework, rather than creating a separate regulatory regime that would fragment the market and reduce legal certainty.

In sum, prediction markets offer genuine public value and unique investment opportunities that EU regulation should preserve. The appropriate response is to bring them clearly within the existing financial services perimeter, complemented by targeted supervisory guidance on surveillance calibration, resolution integrity and cross-symbol monitoring—ensuring that MiFID II's consumer protections apply in full while the information and hedging benefits of these markets are maintained for EU participants.

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

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

Please explain your answer to question 70:

5000 character(s) maximum

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

DLT-enabled prediction markets should, where the underlying reference relates to a permitted event with genuine economic, political or societal informational value, be governed by MiFID rather than MiCA. This follows directly from technology neutrality: regulatory treatment should be determined by a product's economic features and risk profile, not by the technology used to record, transfer or settle it. At its core, a prediction market is a financial market. The platform performs the function of a multilateral trading facility, and the event contract is a financial instrument. The questions these products raise concern trading venue rules, transparency, conduct of business, investor protection and market integrity, all of which sit naturally within the MiFID/MAR framework. A MiFID perimeter would also enable institutional participants to use these instruments for hedging, risk transfer, price discovery and exposure management within a familiar regulatory regime.

Subjecting prediction markets to MiFID should not preclude the use of DLT and smart contracts to build innovative and efficient operating models. On-chain infrastructure can in fact strengthen supervision: every trade recorded on a distributed ledger creates a transparent, immutable and auditable record that supervisors and market surveillance functions can analyse. Where a crypto-asset element is integrated into the business model, the EU framework can apply distributively without overlap: MiFID and MAR govern the trading and matching layer, while MiCA exclusively governs the settlement layer — for example, a MiFID-regulated platform would be required to use MiCA-authorised stablecoins for settlement.

We acknowledge ESMA's existing position on binary options and that, under current guidance, certain prediction market structures may share features with products previously subject to intervention. However, DLT-enabled prediction markets should not be treated as automatically equivalent to retail binary options solely because their payoff depends on the occurrence or non-occurrence of an event. A nuanced, feature-based assessment is warranted. Prediction market contracts can support continuous trading and secondary-market liquidity, allowing participants to enter and exit positions before resolution and to manage risk dynamically, which is materially different from the short-dated, all-or-nothing instruments with no secondary market that were the focus of ESMA's interventions.

We recognise that for prediction markets referencing purely non-financial events, certain structural characteristics including contract approval, settlement and resolution integrity, participant eligibility, and surveillance capable of analysing mutually exclusive or highly correlated contracts at the parent-event level, including across on-chain and off-chain activity, may not be fully addressed by MiFID II alone. These gaps should be addressed through targeted, prediction-market-specific requirements layered onto the MiFID foundation, rather than through a separate standalone regime or a shift of the perimeter to MiCA. Requirements should follow the functions actually performed and the degree of control exercised, and should not inadvertently capture developers, technology providers or other participants that do not exercise control over the regulated service.

Finally, the framework should provide for cooperation and information exchange between financial services supervisors and relevant gambling, sports-integrity and consumer authorities, ideally coordinated through a clearly identified lead supervisor, so that regulatory overlap produces supervisory cooperation rather than duplicative authorisations. This approach preserves passporting and supervisory convergence across the Single Market, maintains high standards of market integrity and consumer protection, and keeps the EU competitive in a market segment that is developing rapidly in comparable jurisdictions.

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

5000 character(s) maximum

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

Service providers offering prediction market services should be subject to a calibrated framework based on established financial regulatory principles under MiFID and MAR, complemented by targeted requirements addressing the specific risks of event-based contracts. We believe such a framework should rest on four substantive pillars.

The first is market integrity, supported by surveillance calibrated to the characteristics of prediction markets. Rather than monitoring contracts in isolation, operators should implement parent-event surveillance capable of analysing mutually exclusive or highly correlated outcomes collectively. Surveillance systems should detect cross-symbol wash trading, coordinated multi-wallet activity and manipulation spanning both on-chain settlement and off-chain order management. Because these contracts often trade within bounded prices, for example between zero and one dollar, surveillance parameters should account for relationship-based pricing and resolution timelines rather than relying solely on traditional percentage-based volatility thresholds.

The second is the integrity of contracts and their resolution, since a prediction market depends on the predictable determination of outcomes. Operators should maintain transparent standards for contract eligibility and resolution, including predefined settlement methodologies, reliance on objective and transparent information sources such as oracles, and clear procedures for ambiguous or disrupted outcomes. Material changes to settlement criteria should occur only in exceptional circumstances and under strict governance. For sensitive categories such as sports or political markets, additional integrity controls should apply, including information-sharing arrangements with sports governing bodies and restrictions on participation by insiders capable of influencing the outcome.

The third is comprehensive conflict management. Conflict-of-interest frameworks should be robust and extend beyond management to founders, liquidity providers and oracle or settlement providers. Where these actors have a financial interest in an outcome or the ability to influence the underlying event, appropriate organisational separation, disclosure and, where necessary, trading prohibitions should apply.

The fourth is proportionate consumer protection and product governance. Safeguards should be calibrated to the specific risk of the product and the target customer population, starting with clear disclosure of contract terms, fees and settlement uncertainty. For higher-risk or complex products, appropriate measures may include risk-based appropriateness assessments, voluntary self-exclusion tools and exposure limits. These should be modular and activity-based, so that simple informational markets are not subject to the same restrictive layers as high-leverage, derivative-like instruments.

In implementing this framework, regulatory responsibility should follow the functions performed and the degree of control exercised, in line with technology neutrality. While DLT-based models offer enhanced transparency

for supervisors, obligations designed for centralised intermediaries should not inadvertently capture software developers or infrastructure providers who do not exercise control over the regulated service. We also support a lead supervisor model, under which an authorised provider has a single competent authority responsible for its primary oversight, supported by formal cooperation and mutual reliance with the relevant gambling, sports integrity or consumer authorities. This would avoid duplicative licensing and inconsistent obligations, keeping the EU a competitive jurisdiction for DLT-enabled innovation while maintaining the highest standards of market integrity.

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

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

Please explain your answer to question 72:

5000 character(s) maximum

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

Perpetual futures on crypto-assets are derivatives and should continue to be governed by MiFID II and MiFIR, together with the services provided in relation to them. Their treatment should follow their economic function, contractual terms and underlying asset, not the product's name or the technology used to offer it. They derive their value from an underlying crypto-asset and involve leverage, margin and funding mechanisms, and so fall within the derivative categories of Annex I, Section C of MiFID II. Consistent with Article 2(4) of MiCA, which excludes financial instruments from MiCA's scope, they should not be carved out into MiCA. Doing so would create an artificial distinction from commodity, FX and other derivatives with a comparable risk profile, fragment the framework and create legal uncertainty for cross-asset participants. Several of our members already offer perpetual futures under MiFID II authorisations supervised by national competent authorities across the EEA, and our views draw on that experience.

Within MiFID II, however, perpetual futures should be recognised as a distinct type of derivative with requirements calibrated to their actual market structure, rather than automatically assimilated to contracts for difference. They differ from traditional futures in having no fixed expiry, relying instead on a periodic funding mechanism to keep prices aligned with the spot market. Venue-traded perpetuals also differ materially from the bilateral, OTC model on which the CFD product intervention measures are based. They are traded on multilateral order books with standardised terms and transparent price formation driven by supply and demand. Their funding rates are formula-based and verifiable rather than set by the provider as overnight financing charges. Where the venue does not act as counterparty to the client and earns revenue from transaction fees rather than client losses, the conflicts of interest that justified the CFD measures are largely absent. We therefore disagree that such perpetuals should be treated as CFDs for product intervention purposes, including for the purposes of fixed retail leverage caps designed for bilateral CFDs. We invite the Commission to clarify, in the review or through guidance, that venue-traded perpetual futures in which the venue is not the client's counterparty form a distinct category within MiFID II, and that any product intervention measures applied to them should be evidence-based and targeted at the actual sources of client detriment in this market model.

This does not mean lighter regulation. Perpetual futures should be subject to robust investor protection, risk management and market integrity requirements under MiFID II, MiFIR and EMIR, calibrated to their structure

and to the existing distinction between retail and professional clients, as set out in our answer to Q73.

Where perpetual futures are offered through crypto-native infrastructure involving DLT, crypto-asset custody or blockchain settlement, relevant MiCA requirements on custody and safeguarding, governance, operational resilience and technology-specific risks should complement MiFID II, without duplication or conflicting obligations.

A clear framework is also a strategic opportunity. Perpetual contracts account for a large and growing share of global crypto trading, often several times spot volumes. Misclassification or ill-calibrated rules would keep liquidity and market infrastructure offshore, limit EU investors' access to regulated products, encourage grey markets and reduce supervisors' visibility. MiFID II alignment also supports interoperability and mutual recognition with jurisdictions that regulate crypto derivatives under securities and derivatives frameworks, such as the United States, Japan and Singapore. Because perpetual contracts can be written on other underlyings, including government bonds, FX and commodities, getting the classification right now also sets a coherent precedent for their wider use in hedging and capital efficiency.

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

5000 character(s) maximum

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

We encourage the Commission to adopt a proportionate, outcomes-based approach, grounded in product governance and building on the existing MiFID II framework and industry best practice. MiFID II already provides a comprehensive framework for organisational requirements, conduct of business, investor protection and market abuse, so perpetual futures do not require an entirely new set of obligations. Requirements should instead be calibrated to their actual structure and risk profile, while keeping the EU competitive for regulated crypto derivatives trading.

Perpetual futures are highly standardised derivatives traded on centralised, rules-based venues. They provide linear exposure to the underlying asset, scaled by user-selected leverage, with no embedded optionality. Funding rates, calculated from transparent indices, serve as a convergence mechanism with the spot price and operate symmetrically between long and short positions. Where platforms earn revenue from transparent transaction fees independent of client outcomes, the conflicts of interest associated with dealer-based models do not arise. EU-licensed venues already offer them under MiFID II with such safeguards. Regulation should recognise these protections and target residual risks, such as excessive leverage, concentration risk and inadequate client understanding, rather than duplicating controls already built into the trading and clearing architecture.

On that basis, we propose the following standards. Perpetuals should be traded on transparent, non-discretionary venues with open price visibility, deterministic matching and no principal trading by the platform, ensuring neutral price discovery. They should offer clean, linear exposure with predictable profit and loss mechanics. They should be subject to formal product governance, including documented approval, target market definition, ongoing client-outcome monitoring and engagement with supervisors, with marketing that is fair, clear and not misleading, and with clear labelling and scenario-based risk disclosures on leverage, liquidation and funding costs. Funding rates should be formula-based, publicly verifiable and structurally neutral, with venues required to disclose the methodology, payment frequency and historical data, as leading EU venues already do.

Margin and leverage frameworks should be risk-based, dynamically calibrated to the volatility and liquidity of each underlying asset, differentiated between retail and professional clients, and designed to prevent harmful outcomes rather than maximise trading intensity. Specific leverage parameters should not be fixed in Level 1, which would be overly prescriptive and slow to adapt, but set through Level 2 measures and ESMA guidance developed with industry. Platforms should maintain multi-layered, independently governed and regularly stress-tested loss-absorption mechanisms, including insurance funds and, as a last resort, auto-deleveraging under predefined, transparent rules. Retail access should be conditional on a robust but proportionate appropriateness assessment testing understanding of leverage, margin and liquidation, with retesting or cooling-off periods where needed, standardised risk warnings, ongoing behavioural monitoring and responsible distribution controls, including limits on trading incentives for retail users.

Market integrity requires particular attention. Funding rates, liquidation engines, insurance funds and auto-deleveraging create distinct risks, and manipulation can target these mechanisms directly: for example, coordinated trading that triggers liquidations in illiquid contracts to extract value from insurance funds, or manipulation of premium indices and spot reference prices used for funding and liquidation. Service providers should therefore maintain well-governed methodologies for funding rates, margin models, liquidation engines, insurance funds, auto-deleveraging and contract listing, subject to independent oversight, regular testing and transparent change management. Surveillance should detect these typologies as well as traditional abuse, extend across spot and derivatives, venues and on- and off-chain activity, and increasingly operate in real time to prevent harm before it spreads through leveraged markets.

Any product intervention measures should satisfy the proportionality requirements of Article 40 MiFIR and be preceded by dedicated evidence-gathering on perpetual futures themselves. ESMA's own impact assessments show that restrictive measures on products readily available offshore can push retail users towards unregulated venues, undermining MiCA's objective of onshoring crypto-asset activity. Other jurisdictions, including the United States, where the CFTC treats perpetuals as futures and has approved regulated listings, are building supervised pathways. A proportionate, product-governance-led approach would best protect investors and keep this activity within EU supervision.

4.5 Tokenised deposits

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

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

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

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

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

Please explain your answers to question 74:

5000 character(s) maximum

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

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

Maximum 2 selection(s)

Please select as many answers as you like

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

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

5000 character(s) maximum

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

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

5000 character(s) maximum

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

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

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

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

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

4.6 Legal treatment of tokens

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

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

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

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

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

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

Question 80.1 Which of the following issues are most significant?

	1 (none or not significant)	2 (low)	3 (moderate)	4 (high)	5 (very high)	Don't know - No opinion - Not applicable
Issuing a crypto-asset token in compliance with national law	☐	☐	☒	☐	☐	☐

Issuing a tokenised financial instrument in compliance with national law						
Transferring ownership (acquisitions, dispositions, earmarking etc) over a token, including good faith acquisition / bona fide ownership						
Recognising ownership in a token towards third-parties						
Using tokens as collateral						
Possibility to differentiate between native and non-native tokens in national law						
Recognising tokens as objects of property						
Rights of token holders in						

intermediated custody chains	☐	☐	☐	☐	☒	☐
Enforcement and exercise of rights arising from /over tokens or the underlying assets	☐	☐	☐	☐	☒	☐
Custody of tokens	☐	☐	☐	☒	☐	☐
Treatment of tokens in insolvency proceedings including intermediary risk	☐	☐	☐	☐	☒	☐
Others	☐	☐	☐	☐	☐	☐

Please explain your answers to question 80.1 and provide examples from national law. In particular specify if any of the answers is specifically referring to native or non-native tokens and specify if any of the answers would be different depending on if the token is recording a tokenised financial instrument or crypto-assets:

5000 character(s) maximum

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

Yes, there is material legal uncertainty as to the private law treatment of issuance, holding and transfers of tokens under national law. The main uncertainties concern the transfer of ownership (including good-faith acquisition), the recognition of ownership towards third parties, the use of tokens as collateral, and the treatment of tokens in insolvency proceedings.

These are precisely the areas where market participants need clear proprietary-law outcomes, yet in the EU the position still depends heavily on fragmented national private-law rules. Some Member States have adopted specific regimes. For example, Luxembourg's successive blockchain laws recognise the use of DLT for the holding and transfer of securities and strengthen the framework for dematerialised securities and collateral, while others have no token-specific private-law provisions at all. This fragmentation creates significant challenges when transferring tokens and establishing security over them, and considerable uncertainty around

insolvency implications.

The issues also differ by token type. For native tokens, the main question is whether a purely on-chain asset is legally recognised as an object of property or title at all, since most national laws do not explicitly recognise on-chain assets. For non-native tokens, the key question is whether control of the token transfers the underlying asset itself or only a contractual claim against an intermediary. Tokenisation often leads to the simultaneous existence of two assets, the token and the off-chain asset it represents.

The issues also differ by regulatory perimeter. For MiCA crypto-assets, issuance compliance is relatively clearer because MiCA directly regulates issuers and offerors; the harder questions concern property, custody, collateral and insolvency, which MiCA leaves to national law. For tokenised financial instruments, uncertainty is greater because cross-border structures still depend on national company, securities, tax and insolvency law, and there is no EU-wide regime for native securities issuance. In relation to collateral, considerable uncertainty remains about the treatment of tokens under the EU Financial Collateral Directive, in particular whether the concept of "possession or control" offers the same legal certainty for tokens as it does for traditional assets.

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

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

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

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

5000 character(s) maximum

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

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

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

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

Please explain your answer and provide examples:

Most important element number 1:

5000 character(s) maximum

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

Yes. Technology has fundamentally outpaced private law. While major financial hubs are actively passing bespoke legislation to define digital "control" and establish property rights, the legal baseline across most of the EU remains fragmented and uncertain. This fragmentation undermines the single market: identical tokens and identical transfers can produce different proprietary outcomes depending on the Member State, which discourages institutional participation, complicates collateral use and custody, and creates arbitrage between jurisdictions. EU-level action is needed to provide a common legal baseline for the effects of holding and transferring tokens, while preserving what already works in national regimes.

Element 1: Ownership and entitlement. EU law should clarify that the person recorded as holding a token in the relevant DLT register is the person legally entitled to exercise the proprietary rights attached to it, including against third parties. This is especially important for non-native tokens, where it is often unclear whether holding the token gives ownership of the underlying asset or only a contractual claim. A uniform rule of "digital entitlement" would function across all Member States' property-law structures without rewriting them.

Most important element number 2:

5000 character(s) maximum

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

Element 2: Transfer and legal effect. EU law should clarify that a transfer recorded in the DLT register validly transfers the token, protects good-faith acquirers, and gives the transferee enforceable proprietary rights across Member States. This includes competing-claim rules and the relationship between tokens and underlying assets for non-native tokens. Without this, tokenised markets cannot operate at scale, including for secondary trading and collateral use.

Most important element number 3:

5000 character(s) maximum

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

Element 3: Insolvency treatment and finality. EU law should clarify how tokens are treated in insolvency proceedings including the segregation and treatment of client assets upon intermediary insolvency and the nature of client rights in omnibus custody chains and when an on-chain transfer becomes final and legally effective. Related elements include the creation, perfection, priority and enforcement of security interests, and legal settlement finality. Without clarity here, firms cannot be confident that token holdings and transfers will be respected if a custodian, intermediary or counterparty fails.

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

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

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

5000 character(s) maximum

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

We support targeted partial harmonisation of the legal effects of tokens, not full harmonisation of Member State private law. The immediate problem is not every aspect of national private law but a limited set of core issues: ownership or entitlement, transfer and third-party effects, collateral, insolvency and finality. Full harmonisation could disrupt well-functioning parts of national regimes and would be disproportionate; partial harmonisation focused on these core issues is the most proportionate answer.

The most appropriate instrument would be a targeted horizontal EU Regulation addressing these private-law effects, sitting alongside, not inside MiCA. MiCA can continue to govern issuers and service providers, while the new instrument addresses proprietary effects applicable to both crypto-assets and DLT financial instruments. An optional 28th regime recognising the legal effects of DLT registers (including good-faith acquisition and erga omnes effects) is a workable vehicle for this, and a dedicated conflict-of-law regime (see Q84) should complement it to resolve which national law applies in cross-border cases.

The principal risk of establishing an ownership regime at EU level is overreach into mature national property-law concepts and unintended interactions with national insolvency, family and succession law. This risk is mitigated by a functional approach: EU law should specify the minimum legal effects associated with valid holding and transfer under an applicable DLT system such as entitlement, third-party effects, enforceability, while leaving residual national property-law concepts intact. The rule should also not imply that technical possession of a private key invariably equals legal ownership; rather, it should establish how a person who can demonstrate entitlement in accordance with the applicable legal and system rules is treated vis-à-vis third parties.

As an immediate, non-legislative starting point, the Commission and supervisors should draw on the UNIDROIT Principles on Digital Assets and Private Law (2023) and relevant IOSCO work, which can inform guidance while legislation is developed.

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

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

Maximum 2 selection(s)

- ☐ **MODEL 1:** The token is the asset by law, the law recognises a ledger-based asset and the ownership rights are constituted directly by the ledger entry.
- ☐ **MODEL 2:** The token is the asset by law, where the law recognises that e.g. securities (dematerialised or physical) can be replaced by an entry into a DLT register and by this “replacing” (immobilisation) of the securities the function of the initial security is substituted by entry into a DLT register and the ownership rights are constituted by the representation on the ledger.
- ☒ **MODEL 3:** Token is the asset by law. In this case the law does not actively regulate legal aspects such as what property is or how transfer of ownership occurs etc. but instructs on the legal consequences of entries in a DLT register (this is often called a functional approach). The law could at EU level stipulate who may exercise rights, i.e. the person recorded in the DLT register as holder of a tokenised asset, that these rights have full third-party effect and protects from competing claims. This also creates legal certainty for collateral use. The EU law would create a uniform rule of “digital entitlement” that functions across all Member States’ property law structures.
- ☐ **MODEL 4:** The token is the legal carrier of rights associated with a related (often off-chain) asset. The law defines tokens as legal objects that do not create new rights, but can –like a “container” –represent various kinds of rights, such as membership rights, ownership, intellectual property rights, usage rights or rights of lien etc. The token would represent the rights stemming from the underlying assets and the law would ensure that the transfer of a token on the ledger legally transfers ownership of the rights stemming from the underlying asset.

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

Art 5 TVTG states that the TT Key holder has the power of disposal over the Token. It is further assumed that the person possessing the power of disposal

over a Token also has the right to dispose of the Token. For every previous holder of the power of disposal, it is presumed that he was the person possessing the right of disposal at the time of this ownership).

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

You selected:

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

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

5000 character(s) maximum

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

Model 3, functional digital entitlement, should form the general baseline, complemented by Model 4 for non-native tokens representing rights in assets that exist outside the ledger. Model 3 is preferable because it takes a functional approach. EU law would not regulate what property is or how ownership is transferred under national law, but would stipulate the legal consequences of entries in a DLT register. It would establish that the person recorded in the register as holder may exercise the rights attached to the token, that these rights have full third-party effect and protection against competing claims, and that there is legal certainty for their use as collateral. This would create a uniform rule of digital entitlement that functions across the property-law structures of all Member States.

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

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

Please explain your answer to MODEL 3 b):

5000 character(s) maximum

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

A functional rule of this kind can operate across national property-law systems without requiring full harmonisation, because it leaves residual national concepts intact and only fixes the minimum effects of ledger entries. It is compatible with existing national solutions, including Luxembourg's blockchain laws recognising DLT transfers of securities and collateral, the German eWPG with its binding rules on crypto securities registers, and Liechtenstein's TVTG, which establishes power of disposal over tokens and a presumption of entitlement in favour of the recorded holder. In Member States without specific regimes, the EU rule would supply the missing baseline rather than conflict with existing law.

Functional rules are also preferable to constitutive rules. Constitutive rules would require the EU to define a new object of property and would intrude deeply into national property law. Functional rules governing the effects of recording an asset on-chain achieve the necessary legal certainty on entitlement, third-party effect, good-faith protection and collateral use with far less disruption. The rule should not imply that technical possession of a private key invariably equals legal ownership, as entitlement must be demonstrated in accordance with the applicable legal and system rules.

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

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

Please explain your answer to MODEL 3 c):

5000 character(s) maximum

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

The distinction between native and non-native tokens is also important. Model 3 is best suited to native tokens, where the asset exists only on-chain and the core need is recognition of the ledger entry as the source of entitlement. Model 4 is needed for non-native tokens, where the token is the legal carrier of rights associated with an off-chain asset. For these, the law should ensure that the transfer of a token on the ledger legally transfers the rights stemming from the underlying asset, and should clarify the relationship between the token and the underlying right across complete, indirect and incomplete tokenisation structures.

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

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

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

5000 character(s) maximum

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

The same framework can apply to both crypto-assets and DLT financial instruments, with differences in calibration. For crypto-assets, Model 3, supplemented by Model 4 where relevant, is sufficient. For DLT financial instruments, the framework must additionally interlock with national company, securities and insolvency law, settlement finality rules and CSD regimes, since there is no EU-wide regime for the issuance of native securities. The digital entitlement rule should therefore be drafted to complement, rather than displace, the existing securities-law architecture.

Please explain your answers for MODEL 3 and provide examples:

5000 character(s) maximum

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

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

5000 character(s) maximum

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

National approaches to the issuance, holding and transfer of tokens diverge substantially, producing different proprietary outcomes for identical assets and transactions. A small number of Member States have adopted specific regimes. Luxembourg's successive blockchain laws recognise DLT as a means of holding and transferring securities and strengthen the framework for dematerialised securities and collateral, providing valuable certainty for activity structured under Luxembourg law, but only as a national solution. Germany's eWpG allows traditional contractual rights to be legally bound to a non-native token through crypto securities registers, creating a statutory bridge between the ledger and the legal status of the asset. Liechtenstein's TVTG defines a token as a piece of information on a TT system that can represent claims, membership rights, property rights or other absolute or relative rights, and vests the power of disposal in the holder of the TT key, with a presumption that a previous holder of the power of disposal was entitled at the relevant time.

In most Member States, however, no token-specific private-law provisions exist. Outcomes therefore depend on how general national property law, which was never designed for this asset class, is applied. This leaves open whether a token can be an object of property at all, whether delivering a private key or transferring a ledger entry effects a transfer of ownership, whether good-faith acquisition rules apply, how tokens are treated in insolvency and whether security rights can be created over them. The results are unpredictable and divergent. Other jurisdictions have already moved to address these questions. The UK has created a third

category of personal property for digital assets, and the US has introduced property rights over controllable electronic records, both illustrating the direction taken elsewhere while the EU still lacks a common answer.

The practical consequence is that the same transfer of the same token can be effective, ineffective or vulnerable to competing claims depending on the Member State. This fragments the single market precisely where scale matters most, in custody, collateral and secondary trading.

4.7 Questions on conflicts of law

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

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

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

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

5000 character(s) maximum

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

A targeted EU conflict-of-law rule for tokens is needed. The existing conflict rules in the Financial Collateral Directive and Settlement Finality Directive were designed for traditional book-entry and account-based market structures and leave a gap for tokens that fall outside their scope or whose concepts do not translate to DLT architectures. A targeted rule would reduce fragmentation, improve cross-border enforceability and make tokenised markets usable at scale, including for secondary trading and collateral use.

The current EU framework does not provide sufficient legal certainty for tokens. The existing conflict-of-law rules in the Financial Collateral Directive (FCD) and Settlement Finality Directive (SFD) were developed for traditional book-entry and account-based market structures. While they are broadly relevant for DLT financial instruments, they do not comprehensively address all token arrangements or all proprietary questions raised by on-chain holding and transfer.

This creates a gap in at least three situations. First, some tokens fall outside the scope of FCD and SFD altogether, particularly where they are not treated as financial instruments or are not held within a designated settlement or collateral framework. Second, even where FCD or SFD may be relevant, their concepts do not map cleanly onto DLT architectures. Core FCD concepts such as "possession or control" remain unclear in a DLT context, especially where control depends on private keys, smart contracts, multisig or MPC custody rather than a conventional account relationship. Furthermore, the application of the FCD and SFD is premised on identifying the location of the asset or of the relevant intermediary account (for example, under the PRIMA

rule). An approach that does not readily translate to DLT-based holdings, where physical location, account location and other traditional connecting factors are unreliable. Third, the current framework does not provide a clear general rule for the proprietary aspects of tokens across Member States, including who is treated as the relevant holder, whether a transfer is effective against third parties, and how competing claims should be resolved across borders. The result is heavy dependence on fragmented national private-law rules: some Member States have adopted bespoke token regimes (e.g. Luxembourg's blockchain laws, the German eWpG, the Liechtenstein TVTG, the Swiss DLT Act), while others have no specific regime at all.

A targeted EU conflict-of-law rule is therefore a proportionate solution. It would reduce fragmentation, improve enforceability across borders, and make tokenised markets more usable at scale, including for secondary trading and collateral use without requiring a wholesale rewrite of Member State property law.

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

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

Connecting factors without a ranking will be considered not relevant:

at most 5 answered row(s)

	1	2	3	4	5
The law of the state specified in the token or in the principles (if any) expressly specified in the token	☐	☒	☐	☐	☐
The law of the state specified in the rules or in the principles of the system on which the token is recorded	☒	☐	☐	☐	☐
The law of the state in which the legal entity operating the DLT-based system on which tokens are recorded	☐	☐	☒	☐	☐
In relation to a token for which there is an issuer, the law of the state where the issuer is established	☐	☐	☐	☐	☒
In relation to tokens for which there is an issuer, the law of the state under whose supervision the issuer operates	☐	☐	☐	☒	☐
In relation to tokens for which there is a provider of the technologies creating or issuing the tokens, the law of the state under whose supervision such technology operates	☐	☐	☐	☐	☐
Where a token shall be registered, the law of the state under whose supervision the register is maintained	☐	☐	☐	☐	☐

The law of the state of the relevant operating authority/administrator (PROPA), meaning a state authority or a body (e.g., a foundation) that takes over the administration of the system onto which the token is registered	☐	☐	☐	☐	☐
The law of the state of the primary residence of the encryption private master keyholder (PREMA), meaning the seat of a body that holds a system-relevant master key, with the help of which coercive transactions can be carried out, for example, based on a court order	☐	☐	☐	☐	☐
Any other?	☐	☐	☐	☐	☐

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

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

5000 character(s) maximum

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

We favour connecting factors that are objectively determinable and stated ex ante, arranged as a hierarchy rather than a single universal factor. The overarching principle should be that different legal relationships may be governed by different laws, rather than forcing one law to govern everything.

The primary connecting factor for ledger-level proprietary effects - entitlement, transfer, third-party effectiveness and priority - should be the law specified in the rules of the system on which the token is recorded. This is the closest link to how entitlement, transfer and priority are determined in practice and best fits a functional approach to token holding and transfer. For example, a permitted DLT system could specify in its rulebook that the proprietary aspects of tokens recorded on it are governed by the law of a given Member State, and market participants and courts should be able to rely on that designation.

The law expressly specified in the token should rank second: it is the appropriate nexus for contractual rights against an issuer and the issuer relationship, but for proprietary effects it should apply only where consistent with the system rules. If the system rules do not identify a governing law, the best fallback is the law of the state where the system operator is established (rank 3).

Issuer-based factors (ranks 4–5) are relevant for issuer-linked or non-native tokens - particularly as a fallback for the link between the token and the underlying off-chain right - but should remain secondary because they are less closely connected to the proprietary effects of holding and transfer at ledger level. Where a token is recorded in a regulated register, the law governing that register should apply.

The location of validators, technology providers or individual private-key holders should not be used as a connecting factor: these are mobile, indeterminate and often economically unrelated to the relevant legal relationship. For the same reasons, the PROPA and PREMA factors should not form part of the general rule.

The rule's scope should cover the core proprietary issues: who is treated as the relevant holder, whether a transfer is effective against third parties, good-faith acquisition, priority, security interests, and links to insolvency and settlement finality. It should also leave room for complementary rules for non-native tokens, ensuring that transferring the token also transfers the relevant underlying rights where the system so provides.

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

5000 character(s) maximum

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

Yes. Legal certainty issues extend well beyond conflict of laws.

The first is entitlement: the law should make clear that the person recorded on the relevant DLT register is legally entitled to exercise the rights attached to the token, including against third parties. Technical possession of a private key should not automatically equal legal ownership; entitlement should be demonstrated in accordance with the applicable legal and system rules. The second concerns the transfer of non-native tokens, where clear rules are needed on whether transferring the token transfers the underlying asset itself or only a contractual or personal claim. On-chain value should carry the same rights and obligations as the equivalent off-chain arrangement, so that the medium does not create an inferior category of property. The third is insolvency and finality. There should be greater certainty on how tokens are treated in insolvency proceedings, including intermediary risk, omnibus holdings and the segregation of client assets, and on when an on-chain transfer becomes final and legally effective.

Further clarity is also needed on collateral and security interests. Tokenised collateral arrangements should be clearly effective in DLT environments. This requires clearer treatment of "possession or control" under the Financial Collateral Directive, of enforcement mechanics, and of the eligibility of relevant tokenised collateral types, such as MiCA-compliant e-money tokens where appropriate. Rules on the creation, perfection, priority and enforcement of security interests over tokens are currently fragmented across national laws and would likewise benefit from greater harmonisation. MiCA can continue to govern issuers and service providers, but these private-law effects are best addressed through a targeted horizontal EU instrument that complements rather than replaces well-functioning national regimes.

4.8 Final open question

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

5000 character(s) maximum

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

BC4EU wishes to draw the Commission's attention to four interconnected issues not fully addressed elsewhere in this consultation.

The first is the integration of decentralised finance into capital markets. The tokenisation of financial instruments and the emergence of DeFi infrastructure present both an opportunity and a regulatory challenge for the EU, and we encourage the Commission to ensure that MIFID II can accommodate DeFi-based trading and

settlement models for tokenised financial instruments. The current framework was not designed with on-chain trading, automated market-making or smart contract settlement in mind. Targeted, conditional relief, modelled on the innovation exemption approach being developed by the US Securities and Exchange Commission, could allow tokenised securities to trade through DeFi protocols while preserving investor protection and market integrity safeguards. Such relief should be time-limited, subject to robust reporting obligations and contingent on the involvement of an EU-authorised intermediary that retains full regulatory accountability.

The second is EU competitiveness, the Savings and Investment Union and the simplification agenda. The Commission's competitiveness mandate and the objectives of the Savings and Investment Union are directly at stake in the design of the EU's framework for crypto-assets and tokenised securities. A regulatory environment that is unnecessarily restrictive or fragmented will push innovation, capital formation and talent outside the EU. We therefore urge the Commission to embed simplification as a cross-cutting principle in any revision of MiCA or MiFID, reducing duplicative requirements, consolidating the supervisory expectations of NCAs and ensuring that Level 2 measures are technology-neutral and proportionate. Properly regulated, DLT-based capital markets infrastructure can deepen EU capital markets and contribute meaningfully to channelling household savings into productive investment.

The third is the AML/CFT framework. There is a tension between the blanket classification of the crypto-asset sector as high risk and the evidence of sophisticated, effective compliance frameworks now operating within EU-authorised CASPs. A risk-based recalibration that distinguishes between service types, customer profiles and on-chain transaction characteristics would better reflect the FATF's risk-based approach and reduce unnecessary burdens on compliant firms. More broadly, we encourage the Commission to monitor and engage with regulatory developments in key third countries, including the United States, the United Kingdom, Singapore and Hong Kong, to support global regulatory convergence and avoid fragmentation that disadvantages EU-based firms.

The fourth is the role of blockchain analytics in MiCA. MiCA sets out the compliance and market surveillance outcomes that CASPs must achieve but is silent on the technology that makes those outcomes achievable for on-chain transactions. This creates a risk of inconsistent interpretation across Member States, as some supervisors may not recognise blockchain analytics as a necessary or sufficient compliance tool, while others may impose technology-specific requirements not grounded in the Level 1 text. The FATF's seventh targeted update of July 2026 explicitly recommends blockchain analytics for transaction monitoring by virtual asset service providers. We therefore recommend that the Commission expressly name blockchain analytics alongside other compliance technologies, such as transaction reporting systems and KYC platforms, in the relevant MiCA Level 2 measures, providing legal certainty, harmonising supervisory expectations and aligning the EU framework with the current FATF standard.

Additional information
